JTS Gender-Based Misconduct Policy and Procedures

The Gender-Based Misconduct Policy and Procedures (“Policy”) of JTS define gender-based misconduct, highlight available resources for students, and set procedures for addressing gender-based misconduct involving students. The Policy reflects JTS’s commitment to a safe and nondiscriminatory educational environment, consistent with Title IX, the Violence Against Women Act (“VAWA”), and New York State Education Law 129-B.

JTS is free from gender-based discrimination and harassment, including sexual assault and all other forms of gender-based misconduct. All members of the JTS community must be able to work and study in an atmosphere that discourages discrimination and harassment by individuals including students, colleagues, supervisors, teachers, and peers.

JTS recognizes its responsibility to increase awareness of such misconduct, prevent its occurrence, diligently investigate reports of misconduct, support students and others who experience gender-based misconduct, and respond fairly and firmly when students violate JTS Policy. JTS is also committed to supporting students accused of gender-based misconduct who go through the disciplinary process. In addressing issues of gender-based misconduct, all members of JTS must respect and care for one another in a manner consistent with our deeply held academic and community values.

Here are several important points about gender-based misconduct that the Policy addresses:

- Sexual harassment, sexual assault, sexual exploitation, gender-based harassment, stalking, domestic violence, and dating violence are all forms of gender-based misconduct. In some instances, behavior that is not sexual in nature can be considered gender-based misconduct.

- Gender-based misconduct can occur between strangers or acquaintances, or people who know each other well, including between people involved in an intimate or sexual relationship.

- Gender-based misconduct can be committed by anyone regardless of gender identity, and it can occur between people of the same or different sex or gender. Most fundamentally, JTS does not tolerate any form of gender-based misconduct. Students who experience gender-based misconduct are encouraged to seek assistance, report the incident, and engage JTS’s processes set out in this document. Those found responsible will be sanctioned in accordance with this Policy. Students who experience gender-based misconduct can also pursue criminal and civil processes, in addition to or instead of JTS’s process.
Overview of Contents

This Policy specifies prohibited conduct and discusses reporting options, rights and responsibilities of students engaged in the disciplinary process, campus resources, and the measures and accommodations that may be available in particular cases to support and assist students. It spells out available options for resolving reports of gender-based misconduct under this Policy, as well as students’ rights throughout the process. The last section includes the New York State Students’ Bill of Rights and a listing of resources available to students affected by gender-based misconduct.

Nothing in the Policy shall be construed to abridge academic freedom and inquiry, principles of free speech, or JTS’s educational mission.

II. SCOPE OF THE POLICY AND PROCEDURES

This Policy governs gender-based misconduct (regardless of a person’s gender, gender identity, gender expression, sex or sexual orientation) involving JTS students that: (1) occurs on any JTS campus or in connection with JTS programs or activities; (2) creates a hostile environment for JTS students; or (3) involves a Respondent (a person accused of gender-based misconduct under this Policy) who is a current undergraduate or graduate school student at the JTS. The Policy applies regardless of a person’s age, race, nationality, class status, religion, disability, pregnancy, predisposing genetic characteristics, military status, criminal convictions, domestic violence status, familial status, or other protected status.

The accompanying Procedures describe how to report an incident of gender-based misconduct and the potential resolution option(s) that are available when the Respondent is a current undergraduate or graduate school student at the JTS, including students on leave of absence and those actively pursuing degree requirements regardless of current registration status.

III. GENDER-BASED MISCONDUCT POLICY FOR STUDENTS

A. Prohibited Conduct

Gender-based misconduct includes a broad range of behaviors focused on sex and/or gender that may or may not be sexual in nature. This misconduct can occur between strangers, acquaintances, or people who know each other well, including people involved in a romantic relationship. It can be committed by anyone regardless of gender identity and can occur between people of the same or different sex or gender. One form of prohibited conduct can occur separately from or simultaneously with another form of prohibited conduct. Before defining specific forms of prohibited conduct, here is important basic information about consent, non-consensual conduct, and gender-based misconduct. Behaviors prohibited by any JTS Policy may be reviewed through this process when the conduct is sufficiently linked to prohibited conduct described here.
Consensual sexual conduct requires affirmative consent. New York State law defines affirmative consent as a knowing, voluntary and mutual decision among all participants involved. Any non-consensual sexual conduct is gender-based misconduct.

