# JTS GENDER-BASED MISCONDUCT POLICY AND PROCEDURES

**REVISED OCTOBER 2019**

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I. INTRODUCTION

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:** Domestic violence includes felony and misdemeanor violent offenses committed by a current or former spouse or cohabitant, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with, the victim as a spouse or intimate partner, by a person similarly situated under domestic or family violence law and/or by any other person against a victim who is protected under the state domestic or family violence laws.

Under New York Law, domestic violence includes any act which would constitute a violation of the penal law, including, but not limited to acts constituting disorderly conduct, harassment, aggravated harassment, sexual misconduct, forcible touching, sexual abuse, stalking, criminal mischief, menacing, reckless endangerment, kidnapping, assault, attempted assault, attempted murder, criminal obstruction of breathing or blood circulation, or strangulation; and (i) such act or acts have resulted in actual physical or emotional injury or have created substantial risk of
physical or emotional harm to [a] person or such person’s child and (ii) such act or acts are alleged to have been committed by a family or household member.

**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.”)

Discriminatory Harassment: Discriminatory harassment is verbal or physical conduct that belittles or shows hostility or aversion toward an individual based on the individual’s protected characteristic(s), or that of his or her relatives, friends, or associates, and that:

● Has the purpose or effect of creating an intimidating, hostile, or offensive living, learning or working environment;

● Has the purpose or effect of unreasonably interfering with an individual’s academic or job performance or limiting or depriving someone of the ability to participate in or benefit from JTS’s educational programs, activities and/or employment; or

● Otherwise has a significant adverse effect on an individual’s academic or employment experience.

Harassing conduct includes, but is not limited to: epithets, slurs, or negative stereotyping; threatening, intimidating, or hostile acts, the circulation or display of written or graphic material that belittles or shows hostility or aversion toward an individual or group (including through e-mail, social media, and other electronic media).

Domestic Violence: Domestic violence includes felony and misdemeanor violent offenses committed by a current or former spouse or cohabitant, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with, the victim as a spouse or intimate partner, by a person similarly situated under domestic or family violence law and/or by any other person against a victim who is protected under the state domestic or family violence laws.

Under New York Law, domestic violence includes any act which would constitute a violation of the penal law, including, but not limited to acts constituting disorderly conduct, harassment, aggravated harassment, sexual misconduct, forcible touching, sexual abuse, stalking, criminal mischief, menacing, reckless endangerment, kidnapping, assault, attempted assault, attempted murder, criminal obstruction of breathing or blood circulation, or strangulation; and (i) such act or acts have resulted in actual physical or emotional injury or have created substantial risk of physical or emotional harm to [a] person or such person’s child and (ii) such act or acts are alleged to have been committed by a family or household member.
**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.

**D. Sexual/Romantic Relationships Between Students And Employees**

The Jewish Theological Seminary is committed to creating an environment in which learning can take place in an atmosphere of professionalism and mutual respect. We recognize that an amorous relationship, even if consensual, between a faculty member (including a graduate student serving as a teaching assistant) and a student may impair or undermine the ongoing trust required for effective teaching, learning, and professional development. Because of the authority or power held by the faculty member over the student, or by a manager over a subordinate, conflicts of interest and perceptions of unfair advantage may arise. In addition, the possibility exists that such relationships may be interpreted as sexual harassment.

Therefore, JTS prohibits amorous or sexual relationships between any JTS faculty member, teaching assistant, dean, associate dean, or assistant (to) dean, and a student whose academic work, teaching, or research is being supervised or evaluated by that individual or is reasonably likely to be supervised or evaluated by that individual in the future.

Should a charge be made that this policy is being or has been violated, JTS is obligated to investigate. The fact that the relationship may have been consensual shall not be a defense to a violation of this policy prohibition. A violation of this policy will be processed in accordance with the complaint procedure with respect to complaints of discrimination, discriminatory harassment, sexual harassment and retaliation.
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/appeal 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. Mandated Reporters

The following JTS employees are mandated reporters and are required to report any possible violation of this Policy to the Title IX Coordinator/Chief Human Resources Officer and (when the allegations may constitute a crime) to JTS Security:

- Faculty;
- Residence life staff, including RA’s;
- Student Affairs staff;
- Deans and all Associate and Assistant Deans
- Chancellor and all Vice Chancellors;
- Provost and Associate Provost;
- Chief Human Resources Officer/Title IX Coordinator;
- Chief of Security; and
- All other managers, supervisors, and security personnel.

Any mandated reporter must report such an alleged violation, even if the individual(s) confiding in them requests that his, her, or their conversation be kept confidential. These employees will endeavor to maintain the privacy of the individual to the extent possible, but will be required to inform the Title IX Coordinator/Chief Human Resources Officer and Chief of Security (where an act of violence is involved) of any information that is necessary for an investigation of the claims.

Even mandated reporters who cannot guarantee confidentiality will maintain the privacy of an individual reporting a violation of this policy to the greatest extent possible. The information provided to a non-confidential resource will be relayed only as necessary for JTS to investigate and/or seek a resolution. Only people who have a need to know about the incident will be informed, and information will be shared only as necessary with investigators, the complainant, witnesses and the respondent to ensure an effective and thorough investigation. Although JTS will take all appropriate steps to safeguard the privacy of the parties, the information collected during the investigation process may be subpoenaed in civil or criminal proceedings.

The Title IX Coordinator is Diana Torres-Petrilli. Her office is located in Room 412 of Brush Hall. She can be contacted by telephone at (212) 678-8011 or email at dipetrilli@jtsa.edu.

If faculty members or administrators are rabbis, are they still mandated reporters? YES

The rabbis on the faculty and in the administration at JTS are considered mandated reporters. The law only creates an exception to the obligation to report identifying information concerning a possible violation of this Policy in certain limited circumstances. Conversations regarding a possible violation of this Policy may only be kept confidential by a rabbi when he or she is acting as a “pastoral counselor,” meaning the rabbi is (1) associated with a religious denomination, (2) is recognized as someone who provides confidential counseling, and (3) is functioning within the scope of that recognition during the confidential communication, such as when an individual is seeking spiritual or moral guidance or counseling from the rabbi. Generally, the faculty and administration of JTS, even if they are rabbis, are not acting in their capacity as pastoral
counselors when interacting or communicating with JTS students and employees, unless such interaction is clearly outside of the scope of their duties as members of the faculty or administration, and the fact that counseling was being sought was made clear from the outset of the interaction or conversation. Thus, JTS presumes that these individuals are required to report any possible violation of this Policy to the Title IX Coordinator and (where the allegations may constitute a crime) to JTS Security.

**Clery Act Reporting**

In compliance with the Clery Act and the Violence Against Women Act of 1994, JTS publishes an annual statistical report regarding crime on-campus, in non-campus buildings or properties and near campus. This report is available on the JTS website. JTS also issues warnings to the community regarding safety and security concerns and crimes that occurred near campus. These warnings and report do not include any personally identifying information.

**D. Confidential Resources/Individuals With A Duty To Report**

Members of the JTS community who believe they have experienced violations of this Policy are encouraged to meet with someone to receive support, obtain information about their options, and learn about available resources. Depending on whom an individual chooses to speak with, there are limits on the level of confidentiality that can be afforded to the shared information.

**On Campus Confidential Resources for Students**

Confidential communications include conversations which, pursuant to the law, cannot be disclosed to another person without the speaker’s consent, unless the communications involve an imminent threat or danger to the speaker or others.

