



RESPONSIBLE AND CONFIDENTIAL EMPLOYEES AT JOHN JAY COLLEGE

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CUNY HAS A NEW SEXUAL MISCONDUCT POLICY

- Effective 8/14/20
- Necessitated by federal Title IX regulations issued in May 2020
- New policy does not change what is reportable or what John Jay will act upon or investigate
- Splits sexual misconduct into 2 categories: “Title IX Sexual Harassment” and “non-Title-IX Sexual Misconduct”
- Process for investigation, adjudication and discipline is different in certain ways depending upon the category

WHY ARE THERE “RESPONSIBLE EMPLOYEES”?

- **PREVALENCE:** [A 2019 Association of American Universities survey](#) on sexual assault and misconduct polled over 150,000 students at 27 universities. Data revealed a 13% nonconsensual sexual conduct rate. Statistics provided by the [Rape, Abuse, and Incest National Network](#) also indicate that female and transgender/genderqueer/nonbinary students between 18-24 are more than three times more likely than male college students to experience sexual violence.
- **SAFETY:** The College relies on reporting of incidents to protect the complainant and to prevent recurrence of incidents in the future, thereby fostering a safer climate conducive to learning.
- **FAIRNESS/EQUITY:** The College investigates incidents in a manner that promotes fairness and due process for both complainants and respondents, and ensures equal educational opportunity.
- **IT’S THE LAW:** The College is required by federal, state, and municipal laws to promptly and appropriately respond to incidences of sexual misconduct.
- **BECAUSE WE MUST WORK TOGETHER:** It is our collective responsibility to ensure that John Jay is a safe place to work and learn.

OVERVIEW OF SEXUAL MISCONDUCT POLICY & INVESTIGATION PROCESS

- WHAT REMAINS THE SAME?
 - Commitment to ensuring that all members of our community are able to work and learn in an environment free from discrimination and harassment
 - C&D will continue to address all conduct that was reportable and actionable under the previous policy
 - Protections against certain behaviors, including some online behaviors.
 - Prohibits certain intimate relationships
 - Supportive measures available to anyone affected by such issues
 - Option for resolving complaints through informal resolution
- KEY DIFFERENCES:
 - Title IX Sexual Harassment vs. Non-Title IX Sexual Misconduct
 - Rights of the Parties
 - Investigative Process
 - Decision making process

PROHIBITED CONDUCT

- "SEXUAL MISCONDUCT" = sexual harassment, stalking, dating violence, domestic violence, quid pro quo, voyeurism;
- Includes harassment based on sex, sexual orientation, and gender identity even if not "sexual" in nature;
- Includes acts of retaliation for reporting or participating in sexual misconduct investigation; and
- Sex "discrimination" and other forms of harassment or discrimination are covered under CUNY's EEO/Non-Discrimination Policy.

INTIMATE RELATIONSHIPS

Employee/Student

- A relationship between an employee and a student over whom the employee has a professional responsibility over is PROHIBITED
- “Professional responsibility” is broadly interpreted.
- “Professional responsibility” for a student means responsibility over any academic matters, including teaching, counseling, grading, advising for a formal project such as a thesis or research, evaluating, hiring, supervising, coaching, making decisions or recommendations that confer benefits such as admissions, registration, financial aid, other awards, remuneration, or fellowships, or performing any other function that might affect teaching, research, or other academic opportunities.

Supervisor/Employee

- Strongly discouraged
- “Supervising” an employee includes hiring, evaluation, assigning work or making decisions or recommendations that confer benefits such as promotions, raises or other remuneration, or performing any other function that might affect employment opportunities.
- Supervisors MUST disclose relationship to their supervisor.

WHAT IS A RESPONSIBLE EMPLOYEE?

- A RESOURCE to all members of the John Jay Community
- An employee of John Jay College or CUNY who is required to report allegations of Sexual Misconduct to the Title IX Coordinator
- Must protect an individual's privacy to the greatest extent possible and share information with other staff only on a need-to-know basis.

Employees who are not “Responsible Employees” are encouraged to report.

WHO IS A RESPONSIBLE EMPLOYEE?

