

St. Joseph's Seminary
Sexual Misconduct Policy and Procedure

Section 1 – Overview

St. Joseph’s Seminary (the “Seminary”) is committed to an academic, residential and work environment free from sexual misconduct and other forms of unlawful discrimination. Sexual Misconduct, which is defined in Section IV hereof, is prohibited by this Sexual Misconduct Policy and Adjudication Procedure (the “Policy”), as well as by federal and state law. If there is a finding that any form of sexual misconduct in violation of this Policy has occurred, the Seminary will take appropriate action, including, when appropriate, dismissal from the Seminary or termination of employment.

The Seminary seeks to foster a culture of prevention and awareness surrounding sexual misconduct. The Seminary will take appropriate action for prompt and equitable resolutions of allegations filed with the Seminary, take appropriate action to eliminate sexual misconduct, prevent its recurrence, and remedy its effects on the Seminary community.

All Seminary Students have rights as explained in the Bill of Rights set forth in Appendix B of this Policy which is iterated in the New York State Education Law Article 129-B, also known as “Enough is Enough” legislation.

A. Scope of Policy

Sexual misconduct is strictly prohibited under this policy comporting with federal and state law. All members of the Seminary community, including students and employees, are expected to comply with this Policy.

Who does this policy apply to:

- This policy applies when and if a student or seminarian is a complainant or respondent; ANY incident where a Student is involved.
- There are certain obligations for employees for reporting incidents that may violate this policy and policy obligations for employees that prohibits certain behavior towards students.
- All complaints that involve only faculty and staff with no student involvement (between and among faculty and staff), please follow the Archdiocese of New York (ADNY) Anti Discrimination, Harassment and Retaliation Policy.
- Vendors, independent contractors, visitors, and those who are present on the campus are also expected to comply with this Policy and to not act in a way against any employee or student that would violate this policy.

All students and employees of the Seminary are responsible for their actions and behavior, whether the conduct in question occurs on campus or in a different location. This Policy applies to both on-campus conduct and off-campus conduct that has a reasonable connection to the Seminary.

This policy applies regardless of race, color, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction.

Wording Framework: When used in this Policy, “**employee**” refers to both faculty and staff members and “**student**” refers to students who are lay persons, religious, ordained and those who are

seminarians. A **“Complainant”** is the person who presents as the victim / survivor of conduct that is prohibited under this Policy. A **“Respondent”** is the person who has been accused of violating this Policy.

B. Purpose of Policy

The Purpose of this Policy is to:

- Identify the administrators at the Seminary who are responsible for the implementation of this Policy, including the Coordinator, and the scope of his/her role;
- Define sexual harassment and other forms of sexual misconduct;
- Identify resources and support services for members of the Seminary community;
- Provide information as to where a Seminary community member can access resources or obtain support confidentially;
- Provide information on how a Seminary community member can make a report or complaint of sexual misconduct; and
- Provide information on how a report against a Seminary community member will be investigated and adjudicated.

Nothing in this Policy shall be construed to abridge the exercise of academic freedom of inquiry, or free speech or free expression, by any member of the Seminary community.

Nothing in this Policy shall affect the right of the Seminary to take such actions as it deems appropriate to further its educational mission or to protect the safety and security of the Seminary community. The Seminary reserves the right to ask anyone to leave the Seminary property at any time and for any reason.

Section II – Statement Regarding Privacy and Confidentiality

The Seminary is committed to protecting the **“privacy”** of all individuals involved in a report of sexual misconduct. To the fullest extent practicable, consistent with a full and fair investigation, information related to a report of sexual misconduct will be shared only with those who “need to know” (i) to assist in the investigation and/or resolution of the complaint, or (ii) to allow the Seminary to comply with other requirements. Individuals who are involved in the review, investigation, or resolution of a complaint are trained to understand the importance of safeguarding private information.

“Confidentiality” may be offered only by Spiritual Directors at the Seminary in the “internal forum,” who are the only people providing pastoral direction and counseling. They are not required by law or this policy to share information learned and is a person that can counsel and provide direction. They will not report information learned regarding sexual misconduct reported to them in in the internal forum” (in their counseling / pastoral capacity). Students or employees who wish to obtain confidential assistance off-campus without making a report to the Seminary may do so by contacting a confidential resource identified in the Resources section of this Policy.

When the Seminary receives a report of sexual misconduct, but the **Complainant requests that their identity remain confidential or that the Seminary not pursue an investigation**, the Seminary must balance this request with its responsibility to provide a safe and non-discriminatory environment for all members of the Seminary community. The Seminary will take all reasonable steps to investigate and respond to the report consistent with the Complainant's request, but its ability to do so may be limited. If the Seminary determines that it cannot maintain a Complainant's confidentiality, the Seminary will inform the Complainant as soon as practicable. Seminary employees who cannot guarantee confidentiality will maintain the Complainant's privacy to the greatest extent possible. The information the Complainant provides to a non-confidential resource will be relayed only as necessary for the Coordinator and others as appropriate to investigate and/or seek a resolution. Regardless of how a Complainant chooses to report an incident, the Seminary will, when appropriate, assist the Complainant with appropriate accommodations. More information on accommodations can be found in Section VIII (B) below.

If the Seminary determines that a reported incident of sexual misconduct poses a threat to the Complainant or the Seminary community or involves **potentially criminal conduct**, the Seminary may not be able to maintain the requested level of confidentiality. Immediately threatening circumstances include, but are not limited to, reported incidents of sexual misconduct that involve the use of force or a weapon, threats of physical harm, or other circumstances that represent a potentially serious threat to Seminary students, employees, or visitors.

In such circumstances, the Seminary may also choose to **report the incident to local law enforcement**. However, the Seminary policy does not require a Complainant to speak to law enforcement or to pursue any legal action against a Respondent.

All adjudication proceedings under this Policy are to be conducted in compliance with the requirements of applicable federal, state, local law, FERPA, and Seminary policy.

Section III – Role of the Coordinator

The Seminary is required to designate at least one employee to coordinate its efforts to comply with federal, state and local laws governing sexual misconduct. The Seminary's compliance coordinator (the "Coordinator") is:

Rev. William Elder

914-968-6200 ext. 8236

William.Elder@archny.org

The Coordinator has designated the following official to act as deputy compliance coordinator (the "Deputy Coordinator") and to receive reports of sexual misconduct:

Msgr. Michael Curran

914-968-6200 ext. 8243

Msgr.Michael.Curran@archny.org

If neither the Coordinator or the Deputy Coordinator are available, please contact any of the deans.

The Coordinator must be advised of all incidents of sexual misconduct in order for the Coordinator to assess if there is a pattern of behavior, and their general duties are listed below (which can be designated to other officials or designees):

- Being knowledgeable about and trained in the Seminary’s policies and procedures and options for reporting outside the Seminary to law enforcement. Coordinating the investigation and resolution of all reports of sexual misconduct under this Policy;
- Advising any individual, including a Complainant, a Respondent, or a third party, of the options, both informal and formal, available at the Seminary and through local law enforcement.
- Advising any individual, including a Complainant, a Respondent, or a third party, about support services and other resources available both on-campus and off-campus;
- Providing assistance to any Seminary community member regarding how to respond appropriately to a report of sexual misconduct;
- Monitoring compliance with all procedural requirements and timeframe outlined in the adjudication process; and
- Training, prevention, and education efforts and reviews of Seminary climate and culture.
- The Coordinator has ultimate authority to select the Investigator, Hearing Officer, and members of the Appeal Panel where applicable. The purpose is to ensure a fair, impartial and prompt process for resolution of any complaints of violation of this policy.