More specifically:

- Sexual conduct that is coerced or forced is not consensual.
- A person cannot give consent if he or she lacks the ability to make or understand the decision because of disability, consumption of alcohol or drugs, or if he or she is unwillingly restrained.
- A sleeping or unconscious person cannot give consent.
- The use of alcohol or drugs does not justify or excuse gender-based misconduct and never makes someone at fault for experiencing gender-based misconduct.

B. Definitions of Gender-Based Misconduct

To determine whether alleged conduct falls within a definition of prohibited conduct below, the standard applied is whether a reasonable person would consider the alleged conduct to fall within that definition.

It is a violation of JTS Policy to commit the following acts:

**Sexual Assault (Penetration):** Any form of vaginal, anal, or oral penetration, however slight, by a penis, object, tongue, or finger without a person’s affirmative consent.

**Sexual Assault (Contact):** Any sexual contact, including sexual touching for the purpose of sexual gratification of either party, without a person’s affirmative consent. Sexual touching includes contact under or over clothing with the breasts, buttocks, genitals, groin or inner thigh, or touching another with any of these body parts; making another person touch any of these body parts under or over clothing; or the emission of ejaculate on the clothing or body of another person without that person’s consent.

**Domestic Violence:** The use or threat of physical violence or sexual assault that is directed toward (1) a current or former spouse or intimate partner; (2) a person with whom one shares a child; or (3) anyone who is protected from the Respondent’s acts under the domestic or family violence laws of New York. This violation includes behavior that seeks to establish power and control over another person by causing fear of physical or sexual violence. Domestic violence can be a single act or a pattern of behavior, depending on the frequency, nature, and severity of the conduct.

**Dating Violence:** The use or threat of physical violence or sexual assault that is directed toward a person who is or has been in a social relationship of a romantic or sexually intimate nature with the Respondent. This violation includes behavior that seeks to
establish power and control over another person by causing fear of physical violence or sexual assault. Dating violence can be a single act or a pattern of behavior, depending on the frequency, nature, and severity of the conduct.

**Sexual Exploitation:** Non-consensual abuse or exploitation of another person’s sexuality for the purpose of sexual gratification, financial gain, personal benefit or advantage, or any other illicit purpose. Acts of sexual exploitation include, but are not limited to:

- Non-consensual streaming, sharing, or distribution of images, photography, video, or audio recording of sexual conduct, nudity, or state of undress when and where there is a reasonable expectation of privacy, without the knowledge and affirmative consent of all participants;

- Explicitly threatening to stream, share, or distribute images, photography, video or audio recording of sexual conduct, nudity, or state of undress when and where there is a reasonable expectation of privacy, without the affirmative consent of all participants, for the purpose of inducing or compelling someone to engage in sexual conduct against their will;

- Observing, photographing, videotaping, or making any other visual or audio recording of sexual conduct or nudity or state of undress when and where there is a reasonable expectation of privacy, without the knowledge and affirmative consent of all participants;

- Exposing one’s genitals in non-consensual circumstances; or

- Inducing incapacitation for the purpose of making another person vulnerable to gender-based misconduct.

**Stalking:** A course of unwanted attention that is repeated or obsessive, directed toward an individual or a group and that is reasonably likely to cause alarm, fear or substantial emotional distress. Stalking may take many forms, including but not limited to lying in wait for, monitoring, or pursuing contact. Stalking may occur in person or through telephone calls, text messages, unwanted gifts, letters, e-mails, surveillance, or other types of observation and communication.

**Gender-Based Harassment:** Gender-based harassment can occur if a person is harassed either for exhibiting what is perceived as a stereotypical characteristic of their gender or for failing to conform to stereotypical notions of masculinity or femininity, and that harassing conduct unreasonably interferes with a person’s education or participation in educational programs or activities, or creates an intimidating, hostile, demeaning, or offensive academic, campus, or living environment.

The following describes some conduct that may be gender-based harassment:

- Acts of aggression, intimidation, stalking, or hostility based on gender or gender stereotyping; or
• Threats or non-consensual disclosure of a person’s gender identity (i.e. “outing”).

