

SAN JOAQUIN VALLEY COLLEGE'S

**Sexual Harassment and Sexual Assault
Prevention Policy**

and

**Procedures for Investigating and
Resolving Complaints of
Prohibited Conduct**



Table of Contents

Sexual Harassment and Sexual Assault Prevention Policy	3
Section 1.0 – Policy Statement	3
Section 2.0 – Applicability	4
Section 3.0 – Prohibited Conduct	5
Section 4.0 – Privacy	9
Section 5.0 – Preservation of Evidence	9
Section 6.0 – Resources	10
Section 7.0 – Reporting to SJVC	11
Section 8.0 – Requests for Confidentiality or that Complaint Not Be Pursued	13
Section 9.0 – Contacting Government Agencies	13
Section 10.0 – Informational Resources	13
Appendix A - Procedures for Investigating and Resolving Complaints of Prohibited Conduct	14
I. Introduction and Scope of Procedures	14
II. The Formal Complaint	14
III. Initial Assessment, Supportive Measures, and Dismissals	14
IV. Informal Resolution	15
V. Supportive Measures	16
VI. Formal Resolution Process and Appeals	17

Sexual Harassment and Sexual Assault Prevention Policy

Section 1.0 – Policy Statement

All members of the San Joaquin Valley College community (“SJVC” or “College”) have the right to be treated, and the responsibility to treat others, with dignity and respect. These principles are fundamental to the educational mission of SJVC. It is the policy of SJVC to provide an environment free of unlawful discrimination, harassment, and Sexual Misconduct. SJVC is committed to (1) increasing awareness of unlawful discrimination, harassment, and Sexual Misconduct (2) educating its community on how to prevent unlawful behaviors, (3) fostering an environment in which a victim promptly reports alleged violations, and (4) resolving complaints in a fair and timely manner.

SJVC policies, Title IX of the Higher Education Amendments of 1972 (“Title IX”), applicable provisions of the Code of Federal Regulations, and applicable state statutes prohibit discrimination on the basis of sex in any education program or activity SJVC operates. This policy against discrimination extends to student admissions and employment. SJVC also prohibits retaliation against an individual who reports, submits a complaint, or who otherwise participates in good faith in any matter related to this anti-discrimination policy. Any inquiries about the application of Title IX rules may be addressed to the Title IX Coordinators identified below, the U.S. Department of Education’s Assistant Secretary of the Office of Civil Rights, or both.

This Policy conforms to the Title IX regulations that became effective on August 14, 2020. These regulations define what behaviors are prohibited under the Title IX law and how an institution must properly respond to a complaint of such conduct. These regulations apply to complaints between students, complaints between students and employees, and complaints between employees.

Upon receiving a complaint of Prohibited Conduct (see definition below), SJVC will take reasonable and prompt steps to stop any such conduct, prevent its recurrence, and remedy its effects. SJVC provides all parties with opportunities to present facts, identify witnesses, and will reach reasonable conclusions based on an evaluation of the relevant and not otherwise inadmissible evidence. SJVC will take appropriate action against those engaging in Prohibited Conduct, including disciplinary measures when warranted, up to and including permanent separation from the institution and/or employment.

SJVC reserves all rights to modify this Policy and Appendix A at its sole discretion.

Section 2.0 – Applicability

This Policy applies to allegations of Prohibited Conduct that occurred within SJVC’s education programs or activities against a person in the United States. SJVC’s education programs or activities include:

- Institution-controlled property,
- Institution-sponsored events,
- SJVC programs or activities, and
- Any other locations, events, or circumstances over which SJVC exercises substantial control over both the respondent and the context in which the alleged Prohibited Conduct occurred.

Even if SJVC does not have jurisdiction over the alleged Prohibited Conduct, SJVC will still take prompt action to provide for the safety and well-being of the Complainant and the campus community. Measures include taking reasonable steps to stop and remedy the effects of the Prohibited Conduct and to prevent its recurrence.

Allegations of impermissible behavior other than Prohibited Conduct will be addressed pursuant to the College’s applicable policy and/or procedure. Where a Complaint includes allegations of both Prohibited Conduct and conduct made impermissible by other College policies, SJVC may follow the procedures set forth herein for purposes of investigating and resolving the entire Complaint.

Members of the College community are encouraged to promptly report Prohibited Conduct to SJVC, regardless of who allegedly engaged in the conduct or where the incident occurred. An individual who has experienced Sexual Misconduct (as defined below) is encouraged to immediately seek assistance from a medical provider and report the incident to local law enforcement. Reports to SJVC and law enforcement may be pursued simultaneously.