Section IV – Sexual Misconduct Defined

Sections IV (A) and IV (B) below define “*sexual misconduct*” for purposes of this Policy.

A. Sexual Harassment - Sexual harassment is any unwelcome sexual advance, request for sexual favors, or other unwanted conduct of a sexual nature, whether verbal, non-verbal, graphic, physical, or otherwise, when the conditions outlined in (1) and/or (2) below are present; and includes harassment based on gender, sexual orientation, gender identity, or gender expression, which may include acts of aggression, intimidation, or hostility, whether verbal or non-verbal, graphic, physical, or otherwise, when the conditions outlined in (1) and/or (2), below are present.

- (1) Submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of a person’s employment, academic standing, or participation in any Seminary program and/or activities or is used as the basis for the Seminary’s decisions affecting the individual (often referred to as “quid pro quo” harassment); or
- (2) Such conduct creates a hostile environment. A “hostile environment” exists when the conduct is sufficiently severe, persistent, or pervasive that it unreasonably interferes with limits, or deprives an individual from participating in or benefitting from the Seminary’s education or employment programs and/or activities. Conduct must be deemed severe, persistent, or pervasive from both a subjective and an objective perspective. In evaluating whether a hostile environment exists, the Seminary will consider the totality of known circumstances, including, but not limited to:
 - The frequency, nature, and severity of the conduct;
 - Whether the conduct was physically threatening;
 - The effect of the conduct on the Complainant’s mental or emotional state;

- Whether the conduct was directed at more than one person;
- Whether the conduct arose in the context of other discriminatory conduct;
- Whether the conduct unreasonably interfered with the Complainant's educational or work performance and/or the Seminary's programs or activities; and
- Whether the conduct implicates concerns related to academic freedom of speech.

A hostile environment can be created by persistent or pervasive conduct or by a single or isolated incident, if sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment, particularly if the conduct is physical. A single incident of sexual assault, for example, may be sufficiently severe to constitute a hostile environment. In contrast, the perceived offensiveness of a single verbal or written expression, standing alone, is typically not sufficient to constitute a hostile environment.

B. Other Forms of Sexual Misconduct - In addition to the conduct set forth above as sexual harassment, the following conduct is also deemed to be sexual conduct and is prohibited under this policy:

(1) Sexual Assault

a. Related to Attempted or Actual Penetration: Having or attempting to have non-consensual vaginal or anal penetration, however slight, with a body part (*e.g.*, penis, tongue, finger, hand) or object, or oral penetration involving mouth to genital contact. This includes sexual intercourse or attempted intercourse under circumstances including:

- Where the use or threat of intimidation, coercion, or force is involved;
- Where the other person is incapacitated and that incapacitation should be apparent to a sober, reasonable person in the same situation;
- Where the other person does not consent; or
- Where the other person is under the age of 17

b. Related to All Other Forms of Sexual Contact: Having or attempting to have any non-consensual, non-accidental touching of a sexual nature. This touching can include, but is not limited to, kissing, touching the intimate parts of another or causing the other person to touch the Respondent's intimate parts. This includes sexual contact under circumstances including:

- Where the use or threat of intimidation, coercion or force is involved;
- Where the other person is incapacitated and that incapacitation should be apparent to a sober, reasonable person in the same situation;
- Where the other person does not consent; or
- Where the other person is under the age of 17

(2) Sexual Exploitation - Sexual exploitation is taking sexual advantages of another person for the Respondent's own advantage or benefit, or for the benefit or advantage of anyone other than the Complainant. Examples of sexual exploitation include recording, photographing, or transmitting images of another person of a sexual nature web-cam, camera, Internet, etc., without the knowledge and consent of all persons; knowingly exposing HIV or another STD to an unknowing person or to a person who has not consented to the risk; causing or attempting to cause incapacitation for the purpose of making another person vulnerable to sexual assault; allowing third parties to observe private sexual acts; and voyeurism.

(3) Intimate Partner Violence - Intimate partner violence is also referred to as a dating violence, domestic violence, and relationship violence, and includes any act or threatened act of violence against an individual by a person who is or has been, involved in a sexual, dating, spousal, domestic, or other intimate relationship with that individual. It may involve one act or an ongoing pattern of

behavior. Intimate partner violence can encompass a broad range of behavior, including but not limited to physical violence, sexual violence, emotional violence, and economic abuse. It can take the form of threats, assault, property damage, and violence to oneself, one's former or current sexual or romantic partner or to the family members or friends of the sexual or romantic partner.

- (4) **Stalking** - Stalking is a course of conduct directed at a specific person that would cause a reasonable person to be in fear of bodily injury or to experience substantial emotional distress. Course of conduct means two or more acts, including but not limited to: acts made directly, indirectly, or through third parties, by any action, method, or device, including following, monitoring, observing, surveilling, threatening, or communicating to or about another person, or interfering with another person's property. Substantial emotional distress means significant mental suffering or anguish. Stalking includes cyber-stalking, a particular form of stalking using electronic media such as the Internet, social networks, blogs, cell phones, texts or other similar devices or forms of contact.
- (5) **Retaliation and Intimidation for Reporting or Participating in the process** - Retaliation is any adverse action taken against a person for making a good faith report under this Policy or participating in any proceeding under this Policy. Retaliation includes threatening, intimidating, harassing, coercing, or another conduct that would disadvantage a reasonable person from engaging in activity protected under this Policy. Retaliation does not include good faith actions lawfully pursued in response to a report filed under this Policy.
- (6) **Aiding or Facilitating** - Knowingly and intentionally aiding or facilitating any act of sexual misconduct, before or after the fact, is also a violation of this Policy.
- (7) **Limitations on Consensual Relationships:** In order to protect the integrity of the Seminary academic and work environment, this policy outlines limitations on consensual romantic or sexual relationships between and among faculty, staff, and students. When individuals are involved in a consensual romantic or sexual relationship and are in positions of unequal authority or power, there is the potential for a conflict of interest, favoritism, and exploitation of power.

Anyone with supervisory, evaluative, or mentoring authority who controls or influences another person's employment, academic advancement, scholarship or financial support, grades, recommendations, wage status, or promotion at the Seminary is prohibited from having a romantic or sexual relationship with that person regardless of consent.

Faculty, employees, and staff are prohibited from having a romantic or sexual relationship with any student, regardless of whether the faculty, employee, or staff member currently exercises or expects to have any pedagogical or supervisory responsibility over the student.

If anyone is promoted into a position or has a change of circumstances that results in a conflict with this policy limiting consensual relationships, this information must be reported by the faculty, employee, or staff member to the Coordinator for assistance in resolving the conflict.

Limitations on consensual relationships may be referred to procedures outlined in other St. Joseph's Seminary or ADNY policies and handbooks.

Seminarians:

This policy does not apply and cover inappropriate consensual sexual relationships that violate the Seminary's formation policies as outlined in the Seminarian Handbook.

Section V- Definitions of Consent, Coercion & Incapacitation

A. Affirmative Consent to Sexual Contact - Sexual contact must be consensual at all times, and sexual contact is considered consensual only after affirmative consent has been given. 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.