The JTS Counseling Center is located in Room 404 of Brush Hall. For more information, please call (212) 280-6161, email counseling@jtsa.edu or go to the Center’s website, at http://www.jtsa.edu/Counseling-Center. JTS Counseling Center staff are not required to report to the Title IX Coordinator identifying information about students who believe he, she or they have experienced a violation of this Policy. Thus, communications with these individuals may be confidential or made anonymously.

JTS students have access to the Columbia Health Service including counseling and psychological services. Health care professionals are not required to report identifying information concerning a possible violation of this Policy to the Title IX Coordinator.

- For more information, please go to their website at https://health.columbia.edu/medical-services.
- List College students in the Double Degree program with Barnard have access to the Furman Counseling Center at Barnard College: (212) 854-2092.
In order to identify patterns or systemic issues related to violations of this Policy, JTS may collect *non-identifying* data from confidential resources. All personally identifiable information, including the names of the individuals, will remain confidential when provided to confidential resources.

**Additional Resources for Students and Employees Subjected to Prohibited Conduct**

Additional resources for students and employees, including off-campus confidential resources, can be found in the Appendix.

**E. Hearing and Adjudication Process**

**Reporting Misconduct**

Any individual who has a concern about discrimination or harassment, or who seeks guidance in these areas, may report such conduct, verbally or in writing, to the Chief Human Resources Officer/Title IX Coordinator. A form for submission of a written complaint is attached to this Policy, and all individuals who want to file a complaint are encouraged to use this complaint form. Individuals who are reporting on behalf of another person should use the complaint form and note that the complaint is on another’s behalf.

Individuals may also contact any of the following Designated JTS Officials:

- Dean, Assistant Dean, or Associate Dean of any school of JTS;
- Dean of Student Life;
- Director of Student Life & Community Outreach; and
- Director of Residence Life, for incidents occurring in JTS housing.\(^1\)

One need not be the direct target of the misconduct to report it to a Designated JTS Official. All alleged violations of this policy will be taken seriously and addressed appropriately. In accordance with federal and state law, there are different procedures, described below, depending upon the identities of the parties and the conduct being alleged. If a complaint includes one or more allegations of sexual assault, sexual exploitation, domestic violence, dating violence, or stalking, the college reserves the right to process any related claim of discrimination, discriminatory harassment, sexual harassment or retaliation under the procedures for sexual misconduct.

If a trustee, visitor or third-party doing business with the college or participating in a JTS program or activity is accused of engaging in prohibited conduct in violation of this policy, JTS will take appropriate steps to end the misconduct, remedy its effects and prevent its recurrence. Such steps may include, but are not limited to, investigating the allegations, banning the individual from campus, and prohibiting the individual from participating in future sponsored

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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.
programs or activities. JTS reserves the right to take appropriate steps to end prohibited conduct by visitors and third parties, to remedy its effects, and to prevent its recurrence without conducting a full investigation or completing the complaint procedures.

Students are encouraged to file a complaint as soon as possible after any incident. There is no deadline for filing a complaint. However, a promptly-filed complaint will improve JTS’s ability to gather all relevant information. Furthermore, JTS’s ability to take disciplinary action against the Respondent may be limited if the Respondent is no longer a member of the JTS community.

**Informal Resolution**

JTS community members have the option to attempt to reach a resolution between the victim of an alleged violation of this policy (the “Complainant”) and the person accused of violating the policy (the “Respondent”) through informal means. JTS encourages the use of a “restorative conferencing” model, in which dialogue is guided by trained facilitators, particularly where one party (or both parties) has accepted responsibility for causing harm to another, and seeks to repair the harm, support true accountability, and reestablish trust. All parties must voluntarily agree to use of an informal resolution process, and JTS must determine that the particular complaint is appropriate for such a process. At no time will any party be required to participate in the informal resolution process.

If the Complainant agrees, the Title IX Coordinator can contact the Respondent to request his, her or their participation in the informal resolution process.

If the parties can reach a mutually satisfactory resolution, the matter will be considered final without a formal investigation and hearing panel determination.

If the Complainant or Respondent decides that he, she or they do not want to participate in an informal resolution at any time, the informal resolution efforts will end. The matter will then proceed to a formal investigation and hearing panel determination in accordance with the relevant procedure, as set forth below.

**Complaints of Discrimination, Discriminatory Harassment, Sexual Harassment and Retaliation**

**Step One – Investigation**

In the initial meeting with a Designated JTS Official, the nature and context of the incident will be explored. The Designated JTS Official should discuss with the Complainant the procedures under this policy. The Complainant will be asked to submit a written statement, containing specific details sufficient to allow JTS to conduct an investigation into the incident. JTS reserves the right to investigate allegations in the absence of a written complaint under circumstances it deems appropriate.
Some 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 a joint program with Columbia 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. Depending upon the nature of the complaint and the parties involved, JTS may work with the affiliated entity (in this example, Columbia) to investigate and address the complaint. To avoid any risk of inconsistent outcomes, community members will not be permitted to pursue the same complaint independently at both schools.

JTS is committed to an impartial, prompt, fair, thorough and respectful investigation and resolution. JTS reserves the right to take interim remedial measures to provide support to a Complainant or to protect the JTS community while a complaint is pending, as it deems appropriate.

First, the Chief Human Resources Officer/Title IX Coordinator will conduct an initial review of the complaint and determine if, assuming (without determining) all of the conduct alleged actually occurred, it alleges a violation of this Policy. If the complaint does not describe a potential violation, the complaint will be dismissed. The Complainant will be informed of this outcome.

If the complaint describes a potential violation, the Respondent shall be notified that an allegation of misconduct in violation of this policy has been filed against the Respondent. The Designated JTS Official (or someone else assigned the responsibility) shall investigate as necessary and appropriate to gather the facts. If either party has a reason to believe that the investigator has a conflict of interest, the party must raise that concern to the Executive Vice Chancellor/Chief Operating Officer or the General Counsel as soon as such party becomes aware of the conflict and prior to the investigator issuing any findings. The investigator will conduct interviews of the Complainant, Respondent, and, when appropriate, third-party witnesses. The investigator will also collect any other available evidence, such as relevant documents, including text messages, emails, social media posts, etc. If a student-Respondent chooses not to participate or does not make him/her/themself available to meet with the investigator within a reasonable time, the investigator shall be authorized to proceed with this process based on the evidence provided by other parties. The investigator will not make an adverse inference against the student-Respondent for choosing not to participate in the investigation, but the investigator will make a determination based only on the evidence available. Employee-Respondents must participate in the investigation process; failure to do so will result in serious disciplinary action, which may include termination of employment.

Both the Complainant and Respondent will have the opportunity to provide other evidence to the investigator and/or recommend witnesses. The investigator will have sole discretion to determine which witnesses to interview. The investigator will not consider purely character evidence. A Party shall have the right to exclude evidence relating to its own prior sexual history with persons other than the other party. A Party shall also have the right to exclude evidence relating to the party’s own mental health diagnosis or treatment.
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. The investigator evaluates the information received and, using a standard of preponderance of evidence, writes an investigative report, specifically identifying the policy provisions allegedly violated; summarizing the investigation’s scope; identifying relevant exculpatory and inculpatory evidence; summarizing the investigator’s findings with respect to each policy provision allegedly violated; and when appropriate, recommending sanctions and remedial measures. JTS endeavors to complete the investigation and investigative report within 20 business days of receiving a formal complaint.

