

The College of Saint Rose
Sexual Harassment Prevention Policy

Policy Number: 06.3

Responsible Office: Human Resources

Origination Date: March 9, 2021

Revision Date:

I. Purpose:

In accordance with its Notice of Non-Discrimination, The College of Saint Rose (“the College”) does not discriminate 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, or domestic violence victim status (collectively referred to as “Protected Statuses”).

This Policy provides the complaint process for employees to follow when they believe they have been subjected to sexual harassment by another employee.

This Policy does not apply to:

- Employees who believe that they have been subjected to sexual assault or misconduct by a student, or
- Students who believe that they have been subjected to sexual harassment, assault, or misconduct by an employee.

In these situations, the College’s Title IX Policy or Sexual Harassment and Misconduct Policy applies. This policy can be found at:

Title IX Grievance Policy: <https://strosemedia.s3.amazonaws.com/wp-content/uploads/2020/08/14115549/Title-IX-Grievance-Policy-Updated-8-14-2020.pdf>

Sexual Harassment and Misconduct Policy: <https://strosemedia.s3.amazonaws.com/wp-content/uploads/2020/08/14115600/Sexual-Harassment-and-Misconduct-Policy-Updated-8-14-2020.pdf>

II. Definitions:

- A. Complainant – The individual who files a complaint under this Policy.
- B. Covered individual – Contractors and other persons conducting business with the College.
- C. Designated Official – A College Employee who is designated to receive and investigate a complaint of sexual harassment.

- D. Discrimination – Treating an Employee or applicant for employment unfavorably because of that individual’s Protected Status.
- E. Employee – In this Policy, Employee refers to individuals who hold full-time and part-time positions as faculty members, administrators, or staff members.
- F. Respondent – The individual who the complaint is filed against under this Policy.
- G. Retaliation – Any action that would keep an employee from coming forward to make a complaint, or support and/or pursue a sexual harassment claim. The adverse action toward a complainant need not be job-related or occur in the workplace to constitute unlawful retaliation.
- H. 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.

III. Policy:

1. General:

- a. Sexual harassment is a form of workplace discrimination. The College has a zero-tolerance policy for any form of sexual harassment, and all employees are required to work in a manner that prevents sexual harassment in the workplace. The Policy is one component of the College’s commitment to a discrimination-free work environment.
- b. Sexual harassment is against the law. All employees have a legal right to a workplace free from sexual harassment, and employees can enforce this right by filing a complaint internally with the College, or with a government agency or in court under federal, state or local anti-discrimination laws.

2. Policy Statement:

- a. This Policy applies to all employees, applicants for employment, interns, whether paid or unpaid, contractors and persons conducting business with the College.
- b. Sexual harassment will not be tolerated. Any employee or individual covered by this policy who engages in sexual harassment or retaliation will be subject to remedial and/or disciplinary action, up to and including termination and/or removal and barred from reentry to the College.
- c. Sexual harassment subjects the College to liability for harm to victims. Harassers may also be individually subject to liability. Employees at every level, including managers and supervisors, who engage in sexual harassment or who knowingly allow such behavior to continue, will be penalized for misconduct.

- d. The College will conduct a prompt and thorough investigation that ensures due process for all parties, whenever the College receives a complaint about sexual harassment, or otherwise knows of possible sexual harassment occurring. Effective corrective action will be taken whenever sexual harassment is found to have occurred. All employees, including managers and supervisors, are required to cooperate with any internal investigation of sexual harassment.
- e. All employees are encouraged to report any observed sexual harassment or behaviors that violate this policy. A complaint form is provided as part of this policy and is to be used to report sexual harassment and to file complaints.
- f. Managers and supervisors are required to report any complaint that they receive, or any sexual harassment they observe to a Designated Official.
- g. To support a harassment free workplace, the College administers mandatory annual sexual harassment prevention training for all employees and includes training of the College's Sexual Harassment Prevention Policy in the orientation program for new employees.
- h. This policy reflects the latest revisions to the College's harassment policy. This policy is in full compliance with all applicable federal and New York State laws and by law applies to every member of the Saint Rose community: faculty, administrators, staff, visitors and guests. Therefore, any prior or similar policy of the College, in whatever form (website, manual or handbook) it might be published, is replaced and superseded by the policy.

