

Purpose: Policy Related to Mistreatment

I. Statement of Philosophy

San Juan Bautista School of Medicine (SJBSM) is committed to fostering an environment that promotes the ethical and professional standards among students, faculty and employees that ensure the academic success of students. The achievement of such success is dependent on an environment free of behaviors which can undermine the mission of our institution.

II. Responsibilities

An atmosphere of mutual respect, collegiality, fairness, and trust is essential; and is expected from faculty, students and employees who bare significant responsibility in creating and maintaining this atmosphere. Faculty also bare particular responsibility with respect to their evaluative roles relative to student work and with respect to modeling appropriate professional and ethical behaviors. Faculty must be ever mindful of this responsibility in their interactions with the those whose education has been entrusted to them.

A. Students

- Treat peers, faculty and employees with respect and fairness
- Treat peers, faculty and employees equally regardless of age, gender, race, ethnicity, national origin, religion, disability, or sexual orientation
- Devote the necessary time and energy to studies to achieve the goals and objectives of each course.
- Be on time for didactic, investigational, clinical, and other academic activities
- Communicate concerns/suggestions about the curriculum, didactic methods, faculty, or the learning environment in a respectful professional manner

B. Faculty

- Treat all students, colleagues and employees impartially regardless of age, gender, race, ethnicity, national origin, religion, disability or sexual orientation
- Treat all students, colleagues and employees with respect and fairness
- Provide academic material in an effective format suitable for learning

- Be on time for didactic, investigational, and clinical encounters
- Provide timely feedback with constructive suggestions and opportunities for improvement when needed

### C. Employees

- Treat all students, faculty and colleagues impartially regardless of age, gender, race, ethnicity, national origin, religion, disability or sexual orientation
- Treat all students, faculty and colleagues with respect and fairness
- Provide services in an ethical and professional manner

## III. Definitions of Mistreatment

Inappropriate behaviors are those which demonstrate disrespect for others or lack of professionalism in interpersonal interactions. Although there is inevitably a subjective element in the witnessing or experiencing of such behaviors, certain actions are clearly inappropriate and will not be tolerated by the Institution. These include the following:

- Mistreatment - to treat in a harmful, injurious, or offensive way; to attack in words; to speak insultingly, harshly, and unjustly to or about a person; and to revile by name calling or speaking unkindly to an individual in a contentious manner. Mistreatment is further defined to be particularly unnecessary or avoidable acts or words of a negative nature inflicted by one person on another person or persons. Examples of mistreatment include but are not limited to:
  - Unwanted physical contact (e.g. hitting, slapping, kicking, pushing) or threat of the same;
  - Assault with a weapon (e.g., needle or surgical instrument)
  - Aggressive violation of one's personal space (e.g. "getting in one's face")
  - Loss of personal civility including shouting, public or private humiliation, displays of temper (such as throwing objects);
  - Request for others to perform inappropriate personal errands unrelated to the didactic, investigational, clinical or work situation at hand;
  - Grading/evaluation based on criteria not related to performance, effort, or level of achievement.
- Harassment - any verbal or physical conduct that creates an intimidating and/or hostile work or learning environment.
  - Bullying as described in Law No. 85-2017 is any pattern of actions carried out intentionally, whether through psychological, physical, cybernetic or social abuse, that has

the effect of frightening a student or a group of students and interferes with them, their school opportunities and their performance, both in the classroom classes, school campus, as in their immediate social environment; actions must be constituted in more than one act, continuous or not, and that usually lasts for weeks, months and even years.

- Cyber bullying as described in Law No. 85-2017 is the use of any oral, written, visual or textual electronic communication, made for the purpose of harassing, annoying, intimidating, and afflicting a student or a group of students; and that usually results in damage to the affected student's physical, mental, or emotional integrity and / or her property, and unwanted interference with the opportunities, performance, and benefit of the affected student. Although the actions do not originate in the school or the immediate school environment, cyberbullying has serious repercussions and adverse consequences in the educational environment.
  - Disability harassment is intimidation or abusive behavior toward a student based on disability that creates a hostile environment by interfering or denying a student's participation in/or receive receipt of benefits services, or opportunities in the school's program.
  - Sexual harassment is an unwelcome conduct of a sexual nature that includes unwelcome sexual advances, request for sexual favors, and other unwelcome verbal, visual or physical conduct of a sexual nature.
  - SJBSM understands that claims of disability and/or sexual harassment can be sensitive. Specific procedures have been designed to provide prompt, equitable, and impartial resolution to complaints alleging sexual and/or disability harassment in the Executive Order 2018-04 titled Harassment and Discrimination Grievance Policy and Procedure.
- Discrimination any behavior, action, interaction, and/or policy that adversely affect one's work because of disparate treatment, disparate impact, or the creation of a hostile or intimidating work or learning environment.
    - Discrimination on the basis of disability means denying the opportunity to participate in any aid, benefit, or service, providing an unequal or less effective opportunity to participate

in any aid, benefit, or service, or otherwise limiting the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service to any qualified individual.

- Sexual discrimination includes all types of unwelcome conduct of a sexual nature that provokes a disparate treatment, disparate impact, or the creation of a hostile or intimidating work or learning environment.
- SJBSM understands that claims of discrimination due to disability and/or sexual discrimination can be sensitive. Specific procedures have been designed to provide prompt, equitable, and impartial resolution to complaints alleging discrimination on the basis of disability and/or sex discrimination in the Executive Order 2018-04 titled Harassment and Discrimination Grievance Policy and Procedure.

#### IV. Avenues for reporting Mistreatment

To ensure a learning/working environment that is mistreatment-free and a climate that has at its core mutual respect among students, faculty and employees, SJBSM has established procedures to provide for the prompt, equitable and impartial resolution to complaints on the basis of mistreatment.

At the most basic level, the most effective way to handle a one-time behavior of mistreatment may be to address it immediately and non-confrontationally with the party involved. Oftentimes, a person is simply unaware that his/her behavior has offended someone, or even if aware, will correct the behavior appropriately if given the opportunity to do so. But student, faculty and employees may choose to report all incidents as follows:

##### A. Mistreatment in student to student relationship

- Students may choose to report all incidents of mistreatment directly to the Associate Dean of Student Affairs.
- If the student does not feel comfortable with previous avenue and/or the mistreatment persists, the student may bring the matter formally to the attention of the School Administration. The avenue is formal and may vary depending upon the nature of the incident.
- Students may file anonymous complaints through the SJB Student Hotline available at our website under Student Life.

#### B. Mistreatment student – faculty relationship

- Students may choose to report all incidents of mistreatment directly to the Associate Dean of Student Affairs.
- If the student does not feel comfortable with previous avenue and/or the mistreatment persists, the student may bring the matter formally to the attention of the School Administration. The avenue is formal and may vary depending upon the nature of the incident.
- If a faculty member experiences a situation in which they feel that they have been the object of mistreatment by a student, it is likewise most effective to address the situation immediately and non-confrontationally.
- Faculty may choose to report all incidents of mistreatment related to students directly to the Associate Dean of Student Affairs.

#### C. Mistreatment employee - employee relationship

- Employees may choose to report all incidents of mistreatment directly to the Human Resource Liaison.
- If the employee does not feel comfortable with previous avenue and/or the mistreatment persists, the employee may bring the matter formally to the attention of the School Administration. The avenue is formal and may vary depending upon the nature of the incident.