The below guiding principles along with the definition above will be used to evaluate whether sexual activity was consensual or violates this policy:

- 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.
- Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol
- Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity.
- Consent may be initially given but withdrawn at any time.
- Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.
- When consent is withdrawn or can no longer be given, sexual activity must stop.

B. Coercion - Coercion includes the use of pressure and/or oppressive behavior, including express or implied threats of harm, severe and/or pervasive emotional intimidation which places an individual in fear of immediate or future harm or physical injury or causes a person to engage in unwelcome sexual activity. A person's words or conduct amount to coercion if they wrongfully impair the other's ability to freely choose whether or not to engage in sexual activity. Coercion also includes administering a drug, intoxicant, or other substances that impairs the person's ability to give consent.

C. Incapacitation - A person is incapacitated and unable to give affirmative consent if he or she lacks the ability to knowingly choose to participate in sexual activity. An individual may be incapacitated if he or she lacks consciousness or is asleep, or 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.

Some indicators of incapacitation may include, but are not limited to, slurred speech, emotional volatility, lack of control over physical movements, lack of awareness of circumstances or surroundings, or the inability to communicate.

It is especially important, therefore, that anyone engaging in sexual activity be aware of the other person's level of intoxication. The question is whether a sober reasonable person in the position of the Respondent should have known that the individual was incapacitated. Because incapacitation may be difficult to discern, individuals are strongly encouraged to err on the side of caution; *i.e.*, when in doubt, assume that the person is incapacitated and therefore unable to give affirmative consent.

Section VI- Community Resources

The Seminary is committed to treating all individuals with dignity, care, and respect. Both a Complainant and a Respondent will have equal access to support. The Seminary will assist the Complainant and Respondent in obtaining assistance and support through community resources. All parties are strongly encouraged to utilize available resources for assistance.

A. Emergency Resources - An individual who has been the victim of a crime, such as sexual assault, is encouraged to get to a safe place and contact the local police department or call 911 immediately. Even if the individual does not wish to report the criminal conduct to the Seminary or to local law enforcement, he or she should still consider going to a hospital, both for his or her own health and well-being and so that evidence can be collected and preserved. Any evidence collected may be critically important in any future investigation, adjudication or prosecution. Medical providers can also facilitate and/or provide the following:

- Emergency or follow-up medical services: The Medical examination has two goals: first, to treat the full extent of any injury or physical trauma and to consider the possibilities of sexually transmitted disease or pregnancy; and the second, to collect and preserve evidence as part of a ‘rape kit’ or sexual assault examination for potential use in a criminal prosecution (provided only by a trained professional in a hospital). A victim should not shower, bathe, douche, brush his or her teeth, drink, or change clothing before having a medical examination, because the evidence may be destroyed.
- HIV and STD testing,
- Pregnancy testing,
- Health care concerns related to the incident may be discussed with the hospital emergency staff, a personal physician, or, in the case of the Seminary students, with the Seminary Staff who can also provide referrals to off-campus providers.

Regardless of whether possible criminal conduct is reported to the proper authorities, the Seminary will generally still conduct an investigation and take appropriate steps to assist the victim.

B. Confidential Community Resources

Spiritual Directors of the Seminary: The Spiritual Directors of the Seminary are people who can speak with you confidentially in the ‘internal forum’ and provide counsel and pastoral direction. These are the only employees on campus who are confidential resources at the Seminary.

Hospitals: Some hospitals near campuses may not provide Sexual Assault Response Treatment (SART) programs that include emergency room physicians, forensic nurses, and social workers who have been specifically trained in treating victims of sexual assault and rape. SARTs take a multidisciplinary approach, combining medicine, law enforcement, and victim advocacy to ensure that sexual assault victims receive appropriate medical attention, evidentiary examinations, emotional support, and referral information. Below are the nearby hospitals that provide the SART services. If you go to a hospital that does not provide SART services and it is needed, the hospital will refer you to one that has these services. The following hospitals provide Sexual Assault Response Treatment (SART) programs:

- **Westchester**

Westchester County Medical Center | 100 Woods Road, Valhalla, N.Y. | 914-493-7000

White Plains Hospital Medical Center | 41 East Post Road, White Plains, N.Y. | 914-681-0600

- **Queens**

Elmhurst Hospital Center | 79-01 Broadway, Elmhurst, N.Y. | 718-334-4000

Queens Hospital Center | 82-68 164th Street, Jamaica, N.Y. | 718-883-3090

- **Long Island**

North Shore University Hospital | 300 Community Drive, Manhasset | 516-562-4125

Mather Hospital | 75 North Country Road, Port Jefferson / 631-473-1320

- **Upstate**

Vassar Brothers Medical Center | 45 Reade Place, Poughkeepsie, NY | 845-454-8500

Rape and Violence Crisis Centers & Hotlines (most offer assistance 24 hours a day):

- New York State Hotline for Sexual Assault and Domestic Violence, free and immediate support, 24 hours a day, Telephone 1-800-942-6906
- Rape Crisis Hotline, free and immediate support, 24 hours per day, Telephone 914-345-9111
- Safe Horizon Sexual Assault Hotline, Telephone (800) 621-HOPE (4673) or at www.safehorizon.org. Safe Horizon's Counseling Center is licensed by the state of New York and specializes in treating traumatized victims of crime and abuse.
- New York State Office of Victim Services, Telephone 800 - 247-8035 (or) www.ovs.ny.gov
- New York State Domestic Violence Hotline, Telephone 800-247-8035

Community Legal Services:

- National Crime Victims Bar Association, Telephone 202-467-8753; for assistance pursuing civil justice for crime victims
- NYS Crime Victims Board, Telephone 800-247-8035; for legal help and information provided by the New York State Office of Victim Services
- LawHelp.org. This is a website dedicated to helping persons in need find legal help, organizations, resources, and information for various circumstances

Section VII- Making a Report under this Policy

A. Reporting Guidelines for Students:

Students are encouraged to report information about any type of possible sexual misconduct involving a student or employee. Making a good faith report of possible sexual misconduct will not affect the reporting party's grades, academic standing, and work assignments, or employment. Reports should be made to the Coordinator, Deputy Coordinator, or Deans (as set forth in Section III). Witnesses are encouraged to

report sexual misconduct that they learn of that may violate this policy even if the student is not directly involved in any alleged behavior and is a bystander or first person that a victim / complainant informs.

At the time a report or complaint of sexual misconduct is made, a Complainant does not have to decide whether or not to pursue resolution of the complaint through any particular Seminary adjudication procedure. Choosing to make a report and deciding how to proceed after making the report can be a process that unfolds over time. Although the Seminary may need to take action as a result of a particular complaint, the Seminary will endeavor to respect an individual's concerns in making these important decisions and provide support to assist each individual in making that determination.

Notification of Student Rights at the Time of First Disclosure: At the first instance of disclosure by a reporting individual to a Seminary official, the following information shall be presented to the reporting individual: "You have the right to make a report to the local law enforcement, or State Police or choose not to report; to report the incident to your institution (the Seminary); to be protected by the institution (the Seminary) from retaliation for reporting an incident; and to receive assistance and resources from your institution (the Seminary)."

