

**THE JEWISH THEOLOGICAL SEMINARY (JTS)**  
**NON-DISCRIMINATION AND ANTI-HARASSMENT POLICY**

(Revised August 2024)

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## **PART I: GENERAL POLICY TERMS AND CONDITIONS**

### **I. INTRODUCTION AND NOTICE OF NON-DISCRIMINATION**

The Jewish Theological Seminary (“JTS”) seeks to maintain a workplace and educational environment that is free from discrimination, harassment, and retaliation. Pursuant to Title IX of the Education Amendments of 1972 and its implementing regulations (“Title IX”), the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the “Clery Act”), as amended by the Violence Against Women Act of 2013 (“VAWA”), Title VI of the Civil Rights Act of 1964 (“Title VI”), Title VII of the Civil Rights Act of 1964 (“Title VII”), Article 129-B of the New York State Education Law (“Article 129-B”), the New York State Human Rights Law, the New York City Human Rights Law, the Americans with Disabilities Act, as amended in 2008, (the “ADA”), Section 504 of the Rehabilitation Act of 1973 (“Section 504”), and all other applicable law, JTS is committed to equal treatment and opportunity for the members of its community.

Discrimination, harassment, or retaliation based on race, color, national origin, alienage or citizenship status, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, marital status, caregiver status, sexual and reproductive health decisions, pregnancy or related conditions, predisposing genetic characteristics, uniformed service or military status, any lawful source of income, domestic violence victim status, criminal conviction, or any other legally prohibited status (collectively, “Prohibited Conduct”), is prohibited in JTS educational programs or activities, including admissions and employment.

JTS has established this Non-Discrimination and Anti-Harassment Policy (the “Policy”) to promptly and equitably address allegations of discrimination and harassment on the basis of a protected class. This Policy: (i) defines Prohibited Conduct; (ii) sets forth available resources and reporting options; and (iii) describes JTS policies and procedures.

In compliance with Title IX, JTS does not discriminate on the basis of sex in its education program or activity that it operates, including in admissions and employment. Any inquiries about the application of Title IX, and related issues of Prohibited Conduct may be referred to the JTS Title IX Coordinator through the methods listed below, the U.S. Department of Education’s Assistant Secretary for Civil Rights, or both.

Diana Torres-Petrilli  
JTS Title IX Coordinator  
ADA/Section 504 Compliance Officer  
3080 Broadway  
Brush Hall, Room 412  
New York, NY 10027  
Telephone: 212-678-8011  
Email: [dipetrilli@jtsa.edu](mailto:dipetrilli@jtsa.edu)

U.S. Department of Education  
Office for Civil Rights  
400 Maryland Avenue, SW  
Washington, D.C. 20202-1100  
Telephone: 1-800-421-3481  
Fax: 202-453-6012;  
TDD: 1-800-877-8339  
Email: [ocr@ed.gov](mailto:ocr@ed.gov)

## **II. TITLE IX COORDINATOR**

The Title IX Coordinator is responsible for, among other things: (i) application of this Policy; (ii) coordinating JTS's responses and actions associated with the receipt, investigation, and adjudication of Prohibited Conduct allegations under this Policy, ; (iii) the implementation of supportive measures provided to the Parties upon notice of alleged Prohibited Conduct; and (iv) monitoring JTS's educational programs and activities for barriers to reporting information about conduct that reasonably may constitute sex-based discrimination and take steps reasonably calculated to address such barriers. Any member of the JTS community who believes that they have been a victim of Prohibited Conduct is encouraged to immediately report it to the Title IX Coordinator.

The Title IX Coordinator is free from bias and conflicts of interest to oversee the implementation of this Policy. Concerns involving bias or conflict of interest by the Title IX Coordinator may be reported to Keath Blatt, JTS General Counsel, at [keblatt@jtsa.edu](mailto:keblatt@jtsa.edu). Any concerns of bias or a potential conflict of interest by any other individual involved in the processes set forth in this Policy should be reported to the Title IX Coordinator.

## **III. SCOPE OF POLICY**

This Policy is effective as of August 1, 2024, and governs all reports and complaints of Prohibited Conduct alleged to have occurred on or after that date. Reports or complaints about conduct alleged to have occurred prior to August 1, 2024 but reported after August 1, 2024, will be reviewed under the prior JTS Non-Discrimination and Anti-Harassment Policy issued in August 2020.

The fundamental objective of this Policy is to prohibit all forms of discrimination and harassment as defined in herein in JTS programs and activities, including in employment and application for same.

This Policy governs all reports and complaints of Prohibited Conduct under this Policy and involving members of the JTS community. In this Policy, the "JTS community" includes JTS students, student organizations, employees, including faculty, administrators, and staff, prospective students and employees, contractors, subcontractors, vendors, or third parties such as visitors, guests, or volunteers, as well as other parties within JTS's control.

When the Respondent is not a member of the JTS community or the Respondent's identity is not known, the Title IX Coordinator will nonetheless provide appropriate resources and support options to the Complainant, and/or assist the Complainant in contacting local or campus law enforcement if the allegations include conduct that is criminal and the Complainant wishes to file a report with the police. JTS may also prohibit individuals from JTS programs or activities in order to protect the Complainant or its community.

Discrimination, harassment, or retaliation may occur between members of the same or different sex, or any combination of members of the JTS community. This Policy applies regardless of an individual's race, color, national origin, alienage or citizenship status, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, marital status, caregiver status, sexual and reproductive health decisions, pregnancy or related conditions, predisposing genetic characteristics, uniformed service or military status, any lawful source of income, domestic violence victim status, criminal conviction, or any other status protected by law.

Allegations of a violation of this Policy are addressed under the grievance processes as set forth herein.

#### **IV. JURISDICTION**

This Policy applies to conduct that occurs during JTS's education programs and activities, and therefore covers all the operations of JTS,<sup>1</sup> such as academics, extracurricular activities, and may also include computer and internet networks, digital platforms, and computer hardware or software owned by, operated by, or used in the operations of JTS. At the time of making a Complaint, a Complainant need not be participating in or attempting to participate in the education program or activity of JTS.

This Policy covers conduct that occurs on-campus, in JTS provided housing, and any other property owned or controlled by JTS, as well as off-campus at programs and activities sponsored by JTS, including study abroad.<sup>2</sup> This Policy also applies to alleged conduct contributing to the hostile environment that occurred outside JTS's education program or activity or outside the United States. Any online postings or other electronic communication will be in violation of this Policy the same as any other verbal, written, or physical conduct addressed in this Policy. Irrespective of where the conduct took place, JTS will assess all reports and complaints to determine whether the conduct took place during its education program or activity or has a continuing effect on campus or in an off-campus sponsored program or activity.

#### **V. DEFINITIONS**

For purposes of this Policy, the following definitions apply:

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<sup>1</sup> For the purposes of Title IX sex-based harassment, "education program or activity" includes locations, events, or circumstances over which JTS exercised substantial control over both the Respondent and the context in which the sexual harassment occurs, and any building rented or controlled by a student organization that is officially recognized by JTS.

<sup>2</sup> Conduct that is prohibited by Article 129-B that is not covered by Title IX sex-based harassment is addressed by this Policy. To the extent applicable, students maintain the rights set forth in the Students' Bill of Rights during resolution of a Complaint. N.Y. Educ. Law § 6440(6). A copy of the Students' Bill of Rights is attached hereto as Appendix A.

Advisor: an individual who may be, but is not required to be, an attorney, that is selected by a Party to accompany the Party to any related meeting or proceeding, to advise the Party.

Affirmative Consent: Affirmative consent is a clear, unambiguous, knowing, informed, and voluntary agreement between all participants to engage in sexual activity. Consent is active, not passive. Silence or lack of resistance cannot be interpreted as consent. Seeking and having consent accepted is the responsibility of the person(s) initiating each specific sexual act regardless of whether the person initiating the act is under the influence of drugs and/or alcohol. Consent to any sexual act or prior consensual sexual activity between or with any party does not constitute consent to any other sexual act. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity or gender expression. Consent may be initially given but withdrawn at any time. When consent is withdrawn or cannot be given, sexual activity must stop. Consent cannot be given when a person is incapacitated. Incapacitation occurs when an individual lacks the ability to fully, knowingly choose to participate in sexual activity. Incapacitation includes impairment due to drugs or alcohol (whether such use is voluntary or involuntary), the lack of consciousness or being asleep, being involuntarily restrained, if any of the parties are under the age of 17, or if an individual otherwise cannot consent. Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm. When consent is withdrawn and can no longer be given, sexual activity must stop.

Bystander: a person who observes a crime, impending crime, conflict, potentially violent or violent behavior, or other conduct that is in violation of this Policy, JTS rules, or other JTS policies.

Coercion: unreasonable pressure to engage in sexual activity.

Complainant: refers to (1) a student, employee, or other individual who is alleged to have been subjected to conduct that could constitute Prohibited Conduct and who was participating or attempting to participate in JTS's education program or activity at the time of the alleged sex-based discrimination ; (2) a parent, guardian, or other authorized legal representative with the legal right to act on behalf of a Complainant; or (3) JTS's Title IX Coordinator.

Complaint: refers to an oral or written request to JTS that objectively can be understood as a request for JTS to investigate and make a determination about alleged Prohibited Conduct.

Confidential Employee: refers to an employee of JTS whose communications are privileged or confidential under Federal or State law, and whose confidential status is only with respect to information received while the employee is functioning within the scope of their duties to which such privilege or confidentiality applies.

Confidentiality: an obligation to not report known incidents of sexual assault or other crimes to institution officials, in a manner consistent with state and federal law. Licensed

mental health counselors, medical providers and pastoral counselors are examples of institution employees who may offer confidentiality.

Covered Non-Employees: include: (i) applicants for employment; (ii) interns, whether paid or unpaid; (iii) individuals who are (or are employed by) a contractor, subcontractor, vendor, consultant, or anyone providing services to JTS; and (iv) individuals commonly referred to as independent contractors, “gig” workers, and temporary workers, including, but not limited to, individuals providing equipment repair, cleaning services, or any other services provided pursuant to a contract with JTS.

Dating Violence: as defined by VAWA at 34 U.S.C. § 12291(a)(10), means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship is determined based on a consideration of the following factors: (i) the length of the relationship, (ii) the type of the relationship, and (iii) the frequency of interaction between the persons involved in the relationship.

Day: means a business day.

Disciplinary Sanctions: refers to consequences imposed on a Respondent following a determination pursuant to this Policy that the Respondent engaged in Prohibited Conduct.

Discrimination: occurs when, on the basis of a protected status, an individual or group is excluded from participation in, or denied the benefits of any JTS program or activity. It is adverse treatment of any individual based on the individual’s actual or perceived membership in a protected class or category of persons to whom they belong, rather than on the basis of their individual merit. If the acts of a member of the JTS community deny, deprive, or limit the educational or employment access, benefits, and/or opportunities of an individual on the basis of that individual’s actual or perceived membership in a protected class, that member of the JTS community is in violation of this Policy.

Domestic Violence: as defined by VAWA at 34 U.S.C. § 12291(a)(8), includes felony or misdemeanor crimes 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 jurisdiction receiving grant monies, 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.

Education Program or Activity: includes locations, programs, events or circumstances over which JTS exercised substantial control over both the Respondent and the context in which the alleged Prohibited Conduct occurs.

Final Determination: a determination is a finding by JTS based upon a preponderance of the evidence, regarding whether the Respondent is responsible for the alleged conduct

and whether the alleged conduct constitutes a violation of this Policy. A determination indicates whether disciplinary sanctions, if any, are to be imposed on the Respondent, and whether remedies designed to restore or preserve equal access to JTS's education program or activity are to be provided to the Complainant or any other individual. A "final" determination means the written determination containing the information required in this Policy, as modified by any appeal by the Parties. A determination becomes a final determination on the date that JTS provides the Parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

Grievance Process(es): refers to the informal and investigation and decision-making resolution processes set forth in this Policy.

Decision-maker: refers to an individual(s) who presides over the hearing conducted during the investigation and decision-making resolution grievance processes of this Policy and issues a determination as to Policy violation(s).

Hostile environment harassment: incorporates the conduct prohibited by the New York State Human Rights Law (NYSHRL), which includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender. NYSHRL sexual harassment is unlawful when it subjects an individual to inferior terms, conditions, or privileges of an educational program or employment. Such harassment need not be severe or pervasive to be unlawful and can be any harassing conduct that consists of more than petty slights or trivial inconveniences. NYSHRL sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sex when:

- Such conduct has the purpose or effect of unreasonably interfering with an individual's educational environment or work performance or creating an intimidating, hostile or offensive educational environment or work environment, even if the reporting individual is not the intended target of the sexual harassment;
- Such conduct is made either explicitly or implicitly a term or condition of their education or employment; or
- Submission to or rejection of such conduct is used as the basis for decisions affecting an individual's education or employment.

A sexually harassing hostile environment includes, but is not limited to, words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex. NYSHRL sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, which interfere with the recipient's educational environment or job performance.

NYSHRL sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or

any other terms, conditions or privileges of employment. This is also called “quid pro quo” harassment. Any employee who feels harassed should report so that any violation of this Policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this Policy.

NYSHRL sexual harassment can occur between any individuals, regardless of their sex or gender. New York Law protects employees, paid or unpaid interns, and non-employees, including independent contractors, and those employed by companies contracting to provide services in the workplace. Harassers can be a superior, a subordinate, a coworker or anyone in the workplace including an independent contractor, contract worker, vendor, client, customer or visitor.

Unlawful NYSHRL sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer sponsored events or parties. Calls, texts, emails, and social media usage by employees can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices or during non-work hours.

The following describes are examples of the types of acts that may be unlawful NYSHRL sexual harassment and that are strictly prohibited:

- Physical acts of a sexual nature, such as:
  - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee’s body or poking another employee’s body;
  - Rape, sexual battery, molestation or attempts to commit these assaults.
- Unwanted sexual advances or propositions, such as:
  - Requests for sexual favors accompanied by implied or overt threats concerning the target’s job performance evaluation, a promotion or other job benefits or detriments;
  - Subtle or obvious pressure for unwelcome sexual activities.
- Sexually oriented gestures, noises, remarks or jokes, or comments about a person’s sexuality or sexual experience, which create a hostile work environment.
- Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look.
- Sexual or discriminatory displays or publications anywhere in the workplace, such as:
  - Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.
- Hostile actions taken against an individual because of that individual’s sex, sexual orientation, gender identity and the status of being transgender, such as:
  - Interfering with, destroying or damaging a person’s workstation, tools or equipment, or otherwise interfering with the individual’s ability to perform the job;



- Sabotaging an individual's work;
- Bullying, yelling, name-calling.

