

Saint Joseph's College

Policy Guidebook

Human Resources

Section Name: The Work Environment

Section Number: 4.01

Effective Date: November 8, 2023

SUBJECT: Equal Employment Opportunity, Anti-Harassment and Non-Discrimination

The College's commitment to non-discrimination and anti-harassment applies to all Saint Joseph's College ("the College") faculty, staff, students, College contractors, and visitors. The College is committed to providing equitable and inclusive opportunities and an educational and work environment free from any discrimination or harassment of, or retaliation against any member of the College community on the basis of sex; race or traits associated with race, including hair texture, Afro hairstyles, and protective hairstyles; color; religion, belief, or spirituality; national or ethnic origin; gender, gender identity and expression; sexual orientation; age; disabilities; genetic information; pregnancy, childbirth, or related medical conditions; familial status; military status or protected veteran status; or any other characteristic protected by federal, state or local laws ("Protected Characteristics"). Saint Joseph's College shall adhere to all applicable state and federal laws and regulations, including the Maine Human Rights Act, Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, and other federal and state laws in connection with hiring or employment, admission or financial aid, or other aspects of its educational programs or activities.

This Equal Employment Opportunity, Anti-Harassment and Non-Discrimination Policy (the "Policy") is intended to describe the conduct that is required or expected of employees as well as the conduct that is prohibited in furtherance of the College's commitment to providing a work environment that is free of unlawful discrimination or harassment. All employees will be required to attend yearly training.

A. EQUAL EMPLOYMENT OPPORTUNITY (EEO)

Saint Joseph's College affords equal employment opportunities to employees and qualified applicants without regard to an individual's actual or perceived Protected Characteristic. This applies to all aspects of the relationship between the College and its employees, including:

- Recruitment
- Employment
- Job assignment
- Promotion
- Transfer
- Training
- Working conditions
- Discipline
- Termination
- Wages and salary administration

- Employee benefits and application of policies

The College administers EEO practices fairly and consistently by:

- Posting all required notices regarding employee rights under EEO laws in areas highly visible to employees
- Advertising for job openings with the statement "*Saint Joseph's College is an EEO employer and members of underrepresented groups are encouraged to apply. We consider all qualified applicants and employees for hiring, placement, and advancement, without regard to a person's race (including traits associated with race, including hair texture, Afro hairstyles, and protective hairstyles), color, religion, ancestry or national origin, age, genetic information, military status, sex or gender, pregnancy, sexual orientation, gender identity or expression, disabilities, familial status, protected whistleblower activity, previous assertion of workers' compensation claim, genetic information, protected veteran status, or any other status protected by applicable law.*"
- Prohibiting retaliation against any employee in connection with filing a charge of discrimination, opposing a practice believed to be unlawful discrimination, reporting harassment, or assisting, testifying or participating in any investigation or proceeding
- Strongly encouraging employees to report any perceived or apparent discrimination or harassment, and requiring supervisors and managers to do the same

Managers and supervisors are responsible for implementing equal employment practices within each department. Human Resources is responsible for overall compliance and will maintain personnel records in compliance with applicable laws and regulations.

The policies and principles of non-discrimination also apply to the selection and treatment of independent contractors, personnel working on our premises who are employed by temporary agencies, and any other persons or entities doing business for or with the College.

Saint Joseph's College will make reasonable accommodations for qualified applicants or employees with disabilities or with known limitations related to pregnancy, childbirth, or related medical conditions, unless doing so would result in an undue hardship to the College, in accordance with applicable law.

B. PROHIBITED CONDUCT: UNLAWFUL DISCRIMINATION, HARASSMENT, AND RETALIATION

Any conduct that falls within any of the following prohibited conduct can be and should be reported to the College in accordance with this policy.

Unlawful discrimination refers to the denial of equal employment opportunities based upon an individual's actual or perceived Protected Characteristic, including when the result of neutral job policies has a disproportionate effect on members of a particular Protected Characteristic. The College strictly prohibits unlawful discrimination regardless of whether it was intentional or unintentional.

The College is dedicated to ensuring access, fairness, and equity for all employees. The College is committed to identifying and eliminating discriminatory practices in every phase of College operations.