B. Reporting Guidelines for Employees: Under this Policy, **all faculty and staff** entrusted with the welfare of students or whom a student could reasonably believe has this authority to receive a report of sexual misconduct are considered "responsible employees" and **must share the report** with one of the individuals specifically charged with investigating and responding to allegations of sexual misconduct. Individuals designated as "responsible employees" are also required to report all relevant details about the learned incident to the Coordinator (or) Deputy Coordinator (or) Deans. It is imperative to report the information to the people outlined in this Policy to ensure the victim / survivor (Complainant) is provided with a Notification of Rights upon first disclosure. Anyone receiving a complaint or report under this Policy should not, under any circumstances, attempt to resolve the complaint without reporting it to the Coordinator or Deputy Coordinator.

Spiritual Directors' Exception to Required Reporting:

The **only** employees who are not mandatory reporters when they receive a report of sexual misconduct are the designated Spiritual Directors in the 'internal forum,' who are using the 'internal forum' for counsel and pastoral direction.

Below are Reporting Requirements and Guidelines:

1. **Time Frame for Reporting:** All reports or complaints of sexual misconduct should be made as soon as possible after alleged conduct occurs. Although there is no time limit for reporting, prompt reporting will enable the Seminary to investigate the facts, determine the issues, and provide an appropriate remedy or disciplinary action. If the Respondent is no longer a student or employee, the Seminary will seek to provide support to the Complainant and take all available measures to end the harassment, prevent its recurrence, and address its effects.
2. **Emergency Reporting:** Assistance by the Seminary is available 24 hours a day year-round by calling or contacting the Coordinator, the Deputy Coordinator or Deans. A Seminary employee or designee will be available to provide information regarding options to proceed, and where applicable, the importance of preserving evidence and obtaining a sexual assault forensic examination as soon as possible. The Seminary employee will also detail the criminal justice process utilizing the different standards of proof and evidence and answer any questions, explain the various options available both at the seminary and or with law enforcement, assist in coordination with law enforcement, and information about the resources, adjudication process and other appropriate assistance.

3. **Amnesty:** The health and safety of every student at the Seminary is of utmost importance. The Seminary recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that sexual misconduct may have occurred may be hesitant to report such incidents due to fear of potential consequences as a result of their own conduct. The Seminary strongly encourages students to report possible sexual misconduct to Seminary officials. A Complainant, bystander, or other individual who in good faith reports any incident of sexual misconduct to the Seminary officials or law enforcement will not be subject to any disciplinary action.
4. **False or Bad Faith Allegations:** An individual found to have knowingly made a false complaint or report, or to have knowingly and willingly given false information during an investigation, will be subject to disciplinary action, up to and including dismissal from the Seminary. Inconclusive findings based on a report of sexual misconduct or a finding that there has been no violation of the Policy, without more, will not result in a determination that allegations were made falsely or in bad faith. An individual who files a reasonable complaint in good faith of a suspected violation or the above referenced prohibited acts or brings forth information about such an act in honest belief, even if it may be found to be erroneous, will not be subject to discipline.
5. **Anonymous Reporting:** The Seminary community members also have the option of making an anonymous report concerning an act of sexual misconduct. An individual may report the incident without disclosing his or her name, identifying the Respondent, or requesting any action. However, depending on the level of information available about the incident or the individuals involved, anonymous reporting may reduce the Seminary's ability to respond or pursue appropriate action. The Seminary's response may be limited if information contained in the report cannot be verified by independent facts. Moreover, the Seminary may not be able to take disciplinary action against an individual based solely on an anonymous report. A form which can be used for anonymous reporting can be found at Appendix A.
7. **Public Awareness and Advocacy Events:** If an individual discloses information about a potential violation of this Policy during public awareness or advocacy events, such as a candlelight vigil or protest, that disclosure will not constitute a report or complaint for purposes of this Policy, and the Seminary will not have an obligation to investigate. The Seminary may, however, consider the information in developing its education and prevention efforts.

C. Coordination with Law Enforcement

The Seminary will support Complainants who elect to pursue criminal action for possible incidents of sexual harassment, sexual assault, and intimate partner violence that may also be criminal in nature. The Seminary will assist a Complainant in making a criminal report and, to the extent permitted by law, will cooperate with law enforcement agencies during their investigation and any subsequent prosecution.

A Complainant may make a report under this Policy and/or pursue criminal action. Neither law enforcement's determination whether or not to prosecute a Respondent, nor the outcome of any criminal prosecution, is determinative of whether a violation of this Policy has occurred. Reporting and adjudication under this Policy are independent of civil and criminal processes and may be carried out prior to, simultaneously with, or following civil or criminal proceedings off-campus. Initiating a report on-campus does not preclude, limit, or require a student's or employee's access to the state and federal justice systems. A victim of any criminal sexual offense has legal recourse outside the Seminary and can commence civil or criminal proceedings against the offending person(s). Many of the prohibited behaviors

of the Seminary's policies are also violations of New York State criminal laws where a person can be charged criminally with rape, sex abuse, stalking, and other charges. If convicted of such crimes, a person can be subject to severe penalties, including imprisonment for up to 25 years.

Notifying the local or state police department may result in the Complainant, and in some cases the Respondent, being interviewed by a police officer and by the district attorney's office, and a determination will be made as to whether a criminal investigation will occur and if the case will be referred for prosecution. A case not referred for criminal prosecution will generally still receive an investigation and a response from the Seminary. The Seminary's investigation may be temporarily suspended as criminal investigators gather evidence. In such a case, the Seminary will resume its investigation as soon as practicable and will take interim measures as necessary to protect the Complainant and the Seminary community.

If a Complainant wishes to file a report with the local police department, an appropriate Seminary staff member will be available to provide assistance and support. Separately, the Seminary may file a police report if the incident is sufficiently serious or could pose a threat to the safety or security of the Complainant or the Seminary community, or if the Complainant is a minor. However, the Seminary policy does not require a Complainant to speak to law enforcement or to pursue a legal action against a Respondent.

CALL: 911 for your local police to respond (or) New York State Police Hotline: 844-845-7269

Section VIII- Interim Remedial and Protective Measures

After a report of sexual misconduct is received, both Complainant and Respondent may obtain reasonable and available interim remedial and/or protective measures pending the completion of the adjudication process. Upon request, a Complainant or Respondent will be afforded a reasonable and prompt review of any interim remedy that directly affects him or her and be allowed to submit evidence in support of his or her request. All individuals are encouraged to report concerns about the failure of another individual to abide by any restrictions imposed by an interim measure. The Seminary will take immediate action to enforce a previously implemented measure.

Interim measures, which are available to both Complainant and Respondent, include, but are not limited to, the following:

A. Contact and Communication Restrictions aka "Seminary No Contact Directive"

A Complainant or Respondent may request contact and communication restrictions to prevent potentially harmful interactions between the parties. In some instances, the Seminary may implement these measures without a request. For example, the Seminary might implement a no-contact directive, prohibiting the parties from having contact with one another, either directly or through third parties, in person or otherwise. Under such a directive, if a Respondent and Complainant should observe each other in a public place, the Respondent is responsible for leaving the area immediately without directly contacting the Complainant. Once such a directive is instituted, any continued intentional conduct by a Respondent with the Complainant will be considered a violation of this Policy and may result in sanctions or other disciplinary action against the Respondent. Both a Respondent and the Complainant may request a review, reasonable under the circumstances, of the need for and terms of a no-contact order and shall be allowed to submit evidence in support of his or her request for modification or termination of said order. If a party or third person attempts to violate the No Contact Directive, they may be subject to additional violations relating to retaliation and or intimidation.