Preventing sexual harassment is everyone's responsibility. JTS cannot prevent or remedy sexual harassment unless it knows about it. Any student, employee, paid or unpaid intern or nonemployee who has been subjected to behavior that may constitute sexual harassment is encouraged to report such behavior to a supervisor, manager or the Title IX Coordinator. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to a supervisor, manager or the Title IX Coordinator.

Reports of sexual harassment may be made verbally or in writing. A form for submission of a written complaint is attached to this Policy as Appendix B, and all employees are encouraged to use this complaint form. Employees who are reporting sexual harassment on behalf of other employees should use the complaint form and note that it is on another employee's behalf. Employees, paid or unpaid interns or non-employees who believe they have been a victim of sexual harassment may also seek assistance in other available forums, as explained below in the section on Legal Protections.

In addition to being subject to discipline if they engaged in sexually harassing conduct themselves, supervisors and managers will be subject to discipline for failing to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue. Supervisors and managers will also be subject to discipline for engaging in any retaliation.

All complaints or information about sexual harassment will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted in a timely manner and will be confidential to the extent possible. An investigation of any complaint, information or knowledge of suspected sexual harassment will be prompt and thorough, commenced immediately and completed as soon as possible. All persons involved, including Complainants, witnesses, and Respondents will be accorded due process, as outlined below, to protect their rights to a fair and impartial investigation. Any employee may be required to cooperate as needed in an investigation of suspected sexual harassment. JTS will not tolerate retaliation against employees who file Complaints, support another's Complaint or participate in an investigation regarding a violation of this Policy.

Hostile environment harassment also includes unwelcome verbal or physical conduct toward, or differential treatment of, an individual because of their membership or perceived membership in any legally protected class. JTS does not tolerate any discriminatory harassment of any student, employee, visitor or guest.<sup>3</sup> Some examples of harassment include, but are not limited to:

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<sup>3</sup> JTS reserves the right to address harassment and offensive conduct that may not create a hostile environment, or that is of a general nature and is not based on a protected status under JTS policy.

- Epithets, derogatory comments, slurs or name-calling, racial or ethnic slurs, threats, offensive jokes;
- Offensive or degrading remarks, verbal abuse, or other hostile behavior such as insulting, teasing, mocking, degrading, or ridiculing another person or group based on a protected class;
- Hostile actions taken against an individual because of a protected characteristic, such as:
  - Interfering with, destroying or damaging a person’s workstation, tools or equipment, or otherwise interfering with the individual’s ability to perform the job;
  - Sabotaging an individual’s work;
  - Bullying, yelling, name calling.
- Derogatory or offensive posters, cartoons or drawings, displaying offensive pictures, writings, symbols or objects based on a protected class;
- Making negative comments about an individual’s personal religious beliefs, or trying to convert them to a certain religious ideology;
- Offensively talking about negative racial, ethnic, or religious stereotypes;
- Making derogatory age-related comments;
- Making an offensive reference to an individual's mental or physical disability;
- Assault or other inappropriate physical contact.

Intimidation: implied threats that reasonably cause another individual to fear for that individual’s safety or well-being.

Investigator: the Title IX Coordinator, or an individual(s) appointed by the Title IX Coordinator or their designee, including external professionals, to investigate the allegations of Prohibited Conduct.<sup>4</sup>

No-Contact Order: a directive prohibiting contact between and among designated individuals through any means, direct or indirect, including personal contact, email, telephone, text message, social media, or by means of a third party. Continued intentional contact would be a violation of JTS policy and subject to additional conduct charges.

Party or Parties: Complainants and Respondents are sometimes referred to as a Party or, collectively as Parties. Others, such as witnesses and advisors, are not considered Parties.

Peer retaliation: retaliation by a student against another student

Pregnancy or Related Conditions: shall refer to (a) childbirth, termination of pregnancy (miscarriage, stillbirth or abortion), or lactation; (b) medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation, or (c) recovery from pregnancy, childbirth, termination of pregnancy, or lactation.

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<sup>4</sup> In addition, JTS may designate any other obligations under this Policy that are assigned to a particular title, such as the Title IX Coordinator, to others, including to external professionals.

Preponderance of the Evidence: the standard to determine responsibility under this Policy. This means that it is more likely than not that a violation of this Policy occurred.

Privacy: shall refer to the policy of JTS to not disclose more information learned from a reporting individual or bystander to a crime or incident more than necessary to comply with applicable laws, including informing appropriate JTS officials. This does not apply to employees who are able to offer confidentiality, such as mental health providers.

Prohibited Conduct: this is defined as all conduct that is in violation of this Policy, including sexual misconduct, discrimination on the basis of pregnancy and related conditions, hostile environment harassment, and discrimination and harassment on the basis of any other actual or perceived protected status under federal, state or city law. Prohibited Conduct will be investigated and adjudicated pursuant to the applicable procedures set forth herein.

Relevant: this is defined as being related to the allegations of Prohibited Conduct under this Policy under investigation as part of the grievance procedures. Questions are deemed “relevant” when they seek evidence that may aid in showing whether the alleged sex-based discrimination occurred, and evidence is relevant when it may aid a Decision-maker in determining whether the alleged sex-based discrimination occurred. JTS will only gather and consider relevant and not otherwise impermissible evidence.

Remedies: are measures provided, as appropriate, to a Complainant or any other person JTS identifies as having had their equal access to JTS’s education program or activity limited or denied by sex-based discrimination. Remedies are provided to restore or preserve person’s access to JTS’s education program or activity after Prohibited Conduct occurred.

Report: is a report made to the Title IX Coordinator that is verbal or written, by any person, alleging Prohibited Conduct. Such a report can be made at any time in person, by mail, by phone, or by electronic mail. A Report is not the same as a Complaint.

Reporting Individual: any individual who reports an alleged violation of this Policy to the Title IX Coordinator. This may or may not be the same as the Complainant, a witness, or a bystander.

Respondent: a person who is alleged to have violated this Policy.

Retaliation: refers to any intimidation, threats, coercion, or discrimination against any person by JTS, a student, or an employee or other person authorized by JTS to provide aid, benefit, or service under JTS’s education program or activity, for the purpose of interfering with any right or privilege secured by this Policy, or because the person has reported possible Prohibited Conduct, made a Complaint under this Policy, or participated or refused to participate in any way under this Policy. Charges against an individual for code of conduct violations for the purpose of interfering with any right or privilege secured by this Policy, constitutes retaliation.

Discrimination on the Basis of Sex: involves sex-based harassment as well as treating someone unfavorably based on sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, gender, and gender identity or expression. and which excludes the person from participation in, or denied the benefits of, any JTS program or activity, including admissions and employment. Preventing a person from participating in any JTS education program or activity consistent with their gender identity subjects that person to more than de minimis harm, unless as otherwise permitted by Title IX in limited circumstances.

Sex-Based Harassment: this is a form of sex-based discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, that is:

(1) Quid pro quo harassment: An employee, agent, or other person authorized by JTS to provide an aid, benefit, or service under JTS's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;

(2) Hostile environment harassment: Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from JTS's education program or activity (i.e., creates a hostile environment). Whether a hostile environment exists is a fact-specific inquiry that includes consideration of the following:

(i) The degree to which the conduct affected the Complainant's ability to access JTS's education program or activity;

(ii) The type, frequency, and duration of the conduct;

(iii) The parties' ages, roles within JTS's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;

(iv) The location of the conduct and the context in which the conduct occurred; and

(v) Other sex-based harassment in JTS's education program or activity; or

(3) Specific offenses.

(i) Sexual assault meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. Specifically, this includes:

Rape—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—The touching of the private body parts of another person for the purpose 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—Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Sexual Assault with an Object – to use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, 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 or physical incapacity. An “object” or “instrument” is anything used by the offender other than the offender’s genitalia, e.g., a finger, bottle, handgun, stick.

Sodomy – oral or anal sexual intercourse with another person, 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 or physical incapacity.

Statutory Rape – Sexual intercourse with a person who is under the statutory age of consent.

(ii) Dating violence meaning violence committed by a person:

(A) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(B) Where the existence of such a relationship shall be determined based on a consideration of the following factors:

(1) The length of the relationship;

(2) The type of relationship; and

(3) The frequency of interaction between the persons involved in the relationship;

(iii) Domestic violence meaning felony or misdemeanor crimes committed by a person who:

(A) Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of JTS, or a person similarly situated to a spouse of the victim;

(B) Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;

(C) Shares a child in common with the victim; or

(D) Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction; or

(iv) Stalking meaning engaging in a course of conduct directed at a specific person on the basis of sex that would cause a reasonable person to:

(A) Fear for the person's safety or the safety of others; or

(B) Suffer substantial emotional distress.

Sexual Activity: includes any "sexual act" or "sexual contact."

- A "sexual act" means: (a) contact between the penis and vulva or the penis and the anus where penetration occurs, however slight; (b) contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus; (c) the penetration, however slight of the anal or genital opening of another by hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or (d) the intentional touching, not through the clothing of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.
- "Sexual contact" means the intentional touching, either directly or through the clothing of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade or arouse or gratify the sexual desire of any person.

Sexual Exploitation: the abuse or non-consensual use of another person's sexuality or nudity without their consent, for the Respondent's own advantage or benefit, or for the benefit or advantage of anyone other than the individual being exploited. Specific conduct that constitutes sexual exploitation could constitute Title IX sex-based harassment if it meets the definition under Title IX. Examples of sexual exploitation include, without limitation:

- Causing or attempting to cause the incapacitation of another person in order to gain a sexual advantage over that person thus compromising that person's ability to give affirmative consent (e.g. administering alcohol or drugs to another person

for the purpose of making that person vulnerable to non-consensual sexual activity);

- Causing the prostitution of another person;
- Voyeurism (such as non-consensual observations, watching or taking pictures, videos or audio recordings of another person engaging in sexual activity, in a state of undress, or in a place and time where such person has a reasonable expectation of privacy, such as a bathroom, shower, or changing room, each without the affirmative consent of all parties);
- Transmitting intimate or sexual utterances, sounds or images of another person in a state of undress or of a sexual nature;
- Disseminating, streaming, or posting sexual activity of any form on social media or any other public forum without permission from the individual reflected in the same;
- Exceeding the boundaries of consent with another individual such as by allowing third parties to observe you engaging in sexual acts with another individual;
- Exposing one's genitals to another person without affirmative consent;
- Distributing intimate or sexual information about another person; and/or
- Knowingly exposing or transmitting a sexually transmitted infection or virus, including but not limited to HIV, to another person without the other person's knowledge.

Sexual Misconduct: this is a broad term that encompasses a wide range of prohibited behaviors and a term used to refer to any form of sex/gender-based discrimination, sex/gender-based harassment, all forms of sexual harassment, sexual assault, dating violence, domestic violence, stalking, sexual exploitation, and any other form of non-consensual sexual activity prohibited by this Policy.

Stalking: as defined by VAWA at 34 U.S.C. § 12291(a)(30), means engaging in a course of conduct directed at a specific person regardless of the reason that would cause a reasonable person to: (1) fear for their safety or the safety of others; or (2) suffer substantial emotional distress.

Student With A Disability: a student who is an individual with a disability as defined in the Rehabilitation Act of 1973.

Title IX Coordinator: is the person identified by JTS as its Title IX Coordinator and/or their designee. The Title IX Coordinator may delegate certain responsibilities under this Policy to designees, who will be appropriately trained.

## **VI. PROHIBITION AGAINST RETALIATION**

JTS will not tolerate any form of retaliation, including peer retaliation, as defined herein. The prohibition against retaliation shall not impact JTS's ability to require employees to participate as witnesses or to assist with an investigation, proceeding, or hearing under this Policy.

The exercise of rights protected under the law and this Policy does not constitute retaliation prohibited as defined in this Policy. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding does not constitute retaliation under this Policy. In accordance with Title VII, JTS will not discriminate against any of its employees or applicants for employment because of the employee's or applicant's opposition to any practice made an unlawful employment practice by Title VII, or because the employee or applicant made a charge, testified, assisted, or participated in any investigation, proceeding, or hearing under Title VII.

## **VII. DISABILITY DISCRIMINATION AND ACCOMMODATIONS**

In accordance with the ADA, Section 504, as well as applicable state and local laws, JTS prohibits discrimination against qualified persons with disabilities. Thus, no otherwise qualified individual with a disability, shall, solely by reason of their disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination during any JTS program or activity. A student, employee, or applicant for employment or admission for enrollment who may wish to request a reasonable accommodation should consult with their respective Dean for information.

### **1. Students**

JTS strives to provide students with disabilities with reasonable accommodations to ensure equal access to its programs and related services, including but not limited to, admission requirements, academic programs and activities, housing, and non-academic services, unless such accommodations would fundamentally alter the nature of JTS's programs.

Further JTS will take reasonable steps to ensure that no individual with a disability is excluded, denied services, segregated, or treated differently because of the absence of auxiliary aids and services, unless such steps would fundamentally alter the nature of JTS's programs or would result in an undue burden to JTS. Students should contact the Dean of their school for information on how to request accommodations.