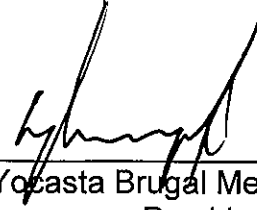
#### D. Procedures for Handling Allegations of Mistreatment

- Whenever an incident of mistreatment is reported, SJBSM shall attempt to resolve the issue in a rapid and efficient manner.
- When SJBSM officials become aware of a conduct that may constitute mistreatment, a preliminary meeting will be held with the complainant and copy of this policy will be provided to inform them of their options
- If the complainant is anonymous, an individual meeting will be set for all parties involved with SJBSM official where they will be informed of an existing anonymous complaint; the events will be discussed; the parties will be provided the opportunity to clarify; policies will be reviewed with all parties.

- If a complainant request mediation, a meeting will be set for all parties to meet with SJBSM official; policies will be reviewed; the events will be discussed; the respondent will be provided the opportunity to clarify; and a determination will be made to ensure the mistreatment is not repeated
- When a determination is made to proceed with a formal investigation, SJBSM will assess and ensure complainants safety immediately and assign personnel to oversee the investigation. During the investigation, all parties will be informed of the complaint and the determination to proceed with an investigation; will be afforded equal reasonable notice to prepare for any meeting or interview; and will have an equal opportunity to give statements, provide evidence, and/or present relevant witnesses if deemed necessary by the investigator. Upon conclusion of the investigation a report with findings of the process and recommended actions to address the complaint will be submitted to corresponding school official, Dean of Administration and Human Resources when alleged conduct was emitted by a faculty/staff member, or the Associate Dean for Student Affairs when alleged conduct was emitted by a student,
- Individuals found to have engaged in mistreatment may be subject to a range of disciplinary sanctions or other remedies to address the effects on victims and others, and may result in probation, suspension, termination, or expulsion.
- If it is determined that the allegations from the complaint were false and made with the intend to harm the respondent, the complainant will be referred for disciplinary action under the appropriate Institutional procedures.
- The Associate Dean for Student Affairs will monitor the resolution of mistreatment reports and policy compliance; maintain records of all complaints received and submit annual report to school officials
- SJBSM is committed to the fair treatment of all individuals involved in this process. All efforts will be made to maintain the confidentiality of the process, and subject to the overriding concern of a prompt and fair investigation and/or resolution of the complaint.
- SJBSM will not tolerate any form of retaliatory behavior towards students who make allegations in good faith. Students who

believe that a retaliatory action has been taken against them for raising concerns under this policy, may address those concerns directly to the Associate Dean of Student Affairs.

Effectivity: The dispositions contained in this Executive Order will be effective immediately.



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Yocasta Brugal Mena, MD  
President/Dean

Approved: July 21, 2006  
Revised: October, 2018  
May 2019  
May 2024

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**HARASSMENT AND DISCRIMINATION GRIEVANCE  
POLICY AND PROCEDURE****POLICY STATEMENT**

San Juan Bautista School of Medicine (SJBSM or Institution) is committed to providing a work and student environment that is free of harassment and will not tolerate discriminatory or harassing behavior by any employee, student, or third party in connection with an educational program. In accordance with Title IX of the Education Amendments of 1972 and 34 C.F.R. Part 106, SJBSM does not discriminate on the basis of sex, including in admissions and employment, nor will it permit or tolerate sex discrimination or sexual harassment against a student, employee, or other member of the Institution community.

All students and employees are expected to comply with this Policy and take appropriate measures to create an atmosphere free of harassment and discrimination. We encourage all individuals to inform SJBSM about behavior that may be inappropriate or constitute harassment early, and before it becomes so serious that it interferes with your work or academic environment. We will work with students and employees to review their options for addressing the harassing behavior. We will act quickly and impartially to address claims of disability harassment and/or sex and discrimination and remedy discriminatory effects of inappropriate acts of discrimination.

Inquiries regarding the application of this policy should be referred to:

Prof. Yaidy L. Cruz Cordero  
Student Programs Director,  
Monday to Friday 8:00 am – 5:00 pm  
Office 10  
Luis A. Ferre Highway, Exit 21,  
Road 172 Urb Turabo Gardens, Caguas  
1-787-743-3038 x233 or x212  
[ylcruzcordero@sanjuanbautista.edu](mailto:ylcruzcordero@sanjuanbautista.edu)

Dr. Yolanda Miranda  
Title IX Coordinator  
Deanship of Student Affairs Office  
Monday to Friday 8:00 am – 5:00 pm  
Luis A. Ferre Highway, Exit 21,  
Road 172 Urb Turabo Gardens, Caguas  
1-787-743-3038 x256 or x255  
[ymiranda@sanjuanbautista.edu](mailto:ymiranda@sanjuanbautista.edu)



Prof. Ilsa Centeno  
Human Resources Liaison / Counselor  
Monday to Friday 8:00 am – 5:00 pm  
Luis A. Ferre Highway, Exit 21,  
Road 172 Urb Turabo Gardens, Caguas  
1-787-743-3038 x275  
[icenteno@sanjuanbautista.edu](mailto:icenteno@sanjuanbautista.edu)

For further inquiries, contact the U.S. Department of Education Office of Civil Rights  
By phone 1 (800) 421-3481 or email [ocr@ed.gov](mailto:ocr@ed.gov)

## **POLICY AND PROCEDURES**

### **I. When does this Policy Apply?**

- A. Scope of the policy: This Policy applies to conduct or allegations of conduct that involve one or more students or employees of SJBSM. To be covered by this Policy, the conduct or alleged conduct must have occurred either on campus or in an Institutional educational program or activity, whether the program or activity is on-campus or off-campus. This Policy also applies to conduct in any building owned or controlled by SJBSM or by a student organization that is officially recognized by SJBSM, as well as to online and electronic conduct. However, this Policy applies only to conduct occurring against a person who is in the United States. For allegations that fall outside of the scope of this Policy, SJBSM may address allegations of student or employee misconduct as potential violations of other institutional policies.
- B. Disability Discrimination and/or Harassment Defined: Discrimination on the basis of disability means denying the opportunity to participate in any aid, benefit, or service, providing an unequal or less effective opportunity to participate in any aid, benefit or service, or otherwise limiting the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service to any qualified individual. Examples of such discrimination include inequitable access to educational programs and facilities or refusal to implement, or inappropriate implementation of, academic adjustments.
- C. Disability Harassment Defined: Disability harassment is intimidation or abusive behavior toward a student based on disability that creates a hostile environment by interfering with or denying a student's participation in or receipt of benefits, services, or opportunities in the school's program. When harassing conduct is sufficiently severe, persistent, or pervasive that it creates a hostile environment, it can violate a student's rights under Section 504 of the Rehabilitation Act. A hostile environment may exist even if there are no tangible effects on the student where the harassment is serious enough to adversely affect the student's ability to participate in or benefit from the educational program. In some cases, a single

act of harassment may be sufficiently severe to create a hostile environment and constitute discrimination. Harassing conduct may take many forms, including verbal acts and name-calling, as well as nonverbal behavior, such as graphic and written statements, or conduct that is physically threatening, harmful, or humiliating.