**Sexual Harassment:** Unwelcome sexual advances, requests for sexual contact, and other verbal, physical, or visual conduct of a sexual nature constitute sexual harassment when:

• Submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s academic, co-curricular, or student life activities;

• Submission to or rejection of such conduct by an individual is used as the basis for academic evaluation, grades, advancement or participation/status in student life activities (i.e. “quid pro quo”). Quid pro quo sexual harassment can occur whether a person resists and suffers the threatened harm, or a person submits and avoids the threatened harm, and can occur even if the person delays in reporting the harm;

• Such conduct is intentional, serves no legitimate purpose, and involves contact with parts of another individual’s body that may cause that person to feel degraded or abused;

• When such conduct is for the purpose of gratifying the actor’s sexual desire; or

• Such conduct has the effect of unreasonably interfering with a student’s education or participation in educational programs or activities or such conduct creates an intimidating, hostile, demeaning, or offensive academic, campus, work or living environment. The following describes some of the acts that may be sexual harassment:

• Conduct of a sexual nature, such as intentional and non-consensual physical contact which is sexual in nature, including touching, pinching, patting, grabbing, poking, or brushing against another person’s intimate body parts;

• Unwanted sexual advances, propositions or other sexual comments, such as: (1) subtle or obvious pressure for unwelcome sexual activities; or (2) sexually oriented gestures, noises, remarks, jokes or comments or questions about a person’s sexuality or sexual experience which are sufficient to create a hostile environment;

• Threats or non-consensual disclosure of a person’s sexual orientation (i.e. “ outing”); or

• Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials, or other materials that are sexually demeaning or pornographic in nature and which are sufficient to create a hostile environment.

“Hostile Environment” in the Context of Sexual and Gender-Based Harassment: A hostile environment may arise when unwelcome conduct of a sexual or gender-based
nature unreasonably interferes with a student's ability to participate in or benefit from an education program or activity, or creates an intimidating, threatening, demeaning, or offensive academic, campus, work or living environment.

In evaluating whether there is evidence of a hostile environment, the JTS will consider the totality of the known circumstances from the point of view of a reasonable person, 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; and
- Whether the conduct unreasonably interfered with the Complainant’s educational or work performance and/or JTS programs or activities.

A single, isolated incident of sexual or gender-based harassment may, based on the facts and circumstances, create a hostile environment. The more serious the conduct, the less need there is to show a repetitive series of incidents to demonstrate a hostile environment.

Retaliation: Any adverse action or threatened action, taken or made, personally or through a third-party, against someone who has reported a gender-based misconduct complaint (a Complainant) or has been the subject of a gender-based misconduct complaint (a Respondent) or any other individual (a witness, third-party reporter or advisor, etc.) because the individual engages with JTS, the Title IX Coordinator and/or the disciplinary process.

- All individuals and groups of individuals, not just a Respondent or Complainant, are prohibited from engaging in retaliation. Retaliation can refer to actions or threatened actions by any individual, including students and others who are not engaged with JTS or the Title IX Coordinator.

- Retaliation includes threatening, intimidating, harassing, or any other conduct that would discourage a reasonable person from seeking services; receiving measures and accommodations; reporting gender-based misconduct; or participating in the disciplinary process as a Complainant, Respondent, witness, third-party reporter or advisor.

- Retaliation includes maliciously or purposefully interfering with, threatening, or damaging the academic or professional career of another individual, before,
during or after the resolution of a report of gender-based misconduct under this Policy.

- Nothing in the Policy prevents an individual from discussing their experience from their perspective.

- Reports of gender-based misconduct made in good faith, even if the allegations are ultimately determined to be inaccurate, are not considered retaliation.

Reports that are intentionally false or found to have been made frivolously or in bad faith may constitute retaliation and/or may be considered if an individual is otherwise found responsible for a violation of the Policy. For example, retaliation could include a threat of falsely reporting the complainant or witnesses of gender-based misconduct to deter them from participating in an imminent or pending gender-based misconduct process.

Retaliation may also include violations of a no-contact directive and/or other interim measures, in conjunction with any of the behavior described above, during the course of an investigation.

- If the alleged retaliation occurs between the Complainant and the Respondent while a matter is pending, these allegations may be investigated separately through the JTS disciplinary process and/or folded into the pending investigation, based on the circumstances of the allegations.