### **2. Employees (Including Applicants for Employment)**

A reasonable accommodation of employees may include modifications or adjustments that would enable a qualified employee with a disability to perform the essential functions and requisites of the position or enjoy the benefits and privileges of employment equal to those enjoyed by similarly situated employees without disabilities. JTS will provide reasonable accommodations to the known physical or mental limitations of an otherwise qualified employee in order for the employee to be able to perform the job without causing JTS undue hardship. In the employment context, a reasonable accommodation includes making existing facilities used by employees readily accessible to and usable by individuals with disabilities as well as job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or



policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities, unless the accommodation would cause an undue hardship to JTS's business, such that it would cause significant difficult or expense to JTS.<sup>5</sup>

### **3. Process for Requesting an Accommodation**

Qualified students and employees with disabilities may submit a request for an accommodation with the respective Deans or the Chief Human Resources Officer, respectively. Please note that, in accordance with applicable law, JTS may require that the individual provide medical documentation confirming that the individual has a disability and needs a reasonable accommodation. Before making a determination regarding a reasonable accommodation to be provided to a student or employee, will engage in a cooperative dialogue with the individual. A "cooperative dialogue" is the process by which JTS and an individual entitled to a reasonable accommodation engage in good faith in a written or oral dialogue concerning the person's accommodation needs; potential accommodations that may address the person's accommodation needs, including alternatives to a requested accommodation; and the difficulties that such potential accommodations may pose for JTS.

### **4. Policy Regarding Pregnancy or Related Conditions For Employees and Students**

JTS shall treat pregnancy or related conditions in the same manner and under the same policies as any other temporary disability with respect to any medical or hospital benefit, service, plan or policy which such JTS administers, operates, offers, or participates in with respect to students admitted to JTS's educational program or activity. That means that JTS may require a student for whom this provision applies to obtain the certification of a physician that the student is physically and emotionally able to continue participation so long as such a certification is required of all students for other physical or emotional conditions requiring the attention of a physician.

JTS shall treat pregnancy or related conditions as a justification for a leave of absence for so long a period of time as is deemed medically necessary by the student's physician, at the conclusion of which the student shall be reinstated to the status which she held when the leave began.

JTS shall provide students experiencing pregnancy or related conditions with certain supports and modifications determined on an individual basis in order to ensure their equal access to the JTS program or activity. Employees or applicants for work may also

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<sup>5</sup> Please note that while JTS will provide a reasonable accommodation, it need not necessarily agree to the accommodation requested by the employee; if JTS reasonably believes that the employee's disability can be accommodated in a manner different from that which was requested by the employee, JTS may make that decision.

contact the Office of Human Resources for more information, because additional workplace laws and policies apply.

JTS shall provide students with a clean, private space to pump milk or breastfeed that is not a bathroom. JTS will also provide students needed breaks during class to pump milk or breastfeed.

Any employee so notified about a student's pregnancy or related conditions will promptly provide the Title IX coordinator's contact information and inform the student as to how she can coordinate specific actions to prevent sex-based discrimination and ensure equal access.

### **VIII. PROHIBITION ON CONSENSUAL RELATIONSHIPS**

JTS is committed to creating an environment in which learning can take place in an atmosphere of professionalism and mutual respect. JTS prohibits sexual or romantic relationships between and among individuals (students and employees, including faculty and staff) who are in positions of unequal authority or power, as well as where there is a potential for a conflict of interest, favoritism, and/or exploitation of power. These relationships include instructor-to-student; supervisor-to-subordinate; or any other relationship between two individuals where one individual has the authority to make or influence decisions which directly or indirectly impact the other individual's employment or educational experiences or advancement, scholarship or financial support, grades, extracurricular or athletic team participation, recommendations, wage status, or promotion at JTS, regardless of consent. A staff member or faculty member's relations with students shall be limited to those that are consistent with and necessary to the performance of the staff member or faculty member's duties as a JTS employee. If anyone is promoted into a position that results in a conflict with this Policy restricting consensual relationships, this information must be reported to the Title IX Coordinator immediately.

The fact that the relationship may have been consensual shall not be a defense to a violation of this Policy prohibition or JTS's policy regarding consensual relationships.

### **IX. EDUCATION, TRAINING, AND PREVENTION**

The Title IX Coordinator oversees compliance with prevention, education, and training relating to sexual misconduct and violations of this Policy. The frequency and types of training will be determined each year by the Title IX Coordinator and in conformance with applicable law. All students and employees of JTS will be fully informed of this Policy, reporting obligations, the disciplinary procedures, and education in prevention and intervention. All individuals involved in the investigation, hearing, appeal, and informal processes will receive training in accordance with federal, state, and local law.

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

- Annual mandatory new student orientation;
- Annual mandatory training for all employees regarding Title IX's reporting and notice obligations;
- Mandatory training for new employees;
- Training for residence hall staff;
- Information and brochures from the Office of Student Life; and
- Online and in-person employee training programs.

For information about JTS's sexual misconduct prevention, training and awareness programming please contact the Title IX Coordinator.

## **X. IMMEDIATE RESOURCES (SEXUAL MISCONDUCT)**

There are a number of on-campus and off-campus resources available to offer assistance after an incident of sexual misconduct. JTS encourages all individuals affected by sexual misconduct to seek immediate assistance. Seeking assistance promptly may be important to ensure an individual's physical safety or to obtain medical care, emotional support, or other support; it may also be necessary to preserve evidence.

### **1. Resources for Immediate Assistance**

- 911 or JTS Security (212) 678-8888
- Columbia University's Sexual Violence Response & Rape Crisis/Anti-Violence Support Center is available to all JTS students at no cost. They have trained staff and volunteers available 24 hours a day, seven days a week, to accompany individuals to the emergency room, NYPD, or campus departments. Advocates provide information about reporting options and offer support. Contact Sexual Violence Response (SVR) at (212) 854-HELP (4357) for 24/7/365 support. [www.health.columbia.edu/svr](http://www.health.columbia.edu/svr)
- Crime Victims Treatment Center [www.cvtcnyc.org](http://www.cvtcnyc.org), Mount Sinai St. Luke's Emergency Department 1111 Amsterdam Avenue (113th Street).

The Emergency Departments of Mount Sinai St. Luke's, Mount Sinai Roosevelt and the Lenox Hill HealthPlex have a Sexual Assault Response Team that includes a Sexual Assault Forensic Examiner and a Volunteer Rape Crisis Advocate. These individuals are specially trained to provide preventative treatment for STDs and possible HIV exposure, emergency contraception, and a full medical exam.

At Mount Sinai St. Luke's, Mount Sinai Roosevelt, and the Lenox Hill HealthPlex, treatment for sexual assault is provided *free of charge*.

- The New York City Police Department at 911 can help with criminal sexual misconduct. You can also call the Special Victims Division directly at (646) 610-7272.
- St. Luke's Crime Victims Treatment Center (CVTC) Advocates and services can be reached by calling (212) 523-4728.

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

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

Seeking medical attention will not require an individual to file a complaint or press criminal charges. It is important to note that failure to preserve evidence does not preclude you from reporting an incident to JTS or the police.

## **2. Counseling Resources at JTS, Columbia, and Barnard**

The following confidential resources are available for counseling support for students:

- JTS Counseling Center, (212) 280-6161, [counseling@jtsa.edu](mailto:counseling@jtsa.edu)
- Counseling & Psychological Services at Columbia University, (212) 854-2878
- Furman Counseling Center at Barnard College: (212) 854-2092

## **3. Additional Off-Campus Resources**

SurvJustice: <http://www.survjustice.org/legal.html>. This national resource provides legal assistance to individuals in campus, criminal and civil legal systems.

Legal Momentum: <https://www.legalmomentum.org>. The website provides detailed publications and resources regarding sexual, interpersonal, and domestic violence. The website has assembled toolkits for finding lawyers, sexual harassment laws, stalking, and how to file complaints.

NYSCASA: <http://nyscasa.org/get-help>, 1-800-942-6906. NYSCASA is a nonprofit organization dedicated to providing emotional support, technical assistance, and resources through rape crisis centers and a 24/7 crisis hotline.

NYSCADV: <http://www.nyscadv.org>. NYSCADV works to ensure the provision of effective and appropriate services through community outreach, training, technical assistance, and policy development.

The New York State Domestic Violence 24-Hour Hotline [English & español/ multi-language accessibility]: 1-800-942-6906 The National Domestic Violence 24-Hour Hotline: 1-800-799-7233 or 1- 800-787-3224 (TTY).

Pandora's Project: <http://www.pandys.org/lgbtsurvivors.html>. Pandora's Project aims to provide an inclusive online forum for victims of rape and sexual abuse, with focused resources on LGBTQI. This resource is not meant to take the place of a crisis hotline.

GLBTQ Domestic Violence Project: <http://www.glbtdvp.org>, 1-800-832-1901. This national resource supports GLBTQ victims through a 24-Hour domestic violence hotline, emergency safe home, legal services, crisis intervention and safety planning, housing and employment advocacy, sexual assault case management, and ongoing supportive services.

RAINN: <https://www.rainn.org/get-help>. RAINN is the nation's largest anti-sexual violence organization and operates the 24/7 National Sexual Assault Hotline in partnership with many local rape crisis centers across the country. National Sexual Assault Hotline: 1-800-656-4673.

Safe Horizons: <http://www.safehorizon.org>, 1.800.621.HOPE (4673). Safe Horizon takes action by providing practical services like a new lock, 24-hour hotlines, safe shelter, and food as well as supportive services like mental health counseling.

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

Stalking Resource Center: 1-202-467-8700

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

NYC Family Justice Center – Manhattan:  
<http://www.nyc.gov/html/ocdv/html/help/fjc.shtml> 212-602-2800; 80 Centre St New York, NY 10013

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

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

## **XI. OPTIONS FOR REPORTING INCIDENTS OF PROHIBITED CONDUCT**

JTS encourages individuals who experience, witness or become aware of alleged Prohibited Conduct to report the incident to the JTS Title IX Coordinator. JTS will assist individuals in contacting law enforcement, if desired. JTS also provides individuals the opportunity to confidentially discuss alleged incidents with a trained professional on campus. For more information on how to file a Complaint contact Diana Torres-Petrilli, JTS Title IX Coordinator: Brush Hall #412, (212) 678-8011, [dipetrilli@jtsa.edu](mailto:dipetrilli@jtsa.edu) Prohibited Conduct.

### **1. Law Enforcement Notification and Orders of Protection**

JTS encourages any individual who has been the victim of a crime to report it to law enforcement. JTS representatives are available to assist the Complainant in contacting law enforcement officials and filing a criminal report. A Complainant is not required to report to law enforcement in order to pursue a Complaint under JTS's policy. The JTS

process operates separately from the police and criminal justice system. JTS will investigate alleged violations of this Policy regardless of whether an individual chooses to file a report with the police or to pursue charges. The decision not to report to police or pursue charges will not be considered in JTS's investigation.

Any internal JTS process will run concurrently with a criminal investigation and proceeding, except for temporary delays as requested by external entities while law enforcement gathers evidence. Temporary delays should not last more than 10 days, except when law enforcement specifically requests and justifies a longer delay. Not all sexual misconduct under this Policy is a crime<sup>6</sup> and the standard applied in criminal cases (beyond a reasonable doubt) is different than JTS's standard (preponderance of evidence) under this Policy. Questions about whether incidents violate criminal laws and how the criminal process works should be directed to law enforcement officials or the District Attorney.

JTS representatives are also available (i) to provide students with information sheets and links to external resources and assistance regarding initiating legal proceedings in family or civil court and (ii) to assist students in acquiring a New York State court order of protection. If an order of protection is granted, the Parties have the right to receive a copy of the order when JTS receives it. The Parties will also have the opportunity to have JTS explain the order, the consequences for violating the order, and answer any questions about the order. If the Party against whom the order is made violates the order of protection, the protected Party may receive assistance from JTS in calling local law enforcement to inform them of the violation.

## **2. JTS Notification**

JTS will promptly and equitably respond to all reports of Prohibited Conduct made to the Title IX Coordinator, prevent its recurrence, and remediate any adverse effects. Reports of Prohibited Conduct may be made using any of the following options:

- Any individual (whether or not the person reporting is the person alleged to be the victim of Prohibited Conduct) may report incidents of Prohibited Conduct to the Title IX Coordinator at any time (including during non-business hours) by using the telephone number or email address, or by mail to the office address listed on page two of this Policy.
- Individuals may report anonymously to the Title IX Coordinator.<sup>7</sup>

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<sup>6</sup> Penal codes and definitions vary by state and federal law. These definitions may also differ from the definitions of violations in this Policy. New York Penal law Article 130 addresses sex offenses and can be accessed at <https://www.nysenate.gov/legislation/laws/PEN/P3THA130>.

<sup>7</sup> To the extent possible, JTS will investigate anonymous reports in order to determine what actions it may be able to take, including to provide supportive measures. JTS will inform the person who reported the conduct of the informal and investigative grievance processes. However, JTS's ability to respond to the report may be limited, including JTS's ability to provide supportive measures if the Parties' identities are unknown. Additionally, a known Complainant cannot remain anonymous during the grievance processes

Any incident of Prohibited Conduct reported to a JTS employee must be reported to the Title IX Coordinator. JTS will confidentially maintain the identities of reporting individuals, Complainants, individuals who have been reported to be perpetrators of Prohibited Conduct, including Respondents, and witnesses, except as may be permitted by the Family Educational Rights and Privacy Act (“FERPA”) and its implementing regulations, as required by law, or as necessary to conduct proceedings under this Policy. To the extent possible, information reported to the Title IX Coordinator will be shared only with individuals responsible for handling JTS’s response to the reported incident. The Title IX Coordinator will not share information with law enforcement without the Complainant’s consent, except as required by law, if the information involves suspected abuse of a minor under the age of 18, or if the incident poses a safety risk to the JTS community.

Once notified, the Title IX Coordinator will contact and provide the Complainant or the reporting individual with a written explanation of their rights and options to proceed with respect to their report of Prohibited Conduct offer immediate assistance available to the Complainant as appropriate (e.g., referrals to appropriate law enforcement agencies; and referrals for medical treatment at local hospitals, existing counseling and legal assistance, and trauma centers), and other services available both within JTS and in the community.

A reporting individual will have emergency access to the Title IX Coordinator. The Title IX Coordinator will provide the reporting individual with information regarding their options to proceed, and other important information about their rights under JTS policy and the law. Such information includes, where applicable, the importance of preserving evidence and obtaining a sexual assault forensic examination as soon as possible, and detailing that the criminal justice process utilizes different standards of proof and evidence and that any questions about whether a specific incident violated the penal law should be addressed to law enforcement or to the district attorney. The Title IX Coordinator will also explain whether they are authorized to offer the reporting individual confidentiality or privacy and will inform the reporting individual of other reporting options.<sup>8</sup>

The Title IX Coordinator will determine whether the scope of the allegations fall within the jurisdiction of this Policy.