D. Sexual Harassment defined: For purposes of this policy, sexual harassment is defined broadly to include any of three types of misconduct on the basis of sex:

- any instance of **quid pro quo** harassment by an employee, where the employee conditions the provision of an aid, benefit, or service of Institution on an individual's participation in unwelcome sexual conduct;
- any instance of a **hostile environment** created by an unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it denies a person equal educational access to the Institution's educational programs or activities; or
- any instance of **sexual assault** as defined in 20 U.S.C. 1092 (f) (16) (A)(V); or **dating violence** as defined in 34 U.S.C. 1229 (a) (10), **domestic violence** as defined in 34 U.S.C. 1229 (a) (8), or **stalking** as defined in as defined in 34 U.S.C. 1229 (a) (20) and/or as define by the laws of the Commonwealth of Puerto Rico
  - sexual assault: any sexual act directed against another person, including instances where the victim if incapable of giving consent.
  - Consent is defined as an affirmative decision to engage willingly in mutually acceptable sexual activity given by clear words and/or actions as long as those words or actions create mutually understood permission regarding the conditions of sexual activity. Silence, in and of itself, cannot be interpreted as consent.
    - In order to give consent, one must be of legal age and have the capacity to consent.
    - Incapacitation is a state where someone cannot make rational, reasonable decisions because the person lacks capacity to give knowing consent (e.g., to understand the "who, what, when, where, why or how" of their sexual interaction). Incapacity may result from mental disability, intellectual disability, unconsciousness/sleep, age, or use of alcohol, drugs, medication, and/or other substances.

- Consent cannot be procured by use of physical force, compelling threats, intimidating behavior, or coercion. Coercion is unreasonable pressure to engage in sexual activity.
- Consent to one form of sexual activity cannot imply consent to other forms of sexual activity. Either party may withdraw consent at any time during the sexual encounter. Consent is withdrawn through words or actions that indicate a clear desire to end sexual activity. Once consent has been withdrawn, all sexual activity must stop immediately.
- Previous relationships or consent does not imply consent to future sexual acts.
- Rape is defined as the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- Fondling is defined as the touching of the private parts of another person for the purposes of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental incapacity.
- Incest is defined as sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- Statutory Rape is defined as sexual intercourse with a person who is under the statutory age of consent.
- Dating violence is an act of violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim that, for purposes of this definition, includes but is not limited to sexual or physical abuse or the threat of such abuse; does not include acts covered under the definition of domestic violence. Any incident meeting this definition will be considered a crime for the purposes of Clery Act reporting.

- Domestic violence is a felony or misdemeanor crime of violence committed:
  - By a current or former spouse or intimate partner of the victim;
  - 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 to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
  - By any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
  - For the purposes of complying with the requirements of this section and §668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.
  
- Stalking is when a person engages in a two or more acts, including, but not limited to, acts which the stalker directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property that would cause a reasonable person under similar circumstances and with similar identities to the victim to fear for the their safety or the safety of others; or suffer significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling. For the purposes of complying with the requirements of this section and section 668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

## **II. Procedure for filing a Complaint of Discrimination and/or Harassment**

The following procedures apply to all student, employee, or third party complaints of harassment and discrimination by employees, students, or third parties, and are designed to provide for the prompt, equitable, and impartial resolution to complaints alleging discrimination or harassment on the basis of age, creed, gender identity, national or ethnic origin, race, sex, sexual orientation, religion, disability or color.

### **A. Definitions:** For the purposes of this policy, the following definitions will apply:

- **Notice** - in order to initiate supportive measures and complaint resolution process, SJBSM must receive a verbal or written report of an allegation of discrimination or harassment made to the specific individuals as identified

by the Institution who has the authority to institute corrective measures on behalf of the Institution;

- Complainant - individual who is alleged to be the victim of conduct that could constitute discrimination or harassment.
- Respondent - individual who has been reported to be the perpetrator of conduct that could constitute discrimination or harassment.
- Report - a complaint reported to the corresponding coordinator. A report may be oral and informal. The complainant may file a formal complaint (see the definition of a "formal complaint" below) at the same time as making a report or may later proceed to file a formal complaint.
- Formal complaint is a document filed by a complainant or signed by the corresponding coordinator alleging discrimination and/or harassment against a respondent and requesting that the Institution investigate the allegation. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the educational program or academic activity of SJBSM. The filing of a formal complaint triggers SJBSM's complaint resolution process as described in this Policy.
- Designated school official is the person that SJBSM has designated to oversee reports and /or investigations regarding discrimination / harassment. They are identified with the corresponding contact information at the beginning of this policy.
- Investigator is a trained individual charged with the responsibility of gathering information, including statements of the complainant, the respondent and witnesses, documents, texts, photos, pictures, images, and recordings, analyzing the information gathered, and determining by a preponderance of the evidence what happened. The Investigator may be an employee of SJBSM such as the Title IX Coordinator or other trained personnel, or may be an external source.
- Advisor – for purposes of Title IX complaints is a person selected by the complainant or respondent such as a friend, parent, mentor, advocate, attorney, etc., that accompanies the parties during any meetings, investigation preparations, hearing proceedings, and/or any appeal process to provide support and/or assistance. The Advisors of choice shall not participate directly in any process or represent any person involved; nor can an Advisor speak, write, or otherwise communicate with an Investigator, conduct administrator, Hearing Administrator, or appeal officer on behalf of the individual they are advising. If an Advisor is also an attorney, the Advisor is still limited to the supportive and non-participatory role.

- Decision Maker is a trained individual charged with the responsibility of presiding over hearings, identifying relevant and irrelevant questions, monitoring the questioning and cross-examination process during the hearing, consider all of the evidence and issue a written determination of the findings. The Decision Maker cannot have any other role during the process.
- Appeal Officer is a trained individual designated by the institution to oversee the appeal process. The Appeal Officer must be free from bias or conflict of interest and must not be the Title IX Coordinator, the Investigator, or the Decision-maker.

B. Reporting: SJBSM is committed to providing clear, accessible channels for reporting complaints of discrimination and harassment. Any person may report a claim of discrimination or harassment which will initiate a response from the SJBSM whether or not the person reporting is the person alleged to be the victim. There is no need to schedule an in-person appointment to make a report. The report can be verbal or written. Any person may report discrimination or harassment at any time, including during non-business hours, by using the telephone number, regular mail or e-mail address of the corresponding school official.

A student may initiate a complaint regarding harassment or discrimination on the basis of disability by contacting the Student Program Director. For contact information refer to the section titled Policy Statement.

A student may initiate a complaint regarding harassment or discrimination on the basis of sex and/or gender or any other protected class other than disability by contacting the Title IX Coordinator. For contact information refer to the section titled Policy Statement.

An employee or third party, may initiate a complaint regarding harassment or discrimination on the basis of disability, sex and/or gender or any other protected class by contacting the Human Resources Liaison. For contact information refer to the section titled Policy Statement.

C. Supportive measures: Supportive measures are individualized services offered to both the complainant and the respondent as appropriate, as reasonably available, without fee or charge, that are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party while designed to ensure equal educational access, protect safety, or deter harassment. Upon receipt of a report of sexual misconduct, the Title IX Coordinator will meet with both the complainant and respondent to discuss the supportive measures available for them both. A request for supportive measures that affect the respondent (i.e., changing the respondent 's schedule, changing the respondent 's living situation, etc.) cannot

be granted without an investigation that finds the respondent responsible of violating SJBSM policies, except following a safety and risk analysis justifying removal, as described below.

Supportive measures, among other things, may include:

- academic support services and accommodations such as the ability to reschedule exams and assignments, transfer course sections, or withdraw from courses or programs without penalty;
- employment support services and accommodations such as changing working hours, parking alternatives, safety escort;
- assistance in connecting to community-based counseling services;
- assistance in connecting to community-based medical services;
- assistance with obtaining personal protective orders; or
- mutual restrictions on communication or contact between the parties.