1. Office of Public Safety employees
2. Vice President for Student Affairs or Dean of Students and all staff housed in those offices (other than staff that are designated as confidential employees)
3. Residence Life staff in CUNY owned or operated housing, including Resident Assistants
4. Directors and Deputy Directors of Human Resources
5. College President, Vice Presidents and Deans
6. Athletics Staff
7. Department Chairpersons/Executive Officers
8. CUNY Office of the General Counsel attorneys and College/unit attorneys
9. College/unit labor designee
10. Faculty and staff members at times when they are leading or supervising students on off-campus trips
11. International Education Liaisons/Study Abroad Campus Directors and Field Directors
12. All employees at Hunter College Campus Schools
13. College Childcare Center staff
14. Managers or supervisors, regarding alleged Sexual Misconduct involving people who report to them

ARE THESE REPORTABLE INCIDENTS?

1. Student A texts Student B off-campus that he would love to see them naked. Student A tells student B to stop being ridiculous. Student B sends a picture of him/herself wearing underwear.
2. Student A makes a post on John Jay's IG account that Student B is "bad in bed" and has had many sexual partners in the past year.
3. Male faculty says demeaning things about female faculty repeatedly during a virtual department meeting.
4. Student A makes homophobic or transphobic comments to male Student B's face.
5. Staff Person A starts dating Staff Person B, whom she supervises.
6. Student A repeatedly sends Student B unsolicited text messages as well as direct messages and friend/follow requests on social media.
7. Faculty Member A sexually assaults faculty Member B in a hotel during a professional conference.
8. Faculty Member A tells Student B that the student will do very well in the class if the student agrees to "keep wearing sexy clothing."

WHEN SOMEONE IS APPROACHING YOU ABOUT SEXUAL MISCONDUCT: ESSENTIAL STEPS

- As soon as you understand that the individual is going to share details regarding sexual misconduct -
 - 1) advise the complainant of your reporting obligations. (If the complainant shares information related to sexual misconduct before you can explain your role, then you must report that information to the Title IX Coordinator)
 - 2) share that the College has resources that are available to them
 - 3) assure the complainant that you will maintain their privacy
- If the complainant wants to maintain confidentiality, direct the complainant to confidential resources.
- If the complainant wishes to proceed, listen to them sensitively; you have no obligation to get a “complete story”
- Maintain their privacy, BUT:
- Report all information received to the Title IX Coordinator directly and immediately — in writing, by phone, or in person.
- When in doubt - REPORT

CONFIDENTIAL EMPLOYEES: GUIDELINES

- Individuals who will NOT report the allegations to the college's Title IX Coordinator or other college employees without the student's permission.
- Confidential employees should assist students in obtaining other necessary support that the student may need.
- John Jay's confidential employees include:
 - *Students* may contact Women's Center Counselor and Gender-Based Violence Prevention and Response Advocate, Jessica Greenfield, jgreenfield@jjay.cuny.edu.
 - *Employees* can access supportive confidential resources, including private counseling from CUNY's employee assistance program, CCA@YourService. To access the program, call the toll-free Helpline at 800-833-8707 or log on to the website, www.myccaonline.com and use the company code: CUNY.
- **All other employees** are strongly encouraged, but not required to report allegations of Sexual Misconduct to the Title IX Coordinator. These employees are otherwise encouraged to protect an individual's privacy to the greatest extent possible and share information only with the Title IX Coordinator.

CONFIDENTIAL EMPLOYEES

- how do students know you are “confidential” and
- what that means in Title IX situations?
- limited exceptions to confidentiality might be required by law
 - imminent threat to health or safety.
 - Perhaps also when child abuse is involved.

HOW TO REPORT MISCONDUCT

Students, employees and visitors who experience sexual misconduct and wish to report the allegations should notify one of these campus officials/offices:

1. Title IX Coordinator – Gabriela Leal, gleal@jjay.cuny.edu
2. Office of Public Safety – Diego Redondo, dredondo@jjay.cuny.edu
3. Dean of Students– Michael Martinez-Sachs, msachs@jjay.cuny.edu
4. Director of Residence Life– Jessica Carson, jcarson@jjay.cuny.edu or
5. Human Resources, Interim AVP for Administration – Oswald Fraser, ofraser@jjay.cuny.edu

FOR MORE INFORMATION:

http://www.jjay.cuny.edu/sites/default/files/contentgroups/compliance_and_diversity_/F.A.Q.s-for-Responsible-Employees.pdf

YOU CAN HELP!

- Thank you!
- Please let students and your colleagues know that you are a responsible employee by placing
 - “I am a responsible employee” on your signature line and/or your syllabus

THANK YOU!