- Allegations of retaliation by other parties, i.e., not between the Complainant and the Respondent, will be investigated separately when the allegations involve gender-based misconduct. Any other allegations of retaliation will be investigated and adjudicated through the JTS disciplinary process.

C. Important Policy-Related Concepts

Complainant: The person making the allegation(s) of gender-based misconduct.

Respondent: The person alleged to have committed gender-based misconduct.

Party: Complainants and Respondents are sometimes referred to as parties. (A “party” is someone directly involved in a proceeding.) Others, such as witnesses and advisors, are not considered parties.

The definitions that follow provide additional guidance regarding the prohibited conduct previously discussed.

Affirmative Consent: Affirmative consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity.
● Consent can be given by words or actions, as long as those words or actions clearly communicate willingness to engage in the sexual activity. It is important not to make assumptions about consent. If there is confusion or ambiguity, participants need to stop sexual activity and communicate about each person’s willingness to continue.

● Consent cannot be procured by the use of physical force, compulsion, threats, intimidating behavior, or coercion.

● Consent cannot be obtained from, or given by, a person who is incapacitated.

● Consent to one form of sexual activity does not imply consent to other forms of sexual activity.

● Consent to engage in sexual conduct with one person does not imply consent to engage in sexual conduct with another person.

● Silence or the lack of resistance, in and of itself, does not demonstrate consent. Again, it is important not to make assumptions; if confusion or ambiguity arises during a sexual interaction, it is essential that each participant stops and clarifies the other’s willingness to continue engaging in the sexual conduct.

● Consent can be withdrawn at any time, including after it is initially given. When consent is withdrawn or can no longer be given, sexual activity must stop.

● Previous relationships or previous consent for sexual activity is not consent to sexual activity at another time. However, established patterns of consent in a specific relationship may be considered when evaluating whether affirmative consent was given on a particular occasion.

● Accepting a meal, a gift, or an invitation to socialize, including on dating apps, does not imply or constitute consent to sexual activity.

● The definition of consent does not vary based on a participant’s sex, sexual orientation, gender identity, gender expression or relationship status.

Coercion: Coercion is verbal and/or physical conduct, including intimidation and explicit or implied threats of physical, emotional, or other harm, that would reasonably place an individual in fear of immediate or future harm and that is used to compel someone to engage in sexual conduct against their will.

● Coercion is more than an effort to persuade, entice or attract another person to engage in sexual conduct. When a person makes clear that they do not want to participate in a particular form of sexual conduct, that they want to stop or that they do not want to go beyond a certain type of sexual conduct, continued pressure can be coercive if it would reasonably place an individual in fear of immediate or future harm.
In evaluating whether coercion was used, the frequency, duration and intensity of the other person’s verbal or physical conduct or threats are all relevant, as is the degree of confinement or isolation to which the person was subjected. Coercion may be evidenced by an interaction that can reasonably be interpreted as indicating that a party will be harmed or restrained if they do not engage in sexual conduct (e.g., “You can leave, but only after you perform oral sex.”)

**Intimidation:** Intimidation is any threat of violence or other threatening behavior directed toward another person or group that reasonably leads the target(s) to fear for their physical well-being or to engage in sexual conduct for self-protection. A person’s size alone does not constitute intimidation; however, a person can use their size or physical power in a manner that constitutes intimidation (for example, by blocking access to an exit).

**Force:** Force refers to the use or threat of physical violence to compel someone to engage in sexual activity. Examples of physical violence include hitting, punching, slapping, kicking, restraining, choking, strangulation and/or brandishing or using any weapon.

**Incapacitation:** Incapacitation occurs when an individual lacks the ability to knowingly choose to participate in sexual conduct. A person who is incapacitated cannot make a rational, reasonable decision because the person lacks the ability to understand his or her decision.

- Incapacitation may be associated with a person lacking consciousness; being asleep; being involuntarily restrained; or having a disability that impedes consent. Under New York State law, a person under the age of 17 lacks the capacity to give consent.

- Whether sexual conduct with an incapacitated person constitutes gender-based misconduct depends on whether the Respondent knew or should have known of the Complainant’s incapacitation, based on objectively and reasonably apparent indications when viewed from the perspective of a sober, reasonable person in the Respondent’s position.