The Title IX Coordinator will promptly make supportive measures available to the Parties upon receipt of a report or Complaint. The Title IX Coordinator will discuss the availability of supportive measures, consider the Parties’ wishes with respect to supportive measures, inform the Complainant of the availability of supportive measures with or without the filing of a Complaint, and explain to the Complainant the process for filing a Complaint. At the time that supportive measures are offered, JTS will inform the Complainant, in writing, that they may file a Complaint with JTS either at that time or in

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regardless of whether the Complainant or the Title IX Coordinator files the Complaint. If a report is filed anonymously and the Complainant is not identified, the Title IX Coordinator may still proceed with filing a complaint, should circumstances warrant. However, like with reports, JTS’s ability to respond to a Complaint will be limited.

<sup>8</sup> Under this Policy, privacy and confidentiality have distinct meanings.

the future, of they have not done so already. See Section XIV of Part I of this Policy for further information about supportive measures.

The Title IX Coordinator will work with the Complainant to determine whether the Complainant prefers a supportive response, an informal option, or an investigation process as set forth in this Policy.

If the Complainant wishes to proceed, or JTS believes it is otherwise necessary, the Title IX Coordinator will ascertain the name of the Respondent, the date, location, and nature of the alleged Prohibited Conduct, and in a timely fashion, will notify the Respondent of the allegations and supportive measures available to the Respondent. If a Complaint is filed, the Title IX Coordinator will provide initial notice to the Parties as further described in this Policy. The grievance processes outlined in this Policy will be followed before any discipline is imposed on the Respondent.

If a student or the student's representative notifies the Title IX Coordinator of a pregnancy or related condition(s), the Title IX Coordinator will:

- Inform the student of JTS's obligations to students who are pregnant or experiencing pregnancy-related conditions and restrictions on JTS disclosure of personal information, as well as provide the JTS's notice of nondiscrimination.
- Provide the student with the option of individualized, reasonable modifications as needed to prevent discrimination and ensure equal access to the JTS's education program or activity.
- Allow the student a voluntary leave of absence for, at minimum, the medically necessary time period and reinstatement upon return.
- Ensure the student's access to a clean, private space for lactation.

### **3. Confidentiality**

JTS employees have varying levels of responsibility to maintain confidentiality. However, even JTS offices and employees who cannot guarantee confidentiality will maintain an individual's privacy to the greatest extent possible. An employee's obligation to maintain confidentiality, however, cannot restrict the ability of the Parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures as detailed below. The information provided to non-confidential resources will be relayed only as necessary to the Title IX Coordinator for purposes of investigation and adjudication, and the provision of available supportive measures.

#### **i. Confidential Employees: Counselors and Rabbis (in Limited Circumstances)**

JTS deems confidential employees to be those professional, licensed counselors and pastoral counselors (rabbis or cantors) whose official responsibilities include providing mental-health counseling to JTS students, including those who act in that role under the supervision of a licensed counselor, are not required to report any information about an



incident of sexual misconduct to the Title IX Coordinator without the individual's consent.

JTS Counseling Center  
3080 Broadway,  
Brush Hall, Room 404  
New York, NY 10027  
Phone: 212-280-6161  
Email: [counseling@jtsa.edu](mailto:counseling@jtsa.edu)  
Website: <http://www.jtsa.edu/Counseling-Center>

JTS students have access to the Columbia Health Services including counseling and psychological services. Health care professionals are not required to report identifying information concerning a possible violation of this Policy to the Title IX Coordinator. For more information, please go to <https://health.columbia.edu/medical-services>. List College students in the Double Degree program with Barnard have access to the Furman Counseling Center at Barnard College: 212-854-2092.

Employees who are rabbis may be permitted *in certain limited circumstances* to keep confidential information concerning possible sexual misconduct. Conversations regarding allegations of sexual misconduct may *only* be kept confidential by a rabbi or cantor when they are acting as a “pastoral counselor,” at JTS, which means the rabbi or cantor is (1) associated with a religious denomination, (2) is recognized as someone who provides confidential counseling, and (3) is functioning within the scope of that recognition during the confidential communication, such as when an individual is seeking spiritual or moral guidance or counseling from the rabbi. Generally, the faculty and administration of JTS, *even if they are* rabbis or cantors, are *not* acting in their capacity as pastoral counselors when interacting or communicating with JTS students and employees, unless such interaction is clearly outside the scope of their duties as members of the faculty or administration, and the fact that counseling was being sought was made clear from the outset of interaction or conversation. Thus, these individuals have no duty of confidentiality and are required to report any possible violation of this Policy to the Title IX Coordinator. Such a determination is made on a case-by-case basis.

Employees who fall within this category will share with JTS students that they are not obligated to notify the Title IX Coordinator of sex-based discrimination but will provide contact information for the Title IX Coordinator to discuss supportive measures, initiate an informal resolution process, or make a Complaint under this Policy.

ii. Non-Confidential Employees

All employees who are not deemed to be “confidential” employees are deemed “non-confidential” employees. Non-confidential employees must report to the Title IX Coordinator allegations of sexual misconduct or other Prohibited Conduct at JTS whenever they reasonably conclude that such alleged conduct may have occurred. This reporting obligation applies no matter how the information is brought to the non-confidential employee's attention. There is no exemption from this obligation to report.

Non-confidential employees will maintain the privacy of an individual reporting sexual misconduct to the greatest extent possible.

iii. When a Complainant Does Not Wish to Proceed

If a Complainant wants a report to remain confidential, such that the Complainant's identity will not be disclosed to the Respondent and chooses not to file a Complaint, the Complainant may nonetheless receive supportive measures. A Complainant may also report the alleged incident for the purpose of receiving supportive measures as part of a support-only resolution, and later decide to proceed with the informal or investigation resolution process. A third party's report will not trigger an investigation or grievance process, unless the Complainant files or the Title IX Coordinator signs a Complaint.

JTS will seek consent from the Complainant prior to conducting an investigation. A Complainant's decision to decline to consent to proceed must be honored, unless and only if the Title IX Coordinator determines in good faith, that that the conduct as alleged presents an imminent and serious threat to the health or safety of the Complainant or other person or prevents JTS from ensuring equal access based on sex to its education program or activity, or that failure to proceed conflicts with state or federal law. Honoring such a request may limit JTS's ability to meaningfully investigate and pursue conduct action against a Respondent. Factors used to determine whether to honor such a request include but are not limited to:

- Whether the Respondent has a history of violent behavior, a pattern of misconduct or is a repeat offender;
- Whether the incident represent escalation in unlawful conduct on behalf of the Respondent from previously noted behavior;
- The increased risk that the Respondent will commit additional acts of violence;
- Whether the Respondent used a weapon, violence, or force;
- Whether JTS possesses other means to obtain evidence such as security footage, and whether available information reveals a pattern of perpetration at a given location or by a particular group.
- The Complainant's request not to proceed with initiation of a Complaint;
- The Complainant's reasonable safety concerns regarding initiation of a Complaint;
- The risk that additional acts of Prohibited Conduct would occur if a Complaint is not initiated;
- The severity of the alleged Prohibited Conduct, including whether the discrimination, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;
- The age and relationship of the parties, including whether the Respondent is an employee of JTS and whether a Party is a minor;

- The scope of the alleged discrimination, including information suggesting a pattern, ongoing sex-based discrimination, or sex-based discrimination alleged to have impacted multiple individuals;
- The availability of evidence to assist a Decision-maker in determining whether sex-based discrimination occurred; and
- Whether JTS could end the alleged sex-based discrimination and prevent its recurrence without initiating its resolution procedures under this policy.

The Title IX Coordinator has ultimate discretion to determine whether JTS will proceed when the Complainant requests otherwise. The Title IX Coordinator may initiate a grievance process upon completion of a good faith determination that the facts and circumstances necessitate it. If the Title IX Coordinator initiates the grievance procedures, they do not become the Complainant, and the Complainant or person who alleged Prohibited Conduct maintains the rights of Complainants under this Policy and the applicable Process, including but not limited to all notices. If the Title IX Coordinator initiates a Complaint, the Title IX Coordinator will notify the Complainant prior to doing so and appropriately address reasonable concerns about the Complainant's safety or the safety of others.

Regardless of whether a Complaint is initiated, the Title IX Coordinator may take other appropriate prompt and effective steps to ensure that sex-based discrimination does not continue or recur within any JTS education program or activity, in addition to providing remedies to an individual Complainant.

A Complainant may withdraw a report, allegation, or Complaint from JTS at any time. However, JTS may still have an obligation to investigate and/or take action as noted above. JTS may also be compelled to act on alleged employee conduct regardless of the Complainant's wishes.

#### iv. FERPA

FERPA permits institutions to share information with parents when: (i) there is a health or safety emergency, or (ii) when the student is a dependent on either parent's prior year federal income tax return. Generally, JTS will not share information about a report of domestic violence, dating violence, stalking, or sexual assault with parents without the permission of the reporting individual or the Complainant.

#### **4. Time for Reporting**

There is no time limit for reporting Prohibited Conduct. Nevertheless, any member of the JTS community who believes that they have been a victim of Prohibited Conduct is encouraged to report it immediately. If the Respondent is no longer enrolled or employed at JTS or significant time has passed since the incident, JTS's ability to investigate and respond may be greatly limited.

Under no circumstances will JTS allow an impending graduation to compromise its resolution of a Complaint. The conferral of a degree may, therefore, be withheld, if necessary, until proper resolution of any charges, provided that an opportunity will be scheduled for the earliest practicable date that can accommodate the Parties and their witnesses.

## **5. Clery Reporting and Federal Timely Warnings**

Pursuant to the Clery Act, JTS will make reports of certain crimes in JTS's Annual Security Report in an anonymized manner that identifies neither the specifics of the crime nor the identity of the reporting individual, including a Complainant. This report is available on the JTS website and by contacting JTS's Director of Operations. JTS will issue timely warnings of crimes enumerated in the Clery Act that represent a serious or continuing threat to students and employees, except in those circumstances where issuing such a warning may compromise current law enforcement efforts or when the warning itself could potentially identify the reporting individual or Complainant. A reporting individual or Complainant will not be identified in a timely warning or any required statistical disclosures under federal or state law.

## **6. Bad Faith Reporting**

Submitting a false report of Prohibited Conduct or providing false or misleading information in bad faith in connection with an incident of discrimination, harassment, or retaliation is prohibited and subject to disciplinary action, up to and including dismissal from JTS. Such bad faith reporting may constitute retaliation in violation of this Policy. This provision does not apply to reports made or information provided in good faith, even if the facts alleged in the report are determined not to be accurate.

## **7. Public Awareness and Advocacy Events**

Employees are required to report to the Title IX Coordinator information about sex discrimination they learn about at public awareness events about sex discrimination (e.g., "Take Back the Night" or "Survivor Speak Outs"). The Title IX Coordinator is not obligated to respond directly to any identified Complainant in a report of sex-based harassment disclosed at a public awareness event that takes place on-campus or in a school-sponsored online platform unless there is an imminent and serious threat to someone's health or safety. The Title IX Coordinator must respond to reports of conduct that could constitute sex discrimination other than sex-based harassment if disclosed at public awareness events, wherever they occur. In all cases JTS must use the information to inform its efforts to prevent sex-based harassment, including by providing tailored training to address alleged sex-based harassment in a particular part of its education program or activity or at a specific location when information indicates there may be multiple incidents of sex-based harassment.

JTS will use the information provided at such an event to inform its efforts for additional education and prevention efforts.

## **8. External Reporting Options**

### **i. Office of Civil Rights Notification**

Individuals may also report sexual misconduct to the U.S. Department of Education's Office for Civil Rights (OCR) at <https://www2.ed.gov/about/offices/list/ocr/index.html>.<sup>9</sup>

### **ii. Legal Protections and External Remedies for Employees**

Sexual harassment is not only prohibited by JTS, but is also prohibited by state, federal, and, where applicable, local law. Aside from the internal processes at JTS, employees and covered non-employees, as defined herein, may also choose to pursue legal remedies with the following governmental agencies. While a private attorney is not required to file a complaint with a governmental agency, you may seek the legal advice of an attorney.

### **iii. New York State Human Rights Law**

The NYSHRL, codified as N.Y. Executive Law, art. 15, § 290 *et seq.*, applies to all employers in New York State with regard to sexual harassment, and protects employees and covered non-employees regardless of immigration status. A complaint alleging violation of the NYSHRL may be filed either with the Division of Human Rights ("DHR") or in New York State Supreme Court.

Complaints with DHR may be filed any time within three years of the harassment. If an individual did not file at DHR, they can sue directly in state court under the NYSHRL, within three years of the alleged sexual harassment. An individual may not file with DHR if they have already filed a NYSHRL complaint in state court. Complaining internally to JTS does not extend your time to file with DHR or in court. The three years are counted from date of the most recent incident of harassment. You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate your complaint and determine whether there is probable cause to believe that sexual harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If sexual harassment is found after a hearing, DHR has the power to award relief, which varies but may include requiring your employer to take action to stop the harassment, or redress the damage caused, including paying monetary damages, attorney's fees and civil fines.

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458. You may call (718) 741-8400 or visit [www.dhr.ny.gov](http://www.dhr.ny.gov). Contact DHR at (888) 392-3644 or visit [www.dhr.ny.gov/complaint](http://www.dhr.ny.gov/complaint) for more information about filing a complaint. The website has a complaint form that can be

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<sup>9</sup> Please see the contact information for the OCR in Part I of this Policy.

downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

iv. Civil Rights Act of 1964

The United States Equal Employment Opportunity Commission ("EEOC") enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e *et seq.*). An individual can file a complaint with the EEOC anytime within 300 days from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief but may take other action including pursuing cases in federal court on behalf of complaining Parties. Federal courts may award remedies if discrimination is found to have occurred.