B. Interim Measures for Academic, Living, Transportation and / or Work Arrangements

A Complainant or Respondent may request, or the Seminary may impose, reasonable and available changes in academic, living, transportation or work arrangements after a report of sexual misconduct. The Seminary will review the need for and terms of any such requested change, including reviewing any appropriate evidence submitted by the Complainant or the Respondent in support of the request. Such changes may include:

- Accommodations in class schedule, including the ability to withdraw from a course without penalty
- Limiting an individual's access to certain Seminary facilities or activities pending resolution of the complaint; and/or
- Reassignment of housing, if practicable.

The Complainant or Respondent may request and be afforded an opportunity for a review of the need for and terms for any such Interim Measures and Arrangements to be adjusted, modified or changed and be allowed to submit evidence to support the request. The Coordinator weighs all information and considers the overall safety and environment for the other party and community and will make the final decision of requested review.

Section IX – Adjudication Procedure for Students

A. **Overview** - The adjudication process provides a number of options for those who believe they have been the victim of sexual misconduct. The option selected will depend on a number of factors, including the nature of the alleged misconduct, the information available, the degree of confidentiality sought, and the relief sought by the Complainant. A Complainant may request an informal or formal resolution process. An informal resolution focuses on stopping the harassing behavior without a formal investigation. It is remedies-based and does not include sanctions. A Complainant's decision to pursue informal resolution may be made before, during, or after a full factual investigation by the Seminary. A formal resolution involves an investigation and may result in sanctions if a violation of this Policy is found to have occurred. Regardless of whether a Complainant wishes to pursue an informal or formal resolution, or ultimately chooses not to seek a resolution at all, the Coordinator will undertake an appropriate inquiry and take such action as is reasonably practicable to support and protect the Complainant and, if necessary, the St. Joseph's Seminary community.

B. Designation of Other Trained Experienced Person(s)

The Seminary may, in its discretion, designate other trained / experienced person(s) to act as the Investigator / finder of fact, Hearing Officer, or person(s) conducting the appellate review. The Coordinator makes the designations of Investigators, Hearing Officers, and Appellate Reviewers who can be employees, non-employees, or attorneys to foster a fair, impartial, and timely adjudication and resolution of any complaints.

C. **Informal Resolution** - Informal resolution is a viable option when the Complainant desires to resolve the situation when a formal investigation is not desired and the allegations do not include violence and or sexual assault. Informal resolution is a remedies-based approach designed to eliminate the conduct giving rise to the complaint without taking disciplinary action against a Respondent.

The means for seeking an informal resolution will vary from case to case, including, but not limited to, the following: the direct approach or Seminary Assisted Mediation. In the informal process, after a report of sexual misconduct is received, the Coordinator, Deputy Coordinator, or an appropriate designee will conduct an appropriate level of inquiry to facilitate the resolution process.

Participation in the Informal Resolution process is voluntary and typically not used when the underlying allegations involve violent acts. The Seminary will not compel participation in the informal process and the Complainant or Respondent may withdraw from the informal process at any time, where appropriate. The Seminary may elect to end such proceeding and initiate the Formal Resolution and Adjudication Procedure where appropriate.

- 1. Direct Approach without the Seminary's Assistance:** After a discussion with the Coordinator or other designated Seminary official, a Complainant who feels comfortable approaching a Respondent may choose to communicate with that Respondent personally. This approach might include a face to face discussion, telephone conversation, email correspondence, or other written communication with a Respondent, letting him or her know exactly what behavior is offensive or unwelcome and asking him or her to stop. In some cases, this approach may resolve the situation; in others, it may be ineffective or place the Complainant in an uncomfortable position. Under no circumstances should a Complainant feel pressured to address a Respondent directly or otherwise handle the matter alone, and a decision not to confront an alleged offender will not be viewed negatively.

At a Complainant's request, the direct approach may also be undertaken by the Coordinator or designee, who may intervene on the Complainant's behalf and approach a Respondent personally to discuss his or her behavior.

- 2. Seminary Assisted Mediation:** This option involves having the Coordinator, Deputy Coordinator or a designee(s) designated by the Seminary to mediate between a Complainant and a Respondent; this person is called the Mediator. The Mediator will bring the Complainant and Respondent together informally to attempt to resolve the issue after the Respondent is informed of the allegation(s), the policies, processes and resources. This type of approach may result in solutions such as negotiating an agreement between the parties, separating the parties, referring the parties to counseling programs, and/or conducting targeted training or educational programs. If this approach is used, the Coordinator or other designated School official will conduct a follow-up review after a reasonable period of time to assure that the resolution has been implemented effectively.

D. Formal Resolution and Adjudication Procedure - The formal resolution process is available whenever informal resolution is inappropriate or unresolved and whenever either party withdraws his or her prior agreement to participate in informal resolution. Formal resolution includes a full investigation and, if a Respondent is found responsible, may result in the imposition of sanctions, ranging from a verbal warning up to and including dismissal or separation from the Seminary.

The formal resolution process will be overseen by the Coordinator and, in most instances, will be completed within sixty (60) days of receipt of the complaint. However, all time frames expressed in this Policy are guidelines rather than rigid requirements. In any particular case, circumstances may require extending these timeframes. Considerations may include the complexity or scope of the allegations, the number of witnesses involved, the availability of the parties or witnesses, the effect of a concurrent criminal investigation, any intervening School break or vacation, or other unforeseen circumstances.

In general, a Complainant and Respondent can expect that the process will proceed according to reasonable time frames.

1. **Initiation of Complaint** - The formal resolution process is initiated by a complaint and / or by any member of St. Joseph's Seminary community alleging a violation of the Seminary's sexual misconduct policy to one of the individuals designated in the Reporting Guidelines.

The Seminary will counsel the Complainant and assist with any immediate physical \safety and emotional well-being needs, discuss the Complainant's expressed preference for the manner of resolution, will review this procedure and to have their rights explained. If there is alleged criminal behavior, options and information for reporting to law enforcement will be explained and the Seminary will assist the Complainant in reporting to the police, notify of their right to seek medical treatment, including the importance of preserving evidence. Additionally, the Complainant will be provided with available academic and other emotional support.

Once a report or complaint of sexual misconduct has been received, the Coordinator, Deputy Coordinator or another trained designee will schedule a meeting with the Complainant to gather information and / or may also meet with witnesses or others with information. If after this initial assessment and gathering of information, the Seminary determines that there may be a violation of the sexual misconduct policy, it may proceed with a full investigation and possibly steps towards a formal resolution if warranted. If the Complainant does not want to proceed with an investigation, the Seminary will typically honor that request unless it determines in good faith that failure to does not adequately mitigate potential risk of harm to any member of the community. If the Seminary proceeds to investigate, it will make a good faith effort to inform the Complainant.

If a Complainant chooses to proceed, they may be asked to write a written statement and to provide any other documentation, names of possible witnesses, or other evidence that may aid in the investigation. It is important to preserve any physical evidence that may assist in understanding what may have occurred, such as text messages, social media posts, emails, voicemails or items of clothing. A written complaint, however, is not required to initiate the formal resolution process.