Disability Accommodations:

Individuals with a documented disability can request an accommodation by contacting the Student Program Director, Prof. Yaidy L. Cruz Cordero at 1-787-743-3038 ext. 233; 212 or [ylcruzcordero@sanjuanbautista.edu](mailto:ylcruzcordero@sanjuanbautista.edu)

Notwithstanding the above, SJBSM may determine to:

- Remove a respondent from an educational program or activity on an emergency basis, provided that Institution undertakes a safety and risk analysis and determines that an immediate threat to the physical health or safety of a student or other individual justifies removal. In such a case, the respondent will be provided with notice and an opportunity to promptly challenge the decision, and
- Place a non-student employee on administrative leave during the pendency of the complaint resolution process.

D. Formal complaint: A complainant may, but is not required to, file a formal complaint. A formal complaint initiates SJBSM's complaint resolution process as set forth in this Policy. If the complainant does not wish to file a formal complaint, the complainant's wishes will generally be respected, except that the designated Coordinator may sign a formal complaint to initiate an investigation over the wishes of the complainant if the designated Coordinator determines that a formal complaint is not clearly unreasonable in light of the known circumstances.

If a formal complaint is filed, either by the complainant or a designated Coordinator, the Institution will begin the complaint resolution process set forth in this Policy.

Unless the formal complaint resolution process results in a determination that a respondent was responsible, the Institution will not impose disciplinary actions or take any other actions under this Policy that are not supportive measures.

SJBSM will not restrict the rights of any person, including the subject of a report filed with the Title IX Coordinator, that are protected under the U.S. Constitution, including the First Amendment, Fifth Amendment, and Fourteenth Amendment. This provision is not meant, and should not be construed, to mean that SJBSM is subject as a state actor to the provisions of the U.S. Constitution, or any of its amendments.

### **III. Grievance resolution process**

A. Institutional Obligations: SJBSM is committed to a consistent, transparent complaint resolution process for resolving formal complaints of discrimination and harassment. At all stages of the formal complaint resolution process, SJBSM and its representatives will:

- require objective evaluation of all relevant evidence, whether inculpatory or exculpatory;
- avoid credibility determinations based on a person's status as a complainant, respondent, or witness;
- require personnel (including Accessibility Services Coordinator, Title IX Coordinators, investigators, decision-makers, or any person designated to facilitate an informal resolution process) to be free from conflicts of interest or bias for or against complainants or respondents;
- train all personnel on issues of relevance;
- not use, rely on, or seek disclosure of information protected under a legally recognized privilege, unless the person holding the privilege has waived the privilege;
- not access or use any party's medical, psychological, or similar treatment records unless the Institution first obtains the party's voluntary, written consent to do so;
- not restrict the ability of the parties to discuss the allegations or gather evidence (e.g., no "gag orders"); and
- keep confidential the identity of complainants, respondents, and witnesses, except as may be permitted by FERPA, as required by law, or as necessary to carry out a Title IX proceeding.

B. Formal complaints: A formal complaint filed and signed by a complainant initiates SJBSM's formal complaint resolution process. The formal complaint may be filed with the corresponding coordinator in person, by mail, or by electronic mail, by using the contact information listed above; and must include the complainant's physical or digital signature or otherwise indicate that the complainant is the person filing the formal complaint. At the time of filing a formal complaint, a



complainant must be participating in or attempting to participate in an education program or activity of SJBSM.

SJBSM strives to empower complainants to make their own choices regarding investigations into the reported incidents. But a designated coordinator may sign the formal complaint even if the complainant does not wish to move forward with an institutional investigation if it is determined that there is a larger threat to the institutional community present or should the respondent have other complaints associated with them. In these incidents, the SJBSM becomes the complainant. For this to occur, the executive leadership must be informed of the incident and approval must be obtained.

Where the designated coordinator signs a formal complaint, the designated Coordinator is not a complainant or a party during a complaint resolution process and must comply with requirements for personnel to be free from conflicts and bias.

C. Appropriate Notice. Upon receipt of a formal complaint, the designated coordinator will promptly provide written notifications to both the Complainant and the Respondent of the reported incident and impending investigation. This notification will include the following information:

- Notice of the allegations constituting potential discrimination and/or harassment, including all relevant details known at the time. These details will include, at a minimum, the identities of the parties involved in the incident(s), if known, the alleged conduct that could constitute discrimination and/or harassment, and the date and location of the alleged incident(s), if known. If, in the course of an investigation, SJBSM decides to investigate allegations that are not included in the original notice, the Institution will provide notice of the additional allegations to the parties whose identities are known.
- A statement that the respondent is presumed not responsible for the alleged conduct unless a determination regarding responsibility is made at the conclusion of the complaint resolution process.
- A description of SJBSM's complaint resolution process, including the rights and responsibilities of the parties during the investigation, hearing, and appeal process, and the availability of any informal resolution process (as set forth more fully in this Policy).
- A statement that they may have an advisor of their choice, who may be, but is not required to be, an attorney.

SJBSM may, in its discretion, consolidate multiple formal complaints where the allegations arise out of the same facts or circumstances.

If the allegations in a formal complaint are not within the scope of this Policy because they do not meet the definitions of this policy, or because the alleged activities did not occur in the Institution's education program or activity against a

person in the United States, then SJBSM will not consider the formal complaint for purposes of Title IX. In such case, SJBSM will promptly send written notice of the decision to dismiss the complaint under Title IX regulations and the reasons for such decision to both parties. Even if the formal complaint is dismissed for purposes of Title IX, SJBSM still may address the allegations as potential violations of other policies.

- D. Informal Resolution: At any time after a formal complaint has been filed, and before a final determination is made by the Institution, if the designated coordinator believes that the complaint may be amenable to informal resolution, the corresponding coordinator will give notice to the parties of their ability to choose an informal resolution option. However, an informal resolution process may not be used to resolve allegations that an employee sexually harassed a student. Further, an informal resolution process may not be offered unless a formal complaint has been filed.

The notice of the informal resolution option will include a statement of the allegations, a description of the informal resolution process, and a statement that at any time prior to agreeing to an informal resolution any party has the right to withdraw from the informal resolution process and resume the formal resolution process with respect to the formal complaint.

Each party has five business days to indicate in writing if the party wishes to pursue the informal resolution option. If both parties give written, voluntary, and informed consent to the informal resolution option within five (5) business days, the Institution will begin the informal resolution process. Participation in the informal resolution process is completely voluntary. The Institution does not require any party to participate in the informal resolution process. Each party has an unconditional right to withdraw from the informal resolution process and resume the formal resolution process.

If the parties elect to pursue informal resolution, the designated coordinator will assign a mediator to administer the informal resolution process and will provide the mediator with the final investigative report. If an investigation was not completed when the parties chose the informal resolution option, the designated coordinator will give to the mediator any available investigation information. The mediator retains discretion to meet with either or both of the parties individually prior to reaching a decision.

- E. Investigation:

The corresponding coordinator will assign one or more individuals to investigate the formal complaint (i.e., the Investigator). The Investigator will begin an investigation as soon as practicable and generally not later than 10 business days after the written notice of the formal complaint was delivered to all parties. Both parties will have an equal opportunity to participate in the investigation. The

Investigator, however, will ensure that the respondent receives sufficient time to prepare prior to any initial interview.

Advisors: During the investigation process, each party will have the same opportunity to select an advisor of the party's choice who may be, but need not be, an attorney.