An employee alleging discrimination at work, can file a "Charge of Discrimination." The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (1-800-669-6820 (TTY)) or visiting their website at [www.eeoc.gov](http://www.eeoc.gov) or via email at [info@eeoc.gov](mailto:info@eeoc.gov). If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

v. Local Protections and the Local Police Department

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists. For example, employees who work in New York City may file complaints of sexual harassment with the New York City Commission on Human Rights. Contact their main office at Law Enforcement Bureau of the NYC Commission on Human Rights, 40 Rector Street, 10th Floor, New York, New York; call 311 or (212) 306-7450; or visit [www.nyc.gov/html/cchr/html/home/home.shtml](http://www.nyc.gov/html/cchr/html/home/home.shtml).

If the harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact the New York Police Department at 646-610-5000 (non-emergency) or 212-267-RAPE (sex crimes report line).

**XIII. STUDENT ALCOHOL AND DRUG USE AMNESTY**

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

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

#### **XIV. SUPPORTIVE MEASURES, EMERGENCY REMOVALS, AND NO-CONTACT ORDERS**

##### **1. Supportive Measures**

Supportive Measures are individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a Complainant or Respondent, not for punitive or disciplinary reasons, and without fee or charge to the Complainant or Respondent to:

- (1) Restore or preserve that Party's access to JTS's education program or activity, including measures that are designed to protect the safety of the Parties or JTS's educational environment; or
- (2) Provide support during JTS's grievance procedures or during an informal resolution process.

Supportive measures may include but are not limited to: counseling; extensions of deadlines and other course-related adjustments; campus escort services; increased security and monitoring of certain areas of the campus; restrictions on contact applied to one or more Parties; leaves of absence; changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative; no-contact directives (which may be mutual or unilateral at the discretion of the Title IX Coordinator); and training and education programs related to sex-based harassment. Supportive Measures are non-disciplinary and non-punitive. Supportive Measures will also be offered to Respondents when they are notified of the allegations.

Any Supportive Measures put in place will be kept confidential, except when doing so impairs the ability of JTS to provide the Supportive Measures.

JTS will offer and coordinate supportive measures as appropriate for the Parties as applicable to restore or preserve their access to JTS's program or activity or provide support during JTS's alternative resolution process or resolution procedures. A Party has the right to request supportive measures from JTS regardless of whether they desire to make a Complaint or seek alternative resolution.

A Party may challenge JTS's decision to provide, deny, modify, or terminate supportive measures when such measures are applicable to them. An impartial employee will be designated to consider modification or reversal of JTS's decision to provide, deny, modify,

or terminate supportive measures. When the individual receiving supportive Measures is an individual identified by the Title IX Coordinator to provide supportive Measures, the Title IX Coordinator will be designated to consider the challenge regarding supportive measures. The impartial employee will typically respond to the challenge within five (5) days.

The Title IX Coordinator has the discretion to implement or modify supportive measures. Violation of the parameters of supportive measures may violate other existing JTS policies.

JTS must document what measures it has taken that are designed to restore or preserve equal access to JTS's education program or activity and the basis for its conclusions. If JTS does not provide a Complainant with supportive measures, JTS must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit JTS in the future from providing additional explanations or detailing additional measures taken.

## **2. Emergency Removals**

If the Title IX Coordinator, in consultation with other JTS administrators, based on an individualized safety and risk analysis, determines that an immediate threat to the health or safety of any individual justifies removal, including an interim suspension, then JTS will remove such Respondent from its education program or activity on an emergency basis. In determining whether an interim suspension is appropriate based on allegations of Prohibited Conduct, JTS will consider, *inter alia*, the following factors:

- Whether there have been other prohibited reports, allegations, or complaints about the same Respondent;
- Whether the incident involves a weapon or violence;
- Whether the Respondent has a history of arrests or disciplinary records;
- Whether the incident represents an escalation in and unlawful conduct on behalf of the Respondent from previously noted behavior; and
- Whether there is an increased risk that the Respondent will commit additional acts of violence.

JTS will provide the Respondent with written notice and an opportunity to challenge JTS's decision immediately following the removal. The Parties may request a review of the need for, and terms of, an emergency removal, reasonable under the circumstances, including potential modification, and may submit evidence in support of their request to the Title IX Coordinator. Upon receipt of such a request, the Title IX Coordinator will inform the other Party of the request and allow the other Party to respond in writing and submit evidence relevant to the request.

The Title IX Coordinator has sole discretion under this Policy to implement or stay an emergency removal and to determine the conditions and duration, if the emergency removal is to end before a determination is made by the Investigator or Decision-



maker(s). Violation of an emergency removal under this Policy will be grounds for discipline including but not limited to expulsion/termination from JTS.

JTS may also place a non-student employee Respondent on administrative leave at its discretion and/or in accordance with federal and state laws.

### **3. No-Contact Orders**

All no-contact orders will be mutual – i.e. neither Party involved will be permitted to contact the other Party -- unless JTS determines, in its discretion and after a fact-specific analysis, that a non-mutual order is appropriate. The Title IX Coordinator will issue any no-contact order in writing, specifying the terms of the no-contact order, including the Parties' responsibilities.

The Parties may request a review of the need for, and terms of, the no-contact order, including potential modification, and may submit evidence in support of their request. Any such requests should be submitted to the Title IX Coordinator. The Title IX Coordinator will notify the other Party and conduct a prompt review in response to such request.

If the Parties observe each other in a public space, it shall be the responsibility of the Respondent to leave the area immediately without contacting the Complainant, if the written no-contact order was issued as a result of the Respondent's continued intentional contact with the Complainant in violation of JTS's policies and procedures. Pursuant to JTS policies, violations of a no-contact order will be grounds for discipline, including but not limited to expulsion/ termination from JTS.

## **XV. RECORDKEEPING**

For a period of seven (7) years, JTS will maintain records generated in connection with Prohibited Conduct reports, investigations, hearings (if applicable), grievance processes, informal processes, appeals, and the audio, audiovisual recording, or transcript, as well as any determinations regarding responsibility including any disciplinary sanctions imposed on the Respondent, and any remedies provided to the Complainant. All materials used to train the Title IX Coordinator and their designees, Investigators, Decision-makers, and any individual who facilitates informal processes will also be maintained for at least seven (7) years.

For a period of seven (7) years, JTS will also maintain records of any responses, including supportive measures, that JTS took in response to a report or Complaint of Prohibited Conduct.

## **XVI. AMENDMENTS AND DESIGNATION**

The most current revision of this Policy supersedes all previously issued revisions and inconsistent verbal or written policy statements. JTS reserves the right at any time to

change, delete, or add to any of the provisions of this Policy. JTS may, at its discretion, designate a trained and experienced individual(s) to act in the place of the Investigator, Decision-maker, Appeals Panel members, and/or facilitators in this Policy. If there is such a designation, the Parties involved will be promptly informed.

## **XVII. INVESTIGATIONS, PROCEDURES, AND APPEALS, GENERALLY**

The provisions in this section of the Policy apply to investigations, procedures, and appeals under this Policy.

### **1. Choice of Forum**

Some members of the JTS community may have the option of bringing a Complaint of Prohibited Conduct in more than one forum. For example, a student in a joint program with Columbia could bring a complaint either at Columbia University (pursuant to its policies) or at JTS. The individual has the right to elect the forum in which to pursue their complaint. Depending upon the nature of the Complaint and the Parties involved, JTS may work with the affiliated entity (in this example, Columbia) to investigate and address the Complaint. Community members will not be permitted to pursue the same complaint independently at both institutions.

### **2. Standard of Evidence, Presumption of Non-Responsibility, and Burdens of Proof and Gathering Evidence**

The standard for decisions under this Policy is a preponderance of the evidence, meaning that it is more likely than not that a violation of this Policy occurred. There is a presumption that a Respondent is not responsible for the alleged Prohibited Conduct until a determination is made regarding responsibility. The burden of proof as well as the burden to gather evidence sufficient to reach a determination regarding responsibility rests on JTS and not the Parties.

Members of the JTS community are expected to cooperate and be honest in their interactions with JTS or its designees under this Policy. In this regard, community members are expected to acknowledge and respond to requests for information from JTS officials or their designees in a timely fashion, as well as be available for discussions with such individuals.

### **3. Promptness, Notice, and Timeframes**

JTS will promptly and equitably resolve all reports, complaints, investigations, and grievance processes, excluding appeal, within 60 to 90 business days of the filing of a report or Complaint of Prohibited Conduct with the Title IX Coordinator, unless JTS has good cause for any temporary delays or limited extensions. Good cause may include, but is not limited to, absence of a Party, advisor, or witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. In the case of any delays past the timeframes set forth in this Policy, JTS will provide written notice

to the Parties of the delay, the reasons for the delay, and the expected resolution date. The Parties may request status updates from the Title IX Coordinator at reasonable intervals.

JTS will provide clear written notice to the Parties before every interview or other meeting they are invited or expected to attend, including the date, time, location, participants, and purpose of the investigative interview, hearing, or meeting, whose participation is invited or expected, including the Complainant and Respondent. Through the notice, JTS will provide sufficient time for the Party to prepare to participate.

#### **4. Conflicts of Interest, Bias, and Training**

The JTS Title IX Coordinator, Investigators, Decision-makers, and Appeal Panel members are trained to serve impartially and must be free from conflicts of interest and bias against Complainants or Respondents generally or an individual Complainant or Respondent. Concerns that someone assigned to perform one of these roles has a conflict of interest or bias may be brought to the attention of the General Counsel. Any such concerns must be provided to the General Counsel in writing within a reasonable timeframe.

#### **5. Revisions and Designation of Authority**

The most current revision of this Policy (August 2024) supersedes all previously issued verbal or written policy statements regarding Prohibited Conduct. JTS reserves the right at any time to change, modify, delete, or add to any of the provisions of this Policy. JTS may, at its discretion, designate a trained and experienced individual(s) to act as an Investigator, Decision-maker, Appeals Panel members, and/or facilitators in this Policy. If there is such a designation, the Parties involved will be promptly informed.

#### **6. General Disciplinary Considerations**

JTS policies or contracts may require JTS to use additional processes before taking certain employment-related actions with respect to faculty and certain other employees. Where a person covered by such a policy or contract has allegedly engaged in conduct prohibited by this Policy, the investigation and grievance processes will proceed in accordance with the procedures set forth herein, except that the Decision-maker(s) will not impose any discipline that would require the use of additional processes. Instead, the Decision-maker(s) will impose all appropriate discipline that does not require the use of additional processes and then refer the matter, if appropriate, for action under the additional process. JTS's disciplinary action will be considered complete with the Decision-maker's imposition of discipline and referral, subject to any appeals. For information, please contact the Title IX Coordinator.

#### **7. Disciplinary Sanctions and Remedies**

There is a broad range of possible disciplinary sanctions and remedies that JTS may implement as part of a determination of responsibility. The Investigator or Decision-maker(s) may also identify additional remedies to address the effects of the conduct on

the Complainant. Thus, the range of possible remedies is broad and may include supportive measures as described in this Policy, as well as disciplinary sanctions, as described below.

If a Complainant declined or did not take advantage of a specific service or resource previously offered, JTS may re-offer the service as applicable or necessary. The Title IX Coordinator may also consider broader remedial action for the campus community, such as increased supervision or monitoring, targeted or increased education and prevention efforts, and review of policies and procedures. The Title IX Coordinator is responsible for effective implementation of any remedies.

The range of disciplinary sanctions that the Investigator or Decision-maker(s) may consider for any individual found responsible for a violation of this Policy span from a warning up to and including expulsion/termination or revocation of a student's degree. The Investigator or Decision-maker(s) may impose any of the following disciplinary sanctions that are determined to be fair and proportionate to the violation of the Policy:

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

In addition, JTS reserves the right to withhold a student's diploma where a report of Prohibited Conduct is pending. It may also revoke any degree awarded for an individual who is found to have engaged in Prohibited Conduct prior to conferral of the degree.

JTS will implement disciplinary sanctions and remedies when the determination of responsibility becomes a final determination, as defined above. For students that are

jointly registered with Columbia, Barnard, or another school, JTS reserves the right to advise the other school that a finding has been reached and disciplinary sanctions have been imposed.

Employees who do not comply with the terms of a disciplinary sanction will be subject to additional discipline, up to and including dismissal. The Title IX Coordinator, in conjunction with the employee's manager will be responsible for enforcing disciplinary sanctions and ensuring compliance. Students who do not comply with the terms of a disciplinary sanction will be subject to further disciplinary action under the Student Disciplinary Procedures.

## **8. Transcript Notations**

In accordance with New York State law, when students are found responsible through JTS's conduct process for crime(s) that meet the reporting requirements pursuant to the federal Clery Act established in 20 U.S.C. § 1092(f)(1)(F)(i)(I)-(viii), JTS will make a notation on their transcript that they were "suspended after a finding of responsibility for a code of conduct violation" or "expelled after a finding of responsibility for a code of conduct violation." For student Respondents who withdraw from JTS while conduct charges are pending, and decline to complete the disciplinary process, JTS will make a notation on the transcript of such students that they "withdrew with conduct charges pending." Students may appeal a transcript notation to request its removal in the event of a suspension, provided that such notation shall not be removed prior to one year after conclusion of the suspension. Notations for expulsion shall not be removed. If a finding of responsibility is vacated for any reason, any such transcript notation shall be removed.

## **9. Expert Witnesses**

Parties do not have a right to utilize expert witnesses during investigations or hearings under this Policy.

## **PART II: GRIEVANCE PROCESSES FOR ADDRESSING ALLEGATIONS OF PROHIBITED CONDUCT**

There are multiple ways to resolve allegations of Prohibited Conduct. Whenever possible, JTS will utilize the resolution method chosen by the Complainant. This Policy offers two resolution options.

The first resolution option is referred to as "informal resolution" and may take the form of either Support-Based Resolution or Agreement-Based Resolution. The second resolution option is the Investigation and Decision-Making Resolution. If the Complainant selects the Investigation and Decision-Making Resolution then JTS will use one of the two grievance procedures appropriate for the allegations. One grievance procedure addresses all prohibited conduct, except sex-based harassment involving a student party. The other grievance procedure addresses allegations of sex-based harassment involving a student.

During the resolution of a Complaint, the Title IX Coordinator will determine whether to implement reasonable supportive measures designed to assist all Parties (Complainants and Respondents) and community members in maintaining access to and participation in JTS programs, services and activities during the resolution of the Complaint.