Unlawful harassment refers to verbal, written, visual, or physical conduct that denigrates or shows hostility or aversion toward an individual based on or motivated by the individual's actual or perceived Protected Characteristic and that: (a) has the purpose or effect of unreasonably

interfering with an employee's work performance, or (b) has the purpose or effect of creating an intimidating, hostile, threatening, or offensive working environment. Examples of harassment include, but are not limited to:

- conduct or comments that threaten physical violence
- offensive, unsolicited remarks
- unwelcome gestures or physical contact
- display or circulation of written materials
- items or pictures degrading to any person's Protected Characteristic
- verbal abuse or insults about or directed to any student, employee, or other individual, or groups of students, employees or other individuals
- repeated slurs, or taunts in the guise of jokes, or disparaging references to others; negative references to employees, students, or other community members
- racial slurs (e.g., use of the N word), symbols (e.g., a noose), or gestures (e.g., a gesture that ridicules the shape of an individual's eyes)
- inappropriate comments about the employee's body or physical condition, or work performance in connection with their pregnancy, or insinuations that the employee should take leave or will not return to work
- unwelcome remarks or conduct based on the employee's religion or when an employee is required or coerced to abandon, alter, or adopt a religious practice as a condition of employment (this includes examples of antisemitism and Islamophobia, such as the use of hate symbols or inappropriate comments about the employee's religious faith)

A broad range of unwelcome conduct can constitute unlawful harassment. A perpetrator of unlawful harassment can be a superior, a co-worker, or even a non-employee including an independent contractor, vendor, or visitor. Unlawful harassment may occur between any individuals, regardless of their sex, gender identity, or other protected status.

A single incident of inappropriate behavior may or may not rise to the level of unlawful harassment. To meet the definition of unlawful conduct, the behavior must be severe or pervasive. Therefore, for example, one act, joke, or comment may not constitute harassment. Of course, a single egregious act, joke, or comment may be sufficient to violate the law depending on the circumstances.

Sexual harassment refers to any unwelcome sexual attention, sexual advances, requests for sexual favors, verbal, visual or physical comments or conduct of a sexual nature, other offensive behavior of a sexual nature, or any unwelcome conduct which is directed at an individual because of that individual's sex, when:

1. submission to such conduct is made either explicitly or implicitly as a term or condition of an individual's employment or education; evaluation of academic work; or participation in any aspect of a College program or activity or
2. submission to or rejection of such conduct by an individual is used as the basis for academic or employment decisions affecting that individual, such as position, pay, promotion, training or assignment; or
3. such conduct has the purpose or effect of unreasonably interfering with an individual's academic or work performance or equal opportunity to participate in or benefit from College employment, programs, or activities, or creating an intimidating, hostile, humiliating, or sexually offensive work or academic environment for the intended target of the sexual harassment or anyone else who sees or experiences the conduct

To meet the definition of sexual harassment, the conduct must generally be sufficiently serious, pervasive, or persistent as to create an intimidating, hostile, humiliating, demeaning, or sexually offensive work, academic, residential, or social environment.

Sexual harassment may involve individuals of the same or different sex, sexual orientation, or gender identity. Sexual harassment is most frequently associated with those situations in which a power differential exists between persons involved; however, it also may occur between individuals of the same College status, e.g., student-student and employee-employee. Sexual harassment also includes harassment based on sexual orientation, gender, gender identity, or gender expression, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex/gender or sex/gender stereotyping, even if the acts do not involve conduct of a sexual nature.

Examples of conduct that may constitute sexual harassment as defined above may include a severe, persistent, or pervasive pattern of unwelcome conduct that includes one or more of the following:

1. Physical conduct
 - Unwelcome touching, sexual/physical assault, impeding, restraining, or blocking movements;
 - Unwanted sexual advances;
 - Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity, and/or the status of being transgender, such as: interfering with, destroying, or damaging an individual's workstation, tools, or equipment, or otherwise interfering with the individual's ability to perform the job or participate in educational programs;
2. Verbal conduct
 - Making or using derogatory comments, epithets, slurs, or humor;
 - Verbal abuse of a sexual nature, graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual, suggestive or obscene letters, notes or invitations;
 - Objectively offensive comments of a sexual nature, including persistent or pervasive sexually explicit statements, questions, jokes, or anecdotes;
 - Repeatedly asking another employee for a date after the employee has said no;
3. Visual or non-verbal conduct
 - Leering, making sexual gestures, displaying of suggestive objects or pictures, cartoons or posters in a public space or forum;
 - Visual displays of suggestive, erotic, or degrading sexually oriented images that are not pedagogically appropriate; and
4. Written conduct
 - Letters, notes, or electronic communications containing comments, words, or images described above