- 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. See the following for additional information on how drugs and alcohol can affect consent. How drugs and alcohol affect consent

- The use of alcohol or other drugs is never an excuse for committing gender-based misconduct and never diminishes anyone’s responsibility to obtain informed and freely given consent.

- The use of alcohol or other drugs never makes someone at fault for experiencing gender-based misconduct.
● The impact of alcohol and other drugs varies from person to person and there is no specific amount of alcohol or drugs consumed that leads to incapacitation. In evaluating whether a person is incapacitated due to the consumption of alcohol, drugs or intoxicants, the following factors will be considered:

● Whether the Complainant understood the “who, what, when, where, why or how” of the sexual conduct; and

● How the Complainant was physically affected by the consumption of alcohol or drugs, which may include, but is not limited to, warning signs such as having slurred or incomprehensible speech, vomiting, unsteady gait, imbalance, bloodshot eyes, combativeness, emotional volatility, or notable change in personality.

Because the impact of alcohol and other drugs varies from person to person, the amount of alcohol and/or drugs a person consumes will not ordinarily be sufficient, without other evidence, to prove that they were incapacitated under this Policy.

Another effect of alcohol consumption can be memory impairment or forgetting entire or partial events (sometimes referred to as “blackout” or “brown-out”). A person may experience this symptom while appearing to be functioning “normally,” including communicating through actions or words that seem to express an interest in engaging in sexual conduct. Whether sexual conduct with a person who is “blacked-out” constitutes gender-based misconduct depends on the presence or absence of the observable factors indicating that a person is also incapacitated, as described above. Total or partial loss of memory, without more, is insufficient to demonstrate incapacitation.

The use of alcohol or drugs can create an atmosphere of confusion and can lower inhibitions. All parties should be aware of, and carefully consider, the potential consequences of the use of alcohol or drugs. Every individual is responsible for ensuring there is mutual, affirmative consent prior to engaging in sexual conduct.

IV. OTHER-PROHIBITED CONDUCT

JTS also prohibits discriminatory treatment, insensitive or derogatory language, or actions based on other factors such as an individual’s actual or perceived race, color, national origin, ancestry, religious practices, age, physical or mental disability, pregnancy, genetic information, military status (including special disabled veterans and other protected veterans), class status, criminal convictions, domestic violence status, familial status or other categories protected by law. Behavior that involves discriminatory treatment can be considered demeaning, coercive, or, depending upon the circumstances, threatening and intimidating.

Members of the JTS community are encouraged to report any incidents of discriminatory treatment promptly to any of the administrators listed in this Policy. Individuals may also seek guidance from these administrators if they have any questions about discriminatory treatment, harassment, or bias-related crimes.
JTS presents information on discrimination in its programming for students, together with information on harassment, bias-related crimes, sexual assault, and campus safety. Any member of the community may obtain additional information from the Office of Student Life.

V. PROCEDURES FOR RESPONDING TO STUDENT GENDER-BASED MISCONDUCT

A. Premises of Procedures

Several basic premises underlie the structure of these procedures and are intended to govern their application.

First, the goal of these procedures is to provide a prompt, equitable, and effective response to an incident of discrimination or harassment. JTS seeks to provide appropriate redress for the Complainant, education and assistance for the Respondent, and prevention of similar incidents in the future. The end result is not intended to be primarily punishment of the offender or retribution. In significant cases, however, appropriate action may include, among other outcomes, a recommendation of counseling; oral or written reprimand; discipline; suspension; dismissal; or termination of participation in an academic program.

Second, a member of the JTS community who exhibits a single act or isolated, minor acts perceived as discriminatory or harassing may simply lack the sensitivity to appreciate that his or her conduct creates discomfort or humiliation for others. Accordingly, any member of the JTS community who becomes aware of such activity may want to advise the individual directly in a discreet manner. Third, these matters are unusually sensitive, and additional harm can be caused to the victim, the alleged offender, and potential witnesses by inappropriate publicity.