This section provides information regarding the informal resolution options (i.e., Support-Based Resolution and Agreement-Based Resolution), and the Investigation and Decision-Making Resolution.

## **I. Informal Resolution**

### **1. Option #1: Support-Based Resolution**

A Support-Based Resolution is an option for a Complainant who does not wish JTS to take any further steps to address their concern, and when the Title IX Coordinator determines that another form of resolution, or further action, is not required. Some types of support that may be appropriate include adjustments or changes to class schedules; moving from one residence hall room to another; adjusted deadlines for projects or assignments; adjustments to work schedule or arrangements; escorts to and around campus; or counseling.

A Support-Based Resolution does not preclude later use of another form of resolution. For example, if (1) the Complainant later decides to pursue an Agreement-Based Resolution or Investigation and Decision-Making Resolution or (2) new information becomes available to JTS, and the Title IX Coordinator determines there is a need to take additional steps.

### **2. Informal Resolution Option #2: Agreement-Based Resolution**

An Agreement-Based Resolution is an informal resolution option in which the Parties each voluntarily agree to resolve the Complaint in a way that does not include an investigation and does not include any finding of responsibility. An Agreement-Based Resolution is a voluntary, structured interaction between or among affected Parties that balances support and accountability. If JTS offers Agreement-Based Resolution to the Parties, and they voluntarily consent to engage in that process, the Title IX Coordinator must still take other prompt and effective steps as needed to ensure that sex-based discrimination does not continue or recur within the education program or activity. Parties and the Title IX Coordinator may agree to pause or exit the investigation and decision-making resolution procedures to explore Agreement-Based Resolution.

Any Party may design the proposed agreement between the Parties. The Title IX Coordinator must approve of the use of the Agreement-Based Resolution process and

approve the final agreement between the Parties. Agreement-Based Resolution may be initiated at any time prior to the release of the final determination. Because Agreement-Based Resolution does not involve an investigation, there is not any determination made as to whether a Respondent violated this Policy.

The Title IX Coordinator has the discretion to determine that Agreement-Based Resolution is not an appropriate way to address the reported conduct, and that the matter must instead be resolved through the Investigation or Investigation and Hearing process.

*a. Initiating the Agreement-Based Resolution Process*

Prior to the initiation of Agreement-Based Resolution, the Title IX Coordinator will provide the Parties written notice that includes:

- The specific allegation and the specific conduct that is alleged to have occurred;
- The requirements of the Agreement-Based Resolution process;
- Any consequences resulting from participating in the Agreement-Based Resolution process, including the records that will be maintained or could be shared, and whether JTS could disclose such information for use in a future JTS resolution process, including an investigation and resolution process arising from the same or different allegations, as may be appropriate.
- Notice that an agreement resulting from the Agreement-Based Resolution process is binding only on the Parties and is not subject to appeal.
- Notice that once the Agreement is finalized and signed by the Parties, they cannot initiate or continue an investigation procedure arising from the same allegations.
- A statement indicating that the decision to participate in the Agreement-Based Resolution process does not presume that the conduct at issue has occurred.
- A statement that the Respondent is presumed not responsible for violating this policy, unless Respondent admits to violations of this policy;
- An explanation that all Parties may be accompanied by an advisor of their choice, who may be a parent, colleague, friend, or attorney;
- A statement that any Party has the right to withdraw from the Agreement-Based Resolution process and initiate or resume resolution procedures at any time before agreeing to a resolution;

- The date, time and location of the initial meeting with staff or the Title IX Coordinator, with a minimum of 3 days' notice;
- Information regarding Supportive Measures, which are available equally to the Parties; and
- The potential terms that may be requested or offered in an Agreement-Based Resolution agreement.

*i. Facilitating an Agreement*

If all Parties are willing to explore an Agreement-Based Resolution, the Title IX Coordinator will then meet separately with each Party to discuss the Agreement-Based Resolution process and facilitate an agreement. If an agreement cannot be reached, either because the Parties do not agree, determine they no longer wish to participate in the Agreement-Based Resolution process, or the Title IX Coordinator does not believe that the terms of the agreement or continuing the Agreement-Based Resolution process is appropriate, the Title IX Coordinator may decide that the reported conduct will instead be addressed through the investigation or investigation and hearing process. The Title IX Coordinator will inform the Parties of such decision, in writing.

Any Party may craft or create the proposed terms of their agreement and will be asked for their suggestions or ideas. Examples of agreements may include but are not limited to:

- an agreement that the Respondent will change classes or housing assignments;
- an agreement that the Parties will not communicate or otherwise engage with one another;
- an agreement that the Parties will not contact one another;
- completion of a training or educational project by the Respondent;
- completion of a community service project by the Respondent;
- an agreement to engage in a restorative justice process or facilitated dialogue; and/or
- discipline agreed upon by all Parties.

In order to facilitate Agreement-Based Resolution, information shared by any Party will not be used in any related resolution process of the same Complaint under this Policy. No evidence concerning the allegations obtained within the Agreement-Based



Resolution process may be disseminated to any outside person, provided that any Party to the Agreement-Based Resolution process may generally discuss the allegations under investigation with a parent, advisor, or other source of emotional support, or with an advocacy organization. An admission of responsibility made during an Agreement-Based Resolution process, however, may not be incorporated into subsequent investigation and decision-making proceedings.

*ii. Finalizing the Resolution Agreement*

Once the final terms of the Resolution Agreement have been agreed upon by all Parties, in writing, and approved by the Title IX Coordinator, the matter will be considered closed, and no further action will be taken. Once signed, no appeal is permitted. The Agreement-Based Resolution process is generally expected to be completed within thirty (30) days and may be extended by the Title IX Coordinator as appropriate. All Parties will be notified, in writing, of any extension and the reason for the extension.

Records of an Agreement-Based Resolution process can be shared with other offices as appropriate.

Any violations of the terms of the Resolution Agreement may result in disciplinary action.

**II. Investigation & Decision-Making Resolution**

A Complainant has the right to inform the Title IX Coordinator that they wish to initiate an Investigation and Decision-making Resolution. This Policy includes two types of investigation and decision-making procedures:

- (1) All Prohibited Conduct matters except for sex-based harassment involving a student as a Party, and
- (2) Sex-based harassment involving a student as a Party.

The following information applies to both types of investigation and decision-making procedures.

*a. Acceptance of Responsibility*

If a Respondent accepts responsibility for all or part of the Prohibited Conduct alleged, the Coordinator or designated sanctioning officer will issue an appropriate sanction or responsive action as to those violation(s) and continue processing any remaining allegations of Prohibited Conduct, if any.

*b. Assignment of the Investigator and/or Decision-maker*

JTS will assign an investigator and/or Decision-maker to conduct an adequate, reliable, and impartial investigation and hearing, if applicable, in a reasonably prompt timeframe. JTS reserves the right to utilize internal or external investigators or Decision-makers.

All Parties have the option to participate in the investigation and/or hearing (if one is selected), and each has the same rights during the resolution process including the right to an advisor, to submit relevant witness names and evidence, and to review the evidence gathered by the investigator prior to the investigator providing the final report. In cases where there is a hearing, all Parties have the same rights at the hearing, including the right to review any evidence that will be considered by the Decision-maker prior to the hearing.

The investigator will establish deadlines for submission of names of relevant witnesses and submission of evidence and communicate those deadlines to the Parties in writing.

*c. Conflict of Interest or Bias*

After a Notice of Investigation is issued to all Parties, any Party may object to the participation of investigator, which may be the Title IX Coordinator or another designated individual on the grounds of a demonstrated bias or actual conflict of interest. All Parties will have three (3) days from the date of the Notice of Investigation to object to the selection of the investigator. Objections to the Title IX Coordinator are to be made, in writing, to the Vice Chancellor of Administration, or another person selected by the Chancellor, if necessary. Objections to the appointment of the designated investigator (who is not the Title IX Coordinator) are to be made in writing, to the Title IX Coordinator. All objections will be considered, and changes made as appropriate. If the objection is substantiated as to either the Title IX Coordinator or the Investigator, that individual shall be replaced. Any change will be communicated in writing.

*d. Dismissal of Complaint*

JTS may dismiss a Complaint if:

- JTS is unable to identify the Respondent after taking reasonable steps to do so;
- The Respondent is not participating in JTS's education program or activity and is not employed by JTS;
- The Complainant voluntarily withdraws any or all of the allegations in the Complaint and JTS determines that, without the Complainant's withdrawn allegations, the conduct that remains alleged in the Complaint, if any, would not constitute Prohibited Conduct even if proven; or

- JTS determines the conduct alleged in the Complaint, even if proven, would not constitute Prohibited Conduct under Title IX. Before dismissing the Complaint, JTS will make reasonable efforts to clarify the allegations with the Complainant.

Upon dismissal, JTS will promptly notify the Complainant of the basis for the dismissal in writing. If the dismissal occurs after the Respondent has been notified of the allegations, then JTS will also notify the Respondent of the dismissal in writing and the basis for the dismissal promptly following notification to the Complainant.

JTS will also notify the Complainant that a dismissal may be appealed and will provide the Complainant with an opportunity to appeal the dismissal of a Complaint. If the dismissal occurs after the Respondent has been notified of the allegations, then JTS will also notify the Respondent that the dismissal may be appealed by Complainant as provided in this Policy.

When a Complaint is dismissed, JTS will:

- Offer supportive measures to the Complainant as appropriate;
- If the Respondent has been notified of the allegations, offer supportive measures to the Respondent as appropriate; and
- Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that Prohibited Conduct does not continue or recur within JTS's education program or activity.

*e. Timeline*

In those cases that do not include a hearing, JTS strives to complete the investigation process within ninety (90) days from the date of the Notice of Investigation. In those cases that include a hearing, JTS strives to complete the investigation process within sixty (60) days from the date of the Notice of Investigation and complete the hearing within sixty (60) days of the Notice of Hearing.

The timeline for any part of the resolution process may be extended for good cause by the Title IX Coordinator. All Parties shall be notified, in writing, of any extension to the timeline that is granted, the reason for the extension, and the new anticipated date of conclusion of the investigation and/or hearing. Good cause reasons for extension may include ensuring availability of witnesses and other participants and ensuring participants have sufficient time to review materials.

JTS shall not unreasonably deny a student Party's request for an extension of a deadline related to a Complaint during periods of examinations or school closures.

*f. Evidence Gathering*

*i. Interviews*

The investigator will interview all Parties and relevant witnesses and gather relevant documentary evidence provided by the Parties and any identified witnesses. Interviews may be conducted in person, or via video conference. When a Party meets with an investigator, the investigator will ask questions related to the allegations in the Complaint and a Party is given the opportunity speak to the allegations and related events. Parties may identify fact witnesses and provide evidence that is relevant to the allegations and not otherwise impermissible. This will include inculpatory evidence (that tends to show it more likely that someone committed a violation) and exculpatory evidence (that tends to show it less likely that someone committed a violation). The investigator ultimately determines whom to interview to determine the facts relevant to the Complaint.

*ii. Impermissible Evidence*

The following types of evidence, and questions seeking that evidence, are impermissible. This means this information will not be accessed or considered, except by JTS to determine whether one of the exceptions listed below applies. This information will not be disclosed or otherwise used, regardless of relevance:

- Evidence that is protected under a privilege recognized by federal or state law, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- Evidence provided to an employee designated by JTS as exempt from internal reporting under this Policy, unless the person who made the disclosure or otherwise provided evidence to that employee has voluntarily consented to re-disclosure;
- A Party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the Party or witness, unless JTS obtains that Party's or witness's voluntary, written consent for use in its resolution procedures; and
- Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent to alleged sex-based

harassment. The fact of prior consensual sexual conduct between the Parties does not by itself demonstrate or imply the Complainant's consent to other sexual activity or preclude a determination that Prohibited Conduct occurred.

In matters of sexual assault, domestic violence, dating violence, and stalking, all Parties have the right to exclude their own prior sexual history with persons other than the other Party in the investigation and decision-making process or their own mental health diagnosis and/or treatment from admittance in the institution disciplinary stage that determines responsibility. The limit does not exclude evidence of prior sexual history with the other Party in the investigation that is relevant to an allegation or defense of an allegation.

*g. Investigation & Decision-Making Grievance Procedures for All Prohibited Conduct Except Sex-Based Harassment Involving a Student Party*

This procedure is for all matters of Prohibited Conduct being investigated and determined under this Policy except for sex-based harassment involving a student as a Party.

The JTS will assign a trained investigator to conduct an adequate, reliable, and impartial investigation and hearing in a reasonably prompt timeframe. JTS reserves the right to utilize internal or external investigators and Decision-makers.

All Parties have the option to participate in the investigation, and each have the same rights during the resolution process including the right to an advisor, to submit relevant witness names and evidence, and to review the evidence gathered by the investigator prior to the investigator's making any findings. In the event of a hearing, all Parties have the same rights, including the right to review any evidence that will be considered by the investigator prior to the hearing.

*i. Notice of Investigation*

Prior to the start of an investigation, the Parties will be provided a written Notice of Investigation communicating the initiation of an investigation. Should additional allegations be brought forward, or information regarding date, time or location of the incident(s), a revised written Notice of Investigation shall be provided to all Parties.

The Notice shall include, at a minimum:

- JTS's resolution procedures, including the applicable determination procedure, and any alternative resolution process, with a link to the full procedures;
- Sufficient information available at the time to allow the Parties to respond to the allegations, including the identities of the Parties involved in the incident(s), a description of the facts alleged to constitute Prohibited Conduct, the type of

Prohibited Conduct, and the date(s), time(s), and location(s) of the alleged incident(s), if known;

- A statement that retaliation is prohibited;
- A list of possible sanctions;
- Contact information for the assigned investigator, as well as the process for raising a challenge to the appointed investigator or Title IX Coordinator, and the deadline for doing so.
- Expected length of the major stages of the resolution process, as well as any applicable deadlines.
- A statement that the Respondent is presumed not responsible for Prohibited Conduct until a determination is made at the conclusion of the investigation and decision-making procedures. Prior to such a determination, the Parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial Decision-maker;
- The Parties may have an advisor of their choice, who may be a friend, colleague, therapist, or attorney;
- The Parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence, and to provide a response;
- A statement that JTS prohibits knowingly making false statements or knowingly submitting false information during resolution procedures, with a link to the relevant policy(ies).
- If known, the date and time of the initial interview with the investigator, with a minimum of five (5) days' notice.