Sexual harassment may also include what is commonly referred to as "quid pro quo" conduct, which means unwelcome sexual advances or propositions by a supervisor or person of authority toward a subordinate where the superior:

1. Expressly or impliedly conditions an offer of employment or academic benefit in exchange for sexual favors;
2. Makes submission to sexual advances an actual or implied condition of employment, work status, promotion, grades, or letters of recommendation, including subtle pressure for sexual activity, an element of which may be repeated requests for private meetings with no academic or work purpose; or
3. Makes or threatens reprisals after a negative response to sexual advances

Harassment may also include bias incidents and hate crimes, which are defined as follows:

Bias Incident refers to any event of intolerance or prejudice, not involving violence or other criminal conduct, intended to threaten, offend, or intimidate another because of that individual's actual or perceived Protected Characteristics. Examples of bias incidents include: hate speech, gay bashing, racist epithets, religious slurs, sexist jokes or cartoons, hate mail, offensive graffiti, or disparaging remarks. Such incidents create a socially divisive atmosphere for members of the community targeted and negatively affect the campus climate.

Hate Crime refers to the violence of intolerance and prejudice, intended to hurt and intimidate, committed against a person, property, or society that is motivated by an offender's bias against a specific characteristic of an individual or a group because of their race (including protective hairstyles), ethnicity, national origin, religion, sex, sexual orientation, gender identity, gender expression, age, disabilities, or other Protected Characteristic. Hate crimes are criminal offenses that include acts such as physical assault, stalking, cyberstalking, criminal threatening, intimidation, terrorizing, criminal use of explosives, arson, vandalism or other damage to property, reckless conduct, harassment, verbal abuse or insults, or hate mail.

In Maine, several statutes provide civil and/or criminal remedies for bias incidents and hate crimes, including the Maine Human Rights Act, 5 M.R.S. §4551 et seq., Maine's Protection from Harassment Act, 5 M.R.S. §4651 et seq. and the Maine Civil Rights Act, 5 M.R.S. §4681 et seq.

Federal statutes also provide support and protection for targets of bias incidents or hate crimes, including the Civil Rights Act of 1964, 42 U.S.C. §2000e et seq., as amended, the Violent Crime Control and Law Enforcement Act (1994) and the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act (2009).

Retaliation is any act of retribution or intimidation, direct or indirect, against individuals who, in good faith, assert their right to bring a complaint or participate in any part of the investigation related to a report. Retaliation against an employee for or in connection with any good-faith report of unlawful discrimination or harassment based on a Protected Characteristic, or who cooperates with an investigation or resolution of a report, is strictly prohibited, and will in itself lead to disciplinary action, up to and including termination of employment. An employee making a good-faith report of harassment or discrimination is entitled to protection from any form of retaliation in connection with such a report, even if the underlying allegations are later not proven to be a violation of College policy. Employees who submit a report (either of harassment, discrimination or retaliation experienced or observed) or who provides information regarding a report will be protected from retaliation from coworkers and supervisors. Individuals accused of unlawful discrimination or harassment, are warned that any form of retaliation taken against a person submitting a complaint or participating in an investigation of a complaint will be grounds

for disciplinary action, up to and including, termination. **Any form of retaliation should be reported to Human Resources.**

Standards of Conduct. The College strictly prohibits unlawful discrimination, harassment (including but not limited to sexual harassment), and retaliation. Each member of the College community has a responsibility to maintain an environment free from unlawful discrimination, harassment, and retaliation. Any person, who engages in or encourages any act constituting discrimination, retaliation, or harassment, including but not limited to sexual harassment, will be subject to disciplinary action, up to and including, termination.

Scope of Policy. This Policy applies at all times when employees are: conducting any work for the College in any location (including working from home or elsewhere); being present on the College campus at any time (including during non-work hours); using any electronic communication systems, equipment, vehicle, or any other resources (whether they are College-provided or your own) even if such conduct occurs during non-work hours or off campus; and/or at College-sponsored events or gatherings.