The Complainant and Respondent will have an opportunity to review the investigative report and recommended resolution, though they will not be given a copy of it. If all parties accept the recommended resolution, the Chief Human Resources Officer (where the Respondent is an employee) or the Dean of the Respondent’s school (where the Respondent is a student), together with the Provost (where the Respondent is a member of the faculty) and the Director of Residence Life (where the Respondent resides in a JTS residence) shall be responsible for ensuring implementation of and compliance with the provisions of the resolution and shall retain a copy of the resolution, along with written evidence of the parties' acceptance, for an appropriate period.

If the Complainant or the Respondent is unsatisfied with the investigative report or resolution proposed by the investigator, such party may, within five (5) business days of being given the opportunity to review the investigative report and recommended resolution, submit a written request to the investigator that the complaint be referred for a hearing (Step Two). In the written request, the party should identify and explain any perceived errors or omissions in the report, identify any additional evidence that the party believes the review panel should consider, questions that the party believes the other party should be asked, and/or witnesses who should be heard.

**Step Two — Review Panel**

Complaints that are not settled at the Step One stage and are not addressed by an applicable procedure in a collective bargaining agreement shall be directed to a review panel consisting of three members of the JTS community. Where the complaint concerns an employment or academic situation involving faculty or students (faculty/faculty, faculty/staff, faculty/student, student/student or staff/student) the panel shall be selected by the Provost or Associate Provost (if a faculty member is involved) in consultation with the Dean of Student Life (if one or more students are involved). The parties shall promptly be advised when the panel members have been selected. If either party has reason to believe that a member of the panel has a conflict of interest, the party must raise that concern to those who selected the panel in writing promptly and prior to any determination being reached. If it is determined that a conflict of interest exists, the panelist will be replaced.

The panel will be provided with the investigative report and the written request for a review panel. The panel shall invite the Complainant and the Respondent to appear at separate times to
make a statement, explaining their position. The panel may also ask questions. At its sole discretion, the panel may call additional witnesses and gather whatever information it deems necessary to assist it in reaching a determination on the merits of the allegation. Each party will be afforded a full opportunity to be heard.

Advisors

Throughout the process, the Complainant and Respondent may seek advice from an advisor, who may be an attorney but shall not act as the legal representative of such party. The Complainant and Respondent may bring their advisors to their interviews with the investigator and to any meeting or hearing associated with the complaint. The advisor, however, may not answer questions on behalf of his or her advisee and may not ask questions. If the advisor is disruptive in any way, the advisor may be asked to leave.

Determination

The panel shall evaluate the evidence using a standard of preponderance of evidence and shall prepare a written decision, summarizing relevant exculpatory and inculpatory evidence considered, explaining its findings and the evidence supporting those findings, and identifying appropriate remedial actions and/or sanctions. Once the panel reaches a determination, the written decision shall be communicated to the Chancellor or the Chancellor’s designee for review. The Chancellor or the Chancellor’s designee may, at his/her/their discretion, direct the panel to modify or clarify its determination as to remedial actions and sanctions. The panel’s conclusion on the merits of the allegation shall be final and not subject to further review. Once it has been reached, the final determination shall be communicated in writing simultaneously to both parties along with a brief summary of the rationale for the decision; the summary will be available to either party upon request; however, the Complainant will only be informed as to remedial measures and/or sanctions that have a direct impact upon the Complainant, e.g. a no-contact order or transfer away from the Complainant. The Chief Human Resources Officer (where the Respondent is a non-faculty employee), the Provost or Associate Provost (where the Respondent is a member of the faculty) or the Dean of the Respondent’s school (where the Respondent is a student) shall be responsible for ensuring implementation of and compliance with the remedial measures and/or sanctions determined. The Chief Human Resources Officer, Provost, or Dean of the Respondent’s school, as appropriate, shall retain a copy of the panel’s decision and the final determination for an appropriate period of time.

There is a range of sanctions and remedial measures that may be appropriate to address a violation of the policies against discrimination, discriminatory harassment, sexual harassment, and retaliation. The range of sanctions is listed in the section entitled Sanctions and Remedial Measures.

Parties are expected to comply with any directive from the panel. Failure to do so shall constitute an independent conduct violation, which may result in disciplinary action.
The review panel’s fact finding should conclude within twenty (20) business days of when the panel is appointed. The final determination of the review panel should be distributed simultaneously to the parties within ten (10) business days after the conclusion of the review panel’s hearings and fact finding. These timeframes may be extended for reasonable periods for good cause or at the request or mutual agreement of the parties.

**Complaints of Dating Violence, Domestic Violence, Sexual Assault, Sexual Exploitation and Stalking**

To file a complaint with JTS and initiate the discipline process, an individual who has been subject to dating violence, domestic violence, sexual assault, sexual exploitation and/or stalking should contact the Title IX Coordinator at (212) 678-8011 or dipetrilli@jtsa.edu. In the event the Title IX Coordinator is informed of an alleged incident by someone other than the Complainant and the Complainant’s identity is disclosed, the Title IX Coordinator will reach out to the Complainant.

The Title IX Coordinator will explain the complaint and discipline procedures as well as provide resources to the Complainant. The Complainant will be asked to provide a written statement of complaint. However, JTS reserves the right to investigate allegations in the absence of a written complaint under circumstances it deems appropriate.

A Complainant has the right to make a report to the Title IX Coordinator, JTS police or campus security, local law enforcement and/or state police and also has the right to choose not to report. JTS will take all steps reasonably available to protect the Complainant from retaliation for reporting an incident and will provide assistance and resources to support the Complainant.

If an individual discloses information regarding a past incident of sexual violence or harassment at a public awareness or advocacy event, such as a candlelight vigil or protest, such disclosure shall not be deemed notice to JTS of such incident and JTS is not obligated to begin an investigation based on that information. Information disclosed at public awareness or advocacy events may, however, influence JTS’s efforts to provide educational or prevention resources.

**Investigation**

After receiving information regarding an allegation of sexual assault, dating violence, domestic violence, sexual exploitation, or stalking, JTS has the obligation to investigate the allegations and may pursue disciplinary action. The investigation will be conducted in an impartial, fair, prompt, thorough, and respectful manner.

The Complainant may withdraw his, her or their complaint at any time. As noted elsewhere in this Policy, however, if the Complainant withdraws the complaint, requests confidentiality or does not wish to pursue an investigation, JTS is required to balance that request against its

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2 Many of the procedures relating to dating violence, domestic violence, sexual assault, sexual exploitation and stalking are required by applicable federal and state laws, including the Violence Against Women Act (VAWA) and Article 129B of the New York Education Law.
obligation to ensure a safe, non-discriminatory environment for its entire community to determine whether an investigation will still occur. If, after being given notice and an appropriate time to respond, a Complainant elects not to participate in the investigation process in a timely manner, the Complaint may be deemed withdrawn at the Title IX Coordinator’s discretion.

The investigation will be conducted by the Title IX Coordinator or his/her/their designee. The Title IX Coordinator receives annual training on issues relating to dating violence, domestic violence, sexual assault and stalking, including the effects of trauma, impartiality, the rights of the Respondent, including the right to a presumption that the Respondent is “not responsible” until a finding of responsibility is made, and how to proceed with the process in a manner that protects the safety of the parties and promotes accountability.

If there is a perceived conflict with the Title IX Coordinator or the complaint involves the Title IX Coordinator, the Executive Vice Chancellor/Chief Operating Officer will select an alternate investigator who has received acceptable training to conduct the investigation. The parties are required to notify the Executive Vice Chancellor/Chief Operating Officer of the perceived conflict as soon as they become aware of the conflict and prior to the completion of the investigation.

