

**St. John Fisher University**  
**Sexual Misconduct Policy**  
*Revised Fall 2021*



*Bystander -*

activity occurring within computer or internet network, digital platforms, and computer hardware or software owned or operated by, or used in the operations of the University's programs or activities over which the University has substantial control. Also, Title IX covers only sexual harassment that occurred within the United States.

If alleged Prohibited Conduct is determined to have occurred outside of the University's "education program or activity" or outside of the United States, and is thereby not subject to Title IX, the University retains its authority to address, investigate and adjudicate such Prohibited Conduct under other provisions of this Policy, its Code of Conduct or any other applicable policy.

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Pursuant to Title IX and its regulations (34 C.F.R. Part 106), the Title IX Coordinator is the designated University official with primary responsibility for coordinating compliance with Title IX and other federal and state laws and regulations relating to sex-based discrimination.

Anyone may report sex discrimination, including sexual misconduct or sexual harassment (whether or not the person reporting is the person alleged to be the victim), in person, by mail, by telephone or electronic mail using the below-















and employees, including Responsible Employees, who cannot guarantee confidentiality, will maintain your privacy to the greatest extent possible. The information you provide to a non-confidential resource will be related only as necessary for the Title IX Coordinator to investigate and/or seek a resolution.

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With the exception of those employees specified as Confidential Resources, all University employees, including faculty, staff, administrators, and students who are Resident Assistants, and Peer Mentors are Responsible Employees. Responsible Employees are required to share fully with the Title IX Coordinator, as promptly as practical, any disclosure of

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UR Medicine Urgent Care, Pittsford, 585-203-1055  
Rochester Regional Health Immediate Care, Penfield, 585-388-5280  
Immediate Care East, Victor, 585-398-1275  
Urgent Care by Lifetime Health, Rochester, 585-338-1200\$

Within 96 hours of an assault, an individual can get a Sexual Assault Forensic Examination (or “SAFE,” commonly referred to as a rape kit) at a local hospital. Completing a SAFE will not require a report to the police, but will help an individual preserve evidence in case they decide at a later date to file a police report. Before obtaining a SAFE, a person should avoid showering, washing, changing clothes, combing hair, drinking, eating, or altering their physical appearance. There should be no charge for a rape kit, but there may be charges for medical or counseling services off campus, and in some cases, insurance may be billed for services. An individual should notify hospital personnel if they do not want their insurance policyholder to be notified about their access to these services.

The New York State Office of Victim Services may also be able to assist in compensating you (victims/survivors) for health care and counseling services, including emergency funds.

More information may be found here: <https://ovs.ny.gov/forensic-rape-examination-fre-direct-reimbursement-program> or by calling 1-800-247-8035.

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Strong Memorial Hospital – Emergency Department, 601 Elmwood Ave.,

medical, legal and counseling needs, offer advocacy and information about client's rights, provide short-term counseling sessions, and legal and medical accompaniment

New York State Police Campus Sexual Assault Victims Unit  
5831 Groveland Station Road  
Mount Morris, New York 14510  
1-844-845-7269  
<https://consentfirst.troopers.ny.gov/>

Monroe County Sheriff's Dept. Victim Assistant Program  
585-753-



New York State Police  
Campus Sexual Assault Victims Unit  
1220 Washington Ave, Building 22  
Albany, New York 12226  
Dedicated 24-hour hotline: 1-844-845-7269

The University will assist any person in contacting law enforcement officials to report an allegation of sexual misconduct. Additionally, any campus community member may independently report. Law enforcement follows its own procedures. If you choose to contact law enforcement directly, law enforcement may not i



A report results in the initiation of either a Title IX Grievance Process or a Disciplinary Resolution  
The Complainant, Respondent and/or witnesses choose to participate in the University's investigation

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The Title IX Coordinator may assign an interim action or actions at any time following the receipt of information of an allegation of Prohibited Conduct that is apparently reliable and relates to the safety and/or welfare of any person, University property, or any University function. The assignment of an interim action(s) restricts the Respondent from certain privileges at the University in the interest of safety and/or the well-being of the community or the student themselves; it does not mean the Respondent has been found or presumed to be responsible for the alleged conduct or for any violation of this Policy or the

Interim actions are in effect from the time of issuance until the Title IX Coordinator determines that the reason for imposing the interim action no longer exists and the student receives written notice that the interim action is no longer applicable or until the resolution of the matter.

Both the Respondent and the Complainant shall, upon request, be afforded a prompt review, as reasonable under the circumstances, of the need for and terms of interim actions, including potential modification, and shall be allowed to submit a request in writing and evidence in support of the request to the Title IX Coordinator. The other party may be notified regarding any requests made for changes or modifications. The Title IX Coordinator will conduct a prompt review, as reasonable under the circumstances, of the need for and terms of the interim actions, and will notify both parties of the decision to modify or not.

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The conditions of a No Contact Order, whether as an interim action or a University sanction, are as follows:

As the University deems appropriate, a No Contact Order separates two or more parties from each other in the interest of safety and/or the well-being of the students or the community.