By way of example, social media usage, calls, emails, and text messages by employees can constitute unlawful workplace harassment, even if these actions occur away from the workplace or outside of work hours.

C. REPORTING AND INVESTIGATION

Reporting Process. The College maintains two separate and distinct reporting processes to receive, investigate, and remediate incidents of discrimination or harassment. Although we recognize that maintaining separate reporting processes adds complexity, our goal is to ensure compliance with all applicable laws. If you feel that you have been the target of an incident of discrimination or harassment, or if you witness or know of a situation you feel constitutes such an incident, please report it in one of the following ways:

- 1. Gender-Based, Sexual Misconduct, Harassment, Discrimination, and Violence:**
All Faculty members, Staff employees, and students, except those defined as confidential, are required to promptly report to the Title IX Coordinator incidents of gender-based discrimination, harassment and/or misconduct that come to their attention. The complaint can be filed in person, by mail, or by electronic mail. The Title IX Coordinator will promptly begin addressing the matter in accordance with procedures outlined in the Gender-Based Misconduct, Violence & Discrimination Policy (<https://my.sjcme.edu/resources/administrative/title-ix-policy/>), and will involve the Deputy Coordinators as deemed appropriate.
- 2. Non-Gender Based Misconduct and other forms of Discrimination and Harassment (e.g., race, ethnicity, disability, veteran status, age, religion, etc.):**
The College cannot address discrimination, harassment, and/or retaliation if it is unaware of conduct that violates this policy. All employees are strongly encouraged to promptly report to their supervisor, manager or Human Resources incidents of non-gender-based discrimination, harassment, and/or retaliation that come to their attention (e.g., race, religion, ethnicity, disability, veteran status, etc.) in the manner most comfortable to the individual (e.g., orally or in writing). Employees should not allow an incident of non-gender-based discrimination, harassment, and/or retaliation to continue by

not reporting it. Human Resources will process the complaint according to the procedures outlined in this Policy.

Note: Where the Respondent is a student, the matter will be subjected to the College's expectations and processes outlined in the Student Code of Conduct.

Management Responsibility. All managerial and supervisory employees are responsible for creating a working and academic environment free of hate, bias, harassment, discrimination, and/or sexual misconduct. Should a supervisor or manager become aware of prohibited conduct, the manager or supervisor is required to promptly report in accordance with the reporting processes outlined above. *In addition to being subject to discipline for engaging in conduct that violates this policy, supervisors and managers will also be subject to discipline for failing to report suspected sexual harassment, other unlawful harassment, discrimination, or retaliation or otherwise knowingly allowing sexual harassment, other unlawful harassment, discrimination, or retaliation to continue.* Supervisors and managers are also required to attend yearly training which will cover additional information and responsibilities.

Investigation of Complaint. In the event that the College receives a complaint of harassment, discrimination or retaliation, or otherwise has reason to believe that harassment, discrimination or retaliation may have occurred, it will take steps to ensure the matter is thoroughly, promptly, and impartially investigated by Human Resources in such a way as to maintain confidentiality to the extent practicable under the circumstances. All employees, including supervisors and managers, are required to cooperate with investigations. Prompt and proportionate corrective action will be taken if the College concludes that an employee has engaged in discriminatory or harassing conduct.

Confidentiality:

All information will be maintained on a confidential basis to the greatest extent possible. Such information, however, may have to be disclosed to defend Saint Joseph's College in any employment related legal matters to which the information may be relevant and necessary. Further, information may need to be disclosed to those officials and employees with a need to know in order to carry out the purpose and intent of this Policy.

D. RESOLUTION PROCESS

The informal and formal resolution processes described here apply to non-gender-based discrimination and harassment. For the resolution processes for gender-based discrimination and harassment, please review the Gender-Based Misconduct, Violence & Discrimination Policy (<https://my.sjcme.edu/resources/administrative/title-ix-policy/>).

Informal Resolution Process. Informal procedures by Human Resources are aimed at stopping the behavior rather than determining culpability or intent. Participation in an Informal Resolution process is voluntary, and the Complainant or Respondent may at any time terminate the Informal Resolution process and proceed to a Formal Resolution.