First, the investigator will conduct an initial review of the complaint and determine if, assuming (without determining) all of the conduct alleged actually occurred, it alleges a violation of this Policy. If the complaint does not describe a potential violation, the complaint will be dismissed. The Complainant will be informed of this outcome and his, her or their right, if applicable, to an appeal.

If the complaint describes a potential violation, the investigator will meet with the Respondent to explain the investigation process and hearing procedures and will provide written notice to the Respondent of the allegations constituting a potential violation of the Policy, including sufficient details and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved, the specific section of this policy allegedly violated, the conduct allegedly constituting the potential violation, and the date and location of the alleged incident.

The investigator will gather evidence relating to the alleged violation of this Policy from various sources. Each party will receive written notice in advance of any interview or hearing with sufficient time to prepare for meaningful participation. The investigator will conduct interviews of the Complainant, Respondent, and, when appropriate, third-party witnesses. The investigator will also collect any other available evidence, such as relevant documents, including text messages, emails, social media posts, etc. If a student-Respondent chooses not to participate or does not make him/her/themselves available to meet with the investigator within a reasonable time, the investigator shall be authorized to proceed with this process based on the evidence provided by other parties. The investigator will not make an adverse inference against the student-Respondent for choosing not to participate in the investigation, but the investigator will make a determination based only on the evidence available. Employee-Respondents must participate in the investigation process; failure to do so will result in serious disciplinary action which may include termination of employment.
Both the Complainant and Respondent will have the opportunity to provide other evidence to the investigator and/or recommend witnesses. The investigator will have sole discretion to determine which witnesses to interview. The investigator will not consider purely character evidence.

Parties have the right to exclude evidence relating to their own prior sexual history with persons other than the other party. Parties also have the right to exclude evidence relating to their own mental health diagnosis or treatment. The investigator will not consider prior allegations or findings of violations of this Policy, except in recommending appropriate sanctions where a violation is found.

After gathering the relevant evidence, the investigator will issue a written report, specifically identifying the policy provisions allegedly violated; summarizing the investigation’s scope; identifying relevant exculpatory and inculpatory evidence; summarizing the investigator’s findings with respect to each policy provision allegedly violated; and recommending sanctions and, where appropriate, remedial measures. The investigator will endeavor to complete the report within 30 business days of the filing of the complaint.

The Complainant and Respondent will have an opportunity to review the investigative report and recommended sanctions and remedial measures, though they will not be given a copy of it. If all parties accept the recommended resolution, the Chief Human Resources Officer (where the Respondent is an employee), the Dean of the Respondent’s school and Dean of Student Life (where the Respondent is a student), the Director of Residence Life (where the Respondent resides in a JTS residence) and/or the Provost (where the Respondent is a member of the faculty) shall be responsible for ensuring implementation of and compliance with the provisions of the resolution and shall retain a copy of the resolution, along with written evidence of the parties’ acceptance, for an appropriate period.

If the Complainant or the Respondent is unsatisfied with the investigative report or resolution proposed by the investigator, such party may, within ten (10) business days of being given the opportunity to review the investigative report and recommended resolution, submit a written request to the investigator that the complaint be referred for a hearing. In the written request, the party should identify and explain any perceived errors or omissions in the report and any concerns about the impact of the recommended sanctions, identify any additional evidence that the party believes the hearing panel should consider, questions that the party believes the other party should be asked, and/or witnesses who should be heard. The parties will each have an opportunity to review the other party’s submission prior to the hearing.

**Hearing Panel Procedure**

The hearing panel will consist of three persons, chosen from a pool of designated and trained faculty and staff at JTS based on availability. The participants on the hearing panel will have received annual training on issues relating to dating violence, domestic violence, sexual assault and stalking, including the effects of trauma, impartiality, the rights of the Respondent, including the right to a presumption that the Respondent is “not responsible” until a finding of
responsibility is made, and how to proceed with the process in a manner that protects the safety of the parties and promotes accountability. The parties shall promptly be advised when the panel members have been selected. If either party believes that one or more members of the panel has a conflict of interest, the party must notify the Title IX Coordinator of this concern promptly and before the panel makes any determination. If it is determined that a conflict exists, the panelist will be replaced.

The hearing panel will review the investigator’s report. The hearing panel may consult with JTS counsel or appropriate administrative officials regarding whether the investigation was sufficient. If it deems it to be insufficient, it may request that the investigator continue the investigation.

The Complainant and Respondent also will be given the opportunity to address the hearing panel orally. Both parties may be present at the hearing and may be accompanied by their respective advisors, but neither party (nor their respective advisors) will be permitted to question or cross-examine the other or any third-party witness at any time during the hearing process. The panel has discretion to ask questions of the parties and the investigator. If one or both of the parties is not comfortable being in the physical presence of the other party, arrangements will be made to allow one or both parties to participate in the hearing remotely or to have the parties attend the hearing separately. Generally speaking, every effort will be made to have the individual speaking to the panel to be present in the room with the panel at that time. While these options are intended to help make the alleged victim more comfortable, they are not intended to work to the disadvantage of the accused student.

The hearing panel also may, but is not required to, collect additional evidence and/or call additional witnesses after reviewing the investigator’s report and considering the Complainant’s and Respondent’s statements. The parties will have access to any additional evidence the panel may consider prior to the issuance of any decision.

The hearing panel has sole discretion to determine whether to call additional witnesses. The hearing panel will not consider purely character evidence. Parties have the right to exclude evidence relating to their own prior sexual history with persons other than the other party. Parties also have the right to exclude evidence relating to their own mental health diagnosis or treatment. The hearing panel will not consider prior allegations or findings of violations of this Policy, except in determining appropriate sanctions where a violation is found. Based on its review of the evidence, including the parties’ written and oral statements, the investigator’s report, and any additional information it has gathered, the hearing panel will determine whether the Respondent is responsible for violating this Policy. The panel shall evaluate the evidence and shall prepare a written decision, summarizing relevant exculpatory and inculpatory evidence considered, explaining its findings and the evidence supporting those findings. If the hearing panel determines that the Respondent committed a violation of this Policy, it will determine the appropriate sanctions and/or remedial measures. The possible sanctions are described in greater detail in the section entitled Sanctions and Remedial Measures.
The Complainant and Respondent will be informed, in writing, of the hearing panel’s decision, including any sanctions imposed and the rationale for the decision and sanctions. The parties will be notified of the outcome simultaneously. The hearing panel will endeavor to issue a decision within 10 business days of the completion of the hearing. Pursuant to NY law, when either party is a JTS student, a full record of the hearing will be preserved and maintained for at least five years and may include a transcript, recording or other appropriate record.

Except as otherwise required by law, the standard of proof for determining whether a violation has occurred is the “preponderance of evidence” standard -- whether it is more likely than not a violation occurred.

Parties are expected to comply with any directive from the panel with respect to sanctions or remedial measures. Failure to do so shall constitute an independent conduct violation. The Chief Human Resources Officer shall have responsibility for enforcing sanctions against staff, the Provost shall have responsibility for enforcing sanctions against faculty, and the student’s academic Dean shall have responsibility for enforcing sanctions against students. The Title IX Coordinator, Director of Student Life, Dean and (with respect to students living in JTS housing) the Director of Residence Life shall have responsibility for ensuring that remedial measures are followed in accordance with the panel’s determination. In implementing remedial measures, the Title IX Coordinator shall work in conjunction with the parties’ deans and/or supervisors as appropriate. In the event a party fails to comply with a sanction or remedial measure, the individual responsible for enforcing sanctions for the matter will gather whatever facts are necessary to determine whether a violation did, in fact, occur and will have discretion to take appropriate disciplinary action.