Depending upon the circumstances and requested resolution, the Respondent may or may not be notified of the report or resolution of a complaint. The Seminary may make a preliminary determination as to whether the complaint or report of an alleged violation is within the scope of this policy; meaning whether the complaint described, if true, would constitute a violation of this policy. If the complaint /reported behavior does not meet the minimum scope of this policy, the complainant will be informed. The Respondent will be notified when and if there is action taken by the Seminary that could impact a Respondent.

After the complaint has been received and the Seminary decided to proceed with the Formal Resolution process, the Coordinator or designee will notify a Respondent of the allegations against them and provide them with a general overview of the formal resolution process, the various options and rights, and resources available. At any time after receiving the complaint, the Respondent may elect to acknowledge their stated violation(s) of this Policy and take responsibility for the alleged sexual misconduct, or the Complainant may elect to withdraw the complaint and discontinue the adjudication process. If the Respondent accepts responsibility for the stated violation(s) of this Policy, the case may not be investigated, at the Seminary's discretion, but instead may proceed directly to a Hearing for a determination of sanctions.

All parties involved in an adjudication procedure are asked to keep information regarding the process, or learned through it, confidential. This request is to protect the integrity of the investigation and adjudication process prior to any final determination to not influence any witnesses or those participating in the process.

The Selection of the Investigator, Hearing Officer and Appeal Panel:

The **Investigator**, the **Hearing Officer**, and **Appeal Panel** members are selected by the Coordinator who, in the ordinary course, will evaluate the circumstances and base the selection(s) upon the circumstances that may include any of the following factors: availability for a timely investigation / hearing and free from any conflict of interests. The Coordinator may consult with the Deputy Coordinator, or other senior staff, and / or ADNY counsel, when appropriate. The selection is to ensure a fair, impartial, thorough and prompt investigation and adjudication.

The investigator and hearing officer are typically two different people trained on issues relating to sexual harassment, dating and domestic violence, sexual assault and stalking, how to conduct an investigation that protects the safety of all involved and promotes accountability and have understandings of this policy and processes. The Coordinator may designate people who are within the community or trained / experienced people outside the community; attorneys may be selected. Once a selection and designation occurs, the parties involved will be notified. The parties can each raise any objections in a timely manner to the designation which will be considered by the Coordinator who has the ultimate authority. The hearing officer and appeal panel members do not need to be selected at the outset of the investigation but can be selected at later times and when appropriate.

2. Investigation

One or more individuals trained in the investigation of sexual misconduct and designated by the Seminary as the “Investigator” will then conduct a prompt, thorough, fair, and impartial investigation.

- (a) Notice of Investigation:** The Coordinator will notify a Complainant and a Respondent, in writing, of the commencement of an investigation. Such notice will (1) identify the Complainant and the Respondent; (2) specify the date, time (if known), location, and nature of the alleged Policy violation; (3) identify potential Policy violation(s); (4) identify the Investigator; (5) explain the prohibition against retaliation; (6) instruct the parties to preserve any potentially relevant evidence in any format; (7) inform the parties how to challenge participation by the Investigator on the basis of bias or a conflict of interest; and (8) provide a copy of this Policy.
- (b) Presumption of Non-Responsibility and Participation by the Parties:** The investigation is a neutral fact-gathering process. The Respondent is presumed to be not responsible; this presumption may be overcome only where the Investigator concludes that there is sufficient evidence, by a preponderance of the evidence, to support a finding that the Respondent violated the Seminary’s policy. The Seminary may continue an investigation without the participation of any party.
- (c) Overview of Investigation:** During the investigation, the parties will have an equal opportunity to be heard, to submit information and corroborating evidence, to identify witnesses who may have relevant information, and to submit questions that they believe should be directed by the Investigator to each other or to any witness. The Investigator will notify and seek to meet separately with the Complainant, the Respondent, and third-party witnesses, and will gather other relevant and available evidence and information, including, without limitation, electronic or other records of communications between the parties or witnesses (via voicemail, text message, email, and/or social media sites), photographs

(including those stored on computers and smart phones), and medical records (subject to the consent of the applicable party).

- (d) Advisors of Choice:** Throughout the investigation and resolution process, each party has the right to choose and consult with an advisor of choice. The advisor may be any person, including an attorney, who is not otherwise a party or witness involved in the investigation. The parties may be accompanied by their respective advisors at any meeting or proceeding related to the investigation and resolution of a report under this Policy. While the advisors may provide support and advice to the parties at any meeting and/or proceeding, they may not speak on behalf of the parties or otherwise participate in, or in any manner disrupt, such meetings and/or proceedings.
- (e) Prior or Subsequent Conduct:** Prior or subsequent conduct of a Respondent may be considered in determining pattern, knowledge, intent, motive, or absence of mistake. For example, evidence of a pattern of conduct prohibited by this Policy by a Respondent, either before or after the incident in question, regardless of whether there has been a prior finding of a Policy violation, may be deemed relevant to a determination of responsibility. The determination of relevance of pattern evidence will be based on an assessment of whether the previous or subsequent conduct was substantially similar to the conduct under investigation. The Investigator will determine the relevance of this information, and both parties will be informed if evidence of prior or subsequent conduct is deemed relevant.
- (f) Prior Sexual History:** The sexual history of a Complainant or Respondent will never be used to prove character or reputation. Moreover, evidence related to the prior sexual history of any of the parties is generally not relevant to the determination of a Policy violation and will be considered only in limited circumstances. For example, if the existence of affirmative consent is at issue, the sexual history between the parties may be relevant to help understand the manner and nature of communications between the parties and the context of the relationship, which may have bearing on whether affirmative consent was sought and given during the incident in question. However, even in the context of a relationship, affirmative consent to one sexual act does not, by itself, constitute affirmative consent to another sexual act, and affirmative consent on one occasion does not, by itself, constitute affirmative consent on a subsequent occasion. The Investigator will determine the relevance of this information, and both parties will be informed if evidence of prior sexual history is deemed relevant. Any party has the right to exclude his or her own prior sexual history with persons other than another party, as well as his or her own mental health diagnosis or treatment, from consideration in the procedures under this Policy for the purposes of determining responsibility.
- (g) Relevance:** The Investigator has the discretion to determine the relevance of any proffered evidence and to include or exclude certain types of evidence.
- (h) Site Visit(s):** The Investigator may visit relevant sites or locations and record observations through written, photographic, or other means when appropriate and at their discretion
- (i) Expert Consultation(s):** The Investigator may consult medical, forensic, technological, or other experts when expertise on a topic is needed in order to achieve a fuller understanding of the issues under investigation when appropriate at their discretion.
- (j) Draft Investigation Report:** At the conclusion of the investigation, the Investigator will prepare a Draft Investigation Report summarizing the information gathered. The Draft Investigation Report will not include any findings. The parties will have an opportunity to

review the Draft Investigation Report and to review evidence in the case file to provide a meaningful opportunity to offer and respond to information and evidence ; meet with the Investigator; submit additional comments and information to the Investigator; identify any additional witnesses or evidence for the Investigator to pursue; and submit any further questions that they believe should be directed by the Investigator to the other party or to any witness. The Investigator will designate a reasonable time for this review and response by the parties. In the absence of good cause, information discoverable through the exercise of due diligence that is not provided to the Investigator during the designated review and response period will not be considered in the determination of responsibility for a violation of the Policy, and will not be considered by the Hearing Officer.