The advisor may:

- assist with all written submissions made by a complainant or a respondent,
- may assist with preparing questions or other information for the complainant or the respondent to be used at the hearing,
- may facilitate scheduling and other processes
- may be present during any meeting or proceeding to observe and provide support and counsel to the participant.

The advisor may not, at this stage,

- present evidence on a party's behalf,
- present argument,
- examine witnesses, testify, or disrupt or otherwise obstruct meetings or proceedings.

The Investigator will review the statements and evidence presented and may, depending on the circumstances, interview others with relevant knowledge, review documentary materials, and take any other appropriate action to gather information relevant to the complaint. Although the burden of investigation remains on the Institution, the Investigator will provide equal opportunity for the parties to present fact and expert witnesses and other inculpatory and exculpatory evidence. The Investigator will send written notice of any investigative interviews, meetings, or hearings to the parties and their advisors, allowing each party adequate time to prepare in advance. SJBSM will complete the investigation as quickly as possible, generally within 60 days. The investigative process may be delayed or extended at the Investigator's discretion for good cause, such as the absence of parties or witnesses, concurrent law enforcement activity, or the accommodation of disabilities. The complainant, respondent, witnesses, and others sharing information with the Investigator are expected to provide all relevant and truthful information and to do so at their earliest opportunity to facilitate prompt resolution. The Institution's students and employees remain subject to the Institution Catalog and the Institution's policies during investigations and may be subject to discipline for making false statements or knowingly submitting false information during the investigation.

Coordination with Law Enforcement: If SJBSM is made aware that there is a concurrent criminal investigation, the Investigator will inform any law enforcement agency that is conducting its own investigation that an Institutional investigation is also in progress. The Investigator will ascertain the status of the criminal

investigation and determine the extent to which any evidence collected by law enforcement may be available to the Institution in its investigation. At the request of law enforcement, SJBSM may agree to temporarily defer part or all of its own investigation (or subsequent hearing) until after the initial evidence-gathering phase of the law enforcement investigation is complete. The Investigator will communicate with the parties, consistent with the law enforcement request and Institution's obligations, regarding procedural options, anticipated timing, and the implementation of any necessary interim measures.

Preliminary Report: When the investigation is complete, the Investigator will provide the parties with a preliminary report, which will include, as applicable, the complainant's statement, the respondent's statement, each witness statement, and either a copy or written summary of any other information the Investigator deems relevant. The preliminary report will be provided in an electronic format that restricts the parties from downloading or copying the evidence. Each party will have 10 business days to review the preliminary report and to provide written feedback. Each party's written feedback, if any, will be attached to the final investigative report.

Final Investigative Report: After consideration of the parties' final responses to the preliminary report, or after 10 business days have elapsed without comment, the Investigator will prepare and send to the parties and to their advisors a final investigative report that fairly summarizes relevant evidence and that includes the parties' written feedback, if any. The report will be in electronic format or hard copy. The parties will have at least 10 business days after receipt of the final investigative report to prepare for the scheduled live hearing.

- F. Formal Hearing: When a complaint is not resolved informally, and following the completion of the Institution's investigation, the designated coordinator will notify the parties and help to make any needed accommodations for the formal hearing. At any time prior to a final determination at the end of the formal hearing, the complainant and respondent can choose to accept an informal resolution decision previously offered. Each party must give written, voluntary agreement to the previously offered informal resolution decision, after which the decision is finalized and the hearing is terminated.

The designated coordinator will choose one or more individuals to conduct the formal hearing, who shall be designated as the Decision-maker(s). Decision-maker(s) must be free from bias or conflict of interest and may not include the Title IX Coordinator or any person who served as the Investigator.

Live hearings may be conducted with all parties physically present in the same location or, at the Institution's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually. At the request of either party, the Institution will provide for the entire live hearing (including cross-examination) to occur with the parties located in separate rooms with technology enabling the

parties to see and hear each other. In advance of the live hearing, the Decision-maker(s) will receive training on any technology to be used at the hearing.

Advisors: Hearings are closed to the public. Parties may be accompanied at the hearing by one advisor who may be, but need not be, an attorney. If a party does not have an advisor present at the hearing, then SJBSM will provide, without fee or charge to that party, an advisor of the Institution's choice (who may be, but is not required to be, an attorney) to conduct cross-examination on behalf of that party.

Cross-examination: At the hearing, SJBSM will permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. This cross-examination at the live hearing will be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally.

Only relevant cross-examination and other questions may be asked of a party or witness. Each party's advisor will have the opportunity to submit any relevant questions up to 24 hours before the scheduled hearing. The Decision-maker(s) will determine which questions are relevant and will explain to the party's advisor any decision to exclude a question as not relevant. The advisor will receive copy of the approved questions prior to the hearing and so that he/she may pose the question to the relevant party. SJBSM does not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

The Decision-maker(s) will exclude as irrelevant any evidence regarding the complainant's prior sexual behavior unless this evidence is offered to prove that someone other than the respondent committed the alleged misconduct or offered to prove consent. The Decision-maker(s) will not draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

Standard of Evidence: The standard of evidence to determine responsibility in hearings under this Policy is the preponderance of the evidence standard, which means more likely than not. If this standard is not met, the respondent is presumed not responsible for the alleged conduct. Under the preponderance of the evidence standard, it is possible for an investigation, hearing and/or appeal to reach an inconclusive determination.

Record of Hearing: SJBSM will create an audio or audiovisual recording, or transcript, of any live hearing and will retain this record for seven years after the hearing. No camera, TV, or other equipment, including cellphones, will be permitted in the hearing room except as arranged by Institution.

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G. Written determination of responsibility: Following the hearing, the Decision-maker(s) will consider all of the evidence and make a determination whether the respondent is responsible for the alleged conduct. The Decision-maker(s) will issue a written determination regarding responsibility to the parties simultaneously. The written determination will include:

- identification of the allegations potentially constituting discrimination and/or harassment;
- a description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- findings of fact supporting the determination;
- conclusions regarding the application of SJBSM's policies to the facts;
- a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility,
- any disciplinary sanctions/remedies to be imposed, and whether remedies designed to restore or preserve equal access to SJBSM's education program or activity will be provided by the Institution to the complainant;
- and SJBSM's procedures and permissible bases for the complainant and respondent to appeal.

The Decision-maker(s) will strive to issue to the designated coordinator the written determination regarding responsibility within 14 days after the hearing. The designated coordinator will issue written statements to both parties detailing the findings of the investigation including information regarding the appeal process available to either party.

Either party may appeal the determination by filing a written appeal, as described below, within 10 business days after receipt of the determination regarding responsibility. If no appeal is filed, the determination regarding responsibility becomes final 10 business days from the date of delivery to the parties.

H. Emergency Removal and Possible Sanctions:

Upon receipt of a report of sexual misconduct, should the respondent's continued presence on the campus pose an immediate threat to the physical safety of the complainant or other members of the institutional community, SJBSM may decide to remove the respondent, from classes and/or the campus as a whole. Should SJBSM decide to remove a respondent, the respondent will be given adequate notice of this removal and will be granted ten (10) business days to appeal this decision.

Emergency removals cannot be enacted for the mental or emotional health or safety of the complainant, respondent, or institutional community. The risk must be someone's physical safety. The threat of violence toward someone's physical safety, however, could satisfy the Emergency Removal criteria and could result in an Emergency Removal.

Should the respondent be an employee, it may be determined that the employee is to be put on Administrative Leave for the duration of the investigation. This determination will be made by the Title IX Coordinator and a Human Resources representative.