Please refer to the Appendix to this Policy for additional information relating to the investigation and hearing procedures, including The Students’ Bill of Rights.

**Timeframe for the Investigation and Hearing Process**

JTS will make every effort to complete the investigation and reach its decision regarding an alleged violation of this Policy promptly, generally within fifty (50) business days after the complaint is filed.

If circumstances occur in which more time is needed to complete the investigation or reach a responsibility determination, including but not limited to unavailable witnesses or the effect of a criminal investigation, JTS will notify both the Complainant and the Respondent of the reasons for the delay and the expected resolution date.

Both the Complainant and the Respondent may request status updates from the Title IX Coordinator at reasonable intervals.
Apell

Either party may appeal the hearing panel’s decision. This appeal must be made in writing within five (5) business days after notification of the hearing panel’s decision and sent to the Title IX Coordinator. In the event that neither party files a timely appeal, the parties will be provided with simultaneous written notification that the hearing panel’s decision is final.

An appeal may be made for only the following reasons:

- A procedural error significantly prejudiced the outcome for the appealing party;
- New information or evidence that was unavailable or unknown to the appealing party at the time of the investigation/hearing panel evaluation has been discovered and the consideration of this information or evidence may materially alter the outcome; and/or
- The sanctions were inappropriate for the Policy violation at issue.

The Title IX Coordinator will review the appeal to determine whether it identifies one of the grounds for appeal. If it does not, the appeal will be denied and the matter will be closed. If the appeal does identify one or more of the appropriate grounds for appeal, the Title IX Coordinator will select an appeal panel to consider the merits of the appeal. The appeal panel will consist of three employees at JTS, selected based on availability and excluding any member with a conflict of interest. An individual who was involved in the investigation or resolution process cannot be part of the appeal panel. The participants on the appeal panel will have received annual training on issues relating to dating violence, domestic violence, sexual assault and stalking, including the effects of trauma, impartiality, the rights of the Respondent, including the right to a presumption that the Respondent is “not responsible” until a finding of responsibility is made, and how to proceed with the process in a manner that protects the safety of the parties and promotes accountability. The parties shall promptly be advised when the panel members have been selected. If either party believes that one or more members of the panel has a conflict of interest, the party must notify the Title IX Coordinator of this concern promptly and before the panel makes any determination. If it is determined that a conflict exists, the panelist will be replaced.

If either party files an appeal, the other party will be notified and will have the opportunity to also submit a written response for the appeal panel to consider. This must be provided to the appeal panel within a reasonable time period, as decided by the panel (generally within five (5) business days, depending on the length and complexity of the case).

The appeals panel will render a written decision based on the information in the parties’ written statements on appeal, and the written record of the case, and will include in its decision the basis for such ruling. The appeals panel has the power to modify the outcome of the disciplinary proceedings or the sanctions imposed by the hearing panel, if it finds such actions are appropriate.

The panel will endeavor to issue its decision within fifteen (15) business days of receipt of the complete record, including the written submissions of the parties. (Such time period may be
extended for exigent circumstances.) The Complainant, Respondent, and hearing panel will be notified of this decision, in writing, simultaneously. This decision is final.

**Transcript Notations**

In accordance with New York State law, when students are found responsible for violating JTS’s policy against sexual assault, domestic violence, dating violence, and/or stalking and sanctioned with suspension or expulsion, JTS will make a notation on their transcript that they were “suspended after a finding of responsibility for a code of conduct violation” or “expelled after a finding of responsibility for a code of conduct violation.” For student Respondents who withdraw from JTS while such conduct charges are pending, and decline to complete the disciplinary process, JTS will make a notation on the transcript of such students that they “withdrew with conduct charges pending.”

A student has the right to appeal such transcript notation to request its removal in the event of a suspension, provided that such notation shall not be removed prior to one year after conclusion of the suspension. Notations for expulsion shall not be removed. If a finding of responsibility is vacated for any reason, any such transcript notation shall be removed.

**F. Student Alcohol and Drug Use Amnesty**

The health and safety of every student at JTS is of utmost importance. JTS recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to domestic violence, dating violence, stalking, or sexual assault occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. JTS strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to institution officials.

A reporting individual or bystander, acting in good faith, who discloses any incident of domestic violence, dating violence, stalking or sexual assault to JTS officials or law enforcement will not be subject to JTS code of conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking or sexual assault.

**G. Reporting to the Police**

JTS encourages any individual who has been the victim of a crime to report the crime to law enforcement but recognizes that some may not feel comfortable doing so. If a student or employee decides to file a criminal report, JTS will assist the Complainant in contacting the appropriate law enforcement officials. A Complainant is not required to report to law enforcement in order to pursue a complaint under JTS’s policy. The JTS complaint and discipline process operates separately from the police and criminal justice system. JTS will

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3 The transcript notation requirement also applies to the following crimes that meet the reporting requirements pursuant to the federal Clery Act established in 20 U.S.C. 1092(f)(1)(F)(i)(I)-(VIII): murder; sex offenses, forcible or nonforcible; robbery; aggravated assault; burglary; motor vehicle theft; manslaughter; and arson.
investigate alleged violations of this Policy regardless of whether an individual chooses to file a report with the police or to pursue charges. The decision not to report to police or pursue charges will not be considered as evidence in JTS’s internal investigation.

Additionally, JTS will not wait for the conclusion of a criminal investigation or proceeding to begin its own investigation of the allegations. JTS may choose or be required to delay its proceedings until a portion of the criminal investigation has been completed. This delay should not last longer than 10 days unless law enforcement requests or the situation validates a longer delay.

The standard of proof for finding a violation of criminal law are different from those applicable in this policy. Accordingly, the outcome of a criminal investigation does not determine whether sexual misconduct has occurred under this Policy. Conduct may violate this Policy even though the District Attorney determines that there is insufficient evidence to prosecute the alleged crime.

The chart attached in the Appendix details the differences between the criminal justice system and the JTS Title IX process.

Any questions regarding whether a specific incident violated the penal law should be addressed to law enforcement or to the District Attorney.

H. Court Orders of Protection

An individual who has been subject to dating violence, domestic violence, sexual assault or stalking may wish to seek an order of protection from a court. Resources are available to assist students and employees who decide to seek an order of protection. A list of local resources is annexed in the Appendix.

After an order of protection is issued against or in favor of a person, either party may meet with the Title IX Coordinator (advised, if needed, by the Chief of Security) who will explain the terms of the order, including the potential sanctions for its violation, and answer questions regarding it. JTS will help to contact the New York Police Department or other local law enforcement if it becomes aware that the order has been violated. If an order of protection is issued in favor of a Complainant, the Complainant may meet with the JTS Chief of Security who will assist the Complainant in taking steps to ensure that the order is honored on campus and will help the Complainant contact the police or other law enforcement if there is reason to believe it has been violated on campus.

I. JTS Interim Measures

During an investigation and/or hearing, JTS has the right to impose certain interim measures if they are deemed necessary by the Title IX Coordinator. When the interim measures affect a student, the Title IX Coordinator will consult with the dean of the student’s school (and with the Dean of Student Life and Director of Residence Life, as appropriate) and will consider the
objective of ensuring equal access to JTS’s education programs and activities to all students, while addressing any need to protect the Complainant. When the interim measures affect a faculty member, the Title IX Coordinator will consult with the Provost or Associate Provost.