- (k) Final Investigation Report:** Unless there are significant additional relevant investigative steps requested by the parties and /or identified by the Investigator for further investigation, the Complainant and Respondent will be given an opportunity to submit any additional comment or information to be considered by the Investigator. The Investigator will prepare a Final Investigation Report which will include a determination as to whether a reasonable fact-finder could determine that there is sufficient evidence to support a violation of the policy based upon the preponderance of the evidence (i.e. more likely than not that such a violation of policy occurred). The investigator may consult with senior administrators and others when preparing the final investigation report. Complainant and Respondent will have an opportunity to review the final report.
- (l) Recommended Finding(s) of Responsibility:** If the Investigator determines that there is sufficient evidence to support a finding of responsibility on one or more of the allegations, a Respondent may accept or contest such recommended finding(s) by so notifying the Coordinator, in writing within a specified reasonable time period.
- If the Respondent accepts the recommended finding(s) of responsibility, the Coordinator will refer the case for a hearing before the Hearing Officer solely on the issue of sanction.
 - If a Respondent contests one or more of the recommended finding(s), the Respondent may submit to the Coordinator a written statement explaining why the Respondent contests such finding(s).
 - The Coordinator will ensure that the Complainant has an opportunity to review and respond in writing to any such statement. The Coordinator will provide the Final Investigation Report, together with any statements by the parties, to the Hearing Officer for further proceedings.
- (m) Recommended Finding(s) of No Responsibility:** If the Investigator determines that there is sufficient evidence as a fact-finder, by a preponderance of the evidence (i.e. more likely than not that such a violation of policy occurred), to support a finding of no responsibility on one or more of the allegations, the Complainant may accept or contest the recommended finding(s) by so notifying the Coordinator, in writing within a specified reasonable time frame.
- If the Complainant accepts the recommended finding(s) of no responsibility, the investigation will be closed.
 - If the Complainant contests one or more of the recommended finding(s), the Complainant may submit to the Coordinator a written statement explaining why the Complainant contests such finding(s).
 - The Coordinator will ensure that the Respondent has an opportunity to review and respond in writing to any such statement. The Coordinator will provide the Final Investigation Report, together with any statements by the parties, to the Hearing Officer for further proceedings.

(n) Impact and Mitigation Statements: Where there is a finding of responsibility on one or more of the allegations, the parties may submit a statement to the Coordinator for consideration by the Hearing Officer in determining an appropriate sanction.

- The Complainant may submit a written statement describing the impact of the conduct that violated this Policy on the Complainant and expressing a preference about the sanction(s) to be imposed.
- A Respondent may submit a written statement explaining any factors that the Respondent believes should mitigate or otherwise be considered in determining the sanction(s) imposed.
- The Coordinator will ensure that each of the parties has an opportunity to review any statement submitted by the other party. The Coordinator will provide any statement(s) with the Final Investigation Report and the parties' other written submissions to the Hearing Officer.

3. Acceptance of Responsibility

A Respondent may, at any time, elect to resolve the formal resolution process by accepting responsibility for the charges, in which case the Coordinator will refer the matter to the Hearing Panel to determine the appropriate sanction(s).

4. Adjudication by a Hearing Officer If Investigation Report is Contested

A Hearing Officer must be impartial, free from any conflict of interest, and have received training.

(b) Hearing Determination: If the Complainant or Respondent contest the Investigator's Final Investigation Report and Recommended Finding(s) and Recommended Finding(s) of responsibility (or no responsibility) for an alleged violation of this Policy, the Hearing Officer will hold a Hearing to determine whether the Respondent is responsible for the alleged violation(s) of the Policy. The Hearing Officer will make this determination based upon a preponderance of the evidence. If the Hearing Officer finds the Respondent responsible, it will determine the appropriate sanction(s) for the violation(s) after reviewing any impact statements previously provided. Character evidence and impact statements are not to be weighed when determining whether or not there is a violation of the policy; that information can be weighed in determining the sanction / discipline if there is a substantiated violation of this policy.

(a) Notice and Timing of Hearing: The Coordinator will notify the parties in writing of the date, time, and location of the Hearing; the name of the Hearing Officer; and how to challenge participation of the Hearing Officer for conflict of interest. Good cause for extension may include the unavailability of the parties, the timing of Seminary breaks or holidays, or other extenuating circumstances. Any extension, including the reason for the extension, will be shared with the parties in writing.

(b) Postponement of Hearing: Permission to postpone a Hearing may be granted provided that the request to do so is based on a compelling emergency and communicated to the Coordinator prior to the time of the Hearing.

(c) Participation in Hearing:

- **Parties:** A Complainant or Respondent is not required to participate in person at the Hearing in order for the Hearing to proceed. The parties do not have to be present in the same room during the hearing. A party may request alternative methods for participating in the Hearing that do not require physical proximity to the other party,

including participating through electronic means. This request should be submitted to the Coordinator at least three (3) calendar days prior to the Hearing. If, despite being notified of the date, time, and location of the Hearing, either party is not in attendance, the Hearing may proceed, and applicable sanctions will be imposed. Any party may choose not to participate, and the Hearing may proceed in their absence.

- **Investigator and other Witnesses:** The Hearing Officer may request the presence of the Investigator or any other witness it deems necessary to its determination. The parties may also request the presence of any witness they deem relevant to the determination by the Hearing Officer. The Hearing Officer has absolute discretion to determine which witnesses are relevant to its determination and may decline to hear from witnesses where it concludes that the information is not necessary for its review.
- **Advisors:** Both the Complainant and the Respondent have the right to be accompanied at the Hearing by an advisor of their choosing. The advisor may be anyone, including an attorney, who is not otherwise a party or witness. While the advisor may provide support and advice to a party at the Hearing, the advisor may not speak on behalf of the party or otherwise participate in, or in any manner disrupt, the Hearing. The Seminary reserves the right to remove any individual whose actions are disruptive to the proceedings.
- **Hearing Format:** The Hearing Officer has the discretion to designate the hearing format. The following hearing format is presented as a general example:

The Hearing provides an opportunity for the parties to address the Hearing Officer in person about issues relevant to the review. The parties may address any information in the Final Investigation Report, supplemental statements submitted in response to the Final Investigation Report, and provide any impact and mitigation statements. Each party has the opportunity to be heard, to identify witnesses for the Hearing Officer's consideration, and to respond to any questions of the Hearing Officer.

The parties may not directly question each other or any witness, although they may proffer questions for the Hearing Officer, who may choose, in their discretion, to pose appropriate and relevant questions to the Investigator, the parties, and/or any witnesses. A typical hearing may include information presented by the Investigator, Complainant, Respondent and/or witnesses, with follow-up questions by the Hearing Officer. The Hearing Officer has the discretion, consistent with these general principles, to determine the specific Hearing format.

5. Sanctions

Any sanctions imposed will be determined by the Hearing Officer based on the relevant facts and circumstances. The Hearing Officer will impose sanctions that are fair and appropriate, consistent with the Seminary's handling of similar cases, adequate to protect the safety of the St. Joseph's Seminary community, and reflective of the seriousness of the misconduct at issue.