B. Rights and Responsibilities During the Disciplinary Process

JTS’s disciplinary process provides accessible, prompt, and fair methods of addressing reports of student gender-based misconduct. Both the New York State Students’ Bill of Rights and JTS’s process give the Complainant and the Respondent the following rights:

- To respect, dignity, and sensitivity;
- To appropriate support from JTS;
- To privacy to the extent possible consistent with applicable law and JTS policy;
- To information about JTS’s Gender-Based Misconduct Policy and Procedures;
- To the presence of an advisor throughout the process;
• To participate or to decline to participate in the disciplinary process (however, a decision not to participate in the process either wholly or in part may not prevent the process from proceeding with the information available);

• To a prompt and thorough review of the allegations;

• To adequate time to review documents following an investigation;

• To adequate time to prepare for a hearing;

• To an opportunity to challenge a JTS Designated Official or panel member(s) for a possible conflict of interest in cases involving an investigation and hearing/appellate panel;

• To refrain from making self-incriminating statements;

• To an appeal of the decision made by a JTS Designated Official the hearing panel and of any sanctions imposed in cases involving an investigation and hearing panel;

• To notification, in writing, of the case resolution, including the outcome of any appeal, where applicable;

• To report the incident to law enforcement at any time; and

• To understand that information collected in the process may be subpoenaed in criminal or civil proceedings.

C. Hearing and Adjudication Process

1. Informal Resolution (Step One)

A member of the JTS community who believes he or she has been subject to discrimination or harassment may wish to consider seeking a resolution of the problem informally and unofficially, through communication directly with the person concerned or through an informal advisor. JTS understands that an individual may not wish to try this informal approach, the approach may not be appropriate or possible, or, if tried, the approach may be unsuccessful.

Alternatively, the Complainant may seek informal resolution by contacting the following administrators, each of whom is a Designated JTS Official to handle discrimination and harassment matters:

- Director of Human Resources;
- Dean, Assistant Dean, or Associate Dean of any school of the Seminary;
- Dean of Student Life; and
Any member of the JTS community who has a problem involving discrimination or harassment, or who seeks guidance in these areas, should contact one of the Designated JTS Officials.

The Designated JTS Official will hold an initial discussion with the Complainant. The Complainant may request that his or her identity be kept confidential while he or she decides whether or not to file a charge. The Designated JTS Official shall ask the student to sign a statement requesting confidentiality. JTS shall honor the request to the extent practicable and consistent with JTS's legal obligations. A request for confidentiality may limit the ability of JTS to take prompt and appropriate action, and JTS may be obligated by law to document and investigate a complaint notwithstanding a request for confidentiality.

Please know that disclosure of information regarding sex offenses requires a balancing of privacy interests of the Complainant and the accused, as well as JTS's legal responsibilities to other students and employees. JTS is required by state and federal laws to ensure a safe and non-discriminatory environment for every person on campus; therefore, as stated elsewhere in the Policy, JTS cannot make an absolute guarantee that all information provided regarding a possible sex offense will remain completely confidential.

One does not have to be the direct target of the discrimination or sexual harassment to report it to a Designated JTS Official, who shall investigate the complaint consistent with these procedures if appropriate.

In the initial meeting with a Designated JTS Official, the nature and context of the incident need to be explored. The Designated JTS Official should discuss with the Complainant the procedures under this Policy. If the Complainant decides to proceed, the Complainant submits a written statement to the Designated JTS Official. The statement should contain specific details and be signed. JTS reserves the right to investigate allegations in the absence of a written complaint under circumstances it deems appropriate.

Members of the JTS community may have the option of bringing a complaint of discrimination or harassment in more than one forum. For example, a student in the Joint Program with Columbia University could bring a complaint either at Columbia or at JTS. The individual has the right to elect a forum in which to pursue his or her complaint. If the individual does not elect to pursue a complaint at JTS, the individual should nonetheless provide information to JTS about the charge.

Complaints should be presented as promptly as possible after the alleged discrimination or harassment occurs. Normally, complaints should be brought to the attention of a

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1 For purposes of the Policy, “Designated JTS Official” shall also include any additional person, per the approval of JTS, who is asked by a Designated JTS Official to handle these responsibilities.
Designated JTS Official within two months after the incident. Prompt reporting is encouraged; the longer the amount of time that elapses, the more difficult it is to investigate the allegations. At the Complainant's request, JTS may briefly postpone an investigation, such as until after a term ends or an examination is completed.

The Designated JTS Official shall make such investigation as may be necessary and appropriate to gather the facts, including interviews and requests for written information from the Complainant, the respondent, and relevant witness(es), if any. In the investigation, the Designated JTS Official shall at all times respect the sensitivity of the situation and the interests of both the Complainant and the respondent, consistent with the need for a thorough fact-finding. JTS endeavors to complete investigations within 45 school days of receiving a formal complaint.