3. Sexual Harassment Defined

- a. Sexual harassment is a form of sex discrimination and is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, gender identity/expression and the status of being transgender.
- b. Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sex when:
 - i. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment, even if the complaining individual is not the intended target of the sexual harassment;
 - ii. Such conduct is made either explicitly or implicitly a term or condition of employment; or
 - iii. Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment.

- c. A sexually harassing hostile work environment consists of words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statement of sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, or which interfere with the recipient's job performance.
- d. Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions, or privileges of employment. This is also called "quid pro quo" harassment.
- e. Any employee who feels sexually harassed should complain so that any violation of this policy can be corrected promptly. Any sexually harassing conduct, even a single incident, can be addressed under this policy.
- f. Sexual harassment can occur between individuals, regardless of their sex or gender. New York Law protects employees, paid or unpaid interns, and non-employees, including independent contractors, and those employed by entities contracted to provide services in the workplace. A perpetrator of sexual harassment can be a superior, a subordinate, a coworker or anyone in the workplace including an independent contractor, contract worker, vendor, client, student or visitor.
- g. Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer sponsored events or parties. Calls, texts, emails and social media usage by employees can constitute unlawful sexual harassment, even if they occur away from the workplace premises or not during work hours.

4. Examples of Sexual Harassment

- a. The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited:
 - i. Physical assaults of a sexual nature, such as:
 - 1. Touching, pinching, patting, grabbing, brushing against another employee's body or poking another employee's body;
 - 2. Rape, sexual battery, molestation or attempts to commit these assaults.
 - ii. Unwanted sexual advances or propositions, such as:
 - 1. Requests for sexual favors accompanied by implied or overt threats concerning the victim's job performance evaluation, a promotion or other job benefits or detriments;
 - 2. Subtle or obvious pressure for unwelcome sexual activities.

- iii. Sexually oriented gestures, noises, remarks, jokes or comments about a person's sexuality or sexual experience, which creates a hostile work environment;
- iv. Sexual or discriminatory displays or publications anywhere in the workplace, such as displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.
- v. Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity/expression and the status of being transgender, such as:
 - 1. Interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
 - 2. Sabotaging and individual's work;
 - 3. Bullying, yelling and name-calling.

5. Supervisor Responsibilities

- a. All supervisors and managers who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing behavior or for any reason suspect that sexual harassment is occurring, are required to report such suspected sexual harassment to a Designated Official.
- b. In addition to being subject to discipline if they engaged in sexually harassing conduct themselves, supervisors and managers will be subject to discipline for failing to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue.
- c. Supervisors and managers will also be subject to discipline for engaging in retaliation related to discrimination and harassment, including sexual harassment.

6. Romantic Relationships

- a. Relationships which appear to be entirely voluntary and welcome sexual relationships between individuals in an unequal power relationship may constitute sexual harassment within the definitions of this policy. Persons who engage in sexual relationships with anyone over whom they have any degree of power or authority must recognize the extent to which such relationships are not legally recognized as truly mutually consensual. Implicit in the concept of professionalism is the recognition by those in positions of authority that their relationships with students or reporting staff include an element of power. It is incumbent on those with authority not to abuse, nor seem to abuse, the power with which they are entrusted.
- b. The initiation of or consent to romantic or sexual relationships between faculty members and students or between supervisors and employees for whom the faculty members or supervisors have direct professional responsibility is

prohibited. More broadly stated, any relationship between members of the College community, where direct professional responsibility is present, is prohibited and is subject to the procedures outlined in this policy. Examples of direct professional responsibility include, but are not limited to: supervising, evaluating, teaching, advising, awarding financial aid, disciplining, and writing recommendations.

- c. The initiation of romantic or sexual relationships is strongly discouraged even where there is not a direct professional responsibility. These situations may still contain an element of power or authority. Also, changes in the situation may establish direct professional responsibility between the individuals. Such romantic or sexual relationships can negatively impact students or employees (i.e. third parties), who share a work or classroom environment with the involved parties.