While the process may vary from case to case, an informal resolution generally includes: a prompt review of the complaint; consideration of general informal strategies (e.g., facilitating a discussion between the person who made a complaint (the "Complainant") and the person who is the subject of the complaint (the "Respondent")); identifying appropriate method(s) of separating the Complainant and Respondent and addressing the impact on Complainant of the reported conduct;

and a follow-up to determine if the action taken was successful in stopping the behavior. If satisfactory resolution is not achieved, the Complainant may choose the Formal Resolution process.

Formal Resolution Process. Formal procedures are aimed at determining responsibility for a violation of this Policy and, where violations have been found, determining what appropriate remedial action should be taken.

A Formal Resolution Process generally includes: a prompt review of the complaint; consideration of whether any interim actions are appropriate; an investigation which will include obtaining, reviewing, and preserving relevant documents, emails, or phone records and interviewing the parties involved (including any relevant witnesses); creating a confidential written record of the investigation; promptly notifying the Complainant and the Respondent of the final determination; and implementation of any corrective actions that are warranted based on the conduct.

If the Respondent is found to be in violation of this Policy, prompt corrective action, up to and including termination of employment, will be recommended to the appropriate administrator for disposition under the procedures applicable to the Respondent as follows:

- Where the Respondent is a faculty member, the matter will be referred to the Leadership Team member for Academics, and will be resolved pursuant to the policies in the Faculty Handbook.
- Where the Respondent is a non-faculty staff member, the matter will be referred to the Leadership Team member for Human Resources, and will be resolved pursuant to the policies in the Employee Handbook.
- Where the Respondent is a Leadership Team member (at the level of AVP or above), the matter will be referred to the President.

E. COLLEGE RESPONSE TO HARASSMENT

Safety Measures. The College may choose to impose safety measures, such as a No Contact Order, at its discretion to ensure the safety of all parties, the safety of the broader college community, and/or the integrity of the resolution process. All individuals are encouraged to report concerns about failure of another individual to abide by any restrictions imposed by a safety measure. The College will take immediate and responsive action to enforce a previously implemented measure.

Corrective Action. If warranted by the investigation, disciplinary action, up to and including termination of employment, may be taken against the employee found to have engaged in discrimination, harassment, and/or retaliation. The College will also take appropriate corrective action to address discriminatory and harassing conduct by non-employees. While the College will endeavor to promptly investigate and resolve a report involving non-employees, its ability to take action may be limited. Where appropriate, however, the College will take steps necessary to protect the College community.

The College also recognizes that false accusations may have serious effects on innocent persons. Making a false report or complaint, or knowingly providing false or intentionally misleading information during an investigation, may result in disciplinary action up to and including termination.

F. LEGAL PROTECTIONS AND EXTERNAL REMEDIES

Legal Recourse through the Maine Human Rights Commission. Any employee who believes they have been subjected to discrimination may call or write to the Maine Human Rights Commission to register a complaint. The Commission may be contacted as follows:

Maine Human Rights Commission
51 State House Station
Augusta, ME 04333
Telephone: (207) 624-6290
<https://www.maine.gov/mhrc/>

Any complaint must be filed with the Commission within 300 days of the act of discrimination. Once the Commission has received a signed charge form, an investigation will be conducted, and a determination will be made by the Commission of whether or not there are reasonable grounds to believe discrimination occurred.

If the Commission determines that discrimination did occur, it will attempt to resolve the situation between the employee and the employer through informal means. If informal means of resolution are unsuccessful, the Commission counsel may file a civil action on the employee's behalf in the Superior Court, seeking appropriate relief.

Legal Recourse through the Equal Employment Opportunity Commission.

U.S. Equal Employment Opportunity Commission
John F. Kennedy Federal Building
15 New Sudbury Street, Room 475
Boston, MA 02203-0506
Telephone: 1-800-669-4000
<https://www.eeoc.gov/>

Any employee may contact the EEOC by email, phone, letter, or office visit about a potential job discrimination issue. After detailed information is provided about the job discrimination complaint, the EEOC will make an initial decision whether the complaint is covered by their laws. If the complaint is covered, a questionnaire will need to be completed. They will also provide counsel about the job discrimination complaint. The employee can then decide whether or not to file a formal job discrimination complaint, called a "Charge of Discrimination," with the EEOC.

There are strict time limits for filing a job discrimination complaint with the EEOC. In some cases, the limit is only 180 days to report discrimination. Employees have 300 days if the complaint is also covered by a state or local anti-discrimination law.