The designated coordinator is responsible for effective implementation of any sanctions or remedies required by the determination of responsibility. The list of potential sanctions or remedies includes but is not limited to one or more of the following:

For Students:

- Written warning;
- No-contact orders;
- Removal from specific courses or activities;
- Disciplinary probation;
- Suspension;
- Expulsion;
- Transcript notation; or
- Other sanctions as appropriate.

For Employees:

- Written warning;
- Performance improvement plan;
- Required training or education;
- Loss of pay increase;
- Suspension with or without pay;
- Termination; or
- Other sanctions as appropriate.

I. Dismissals: SJBSM may dismiss the formal complaint or any allegations in the formal complaint if at any time during the investigation or hearing:

- The complaint does not constitute sexual harassment as defined by the U.S. Department of Education. In such cases, the conduct may be referred and adjudicated under other institutional policies.



- the complainant notifies the designated coordinator in writing that the complainant would like to withdraw the formal complaint or any specific allegations in the formal complaint;
- the respondent is no longer enrolled or employed by Institution; or
- specific circumstances prevent the Institution from gathering evidence sufficient to reach a determination as to the formal complaint or allegations in the formal complaint.

SJBSM will promptly send written notice of a dismissal and reason(s) simultaneously to the parties.

J. Appeals: Either party may appeal from a determination regarding responsibility, or from Institution's dismissal of a formal complaint or any allegations, on the following bases:

- procedural irregularity that affected the outcome of the matter;
- newly discovered evidence that was not reasonably available prior to the determination of responsibility that could affect the outcome of the matter; or
- one or more of SJBSM's personnel had a conflict of interest or bias that affected the outcome of the matter.

A notice of appeal must be in writing and must be filed with the designated coordinator within ten (10) business days after the delivery of the decision to be appealed. The notice of appeal must include the name of the complainant, name of the respondent, the decision or action being appealed, and an explanation of the grounds for appeal.

Upon receiving a notice of appeal, SJBSM will provide formal notice to the parties of the appeal. Each party will be given a minimum of ten (10) business days to provide a written statement supporting or challenging the appealed action.

The designated coordinator will designate an Appeal Officer to hear and make a decision with regard to the appeal. The Appeal Officer must be free from bias or conflict of interest and must not be the Title IX Coordinator, the Investigator, or the Decision-maker(s).

As soon as is reasonably practicable, and generally within fourteen (14) days after receipt of the parties' written statements, the Appeal Officer will issue a written decision regarding the appeal simultaneously to both parties. The decision will describe the result of the appeal and the rationale for the decision. The decision of the Appeal Officer is final.

## **VI. Retaliation prohibited**

Retaliation against any person who files a complaint, participates in an investigation, or opposes a discriminatory employment or educational practice or policy is prohibited. This Policy prohibits any form of retaliation, including intimidation, threats, harassment, and other adverse action taken or threatened against any person reporting or filing a complaint or any person cooperating in the investigation under this Policy. Action is deemed adverse if it would deter a reasonable person in the same circumstances from opposing practices prohibited by this Policy. Without limitation of the foregoing, it is important to note that:

- Charging an individual with a violation of an Institution policy that does not involve sexual harassment, but that arises out of the same facts or circumstances as a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation.
- Charging an individual with a violation of an Institution policy for making a materially false statement in bad faith in the course of a Title IX complaint resolution proceeding does not constitute retaliation, but a determination regarding responsibility, alone, is not sufficient to conclude that any party made a bad faith materially false statement.
- The exercise of rights protected under the First Amendment does not constitute retaliation. A person who believes retaliation has occurred should notify the Title IX Coordinator, the Students Program Director, or the Human Resources Liaison. The designated coordinator will take prompt corrective action if the complainant or the alleged victim (if not the complainant) experiences retaliation or is subjected to further violation of this Policy. Retaliation may result in disciplinary or other action independent of the sanctions or remedies imposed in response to the underlying allegations of harassment.

## **IV. Privacy and Confidentiality**

SJBSM understands that claims of harassment or discrimination can be sensitive. If the complainant requests confidentiality or asks that the complaint or disciplinary action not be pursued against the alleged respondent, SJBSM will take all reasonable steps to be consistent with the individual's request. However, confidentiality cannot be guaranteed in every situation. SJBSM must weigh a request for confidentiality or request not to pursue a formal investigation and disciplinary action with its responsibility to provide a safe, non-discriminatory environment to all students and employees. Thus, in some cases, it may be necessary to explain to the individual that confidentiality may not be ensured when taking necessary steps to end the alleged misconduct and prevent its recurrence.

## **V. Conflict of Interest**

Should either party feel that a designated Coordinator, investigator or decision maker has a conflict of interest that would prevent them from acting without bias, the party

should notify the designated coordinator or designee so an adjustment can be made to ensure a fair and equitable process.

## **VI. Record retention**

SJBSM shall retain appropriate records for a period of seven (7) years, including records relating to any reports of any alleged harassment. The records will include actions taken by SJBSM, including any supportive measures taken in response to the report. If supportive measures were not provided, Institution will document the reasons for this response.

SJBSM also will retain records relating to any formal complaints. These records will include the investigation, the informal resolution process (if applicable), hearing, written determination, and (if applicable) the appeal and result.

Effectiveness of this Executive Order will be immediate upon its approval.

Revised: March 2023



Dr. Yocasta Brugal  
President/Dean

## APPENDIX A

### You can make a difference: How to Be an Active Bystander

Bystanders play a critical role in the prevention of sexual and relationship violence. They are "individuals who observe violence or witness the conditions that perpetuate violence. They are not directly involved but have the choice to intervene, speak up, or do something about it."<sup>[1]</sup>

SJBSM wants to promote a culture of community accountability where bystanders are actively engaged in the prevention of violence without causing further harm. Below is a list<sup>[2]</sup> of some ways to be an active bystander. If someone else is in immediate danger, dial 911. "Immediate danger" could be when a person is yelling at or being physically abusive towards another and it is not safe to interrupt.

- Watch out for your friends and fellow students/employees. If you see someone who looks like they could be in trouble or need help, ask if they are okay.
- Confront people who seclude, hit on, and try to make out with, or have sex with people who are incapacitated.
- Speak up when someone discusses plans to take sexual advantage of another person.
- Believe someone who discloses sexual assault, abusive behavior, or experience with stalking.
- Refer people to on or off campus resources listed in this document for support in health, counseling, or with legal assistance.

Any faculty, staff, or student who witnesses or has knowledge of a crime including violations of sexual misconduct is considered a bystander. SJBSM strongly encourages the intervention of bystanders to help prevent and/or report a crime in safe ways. Bystander intervention is "recognizing a potentially harmful situation or interaction and choosing to respond in a way that could positively influence the outcome." To intervene safely, bystanders should intervene in groups rather than individually. Choosing a method of intervention that de-escalates the situation is safer than attempting a confrontation; however, there is no one single rule for every situation. SJBSM will take all reasonable supportive measures for victims and any bystanders who have intervened in the situation. The reasons for any accommodations/supportive measures will remain confidential to the extent possible as long as the confidentiality does not impair the ability of SJBSM to provide the accommodations/supportive measures. SJBSM will provide written notification to a victim or bystander regarding the supportive measures the College can take, if needed.

<sup>[1]</sup> Burn, S.M. (2009). A situational model of sexual assault prevention through bystander intervention. *Sex Roles, 60*, 779-792.