IV. Procedures for Handling Complaints of Discrimination and Harassment:

All complaints or information about suspected sexual harassment will be investigated, whether that information was reported in verbal or written form. Complaints may be submitted anonymously; however, anonymous complaints may present challenges to a comprehensive investigation by the investigation team as a complainant is not identified and available to provide additional information to support an investigation. Investigations will be conducted in a timely manner, and will be confidential to the extent possible. Any employee may be required to cooperate as needed in an investigation of suspected sexual harassment. Employees who participate in an investigation will not be retaliated against.

A. Designated Official:

1. Employees who believe that they have been subjected to sexual harassment are encouraged to report such behavior. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior. Supervisors must report any harassment that they observe or know of, even if no one is objecting to the harassment. Such reports should be made to a Designated Official:

Jeffrey Knapp
Associate Vice President for Human Resources and Risk Management
knappj@strose.edu
518-458-5374

Jean Paul
Director of Human Resources
paulj@strose.edu
518-454-5148

Joanna Dickerson
Associate Director of Humana Resources
dickersj@strose.edu
518-454-5173

Galen Gomes
Director of Diversity and Inclusion
gomesg@strose.edu
518-485-3386

Complaints alleging sexual harassment by a student or against a student should be referred to the College's Title IX Coordinator.

Amanda Bastiani
Director of Prevention Education & Response and Title IX Coordinator
bastiana@strose.edu
518-458-5308

Reports of sexual harassment may be made verbally or in writing.

2. In most instances, Employees should contact the Designated Official as soon as practicable after the date in which the alleged sexual harassment took place. If the Employee is unable to contact a Designated Official, the employee may contact the Chief Diversity Officer.

B. Process:

1. Upon receipt of the complaint, the Designated Official will conduct an immediate review of the allegation, and take any interim actions, as appropriate. The Employee may file a formal complaint by completing the Complaint Form and providing as much information as possible about the alleged sexual harassment. (Employees who are reporting sexual harassment on behalf of other employees should use the Complaint Form and note that it is filed on another employee's behalf.) If the Employee refuses to complete a written Complaint form, the Designated Official shall prepare the Complaint form based on the oral reporting and noting his/her completion on the form.
2. Complaints may not be submitted anonymously.
3. Within 10 business days of receiving a formal complaint, the Designated Official or a third party appointed by the College (the "Investigator") will begin an investigation. If needed, the Investigator will consult with the Human Resources Office throughout the investigation. A second Designated Official will be appointed as a co-Investigator and will participate in all meetings with the Employee filing the complaint (the "complainant"), respondent, and witnesses.

4. The investigation will include meeting with the complainant, respondent and any identified witnesses or other individuals who may have knowledge about the matters in the complaint and any supporting documentation/evidence associated with the complaint. If documents, including electronic communications, are relevant to the allegations, steps will be taken to obtain and preserve them.
5. At the conclusion of the investigation, the Investigators will prepare a written report which must include the following components:
 - a. A summary of the complaint,
 - b. A summary of the respondent's response,
 - c. A summary of the statements and evidence obtained during the investigation,
 - d. A recommendation on whether or not this Policy was violated with an explanation to support that recommendation,
 - e. If the Investigator believes that a violation occurred, a statement about the severity of the violation, and
 - f. A recommendation with respect to any disciplinary action that should be taken.
6. The Investigators will forward the completed report to one of the following division heads:
 - a. For complaints filed against administrators, staff, or third parties – to the Vice President for Finance and Administration,
 - b. For complaints filed against faculty – to the Provost and Vice President for Academic Affairs, or
7. The applicable division head will consult with the Chief Diversity Officer, Associate Vice President for Human Resources and issue a final decision regarding the complaint. Those who engage in sexual harassment will be subject to disciplinary action. If termination is recommended, the applicable employee handbook, student handbook, or union contract will be followed.
8. The individual who complained and the individual(s) who responded will be promptly notified of the final determination.

V. Confidentiality:

- A. All inquiries, complaints and investigations are confidential and any information obtained is revealed strictly on a need-to-know basis.
- B. Information contained in a formal complaint is kept confidential. However, the identity of the complainant and respondent usually is revealed to the respondent and witnesses.