Students with a No Contact Order should have:

- No physical contact with the other party

- Should a student who is the subject to a No Contact Order (the Accused/Respondent or a third party) find themselves in the same location as the protected party (the Complainant/Reporting

Referral to the Student Conduct Hearing Process, which entails the full range of potential outcomes detailed on the St. John Fisher University Student Conduct website

Both the Respondent and the Complainant shall, upon request, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of a No Contact Order, including potential modification, and shall be allowed to submit evidence in support of the request. The other party will be notified regarding any requests made for changes or modifications. The Title IX Coordinator will conduct

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- As detailed below, the advisor may ask relevant questions of the other party and/or any witnesses for the purposes of cross-examination during the hearing.

1. Proceed under the



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For Formal Complaints alleging Title IX Sexual Harassment, the University will proceed under the Title IX Grievance Process, consistent with the requirements of the Department of Education's Title IX Rule. If any provision in this Policy may be deemed to be inconsistent with the Title IX Rule, the Title IX Rule's requirements supersede and control the application of the University's Title IX Grievance Process. For all other matters not subject to the Title IX Grievance Process and involving alleged Prohibited Conduct under this Policy, the University will proceed under its Disciplinary Resolution Process. The processes are substantially similar in many respects and involve a notice of allegations, investigation, adjudication through a hearing, and a right to an appeal. Specific differences betwe



review and comment, the Title IX Coordinator forwards the case to a Sexual Misconduct Committee Hearing and initiates scheduling and notifications of a Sexual Misconduct Committee Hearing.

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Prior to the completion of the Investigation Report, the University will send to each party and the party's advisor, if any, the evidence subject to review in a watermarked electronic or hard copy format.

Parties have ten (10) business days to submit a written response, which the investigator(s) will consider prior to completion of the Investigation Report.

Following receipt and consideration of written responses, the investigator(s) will finalize the report and it will be sent to the parties. Parties will have at least ten (10) business days to review the report before the hearing.

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Following receipt of the Report of Investigation, if the Title IX Coordinator is unable to determine that a



[!8N6;9A\\$A4fE4;=:](#) must be submitted to the Title IX Coordinator at least 48 hours before the Hearing. It is the responsibility of the person requesting the advisor to ensure the advisor attends the Hearing. In a hearing held under the Disciplinary Resolution Process, if an advisor does not appear at the scheduled date and time of the Hearing, the Hearing will continue without the participation of the advisor. Although an advisor may be requested to attend the Hearing, they are not required or obligated to attend or participate, except as to the party's right to have an advisor conduct a cross-examination of witnesses during a Hearing under a Title IX Grievance Process. Retaliation against any requested advisor is strictly prohibited. The Title IX Coordinator will assess requests by a party for more than one advisor and retains full discretion whether to approve such requests.

Except as to the party advisor's right to conduct cross-examination in a Hearing under a Title IX Grievance Process, the advisor is not permitted to directly address anyone other than their advisee, at any time, including asking any question or speaking on behalf of their advisee. Should an advisor violate the terms of this role they will be asked to leave the Hearing by the Committee Chair and will be asked to leave the room where the Hearing is being conducted. The Complainant and Respondent must ensure that their advisor complies with this Policy.

Whenever possible, the advisor will receive written information prior to the Hearing regarding their

consideration to present to any witnesses (including each other) for cross-examination purposes. During the Hearing under the Title IX Grievance Process, the parties' advisors shall be entitled to conduct live cross-examination of a party or witness.

8. The Complainant and Respondent will be offered an opportunity to make a summary statement.
9. The Chair will review the privacy of the proceedings and case materials, interim measures, that the Complainant and Respondent will be simultaneously notified of the Committee decision via their University e-mail, the appeal process, and that any interim actions or measures remain in place until otherwise notified.
10. The Complainant and Respondent submit their Impact Statement to the Chair of the Committee.
11. All persons but the Committee are dismissed and the Committee considers the case materials and information presented to determine responsibility or non-responsibility for the alleged violation(s) and appropriate sanctions (if applicable).
  - a. If there is a finding of responsibility, the Committee reads and reviews the Impact Statements, taking them into consideration when determining potential sanction(s).

Hearings will be recorded by the University. Committee deliberations will not be recorded. No audio or other recording of a Hearing is permitted by any other person. The recordings of the hearing will be preserved and maintained for at least seven (7) years from the Hearing, and parties will have fair access to the record.

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The Hearing panelists cannot be the Title IX Coordinator or investigator(s).

The parties cannot waive the right to a live hearing.

If a Complainant or Respondent does not have an advisor present at the live hearing, the University will provide, without fee or charge, to that party an advisor.

During the live hearing, a party's advisor is permitted to ask relevant questions of the other party or witnesses (live cross-examination).

Questions and evidence about a Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about a Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Before a Complainant, Respondent, or witness answers a cross-examination question, the Committee must first determine whether the question is relevant and, if applicable, explain a decision to exclude a question as not relevant.

If deemed reliable and relevant by the Committee, and not otherwise excluded under this Policy, the Committee may consider the statements of persons who were not present at the hearing, or persons who were present at the hearing but who nevertheless were not subject to cross-examination.

The University may still proceed with the live hearing in the absence of a party, and may reach a determination of responsibility in their absence, including through any evidence gathered pursuant to the Investigation and Hearing processes.

The Committee will not draw 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.

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For those crimes of violence, as defined by the Clery Act, that St. John Fisher University is required by feder

All student conduct files are maintained for seven (7) years after the most recent finding of responsibility. These student conduct records are destroyed at the end of the appropriate time period. Records pertaining to students who are suspended or expelled are maintained permanently.