<sup>[2]</sup> Bystander intervention strategies adapted from Stanford University's Office of Sexual Assault & Relationship Abuse.

## APPENDIX B

### Risk Reduction

With the knowledge that only abusers are responsible for their abuse, the following are some strategies to reduce one's risk of sexual assault or harassment. (taken from Rape, Abuse, & Incest National Network, [www.rainn.org](http://www.rainn.org))

- **Be aware** of your surroundings. Knowing where you are and who is around you may help you to find a way to get out of a bad situation.
- Try to **avoid isolated areas**. It is more difficult to get help if no one is around.
- **Walk with purpose**. Even if you don't know where you are going, act like you do.
- **Trust your instincts**. If a situation or location feels unsafe or uncomfortable, it probably isn't the best place to be.
- **Try not to load yourself down** with packages or bags as this can make you appear more vulnerable.
- **Make sure your cell phone is with you** and charged and that you have cash money.
- **Don't allow yourself to be isolated** with someone you don't trust or someone you don't know.
- **Avoid putting music headphones in both ears** so that you can be more aware of your surroundings, especially if you are walking alone.
- **When you go to a social gathering, go with a group of friends**. Arrive together, check in with each other throughout the evening, and leave together. Knowing where you are and who is around you may help you to find a way out of a bad situation.
- **Trust your instincts**. If you feel unsafe in any situation, go with your gut. If you see something suspicious, contact law enforcement immediately (local authorities can be reached by calling 911 in most areas of the U.S.).
- **Don't leave your drink unattended** while talking, dancing, using the restroom, or making a phone call. If you've left your drink alone, just get a new one.
- **Don't accept drinks from people you don't know or trust**. If you choose to accept a drink, go with the person to the bar to order it, watch it being poured, and carry it yourself. At parties, don't drink from the punch bowls or other large, common open containers.
- **Watch out for your friends, and vice versa**. If a friend seems out of it, is way too intoxicated for the amount of alcohol they've had, or is acting out of character, get him or her to a safe place immediately.
- **If you suspect you or a friend has been drugged, contact law enforcement immediately (local authorities can be reached by calling 911 in most areas of the U.S.)**. Be explicit with doctors so they can give you the correct tests (you will need a urine test and possibly others).
- If you need to get out of an uncomfortable or scary situation here are some things that you can try:

- **Remember that being in this situation is not your fault.** You did not do anything wrong; it is the person who is making you uncomfortable that is to blame.
- **Be true to yourself.** Don't feel obligated to do anything you don't want to do. "I don't want to" is always a good enough reason. Do what feels right to you and what you are comfortable with.
- **Have a code word with your friends or family** so that if you don't feel comfortable you can call them and communicate your discomfort without the person you are with knowing. Your friends or family can then come to get you or make up an excuse for you to leave.
- **Lie.** If you don't want to hurt the person's feelings it is better to lie and make up a reason to leave than to stay and be uncomfortable, scared, or worse. Some excuses you could use are: needing to take care of a friend or family member, not feeling well, having somewhere else that you need to be, etc.
- **Try to think of an escape route.** How would you try to get out of the room? Where are the doors? Windows? Are there people around who might be able to help you? Is there an emergency phone nearby?
- **If you and/or the other person have been drinking,** you can say that you would rather wait until you both have your full judgment before doing anything you may regret later.

## **APPENDIX C**

### **Warning Signs of Domestic Violence and Abuse**

Physical injury is usually the most common abusive behavior to recognize. However, it is important to have an understanding of and observe other warning signs of an abusive relationship. Below is a list of common warning signs.

- Checking cell phones, emails, or social networks without permission
- Extreme jealousy or insecurity
- Constant belittling or put-downs
- Explosive temper
- Isolation from family and friends
- Making false accusations
- Erratic mood swings
- Physically inflicting pain or hurt in any way
- Possessiveness
- Telling someone what to do
- Repeatedly pressuring someone to have sex
- Controlling over interactions with others
- Attempts to control someone's finances
- Repeatedly pressuring someone to engage in any behavior in which they do not wish to engage (e.g., drug/alcohol use)
- Refusal to honor agreed upon birth control methods
- Humiliating someone in front of others

It is always important for individuals who witness or suspect that someone they know is a victim of an abusive relationship to speak up and take action. They can:

- Get assistance by contacting the Title IX Coordinator or nearby counseling centers.
- Consider contacting Campus Security and/or the Title IX Coordinator.
- Consider contacting the Police and receive assistance with obtaining a protection order.
- Trust your instincts; if something does not feel right, speak up or take action.

## **APPENDIX D**

### **Procedures Individuals Should Follow if a Crime of Domestic Violence, Dating Violence, Sexual Assault, Sexual Harassment or Discriminatory Harassment on the Basis of Sex Occurs**

Contents:

Preserving Evidence

Involvement of Law Enforcement

Reporting Incidents of Domestic Violence, Dating Violence, Sexual Assault, Stalking, Sexual Harassment or Discriminatory Harassment on the Basis of Sex

Filing a Complaint with the Office for Civil Rights

#### **Preserving Evidence**

After an incident of sexual assault, dating violence or domestic violence, the victim should consider seeking medical attention as soon as possible at a local hospital. It is important that a victim of sexual assault not bathe, douche, smoke, change clothing or clean the bed/linen/area where the victim was assaulted if the offense occurred within the past 96 hours so that evidence may be preserved that may assist in proving that the alleged criminal offense occurred/or is occurring or may be helpful in obtaining a protection order. Any physical evidence should be kept a brown bag or pillowcase, **not** in a plastic bag.

In circumstances of sexual assault, if victims do not opt for forensic evidence collection, health care providers can still treat injuries and take steps to address concerns of pregnancy and/or sexually transmitted infections. Victims of sexual assault, domestic violence, stalking, and dating violence are encouraged to also preserve evidence by saving text messages, instant messages, social networking pages, and other communications, and keeping pictures, logs or other copies of documents, if they have any, that would be useful to investigators or police.

As time passes, evidence may dissipate or become lost or unavailable, thereby making investigation, possible prosecution, disciplinary proceedings, or obtaining Protection from Abuse orders related to the incident more difficult. If a victim chooses not to make a complaint regarding an incident the victim should consider preserving evidence. This will assist in proving that the alleged criminal offense occurred or may be helpful in obtaining a protection order in the event that the victim decides to report the incident to law enforcement or the Institution at a later date.

#### **Involvement of Law Enforcement**

Although SJBSM strongly encourages all members of its community to report violations of this policy to law enforcement (including Campus Security and/or local police), it is the victim's choice whether or not to make such a report. Furthermore, victims have the



right to decline to notify law enforcement. This choice is not available in the case of minors. SJBSM's Title IX Coordinator will assist with notifying law enforcement if the victim so desires. To report law enforcement, call 911 or, contact the Caguas Police Department directly by calling (787) 744-7251, at the Puerto Rico Police Hotline for Victims of Sexual Violence (787) 343-0000, or in person at via Av. Degetau and Av. José Mercado/PR-33. Additional information about the Puerto Rico Police Department may also be found online at: <https://policia.pr.gov/directorio-telefonico/>

Should the victim choose to decline to have law enforcement contacted, the Centro Salud Justicia/ Puerto Rico Health Justice Center has a 24/7 Hotline that offers orientation and assistance to victims of sexual crimes. They can be reached at (787) 337-3737.

The Title IX Coordinator will also assist individuals who do not want to contact law enforcement but may wish to utilize supportive measures or initiate institutional proceedings.