The Designated JTS Official evaluates the information received and, using a standard of preponderance of evidence, writes a recommended resolution within a reasonable time period, generally not to exceed twenty (20) school days, and shares it with the Complainant and the respondent. If all parties accept the recommended resolution, the General Counsel's office shall retain a copy of it, along with written evidence of the parties' acceptance, for an appropriate period.

If the Complainant or the respondent is unsatisfied with the resolution proposed by the Designated JTS Official, either party may, within two weeks of receiving the recommended resolution, submit a written request to that official that the complaint be referred for formal procedures (Step Two).

Either party may elect, during the informal process, to proceed to the Formal Resolution.

2. Formal Resolution (Step Two).

Any complaints concerning a student shall be directed to a review panel of three members of the JTS community, selected jointly by the Provost and the Dean of Student Life. This panel shall function in the same manner and with the same composition as that set forth in the section above.

The review panel should initiate its activities within fifteen (15) school days of receiving the complaint. Actual hearings should start within thirty (30) school days after the review panel is convened, and hearings and fact finding should conclude within thirty (30) school days. A determination of the review panel, using a preponderance of evidence, should be distributed simultaneously to the parties and the Chancellor within twenty (20) days after the conclusion of the review panel’s hearings and fact finding. These time frames may be extended for reasonable periods for good cause or at the request or mutual agreement of the parties.

No one at JTS may take any adverse action against a person making a good faith claim of discrimination or harassment. Similarly, no one at JTS may take any adverse action against a person who, in good faith, supports a claim of discrimination or harassment.
However, any student, faculty, or staff member who exercises bad faith and brings false, malicious, or frivolous charges may face disciplinary action. Someone who, in bad faith, supports a claim of discrimination or harassment may similarly face disciplinary action.

D. Supportive and Interim Measures

JTS can provide supportive measures and impose interim measures after a report has been filed. Supportive and interim measures are those accommodations, services, and other assistance JTS implements after a report has been filed. JTS has a duty to provide a fair and equitable process to all parties involved.

Supportive measures are designed to assist a student affected by gender-based misconduct so that they may continue their academic endeavors. Interim measures are designed to ensure the safety of the community and to protect the integrity of the disciplinary process while the process is ongoing. The discussion below provides more information and examples of each.

Supportive Measures

JTS will work with all students to ensure their safety and promote their well-being throughout their time at JTS, including by helping to secure appropriate supportive accommodations.

Students may request supportive measures even in cases where an investigation is not undertaken or either party has declined to participate in JTS disciplinary process.

JTS evaluates requests for supportive accommodations in light of the circumstances and information available at the time of the request. In some instances, additional information may be required to sufficiently evaluate the need or provide for a requested supportive accommodation. If requested accommodations cannot be granted, JTS will provide an explanation, in writing, to the student.

Supportive measures may include, but are not limited to:

- Relocation of a student’s residence;
- Adjusting a student’s work schedule for JTS employment;
- Changing a student’s academic schedule;
- Allowing a student to withdraw from or retake a class without penalty; and/or
- Providing access to tutoring or other academic support.
Interim Measures

JTS may also impose interim measures, based on the totality of facts known at the time, to ensure the safety of all parties involved, to prevent the escalation of conflict, and to protect the integrity of the disciplinary process while the process is ongoing. Interim measures include, but are not limited to:

- No-contact directives;
- Restricting a Respondent’s access to campus buildings and/or JTS property;
- Moving a student’s residence;
- Temporarily suspending a Respondent from specified activities and/or positions of leadership; and/or
- Temporarily suspending a Respondent from JTS.

The imposition of supportive and interim measures does not indicate that JTS has made a final decision about the report of prohibited conduct.

JTS will provide notice about these supportive and interim measures only to those who need to know in order to make them effective. Failure to comply with interim measures or other directives is a violation of JTS Policy and may lead to additional disciplinary action.