- C. 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.
- D. All information pertaining to allegations under this Policy are maintained in secure files by the Associate Vice President for Human Resources and Risk Management. 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.

VI. Retaliation:

- A. No person covered by the Policy shall be subject to adverse employment action including being discharged, disciplined, discriminated against, or otherwise subject to adverse employment action because the employee reports an incident of sexual harassment, provides information, or otherwise assists in any investigation of a sexual harassment. The College has a zero-tolerance policy for such retaliation against anyone who in good faith complains or provides information about suspected sexual harassment. Any employee of the College who retaliates against anyone involved in a sexual harassment investigation will be subjected to disciplinary action, up to and including termination. Any employee or other covered individual working in the workplace who believes they have been subject to such retaliation should inform a manager or designated official. Any employee or other covered individual who believes they have been a victim of such retaliation may also seek compensation in other available forums.
- B. Retaliation is unlawful under federal, state and (where applicable) local law. The New York State Human Rights Law protects any individual who has engaged in "Protected Activity." Protected activity occurs when a person has:
 - 1. Filed a complaint of sexual harassment, either internally or with any anti-discrimination agency;
 - 2. Testified or assisted in a proceeding involving sexual harassment under the Human Rights Law or other anti-discrimination law;
 - 3. Opposed sexual harassment by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of harassment;
 - 4. Complained that another employee has been sexually harassed; or
 - 5. Encouraged a fellow employee to report harassment.
- C. If any Employee retaliates against an individual who follows or participates in the processes under this Policy, that Employee shall be subject to disciplinary action.

VII. External Remedies:

- A. Sexual harassment is also prohibited by federal, state and local law. Aside from the College's internal complaint process, employees may also choose to pursue legal remedies with the following governmental entities at any time.
1. New York State Division of Human Rights (DHR): The Human Rights Law (HRL) applies to employers in New York State with regard to sexual harassment, and protects employees, paid or unpaid interns and non-employees regardless of immigration status. A complaint alleging a violation of the Human Rights Law may be filed either with DHR or in New York State Supreme Court.
 - a. Complaints with DHR may be filed any time within one year of the sexual harassment. If an individual did not file at DHR, they can sue directly in state court under the HRL within three years of the alleged discrimination. An individual may not file with DHR if they have already filed a HRL complaint in state court.
 - b. Complaining internally to the College does not extend the time to file with DHR or in court. The one year or three years is counted from the date of the most recent incident of sexual harassment.
 - c. An individual does not need an attorney to file a complaint with DHR and there is no cost to file with DHR.
 - d. DHR will investigate the complaint and determine whether there is probable cause to believe that discrimination has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If discrimination is found after a hearing, DHR has the power to award relief, which varies but may include requiring the employer to take action to stop the sexual harassment or redress the damage caused, including paying monetary damages, attorney's fees and civil fines.
 - e. DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458, (718)741-8400 or www.dhr.ny.gov. DHR may be contacted at (888)392-3644 or at dhr.ny.gov/complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices.
 2. United States Equal Employment Opportunity Commission (EEOC)
 - a. The EEOC enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act. An individual can file a complaint with the EEOC anytime within 300 days from the sexual harassment. There is no cost to file a complaint with the EEOC.
 - b. The EEOC will investigate the complaint and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

- c. The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred.
- d. If an employee believes that he/she has been discriminated against at work, he/she can file a “Charge of Discrimination.” The EEOC has district, area and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (1-800-669-6820 (TTY)), visiting the website at www.eeoc.gov or via mail at info@eeoc.gov.
- e. If an individual filed an administrative complaint with the DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

3. Local Protections

- a. Many localities, including Albany County, enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists.
- b. Individuals wishing to contact the Albany County Division of Affirmative Action for information may do so by calling (518) 447-5510.

4. Contact the Local Police Department

- a. If the sexual harassment involves physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. In such instances, the local police department should be alerted.

IV. Witnesses:

Name: _____

Contact Information: _____

Name: _____

Contact Information: _____

Name: _____

Contact Information: _____

V. Resolution Sought:

Please indicate the relief/remedy you are seeking: _____

VI. Signature:

Date: _____