#### *ii. Individual Interviews*

The investigator will hold individual interviews with Parties and witnesses to ask relevant and not otherwise impermissible questions and follow-up questions, including questions exploring credibility. Only the investigator and the Party or witness may attend each individual interview, and a Party may be accompanied by their advisor. Additional attendees may be permitted at the discretion of the Title IX Coordinator in connection with an approved disability-related accommodation. All persons present at any time during any part of the investigation and decision making process are expected to maintain the privacy of the proceedings and not discuss or otherwise share any information learned as part of those proceedings, and may be subject to further JTS discipline for failure to do so.

The individual interviews may be conducted with all participants physically present in the same geographic location, or, at JTS's discretion, with all participants joining virtually through a video conferencing option.

JTS will share expectations of decorum to be observed at all times in any meeting or proceeding under this Policy. JTS may adopt and apply any reasonable rules regarding decorum, provided they apply equally to the Parties and their advisors. JTS has the discretion to remove, with or without prior warning, from any meeting or proceeding an involved Party, witness, or advisor who does not comply with these expectations and any other applicable JTS rules.

### *iii. Evidence Review*

At the conclusion of all fact-gathering, the investigator will provide each Party and their advisor, if any, the opportunity to review all relevant and not otherwise impermissible evidence gathered.

The purpose of the inspection and review process is to allow each Party the equal opportunity to meaningfully respond to the evidence prior to conclusion of the investigation and to submit any additional relevant evidence, questions for Parties or witnesses, or the names of any additional witnesses with relevant information. This is the final opportunity to offer evidence or names of witnesses. Given the sensitive nature of the information provided, JTS will facilitate this review in a secure manner. None of the Parties nor their advisors may copy, remove, photograph, print, image, videotape, record, or in any manner otherwise duplicate or remove the information provided. Any student or employee who fails to abide by this may be subject to discipline. Any advisor who fails to abide by this may be subject to discipline and/or may be excluded from further participation in the process.

The Parties will have a minimum of 5 days to inspect and review the evidence and submit a written response in writing to the investigator. JTS will provide access to copies of the Parties' written responses to the investigator to all Parties and their advisors, if any. The Title IX Coordinator shall have the discretion to extend the evidence review period based on the volume and nature of the evidence. At the conclusion of the evidence review, when deemed appropriate by the investigator, the investigator shall then conduct any additional fact-gathering as may be necessary. If new, relevant evidence is gathered during this second fact-gathering period, the new evidence will be made available for review by the Parties and their advisors. The Parties shall have 5 days to provide a response to the newly-gathered evidence. No subsequent new evidence will be accepted as part of any response, except that the investigator shall have the discretion to accept relevant evidence that was not previously available or known to exist, and that was not previously discoverable with the exercise of reasonable diligence.

The investigator will consider the Parties' written before finalizing the investigation report.

The Parties may each submit a written impact statement prior to the conclusion of the investigation process. The impact statement is not evidence and will be reviewed only after a determination of responsibility is reached, if applicable.

#### *iv. Investigation Report*

The investigator shall evaluate the relevant and not impermissible evidence and make factual determinations regarding each allegation, and also determine whether a violation of the policy occurred. The investigator may choose to place less or no weight upon statements by a Party or witness who refused to respond to questions deemed relevant and not impermissible or declined to participate. The investigator will not draw an inference about whether Prohibited Conduct occurred based solely on a Party's or witness's refusal to respond to questions.

The investigator shall prepare a report which shall include:

- A description of the allegations of Prohibited Conduct;
- Information about the policies and procedures used to evaluate the allegations;
- A description of the procedural steps taken from the receipt of the Complaint through the determination, including any notifications to the Parties, interviews with Parties and witnesses, and methods used to gather other evidence;
- An evaluation of the relevant and not otherwise impermissible evidence and the rationale for that evaluation;
- Findings of fact for each allegation, with rationale;
- Conclusions regarding which section of this policy or other JTS policy, if any, the Respondent has or has not violated, with rationale.

This report shall be provided to the Title IX Coordinator if created by another individual. In the event that the investigator has determined that a violation of JTS policy has occurred, the Title IX Coordinator shall then provide the report to the appropriate sanctioning officer to determine the sanction, and the Title IX Coordinator shall then determine the appropriate remedy(ies) for the Complainant and any impacted parties. Past findings of responsibility relating to this policy or any other JTS policy are admissible in the sanctioning stage only.



The Title IX Coordinator shall then provide the Parties and their advisors, if any, with a written Notice of Outcome and a copy of the investigation report. The Notice of Outcome shall include:

- A statement of, and rationale for, any disciplinary sanctions JTS imposed on the Respondent
- A statement as to whether remedies will be provided to the Complainant
- For the Complainant, a description of any remedies that apply to the Complainant
- The JTS's procedures and the permitted reasons for the Parties to appeal, including identifying the Appeals Officer.
- How to challenge participation by the Appeals Officer for bias or conflict of interest, which the Title IX Coordinator will resolve in their sole discretion.

The determination regarding responsibility becomes final either on the date that JTS provides the Parties with the written determination of the result of any appeal, or, if no Party appeals, the date on which an appeal would no longer be considered timely.

*h. Investigation & Decision-Making Grievance Procedures in Cases of Sex-Based Harassment Involving a Student*

The following describes the investigation and decision-making procedures for matters of sex-based harassment in which a student is either a Complainant or Respondent.

If a Party is both a student and an employee, JTS will make a factual inquiry to determine whether these student-specific procedures apply. This inquiry will include a consideration of whether the Party's primary relationship with JTS is to receive an education and whether the alleged sex-based harassment occurred while the Party was performing employment-related work.

*i. Notice of Investigation*

Prior to the start of an investigation, the Parties will be provided a written Notice of Investigation communicating the initiation of an investigation. Should additional allegations be brought forward, or information regarding location or date of the incident(s), a revised written Notice of Investigation shall be provided to all Parties.

The Notice shall include, at a minimum:

1. JTS's investigation procedures, including the available determination procedures in this investigation and resolution, and a link to the relevant policies;

2. Information about the agreement-based resolution option, with a link to the full procedures.
3. Sufficient information available at the time to allow the Parties to respond to the allegations, including the identities of the Parties involved in the incident(s), a description of the facts alleged to constitute Prohibited Conduct, the type of Prohibited Conduct, and the date(s) and location(s) of the alleged incident(s);
4. A statement that retaliation is prohibited;
5. Whether the investigator, or another individual, shall serve as the Decision-maker if known.
7. Expected length of the major stages of the resolution process, as well as any applicable deadlines.
8. The Notice will inform the Parties that the investigator will establish and communicate, in writing, all investigation deadlines, including the final deadlines for submitting names of witnesses, evidence, and relevant questions to ask a Party or witness. These deadlines may be extended by the Title IX Coordinator for good cause, and any changes will be provided, in writing, to the Parties, along with the rationale for the revised deadline(s).
9. The process for raising a challenge to the investigator, Decision-maker or Title IX Coordinator, and the deadline for doing so.
10. A statement that the Respondent is presumed not responsible for Prohibited Conduct until a determination is made at the conclusion of the resolution process. Prior to such a determination, the Parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial investigator or Decision-maker;
11. A statement that the Parties may have an advisor of their choice, who may be a friend, parent, therapist, colleague, or attorney;
12. The Parties are entitled to an equal opportunity to access the relevant and not impermissible evidence upon the request of any Party]; and
13. The date and time of the initial interview with the investigator, with a minimum of five (5) days' notice.

*ii. Individual Interviews*

The investigator will hold individual interviews with Parties and witnesses to ask relevant and not otherwise impermissible questions and follow-up questions, including

questions exploring credibility, and to request of the Parties the names of relevant witnesses and relevant evidence. Only the investigator and the Party or witness may attend each individual interview, and a Party may be accompanied by their advisor. Additional attendees may be permitted at the discretion of the Title IX Coordinator in connection with an approved disability-related accommodation. All persons present at any time during any part of the investigation or resolution process are expected to maintain the privacy of the proceedings and not discuss or otherwise share any information learned as part of the resolution process and may be subject to further JTS discipline for failure to do so.

The investigator will then gather from Parties, witnesses, and other sources, all relevant evidence. Past findings of responsibility against a Party relating to this Policy or any other JTS policy are admissible in the sanctioning stage only.

The JTS will share the expectations of decorum to be observed at all times in any meeting or proceeding under this Policy. These expectations are applied equally to all Parties and advisors. The JTS has the discretion to remove, with or without prior warning, from any meeting or proceeding an involved Party, witness, or advisor who does not comply with these expectations and any other applicable JTS rules.

The individual interviews may be conducted with all participants physically present in the same geographic location, or, at JTS's discretion, with all participants joining virtually through a video conferencing option. The investigator will determine, in their sole discretion, whether Parties and witnesses are likely to provide relevant information about the allegations and has the sole discretion to determine which Parties and witnesses to call to an interview. The investigator may conduct follow-up interviews as they deem appropriate.

### *iii. Investigator Determination of Relevance*

The investigator will determine whether Parties and witnesses are likely to provide relevant information about the allegations and has the sole discretion to determine which Parties and witnesses to call to individual follow-up meetings.

The investigator will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance. Character evidence that is not relevant will not be considered.

### *iv. Evidence Review*

At the conclusion of all fact-gathering, the investigator will provide each Party and their advisor the reasonable opportunity to review all relevant and not otherwise impermissible evidence gathered.

The purpose of the inspection and review process is to allow each Party the equal opportunity to meaningfully respond to the evidence prior to conclusion of the investigation and to submit any additional relevant evidence, questions for Parties or witnesses, or the names of any additional witnesses with relevant information. This is the final opportunity to offer evidence or names of witnesses. Evidence not provided during the investigation process will not be considered by the investigator or Decision-maker. Given the sensitive nature of the information provided, JTS will facilitate this review in a secure manner. None of the Parties nor their advisors may copy, remove, photograph, print, image, videotape, record, or in any manner otherwise duplicate or remove the information provided. Any student or employee who fails to abide by this may be subject to discipline. Any advisor who fails to abide by this may be subject to discipline and/or may be excluded from further participation in the process.

The Parties will have a minimum of five (5) days to inspect and review the evidence and submit a written response in writing to the investigator. The Title IX Coordinator shall have the discretion to extend the evidence review period based on the volume and nature of the evidence.

When deemed appropriate by the investigator, the investigator shall then conduct any additional fact-gathering as may be necessary. If new, relevant evidence was submitted as part of evidence review, or is gathered during this second fact-gathering period, the new relevant evidence will be made available for review by the Parties and their advisors. The Parties shall have five (5) days to provide a written response to the newly-gathered evidence. No new evidence will be accepted as part of any response, except that the investigator shall have the discretion to accept relevant evidence that was not previously available or known to exist, and that was not previously discoverable with the exercise of reasonable diligence.

#### *v. Investigation Report*

The investigator will prepare a written report summarizing all the relevant evidence gathered and all steps taken during the investigation process. The investigator will also include as an attachment all relevant evidence gathered during the investigation, as well as all interview notes.

#### *vi. Conclusion of Investigation, Notice/Request for Hearing*

Prior to the finalization of the written report, the investigator will notify the Parties about the option of a live hearing. JTS is not obligated to provide a live hearing under this Policy; however, it will offer a live hearing if the Parties unanimously agree in writing.

##### *1. If Hearing Is Not Selected*

If the Parties do not unanimously agree to a live hearing, before finalizing the written report the investigator will allow each Party an additional five (5) days to review the evidence and propose relevant and not otherwise impermissible questions that the Party wants the investigator to ask of any Party or witness in follow-up meetings.

Once all permissible questions have been asked and answered, the investigator shall prepare a determination report after the conclusion of the investigation. All findings shall be made by a preponderance of the evidence, meaning more likely than not. To the extent credibility determinations need to be made, such determinations shall not be based on a person's status as Complainant, Respondent, or witness.

The determination report will include:

- A description of the sex-based harassment and other allegations if applicable;
- A reference to the policies and procedures used to evaluate the allegations;
- Description of all procedural steps taken to date;
- The investigator's evaluation of the relevant and not otherwise impermissible evidence along with the finding of facts;
- Determinations for each allegation, with the rationale;
- Sanction determination (if applicable)
- Whether remedies will be provided;
- The procedures for an appeal.

The investigator's report shall be provided to the Title IX Coordinator, if prepared by a person other than the Title IX Coordinator. If the report concludes that there is no finding of responsibility, the Title IX Coordinator shall communicate the findings to each Party, and their advisor should the Party wish the advisor to receive it, a written Notice of Outcome along with a copy of the report, to the Parties, together with procedures for appeal. Past findings of responsibility relating to this policy or any other JTS policy are admissible in the sanctioning stage only.

If there is a finding of responsibility, the Title IX Coordinator shall contact the appropriate sanctioning officer who will determine the sanction and notify the Title IX Coordinator of the sanctioning determination.

The Title IX Coordinator will then provide the Parties and their advisors, if any, with a written Notice of Outcome and a copy of the investigation report. The Notice of Outcome shall include:

- A statement of, and rationale for, any disciplinary sanctions JTS imposed on the Respondent
- A statement as to whether remedies will be provided to the Complainant
- For the Complainant, a description of any remedies that apply to the Complainant
- The JTS's procedures and the permitted reasons for the Parties to appeal, including identifying the Appeals Officer.
- How to challenge participation by the Appeals Officer for bias or conflict of interest, which the Title IX Coordinator will resolve in their sole discretion.

## *2. If Hearing Is Selected*

If the Parties unanimously agreed in writing to a live hearing, once the investigation report is final, within five (5) days the investigator shall provide the report with all attachments to each Party and their advisor, if any. The investigator shall also provide at this time a Notice of Hearing, which shall include information regarding the date, time and location of the hearing, the identity of the hearing Decision-maker appointed by the Title IX Coordinator, the process to be used at the hearing, deadlines for submission of evidence, names of witnesses, or questions to be reviewed by the Decision-maker to ensure they are relevant to the allegations.