E. Declining to Participate

The Complainant and/or Respondent may decline to participate in an investigation, adjudication, and/or any step of this process and any subsequent appeal. However, JTS will make multiple efforts to engage their participation and may continue the process without the Complainant’s and/or Respondent’s participation. Declining to participate in an investigation precludes a Complainant or Respondent from participating in the adjudication process, including the ability to submit new information to a hearing or appellate panel, absent extraordinary circumstances. The Complainant or Respondent may submit an impact statement at the sanctioning stage, if applicable, without regard to earlier participation in the process.

Choosing to participate in a limited fashion (e.g. providing a prepared written statement but declining to participate in an interview or answer questions) may similarly limit a student’s ability to participate in the adjudication process and/or submit new information to a hearing or appellate panel, if applicable. Additionally, participating in a limited fashion or declining to participate may render it impossible for JTS to investigate.
Even if a party declines to participate, JTS will continue to update each party throughout the process, unless a party submits a written request to the Office to cease contact.

Recurring refusal or failure to respond to outreach by the Office will be interpreted as declining to participate and may preclude or limit participation in later stages of the process. Silence or a decision not to participate will not be treated as a negative factor in the investigation, adjudication, or appeal.

**F. Withdrawal from the Disciplinary Process**

A student involved in the disciplinary process may withdraw from participation at any time without penalty. However, JTS may, consistent with other provisions of federal and New York State law, still have obligations to investigate and/or take other action. In those instances when JTS determines that it must proceed with an investigation, the Title IX Coordinator will notify the appropriate party that JTS intends to initiate or continue an investigation, but that the involved student is not required to participate in the disciplinary process. A student who withdraws from JTS while a disciplinary action is pending against him or her will receive a transcript notation so indicating.

Withdrawing participation before an investigation is complete precludes a Complainant or Respondent from participating in the remainder of the disciplinary process, including the ability to submit new information to the hearing or appellate panel, absent extraordinary circumstances. The Complainant or Respondent may submit an impact statement at the sanctioning stage, if applicable, without regard to earlier participation in the process.

**G. JTS Authority/Amendments**

JTS may amend the Policy periodically. Nothing in the Policy shall affect the inherent authority of JTS to take such actions or alter, change or modify this Policy as it deems appropriate to further the educational mission or to protect the safety and security of the JTS community. The information in this Policy is intended to be explanatory and not contractual in nature.

In some circumstances, the policies administered by JTS, including this one, will take into consideration the beliefs and practices of Conservative Judaism. It is the responsibility of the Chancellor to implement and monitor this policy.
New York State Students’ Bill of Rights

All students have the right to:

1. Make a report to local law enforcement and/or state police;

2. Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;

3. Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure from the institution;

4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;

5. Be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available;

6. Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed or should have acted in a different manner to avoid such crimes or violations;

7. Describe the incident to as few institutional representatives as practicable and not to be required to unnecessarily repeat a description of the incident;

8. Be free from retaliation by the institution, the accused and/or the respondent, and/or their friends, family and acquaintances within the jurisdiction of the institution;

9. Access to at least one level of appeal of a determination;

10. Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the judicial or conduct process including during all meetings and hearings related to such process; and

11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the College.
Emergency Medical Treatment for Sexual Assault/Rape Victims

On-Campus:
JTS Student Counseling Center: Brush 404, (212) 280-6161

Columbia’s Sexual Violence Response Center: (212) 854-HELP (4357)

Barnard’s Furman Counseling Center: (212) 854-2092

Off-Campus:
St. Luke’s-Roosevelt Hospital: 411 West 114th St.
Crime Victims Treatment Center – (212) 523-4728

Beth Israel Medical Center: 1st Ave. at 16th St.
Rape Crisis Center – (212) 420-4516

Harlem Hospital: 506 Lenox Ave. and 135th St.
Rape Crisis Program – (212) 939-4613

Columbia-Presbyterian Medical Center: 180 Ft. Washington Ave.
(Harkness Pavilion 2)
Rape Crisis Intervention Program – (212) 305-9060

Mt. Sinai Medical Center: 40 East 98th St.
Sexual Assault & Violence Intervention Program – (212) 423-2140

Bellevue Hospital Center: 27th St. and 1st Ave.
Rape Crisis & Victims Intervention Program – (212) 562-3755

New York City Police Department: Rape Hotline – (212) 267-7273
Crime Victim Hotline – (212) 577-7777

Gay and Lesbian Anti-Violence Project Hotline: Main – (212) 714-1184
Hotline – (212) 714-1141