The interim measures implemented and the procedures for implementing them will differ based on the facts of each case, the identities of the parties (e.g. students, faculty or employees) and what measures may be possible or appropriate. Interim measures may include, but are not limited to:

- Prohibiting or restricting contact between the Complainant and Respondent;
- Providing counseling or academic support;
- Restricting the Respondent from certain areas of campus (including residential areas), and/or other JTS sponsored programs or activities;
- Changing class schedules and/or JTS work schedules;
- Altering transportation arrangements; and/or
- Enforcing an interim suspension.

In addition, JTS reserves the right to withhold a student’s diploma where a report of prohibited conduct is pending. It may also, with Board of Trustees approval, revoke any degree awarded for an individual who is found to have engaged in prohibited conduct prior to conferral of the degree. JTS may also implement training, education or prevention programs for the JTS community, if appropriate.

In considering the appropriate sanction within the recommended outcomes, the student conduct administrator will consider the following factors: the respondent’s prior disciplinary history; the nature of the conduct at issue; the impact of the conduct on the complainant; the impact of the conduct on the community, its members, or its property; whether the respondent has accepted responsibility; whether the respondent is reasonably likely to engage in similar conduct in the future; and any other mitigating or aggravating circumstances.

If JTS issues a “no contact” order (“NCO”), continued intentional contact between the Complainant and the Respondent will be prohibited. If the parties observe each other in a public place, the Respondent must leave the area immediately without contacting the Complainant. A Complainant should also use reasonable efforts to avoid contact with the Respondent. An NCO is intended to provide the protected party with peace of mind that intentional contact will not be made and incidental contact will be minimized. Particularly in light of JTS’s small size and limited facilities, NCO issued by JTS does not guarantee that designated parties will avoid sightings or passing interactions at JTS or in the local community, and the parties may need to share access to certain classes or facilities.

When JTS determines that a NCO is an appropriate interim measure or ongoing remedy it will be placed in writing. NCO’s may include the following:

- A letter from the Chief of Security, Title IX Coordinator or Director of Student Life to the parties involved, and prepared on a case-by-case basis
- The reason for the NCO
- An explanation of the NCO limitations, including the types of prohibited communication; the distance the alleged perpetrator must stay away from the victim; and the general time period for enforcement.
- The process of reporting violations, as well as the potential consequences for violating the order.
- Additional resources, such as local and state police or other outside community organizations, who may be contacted to help complainants who are concerned for their personal safety.

If the Respondent is deemed to pose a continuing threat to the health and safety of the JTS community, the Respondent may be subject to an interim suspension pending the outcome of the disciplinary process.

The failure to comply with these interim measures may be considered a violation of JTS policy, and the violator will be subject to a conduct charge for his, her or their violation. Complaints of violations of or failures to comply with interim measures should be directed to the Title IX Coordinator.

Upon the student’s request and in accordance with JTS’s policies, a student has the right to prompt review of the need for/terms of interim remedial measures, including a “no contact” order, housing change, and/or interim suspension. A student may also ask for review of a request for additional interim measures and submit evidence in support of the request. Such requests should be submitted in writing to the Title IX Coordinator. The other party will have the right to respond to the request for review to the extent the relevant interim remedial measure has a direct impact on him, her or them. Employees do not have the right to challenge the need for/terms of an interim remedial measure. Employees can, however, submit a written request for additional or revised interim measures to the Title IX Coordinator.

Interim remedial measures will be kept confidential, except as necessary to implement them.

The Title IX Coordinator also has discretion to offer remedial measures, as appropriate, to provide support (e.g. counseling or academic accommodations) to a party, even when there is no finding of responsibility against the Respondent. Where there is no finding of responsibility against a Respondent, no remedial measure can be imposed that could have an adverse impact on the Respondent.

A student who is suspended may be required to meet certain preconditions to reenrollment, which will be included in the notification of suspension. During the period of suspension, the student may not participate in JTS academic or extracurricular activities; will be barred from all property owned or operated by JTS and will not be permitted to progress toward completion of their JTS degree by taking courses at other institutions while suspended. Students who are suspended may not be on campus except to attend scheduled meetings with JTS administrators.
All sanctions go into effect immediately and shall remain in effect throughout any appeal unless indicated otherwise. For students that are jointly registered with Columbia, Barnard, or another school, JTS reserves the right to advise the other school that a finding has been reached and sanctions have been imposed.

F. 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.

G. 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.

H. Remedial Measures And Sanctions

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.

Remedial Measures

The Panel may provide accommodations for the parties as part of the remedy, when appropriate. These accommodations may include, depending on the circumstances:

- Providing counseling;
- Restricting contact between the Complainant and Respondent;
- Providing academic accommodations or support, such as tutoring;
- Providing an escort to assist the Complainant in moving between classes and extracurricular activities; and/or
- Changing academic or employment schedules.

JTS may also implement training, education or prevention programs for the JTS community, if appropriate.

The Title IX Coordinator also has discretion to offer remedial measures, as appropriate, to provide support (e.g. counseling or academic accommodations) to a party, even when there is no finding of responsibility against the Respondent. Where there is no finding of responsibility against a Respondent, no remedial measure can be imposed that could have an adverse impact on the Respondent.

Sanctions

If the review panel or hearing panel finds the Respondent responsible for violating this Policy, it may impose one or more of the following sanctions.

Sanctions that may be imposed include:
• A written warning or probation;
• Referral for mandatory counseling, anger management, or substance abuse treatment (typically off-campus private providers);
• Required community service;
• Changes to his, her or their class schedule;
• Restrictions on participation in extracurricular activities at JTS and/or other JTS sponsored programs;
• Reassignment of housing;
• Removal from housing permanently or for a certain time period;
• Reassignment of campus employment or employment responsibilities;
• Restriction of use of campus facilities;
• Restriction of contact between the Complainant and Respondent;
• Termination of employment;
• Commencement of tenure revocation proceedings;
• Revocation of alumni privileges;
• Persona non grata status;
• Suspension (for a period of time ranging from a portion of a semester to four years); and/or
• Expulsion.

In addition, JTS reserves the right to withhold a student’s diploma where a report of prohibited conduct is pending. It may also, with Board of Trustees approval, revoke any degree awarded for an individual who is found to have engaged in prohibited conduct prior to conferral of the degree.

In considering the appropriate sanction within the recommended outcomes, the student conduct administrator will consider the following factors: the respondent’s prior disciplinary history; the nature of the conduct at issue; the impact of the conduct on the complainant; the impact of the conduct on the community, its members, or its property; whether the respondent has accepted responsibility; whether the respondent is reasonably likely to engage in similar conduct in the future; and any other mitigating or aggravating circumstances.

A student who is suspended may be required to meet certain preconditions to reenrollment, which will be included in the notification of suspension. During the period of suspension, the student may not participate in JTS academic or extracurricular activities; will be barred from all property owned or operated by JTS and will not be permitted to progress toward completion of their JTS degree by taking courses at other institutions while suspended. Students who are suspended may not be on campus except to attend scheduled meetings with JTS administrators.

All sanctions go into effect immediately and shall remain in effect throughout any appeal unless indicated otherwise. For students that are jointly registered with Columbia, Barnard, or another school, JTS reserves the right to advise the other school that a finding has been reached and sanctions have been imposed.
Employees who do not comply with the terms of a sanction will be subject to additional discipline, up to and including dismissal. The Chief Human Resources Officer in conjunction with the employee’s manager will be responsible for enforcing sanctions and ensuring compliance.

Students who do not comply with the terms of a sanction will be subject to further disciplinary action under the Student Disciplinary Procedures.