Disciplinary and remedial sanctions may include, but are not limited to:

- A written warning placed in the Respondent's file;
- Reassignment of responsibilities, if practicable;
- Reassignment of housing or class scheduling, if practicable;

- Probation;
- Suspension from academic program; and/or
- Dismissal from the Seminary.

Transcript Notation:

If a student is suspended or dismissed in connection with an act constituting a crime of violence as defined by the federal Clery Act 20 U.S.C. 1092, a notation will be placed on the student’s transcript in accordance with applicable law and finding:

- If applicable, “Suspended (and /or) expelled after a finding of responsibility for a code of conduct violation”
- If a student Respondent withdraws from the Seminary while conduct charges are pending that are defined as a Clery crime of violence, the Seminary shall make a notation on the student’s transcript that they “withdrew with conduct charges pending.”

Training and educational sanctions might include one or more of the following:

- Active counseling (clinical and/or psychiatric as determined by practitioner);
- Alcohol abuse course;
- Anger management course;
- Assault prevention;
- Community service;
- Substance abuse treatment;
- Sexual harassment sensitivity training; and/or
- Safe sex training

b) Notice of Outcome

The Coordinator will notify the Complainant and Respondent simultaneously in writing of the Hearing decision as promptly as possible after a determination has been reached.

- The Complainant and Respondent will be informed of the decision, rationale for the decision, any sanctions, and information on how to file an appeal.

If a Student Respondent withdraws from the Seminary while conduct charges are pending and declines to complete the disciplinary process, the Seminary will continue with the completion of the process with or without the Respondent’s participation.

If appropriate, the Coordinator will also keep the Complainant apprised of any steps taken by St. Joseph’s Seminary to prevent recurrence of the sexual misconduct and to correct its adverse effects on the Complainant and other members of the St. Joseph’s Seminary community.

The Seminary will request that disclosure of the decision and sanctions be limited to family, close friends, or advisors. Each party has the right to choose whether to disclose or discuss the outcome of the complaint more broadly; however, retaliation is prohibited by this Policy and will not be tolerated. Widespread disclosure, as well as any form of disclosure on social media, may potentially be viewed as retaliatory and could subject the disclosing party to separate sanctions under this Policy.

6. The Appeal and Appeal Panel

All appeals will be conducted in a fair, impartial, and equitable manner by decision maker(s) free of any conflict of interest. Complainants and Respondents are entitled to request a written appeal of the decision of the Hearing to the Appeal Panel which is made up of three employees (or) designees of the Seminary who have been trained / have experience, and do not have a conflict of interest. A request for appeal should be addressed to the Coordinator by the requesting party no more than three (3) business days after receipt of the notice of the outcome.

The Coordinator will notify the other party of the appeal and provide them with the opportunity to review it; the other party will have three (3) business days to submit a response.

The Complainant and or Respondent can file a written appeal based upon:

- Procedural error: Appealing party alleges that there was a deviation or change from the procedure outlined in the adjudication process that may have had a material impact on the outcome of the complaint.
- New evidence: Appealing party alleges that, subsequent to the Hearing determination, new evidence became available that could have had a material impact on the outcome of the complaint.
- Severity of penalty: Appealing party alleges that the sanctions imposed are either too severe or too lenient in light of the violation or are inconsistent with the type of sanctions imposed on others who were found to be responsible for substantially similar violations of the Policy.

If either party believes that the Coordinator has a conflict of interest and cannot properly review the appeal, the conflict must be raised in writing and if there is found to be a conflict, a designee for the Coordinator will review the appeal and make a final outcome determination.

The Coordinator will inform the parties of the three Appeal Panel members and the parties will be provided an opportunity to raise any concerns regarding any conflict of interest for any of the panel members to review the appeal. The Appellate Panel may review the hearing record, investigative reports and material, the written appeal and what, if any response, and reach its decision by majority vote. A party may request to be heard by the panel or can rely upon a written appeal. The panel can review the material provided and not request to hear from any parties in-person. A written timely final outcome will be simultaneously provided to the Complainant and Respondent.

The seminary may amend and revise these policies and procedures from time to time to comply with applicable laws, regulations, and government guidance. Nothing in these policies shall affect the inherent authority of St. Joseph's Seminary to take action as it deems appropriate to further its educational mission or to protect the safety and security of our community.

Date of Policy: Updated November 29, 2018

Appendix A – Sexual Misconduct Report Form

This is one of many ways to report an incident. You can also call, email or see the Coordinator (or) Deputy.

Important Information

Any student or employee who is a victim of sexual assault or violence is encouraged to **immediately seek medical assistance** and to consider notifying law enforcement.

While the Seminary finds a written report to be helpful in an investigation, you are not required to file this form in order to initiate a complaint or receive assistance. You can also reach out the Seminary's Coordinator or Deputy Coordinator directly via phone, email, or in-person. For a complete list of the Coordinators' contact information, please see Section III of the Seminary's Sexual Misconduct Policy.

Purpose of Form

This form allows any member of the Seminary community to report any alleged sexual misconduct violations, including sexual harassment, sexual assault, intimate partner violence, stalking, and retaliation.

After Submission

Once submitted this form will be given directly and confidentially to the Seminary's Coordinator. Upon receipt of this form, the Coordinator will reach out to you as soon as possible to discuss all of your rights and options under the Policy and under Federal and State law.

Whatever your decision, the Coordinator or any other Seminary official designated in the Policy are available to assist you and provide guidance and support.

FORM

Reporting Party (Optional if want to remain anonymous as described above)

Full Name _____

Phone Number _____

Email _____

Preferred Communication Method _____ Phone _____ Email

Alleged Incident Information

Full Name of Accused Party _____

Description of Accused Party _____

Full Names/Descriptions of Any Additional Accused Parties

Description of Alleged Incident(s) – Please describe the incident(s) in as much detail as you are able. It is helpful to address the questions: who, what, when, where, and how. You may use the back of this form or attach additional pages, if necessary.

Potential Witnesses

Full Name of Witness _____

Witness Description _____

Phone _____ Email _____

Description of Witness' Knowledge

Additional Information

Electronic Communications – If applicable, please describe any electronic communications that you have relating to this incident. You may attach copies of the communications to this form.

Previously Reported – If you have previously reported this incident(s) to the Seminary or local law enforcement, please indicate to whom and when reported.

Appendix B – Student Bill of Rights in conjunction with NYS Education Law
Article 129-B, also known as “Enough is Enough” legislation.

The following student’s Bill of Rights lists the rights students can expect when reporting sexual offenses and relationship violence to St. Joseph’s Seminary (the “Seminary”). All students have the right to:

- Make a report to the Seminary
- Be protected by the Seminary from retaliation for reporting an incident
- Receive assistance and resources from the Seminary
- Make a report to local law enforcement, and/or the state police
- Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously
- Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure by the institution
- Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard
- Be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available
- Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations
- Describe the incident to as few institution representatives as practicable and not be required to unnecessarily repeat a description of the incident
- 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
- Access at least one level of appeal of a determination
- Be accompanied by an advisor of choice who can serve as support for a reporting individual, accused, or respondent throughout the conduct process, however is unable to actively participate in the process by asking or answering questions on the student’s behalf
- Have the institution’s judicial/student conduct process run concurrently with any criminal justice investigations and proceedings
- Be presumed to be not responsible until a determination is reached
- Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the institution