The hearing shall be scheduled no less than ten (10) days from the date of the Notice of Hearing. If circumstances arise that require a change in the hearing date, time or location, JTS will provide the Parties with written notice explaining the reason for such change.

Within three (3) days of receipt of the Notice of Hearing, either Party may object to the Decision-maker on the basis of a demonstrated bias or actual conflict of interest. Any objection is to be in writing and sent to the Title IX Coordinator. Should the Title IX Coordinator determine that there is an actual bias or conflict of interest, the Title IX Coordinator shall remove the Decision-maker and appoint another.

### *vii. Hearing Procedures*

The purpose of a hearing is for a Decision-maker to use live questioning in a joint setting to determine whether the conduct occurred as alleged, and if so, whether that conduct violates this Policy. JTS expects that all individuals who participate in the hearing process do so truthfully and that all who have a responsibility for carrying out one or more aspects of the hearing process do so fairly and without prejudice or bias. Hearings

may be conducted in person or via videoconferencing. The Title IX Coordinator may determine that the hearing will continue in the absence of any Party or any witness.

JTS will appoint a Decision-maker, who may be the same person as the Title IX Coordinator or the investigator, who will determine whether a violation of JTS policy has occurred.<sup>10</sup> The Decision-maker shall have the authority to determine the relevance of evidence submitted, and of questions asked, to limit the time allotted to any phase of the hearing, and/or to limit the time allotted to the full hearing. The Decision-maker shall not draw an inference about the determination regarding responsibility based solely on a Party's absence from the hearing or refusal to answer questions posed.

Live hearings may be conducted with all Parties physically present in the same geographic location, or upon request allow the Parties to participate from separate locations using technology that enables participants to simultaneously see and hear each other. Each hearing shall be recorded by JTS, and this recording will be considered the only official recording of the hearing. No other individual is permitted to record while the hearing is taking place. The recording is the property of JTS but shall be available for listening until the conclusion of the appeals process to Complainant, Respondent, their respective advisors, Decision-maker, and Appeal Officer by contacting the Title IX Coordinator. The Decision-maker is permitted to only make the hearing available at an in-person and monitored meeting on campus, and not otherwise transmitted for review, so as to maintain the privacy of those participating in the process.

#### *1. Prior to the Hearing*

The Parties and the Decision-maker all have the right to call witnesses. Witnesses participating in the hearing must have information relevant to the allegations. Parties who wish to call witnesses must submit the name of the witness at least five (5) days in advance of the hearing.

Only witnesses who participated in the investigation will be permitted to participate in the hearing, unless the witness was otherwise unknown or not known to have relevant information during the course of the investigation. If the witness did not participate in the investigation, the Party must also provide the reason the witness was not interviewed by the investigator, and what information the witness has that is relevant to the allegations. The Decision-maker will then determine whether the witness has relevant information and if there is sufficient justification for permitting the witness to participate. The Decision-maker may instead send the case back to the investigator to interview the newly proffered witness prior to the hearing taking place.

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<sup>10</sup> The Title IX Coordinator may not also serve as a Decision-maker if the Title IX Coordinator previously facilitated an informal resolution for the same Parties.

A list of witnesses approved by the Decision-maker will be provided to the Parties at least three (3) days prior to the hearing.

Three (3) days prior to the hearing, each Party shall submit to the Decision-maker a preliminary list of questions they wish to pose to the other Party, or to a witness. If the Decision-maker determines that any questions are not relevant or seek otherwise impermissible evidence, the Decision-maker shall exclude the question and explain the reason for the exclusion of the question at the hearing. Questions that are unclear or harassing of the Party or witness being questioned will not be permitted. The Decision-maker must give a Party an opportunity to clarify or revise any question that the Decision-maker has determined is unclear or harassing and, if the Party sufficiently clarifies or revises a question, and the question is relevant, the question will be asked.

## *2. Advisor*

Each Party is entitled to be accompanied by one advisor at the hearing. The role of the advisor is to assist the Party with understanding and navigating the proceedings. The advisor may not advocate for, respond for, or otherwise speak on behalf of, a Party during the hearing. In the event that a Party does not appear for the Hearing, the advisor for that Party may not participate in the hearing or submit questions to be asked on behalf of the Party.

## *3. Hearing Participation Guidelines*

The Decision-maker shall have the authority to maintain order and decorum at the hearing, including responding to disruptive or harassing conduct, and when necessary to adjourn the hearing or exclude the disruptive person. In the event the Decision-maker removes an advisor, the Decision-maker will have the discretion to appoint another advisor for the remainder of the hearing. The Decision-maker also has the authority to determine whether any questions are not relevant, abusive, intimidating, or disrespectful, and will not permit such questions. The Decision-maker cannot draw an inference about the determination regarding responsibility based solely on a Party's absence from the live hearing.

The Decision-maker(s) is permitted to weigh the credibility of a Party or witness, including when a Party or witness refuses to respond to relevant and permissible questions. The Decision-maker(s) is not permitted to draw an inference about whether sex-based harassment occurred based solely on a Party's or witness's refusal to respond to relevant and permissible questions.

## *4. Statements, Questioning and Presentation of Evidence*

During the hearing, each Party will be permitted to provide an introductory statement. Following introductory statements, the Decision-maker will call Parties and witnesses



for questioning. The order of questioning shall be determined by the Decision-maker. The Decision-maker will pose questions to the Parties and witnesses including the questions the Decision-maker approved to be asked that were submitted by each Party prior to the hearing. Each Party will then be provided an opportunity to submit follow-up written questions to the Decision-maker for the Decision-maker to pose to the other Party or witnesses. If the Decision-maker determines that any questions are not relevant to the allegations, or seek otherwise impermissible evidence, the Decision-maker shall exclude the question and explain the reason for the exclusion of the question at the hearing and offer an opportunity to the Party to reframe or resubmit the question. Questions that are unclear or harassing of the Party or witness being questioned will not be permitted.

Only the Decision-maker is permitted to ask questions of Parties and witnesses. Neither Party may directly question the other Party or witness. Advisors are not permitted to directly or indirectly question the other Party or witness.

Following the questioning of Parties and witnesses, each Party will be permitted to provide a closing statement. An advisor is not permitted to provide a closing statement on behalf of their Party.

#### *viii. Decision-Maker's Report*

The Decision-maker shall prepare a determination report after the hearing. All findings shall be made by a preponderance of the evidence, meaning more likely than not. To the extent credibility determinations need to be made, such determinations shall not be based on a person's status as Complainant, Respondent, or witness.

The determination report will include:

- A description of the sex-based harassment and other allegations if applicable;
- A reference to the policies and procedures used to evaluate the allegations;
- Description of all procedural steps taken to date;
- The Decision-maker's evaluation of the relevant and not otherwise impermissible evidence along with the finding of facts;
- Determinations for each allegation, with the rationale;
- Sanction determination (if applicable)
- Whether remedies will be provided;
- The procedures for an appeal.

The Decision-maker's report shall be provided to the Title IX Coordinator. If the Decision-maker determines that there is no finding of responsibility, the Title IX Coordinator shall communicate the findings to each Party, and their advisor should the Party wish the advisor to receive it, a written Notice of Outcome along with a copy of the Decision-maker's report, to the Parties, together with procedures for appeal. Past findings of responsibility relating to this Policy or any other JTS policy are admissible in the sanctioning stage only.

If there is a finding of responsibility, the Title IX Coordinator shall contact the appropriate sanctioning officer who will determine the sanction and notify the Title IX Coordinator of the sanctioning determination.

The Title IX Coordinator will then provide the Parties and their advisors, if any, with a written Notice of Outcome and a copy of the investigation report. The Notice of Outcome shall include:

- A statement of, and rationale for, any disciplinary sanctions JTS imposed on the Respondent
- A statement as to whether remedies will be provided to the Complainant
- For the Complainant, a description of any remedies that apply to the Complainant
- The JTS's procedures and the permitted reasons for the Parties to appeal, including identifying the Appeals Officer.
- How to challenge participation by the Appeals Officer for bias or conflict of interest, which the Title IX Coordinator will resolve in their sole discretion.

### **III. Appeals**

Dismissals of Complaints and determinations made in the investigation and decision-making processes may be appealed in writing by either Party. Appeals will be sent to the Title IX Coordinator, who will then send the appeal to the Appeals Officer(s) assigned to conduct a written review of the appeal(s) and to make a final determination. In matters of sexual assault, domestic violence, dating violence, and stalking, the Appeals Officer will be a panel. Appeals must be in writing and filed within ten (10) days following the issuance of the investigation or determination report.

When an appeal is filed, the other Party shall be notified and provided with a copy of the filed appeal within two (2) days and have five (5) days to respond to the appeal in writing. Any Party's decision not to submit a reply to an appeal is not evidence that the non-appealing Party agreed with the appeal.

Within three (3) days of an Appeal Officer being assigned, either Party may provide their written objection to the Appeal Officer on the basis of an actual bias or conflict of interest. Any objection is to be sent to the Title IX Coordinator. Should the Title IX Coordinator determine that there is an actual bias or conflict of interest, the Title IX Coordinator will appoint another Appeal Officer.

Appeals may be filed only on the following three grounds:

1. Procedural Error: A procedural error occurred that would change the outcome. A description of the error and its impact on the outcome of the case must be included in the written appeal; or,
2. New Evidence: New evidence or information has arisen that was not available or known to the Party during the investigation or hearing, that would change the outcome. Information that was known to the Party during the resolution process but which they chose not to present is not considered new information. The new evidence, an explanation as to why the evidence was not previously available or known, and an explanation of its potential impact on the investigation findings must be included in the written appeal; or
3. Actual Conflict of Interest or Demonstrated Bias: The Title IX Coordinator, investigator, or others with a role in the process with an actual conflict of interest or demonstrated bias for or against Complainants or Respondents generally, or the individual Complainant or Respondent, that would change the outcome. Any evidence supporting the alleged conflict of interest or demonstrated bias must be included in the written appeal.

The Appeal Officer will make a determination regarding the appeal and communicate that decision, along with a rationale for the decision to the Title IX Coordinator who will communicate the Appeal Officer's decision to the Parties. The decision of the Appeals Officer is final.

#### **IV. Failure to Complete Sanctions/Comply with Responsive Actions**

All responding Parties are expected to comply with conduct sanctions/responsive actions/corrective actions within the timeframe specified by JTS. Responding Parties needing an extension to comply with their sanctions must submit a written request to the Title IX Coordinator stating the reasons for needing additional time.

Failure to follow through on conduct sanctions/responsive actions/corrective actions by the date specified, whether by refusal, neglect or any other reason, may result in additional sanctions/responsive actions/corrective actions, such as suspension,

expulsion, termination, or a transcript notation, in accordance with JTS's Transcript Notation Policy. Students who fail to comply will be referred to the appropriate personnel in accordance with JTS's code of conduct and Student Disciplinary Policy.

## **APPENDIX A: NEW YORK STATE STUDENTS' BILL OF RIGHTS<sup>11</sup>**

All students have the right to:

1. Make a report to local law enforcement and/or state police;
2. Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
3. Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure by the institution;
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
5. Be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available;
6. Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed or should have acted in a different manner to avoid such crimes or violations;
7. Describe the incident to as few institutional representatives as practicable and not to be required to unnecessarily repeat a description of the incident;
8. Be protected from retaliation by the institution, any student, the accused and/or the Respondent, and/or their friends, family and acquaintances within the jurisdiction of the institution;
9. Access to at least one level of appeal of a determination;
10. Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or Respondent throughout the judicial or conduct process including during all meetings and hearings related to such process; and
11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the institution.

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<sup>11</sup> To the extent applicable, students maintain the rights set forth in the Students' Bill of Rights during resolution of a Complaint . N.Y. Educ. Law § 6440(6).

**APPENDIX B: EMPLOYEE COMPLAINT FORM FOR REPORTING SEXUAL HARASSMENT**

The New York State Labor Law requires all employers to adopt a sexual harassment prevention policy that includes a complaint form for employees and covered non-employees to report in writing alleged incidents of sexual harassment.

If you believe that you have been subjected to sexual harassment, you are encouraged to complete this form and submit it to the Title IX Coordinator. You will not be retaliated against for filing a Complaint.

If you are more comfortable reporting verbally or in another manner, JTS is still required to follow its sexual harassment prevention policy by investigating the claims as outlined at the end of this form.

**For additional resources, visit:**

<https://www.ny.gov/programs/combating-sexual-harassment-workplace>

**COMPLAINANT INFORMATION**

Name:

Department:

Home Address:

Work Phone:

Home Phone:

Job Title:

Email:

Select Preferred Communication Method:

Email Work Home In person

**SUPERVISORY INFORMATION**

Immediate Supervisor's

Name:

Title:

Work Phone:

Department:

**COMPLAINT INFORMATION**

1. Your complaint of Sexual Harassment is made about:

Name:

Title:

Department:

Work Phone:

Relationship to you:

Supervisor Subordinate Co-Worker Other

2. Date(s) sexual harassment occurred: \_\_\_\_\_

Is the sexual harassment continuing?      Yes      No

3. Please describe what happened and how it is affecting you and your work. Please use additional sheets of paper if necessary and attach any relevant documents or evidence.

4. Please list the name and contact information of any witnesses or individuals that may have information related to your complaint:

5. Have you previously complained or provided information (verbal or written) about sexual harassment at JTS? If yes, when and to whom did you complain or provide information?

*Employees that file with their employer might have the ability to get help or file claims with other entities including federal, state or local government agencies or in certain courts.*

6. Have you filed a claim regarding this complaint with a federal, state or local government agency?  
Yes      No

Have you instituted a legal suit or court action regarding this complaint?  
Yes      No

Have you hired an attorney with respect to this complaint?  
Yes      No

If you have retained legal counsel and would like us to work with them, please provide their contact information.

*I request that the Jewish Theological Seminary investigate this complaint of sexual harassment in a timely manner as outlined in JTS's policy and advise me of the results of the investigation.*

Signature: \_\_\_\_\_ Date: \_\_\_\_\_