**VI. 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.
APPENDIX
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.
Distinctions between the New York State Penal Law and the
College Disciplinary Processes

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<tr>
<th>Goals</th>
<th>Criminal Justice System</th>
<th>College/University Disciplinary System</th>
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<td></td>
<td>Public safety, deterrence, and punishment.</td>
<td>Education; safety; safe and supportive campus environment.</td>
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| Governing Law          | New York State Penal Code; New York State Rules of Criminal Procedure (or another state’s rules if the crime took place there), Federal Criminal Law, and Rules of Evidence. | Title IX; The Clery Act as amended by the Violence Against Women Act; NYS Education Law sections 129-A and 129-B. More specific rules govern particular colleges and universities. |

<p>| How to report and whether there must be action once a report is made | Crimes involving sexual violence may be reported to campus police (if the campus has police officers), the local police agency, or to the New York State Police. Certain crimes may also be reported to federal law enforcement agents. Once a report is made, the decision whether to investigate is made by the police/law enforcement agency, often in consultation with a District Attorney or other prosecuting agency. An investigation may be conducted without the consent or participation of a reporting individual. The ultimate decision of whether to initiate a criminal prosecution is initially made by a prosecutor. In cases involving felony charges, the final charging decision is made by a Grand Jury. | Victims may disclose sexual violence to various college employees who are designated confidential resources or to others who will try to ensure privacy to the extent consistent with the institution’s obligation to provide a safe educational environment. Disclosures made to a confidential resource will not trigger an investigation. When a report is made to the Title IX Coordinator (TIXC) or another Non-Confidential resource, the TIXC will determine whether an investigation is necessary by weighing a request for confidentiality by the reporting individual against the continuing safety of that person and the safety and best interests of the campus community. |</p>
<table>
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<tr>
<th><strong>Who investigates?</strong></th>
<th>Police or other law enforcement officials.</th>
<th>Investigators employed or retained by the college or university; these individuals may work for different departments within the institution, including, but not limited to, the police/public safety department, student affairs and academic affairs.</th>
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<tr>
<td><strong>Procedures</strong></td>
<td>See Governing Law. Procedures established by police departments, prosecutors’ offices, etc.</td>
<td>College/University policies and Bylaws, which generally incorporate requirements of Governing Law. Collective bargaining agreements may impact some procedures.</td>
</tr>
<tr>
<td><strong>Standard of Evidence</strong></td>
<td>Crimes must be proven “Beyond a Reasonable Doubt”</td>
<td>A violation of disciplinary rules must be found by a “preponderance of the evidence -- whether it is more likely than not a violation occurred.</td>
</tr>
<tr>
<td><strong>Confidentiality</strong></td>
<td>Law enforcement agencies offer some confidential assistance, but a criminal charge and trial must be public.</td>
<td>Colleges and universities offer confidential resources, but a disciplinary proceeding requires that relevant information be shared with those involved. JTS counseling center and its staff of therapists is completely confidential.</td>
</tr>
<tr>
<td><strong>Privacy</strong></td>
<td>Criminal trials must be public.</td>
<td>Disciplinary proceedings are kept as private as possible, but information must be shared with certain individuals within the college, the parties, and pursuant to law.</td>
</tr>
<tr>
<td><strong>Who are the parties?</strong></td>
<td>The prosecution and defendant. The victim/survivor is <em>not</em> a party, but often the critical witness for the prosecution.</td>
<td>Varies by school—some consider the institution and the respondent to be parties, and confer on the reporting individual certain rights to participate, as the law provides. Otherwise, reporting individual and accused/respondent.</td>
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<td><strong>Participation in the process</strong></td>
<td>In limited circumstances, a criminal prosecution can proceed without the participation or cooperation of the reporting individual, but without a reporting individual's participation, it is generally more difficult to prove a crime beyond a reasonable doubt.</td>
<td>Reporting students cannot be required to participate in the college process. However, a college will be limited in its ability to respond if a reporting individual does not participate.</td>
</tr>
<tr>
<td><strong>Who initiates the proceedings?</strong></td>
<td>A prosecutor, acting on behalf of the state (or the United States in federal cases).</td>
<td>The college or university initiates proceedings. While rules vary from school to school, they most provide an active role for the reporting individual.</td>
</tr>
<tr>
<td><strong>Testimony</strong></td>
<td>In a court, testimony is generally public. Other parties are, through counsel, entitled to cross-examine witnesses.</td>
<td>The rules are established by individual colleges and universities, but some institutions provide for alternative approaches that permit students to testify without having other parties in the room and/or to ask cross-examination questions only through the disciplinary panel, investigator or representative of the reporting individual and/or respondent.</td>
</tr>
<tr>
<td><strong>Role of attorneys</strong></td>
<td>Both the state and the defendant are represented by counsel; counsel may question witnesses.</td>
<td>Varies by school. Many permit the parties to be advised by attorneys but some limit the attorney’s’ roles to quietly speaking with their clients or passing notes.</td>
</tr>
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</table>
### Mental Health and Sexual History
In New York, a reporting individual’s prior sexual and mental health history is generally, but not always, inadmissible in a criminal case. There are limited circumstances under which directly relevant evidence of that kind may be admitted. Generally not admissible, but subject to quite limited exceptions. Education Law 129-b permits parties to exclude information about their prior sexual history with persons other than the other party and also to exclude evidence of their own mental health history in the fact finding phase of the disciplinary process.

### Possible Results
If a prosecution takes place, the defendant may
- plead guilty or “no contest”
- have the case dismissed by the judge (on legal grounds)

be found “guilty” or “not guilty” by a judge or jury

In cases that do not involve sexual assault, some schools permit mediation or similar procedures if parties agree.

If there is a formal proceeding, the respondent may be found “responsible” or “not responsible” for violations of the institution’s rules.

Respondents may also accept responsibility before a finding by an adjudicator.

### Sanctions
An individual found guilty may be fined, imprisoned, or both. In some courts, alternative sanctions are sometimes used.

An individual found responsible for violating college policy may be given a range of sanctions (depending on the severity of the conduct and other factors, such as prior judicial history), ranging from a warning to suspension or expulsion from the institution.

RESOURCES FOR INDIVIDUALS WHO EXPERIENCE SEXUAL MISCONDUCT

There are a number of on-campus and off-campus resources available to offer assistance after an incident of sexual violence or misconduct.

JTS encourages all individuals affected by gender-based misconduct to seek immediate assistance. Seeking assistance promptly may be important to ensure a student’s physical safety or to obtain medical care, emotional support, or other support; it may also be necessary to preserve evidence, which can assist JTS and/or law enforcement in responding effectively.

Assistance is available twenty-four hours a day, seven days a week. After experiencing a traumatizing event such as sexual assault, it can be important to find a place where one can feel comfortable and safe from harm and get help from a friend or other person you can trust.

- If you’ve been sexually assaulted, it is very important to receive medical care as soon as possible.

*Important:* To preserve evidence, do not shower, bathe, brush teeth, change clothing or drink liquids before going to the hospital or the police after experiencing an act of sexual assault or other misconduct. More information about evidence preservation is available below.

Resources for Immediate Assistance:

- 911 or JTS Security (212) 678-8888
- Columbia University’s Sexual Violence Response & Rape Crisis/Anti-Violence Support Center is available to all JTS students. They have trained staff and volunteers available 24 hours a day, seven days a week, to accompany survivors to the emergency room, NYPD, or campus departments. Advocates provide information about reporting options and offer support for survivors. Contact Sexual Violence Response (SVR) at (212) 854-HELP (4357) for 24/7/365 support. [www.health.columbia.edu/svr](http://www.health.columbia.edu/svr)

The Emergency Departments of Mount Sinai St. Luke's, Mount Sinai Roosevelt and the Lenox Hill HealthPlex have a Sexual Assault Response Team that includes a Sexual Assault Forensic Examiner and a Volunteer Rape Crisis Advocate. These individuals are
specially trained to provide both comprehensive and expert medical care, as well as compassionate emotional support in the Emergency Department. You will be offered preventative treatment for STDs and possible HIV exposure, emergency contraception, and a full medical exam. Forensic evidence can also be collected and preserved in case you decide to report to the police at any time in the next 18 months.