### **Reporting Incidents of Domestic Violence, Dating Violence, Sexual Assault, Stalking, Sexual Harassment or Discriminatory Harassment on the Basis of Sex**

Victims of domestic violence, dating violence, sexual assault, stalking, sexual harassment and/or discriminatory harassment on the basis of sex can report the incident promptly by:

- Contacting the police at the numbers offered above,
- Completing the SJBS Student Hotline Report at <https://www.sanjuanbautista.edu/sjb-student-hotline.html>  
This form is automatically submitted to the Title IX Coordinator and can be submitted anonymously, or
- Contacting a Title IX Coordinator.

Any person may report sexual discrimination, including sexual harassment (whether or not the person reporting is the person allegedly the victim of conduct that could constitute sex discrimination or sexual harassment. Reports may be made in person, by mail, by phone, or by email using the information below. Reports may be made at any time, including non-business hours.

Dr. Yolanda Miranda  
Title IX Coordinator  
Deanship of Student Affairs Office  
Monday to Friday 8:00 am – 5:00 pm  
Luis A. Ferre Highway, Exit 21,  
Road 172 Urb Turabo Gardens, Caguas  
1-787-743-3038 x256 or x255  
[ymiranda@sanjuanbautista.edu](mailto:ymiranda@sanjuanbautista.edu)

Prof. Ilsa Centeno  
Human Resources Liaison  
Monday to Friday 8:00 am – 5:00 pm  
Luis A. Ferre Highway, Exit 21,  
Road 172 Urb Turabo Gardens, Caguas  
1-787-743-3038 x275  
[icenteno@sanjuanbautista.edu](mailto:icenteno@sanjuanbautista.edu)

## **Filing a Complaint with the Office for Civil Rights**

The Office for Civil Rights (OCR) is a sub-agency of the US Department of Education that is primarily focused on enforcing civil rights law prohibiting discrimination in education institutions. File a complaint with the Office for Civil Rights (OCR) within 180 days from the date of the incident that is the basis of your complaint, although there may be limited exceptions that would allow additional time. Guidance from OCR on how to file a complaint is provided below:

**Online:** You may file a complaint with OCR using OCR's electronic complaint form at the following website: <http://www.ed.gov/about/offices/list/ocr/complaintintro.html>.

**Mail or Facsimile:** You may mail or send by facsimile information to the address or fax number available at this link. You may use OCR's Discrimination Complaint Form or write your own letter. If you write your own letter, please include:

- The complainant's name, address and, if possible (although not required), a telephone number where the complainant may be reached during business hours;
- Information about the person(s) or class of persons injured by the alleged discriminatory act(s) (names of the injured person(s) are not required);
- The name and location (city and state) of the institution that committed the alleged discriminatory act(s); and
- A description of the alleged discriminatory act(s) in sufficient detail to enable OCR to understand what occurred, when it occurred, and the basis for the alleged discrimination.

**Email:** You may email OCR's Discrimination Complaint Form or your own signed letter to [ocr@ed.gov](mailto:ocr@ed.gov). If you write your own letter, please include the information identified above.

For those without current email accounts, Internet access may be freely available from your local public library, and free email accounts are available from several large providers.

## **APPENDIX E**

### **Assistance for Victims at SJBSM: Rights and Options**

Regardless of whether a victim elects to pursue a criminal complaint, whether the offense is alleged to have occurred on or off campus, or whether the accused is a student or employee of SJBSM or not, SJBSM will assist victims of sexual assault, domestic violence, dating violence, and stalking. The Title IX Coordinator will provide each victim with information of a victim's rights and options. The rights and options will include:

- the procedures victims should follow if a crime of dating violence, domestic violence, sexual assault, or stalking has occurred;
- information about how the institution will protect the confidentiality of victims and other necessary parties to the extent possible;
- a listing of available counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance and other services on and/or off campus;
- a statement regarding SJBSM's provisions about options for, available assistance in, and how to request accommodations and protective measures; and an explanation of the procedures for the institutions disciplinary action.

## APPENDIX F

### Rights of Victims and SJBSM's Responsibility for Orders of Protection, "No Contact" Orders, Restraining Orders, or Similar Lawful Orders Issued by a Criminal, Civil, or Tribal Court or by the College

SJBSM complies with the law of the Commonwealth of Puerto Rico in recognizing a Protection from Abuse order. Any person who obtains an order of protection from the Commonwealth of Puerto Rico should provide a copy to the Title IX Coordinator in a timely manner. SJBSM will comply with any orders of protection, "no-contact" orders, restraining orders, or similar lawful orders. The Title IX Coordinator will arrange to meet with the victim to develop a Safety Action Plan. If the victim is an employee of SJBSM, a representative from Human Resources will be invited to the meeting.

A Safety Action Plan is a plan to reduce the risk of harm for the victim while on campus or coming and going from campus. This plan may include, but is not limited to: escorts, special parking arrangements, providing access to a telephone, changing office or classroom location, or allowing a student to complete assignments from home. Respondents will be notified of the existence of the order of protection including the conditions established in the Safety Action Plan that he/she is required to adhere to, and the possible sanctions in the event that they do not comply.

When deemed necessary, and in the absence of an order of protection, SJBSM may issue an institutional no contact order at the request of the victim and / or accused. If the Institution receives a report that such an institutional no contact order has been violated, the institution will initiate disciplinary proceedings appropriate to the student/employee and will impose sanctions if the student/employee is found responsible for violating the institutional no contact order.

SJBSM cannot apply for a Protection from Abuse order for the victim. The victim is required to apply directly for the Protection from Abuse order. Instructions for how a victim is able to receive a Protection from Abuse as indicated at <https://ayudalegalpr.org/resource/pasos-para-solicitar-una-orden-de-proteccion> and is listed below:

#### **Steps to request a protection order under Law No. 54**

If it is an emergency, call 911 or go to the nearest headquarters. It is suggested that before, during, and after filing for a protection order, you seek the help of individuals or organizations qualified to handle domestic violence cases, so that you receive comprehensive assistance in developing an escape plan that will keep you safe.

#### Who can apply for an Order of Protection in Court?

Any person who understands that they have suffered domestic violence can go to the Secretary of any Court and request a Protection Order in their favor.

An employer in favor of employees, visitors or any other person who is in the workplace if they have suffered domestic violence or conduct constituting domestic violence has occurred in the workplace.

Fathers, mothers, sons or daughters of legal age, in favor of their sons and daughters, mothers or fathers who are or have been survivors of domestic violence. In order to apply for the Order, they must have witnessed the events or the survivor must have confided in them that she was experiencing domestic violence. In these cases, the application must show that the applicant informed the survivor of their intention before beginning the application process.

### How to apply

Complete the form that the Judicial Branch created with the purpose of facilitating the application process electronically at <https://ayudalegalpr.org/resource/formulario-interactivo-peticin-de-orden-de-proteccion-al-amparo-de-la-ley-nm-54> and submit at the Judicial Investigation Chambers and/or in the Judicial Chambers specialized in cases of gender violence. It can also be requested within any legal process existing in the Court. Legal advocates are available in court to help you complete this form. You also have the right to request the assistance of a legal advocate. This person will guide and accompany you during the hearing and the process.

The form will require information about the aggressor, as well as information about minors in common, if any. It will be helpful to have images of threatening text messages, photos of beatings, or any evidence that may show that the abuser caused harm to the person requesting the Order, their family members, or their property.

If you have the opportunity, when submitting the petition take with you your personal documents, clothing, medications and other necessities for you and your children.