Everything that happens in the Emergency Department is your choice. At Mount Sinai St. Luke's, Mount Sinai Roosevelt, and the Lenox Hill HealthPlex, you'll be seen as soon as you arrive and treatment for sexual assault is provided \textit{free of charge}.

- The New York City Police Department at 911 can help with criminal sexual misconduct, including sexual assault, dating violence, stalking and domestic violence. If an individual reports an assault to the police, a member of the Special Victims Squad may contact him or her or them. You can also call the Special Victims Division directly at (646) 610-7272.

- St. Luke's Crime Victims Treatment Center (CVTC) Advocates and services can be reached by calling (212) 523-4728.

- Reports of criminal sexual misconduct may also be directed to the NYPD's sex crimes hotline at (212) 267-RAPE or the Manhattan District Attorney's hotline at (212) 335-9373.

\textbf{Counseling Resources at JTS, Columbia and Barnard:}

In addition to Columbia University’s Sexual Violence Response (212) 854-HELP (4357), the following confidential resources are available for counseling support for students:

- JTS Counseling Center, (212) 280-6161, counseling@jtsa.edu
- Counseling & Psychological Services at Columbia, (212) 854-2878
- Furman Counseling Center at Barnard College \textit{(for LC Double Degree students)}: (212) 854-2092

\textbf{Additional Off-campus Resources}

SurvJustice: http://www.survjustice.org/legal.html

- This national resource provides legal assistance to survivors in campus, criminal and civil legal systems.

Legal Momentum: https://www.legalmomentum.org
• The Legal Momentum website provides detailed publications and resources for survivors of sexual, interpersonal, and domestic violence. Additionally, the website has assembled toolkits for survivors on: finding lawyers, sexual harassment laws, stalking, and how to file complaints

NYSCASA: http://nyscasa.org/get-help

• NYSCASA is a nonprofit organization dedicated to providing emotional support, technical assistance, and resources for survivors of sexual violence through rape crisis centers and a 24/7 crisis hotline.

• If you have been sexually assaulted, call the New York State Hotline for Sexual Assault and Domestic Violence: 1-800-942-6906

NYSCADV: http://www.nyscadv.org

• NYSCADV works to ensure the provision of effective and appropriate services to survivors through community outreach, training, technical assistance, and policy development.

• The New York State Domestic Violence 24-Hour Hotline [English & español/ multi- language accessibility]: 1-800-942-6906 |

• The National Domestic Violence 24-Hour Hotline: 1-800-799-7233 or 1- 800-787-3224 (TTY)

Pandora’s Project: http://www.pandys.org/lgbtsurvivors.html

• Pandora’s Project aims to provide an inclusive online forum for survivors of rape and sexual abuse, with focused resources for survivors that identify as LGBTQI. This resource is not meant to take the place of a crisis hotline, but is an excellent support community for LGBTQI victims and survivors.

GLBTQ Domestic Violence Project: http://www.glbtqdvp.org

• This national resource supports GLBTQ victims and survivors through a 24-Hour domestic violence hotline, emergency safe home, legal services, crisis intervention and safety planning, housing and employment advocacy, sexual assault case management, and ongoing supportive services

• Hotline: 1-800-832-1901
RAINN: https://www.rainn.org/get-help

- RAINN is the nation's largest anti-sexual violence organization and operates the National Sexual Assault Hotline in partnership with many local rape crisis centers across the country.

- National Sexual Assault Hotline: 1-800-656-HOPE (4673)
- National Sexual Assault Online Hotline: https://ohl.rainn.org/online

Safe Horizons: http://www.safehorizon.org

- Safe Horizon takes action by providing practical services like a new lock, 24-hour hotlines, safe shelter, and food as well as supportive services like mental health counseling.

- Safe Horizon Hotline: 1.800.621.HOPE (4673)
- National Sexual Assault Hotline: 1-800-621-HOPE (4673)

The National Sexual Assault Hotline is operated by RAINN and provides 24/7 support for victims and survivors of sexual violence

National Teen Dating Abuse Helpline: 1-866-331-8453

Stalking Resource Center: 1-202-467-8700

National Crime Victim Center: http://www.ncvc.org 1-800-FYI-CALL (8:30am – 8:30pm)


New York State Office of Victims Services: 1-800-247-8035 | https://ovs.ny.gov/

Together Against Sexual Violence: http://www.notalone.gov


Orders of Protection

Information regarding how to obtain an order of protection can be found here: https://www.manhattanda.org/order-protection/
https://www.womenslaw.org/laws/ny/restraining-orders/orders-protection

Law enforcement and many of the survivor advocacy organizations identified above can assist in obtaining an order of protection as well.

Evidence Preservation

You may not be prepared to decide whether you want to pursue criminal charges immediately after an incident. But preserving evidence will ensure that the evidence is available to you down the road, should you decide to pursue charges.

If you choose to have a forensic examination, the hospital staff will do a detailed examination of the entire body, including an internal examination as appropriate, collect evidence, check for injuries, address pregnancy concerns and the possibility of exposure to sexually transmitted infections. Victims are advised that the best way to preserve evidence of sexual assault is to avoid bathing or washing yourself before being examined. You should not take a shower, wash hands or face, comb your hair, or douche. Normal everyday behavior, such as going to the bathroom, can destroy or remove evidence of sexual assault; you should try to avoid doing so if possible. Similarly, you should try not to smoke or drink anything. Altering your appearance can hide bruising or lacerations that can be cited as evidence when pressing charges. It is best not to apply make-up or any other substance that can change your appearance.

Evidence of the assault can be found in the fibers of your clothes, strands of your hair, or on other parts of your body, so it is important to try your best to preserve as much evidence as possible. Clothing, towels, sheets and other items should not be washed or moved, if possible. The clothing worn at the time of the assault should be brought to the hospital in a sanitary container, such as a paper bag or a clean sheet. If the clothing worn at the time of the assault is still being worn, it is advisable to bring a change of clothes to the hospital, if possible.

Seeking medical attention will in no way obligate a victim to file a complaint or press criminal charges. It is important to note that failure to take the evidence preservation steps described above does not preclude you from reporting an incident to the college or to the police.

Title IX Education, Training and Prevention

The Title IX Coordinator oversees legal compliance with prevention, education and training relating to sexual misconduct and violations of this Policy. The frequency and
types of training will be determined each year by the Title IX Coordinator. This decision may depend on the circumstances at JTS that year.

All students and employees of JTS will be fully informed of the Title IX policy, reporting obligations, and the disciplinary procedure as well as education in prevention and intervention.

All individuals involved in the investigation and hearing panel procedure will receive training on Title IX issues in accordance with the law.

JTS provides educational and training programs for students, faculty, and staff regarding sexual misconduct, assault and harassment. Examples of these programs include:

- Annual mandatory new student orientation;
- Mandatory training for leaders of student organizations;
- Training for residence staff,
- Information and brochures from the Office of Student Life; and
- Online training programs.

The Title IX Coordinator is Diana Torres-Petrilli. Her office is located in Room 412 of Brush Hall. She can be contacted by telephone at (212) 678-8011 or email at dipetrilli@jtsa.edu.