When used in this Policy and accompanying procedures, “Complainant” refers to the individual who reportedly is the subject or recipient of the alleged Prohibited Conduct and “Respondent” refers to the individual who is reported to have engaged in or directed the alleged Prohibited Conduct.

Section 3.0 – Prohibited Conduct

This Policy prohibits Sexual Harassment, Sex Discrimination, and Unlawful Retaliation (together, “Prohibited Conduct”). Reported behavior that does not constitute Prohibited Conduct under this Policy but is nevertheless determined to be inappropriate pursuant to another applicable College policy may subject a Respondent to disciplinary action in accordance with those policies.

All individuals are protected against Prohibited Conduct regardless of sex, gender, sexual orientation, gender identity or gender expression. Prohibited Conduct can be committed by or against any individual regardless of an individual’s sex, gender, gender identity and expression, or sexual orientation, and can occur between individuals of the same or different sex, strangers or acquaintances, as well as people involved in intimate or sexual relationships. Organizations affiliated with the institution or that use College property or resources in connection with their activities are also prohibited from engaging in Prohibited Conduct.

Below are definitions and descriptions of the various forms of Prohibited Conduct:

3.1 Sexual Harassment

3.1.1 Quid Pro Quo is a College employee conditioning the provision of an aid, benefit, or service of SJVC on an individual’s participation in unwelcome sexual conduct.

3.1.2 Hostile Environment is unwelcome sex-based conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to SJVC’s education program or activity. An individual may experience Hostile Environment Sexual Harassment even if the offensive conduct was not aimed directly at them.

The following is a non-exhaustive list of examples of conduct that, depending on their nature, frequency, and severity, may create a Hostile Environment:

- Sending unwanted sexually oriented jokes to a student or work group email list;
- Displaying explicit sexual pictures in common areas of institution property or on a work computer station where others can view it;
- Making or using derogatory comments, epithets, slurs, or jokes of a sexual nature;
- Unwelcomed sexual comments about an individual's body or using sexually degrading words to describe an individual;
- Unwanted sexually suggestive or obscene communications;
- Unwelcomed touching of any part of the body;
- Unwelcomed sexual advances;
- Unauthorized sharing or posting of sexually explicit photos of another, including a current or former partner; and

- Surreptitiously taking pictures or videos of private or intimate areas of an individual's body.

3.1.3 Sexual Misconduct The following behaviors are considered Sexual Harassment under this Policy and are considered Prohibited Conduct. These behaviors shall be referred to in this Policy together as "Sexual Misconduct."

3.1.3.1 Sexual Assault means any sexual act directed against another individual, without their consent, including instances where the individual is incapable of giving consent, including the following:

3.1.3.1.1 Rape (except Statutory Rape) means the carnal knowledge of an individual, without consent, including instances where the individual is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.

3.1.3.1.2 Sodomy means oral or anal sexual intercourse with another individual, without consent, including instances where the individual is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.

3.1.3.1.3 Sexual Assault with an Object means to use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another individual, without consent, including instances where the individual is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.

3.1.3.1.4 Fondling means the touching of the private body parts of another individual for the purpose of sexual gratification, without consent, including instances where the individual is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.

3.1.3.1.5 Incest means nonforcible sexual intercourse between individuals who are related to each other within the degrees wherein marriage is prohibited by law.

3.1.3.1.6 Statutory Rape means nonforcible sexual intercourse with an individual who is under the statutory age of consent.

3.1.3.2 Dating Violence 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 relationship, and (iii) the frequency of interaction between the persons involved in the relationship.

3.1.3.3 Domestic Violence means 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 the recipient, 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.

3.1.3.4 Sex-Based Stalking means engaging in a course of conduct (two or more acts), on the basis of sex, that is directed at a specific individual that would cause a reasonable individual to: (A) fear for the individual's safety or the safety of others; or (B) suffer substantial emotional distress. Stalking that is not sex-based should be reported to the Title IX Coordinator and/or Deputy Title IX Coordinator and will be handled pursuant to other College policies.

3.2 Retaliation

Retaliation against any individual for making a complaint or report of Prohibited Conduct, or for testifying, assisting, or participating or refusing to participate in any manner in an investigation, proceeding, or hearing conducted by SJVC or a state or federal agency, is strictly prohibited under this Policy. Retaliation includes, but is not limited to, overt or subtle acts of intimidation, threats, coercion, or discrimination for the purpose of interfering with any right or privilege secured by Title IX. SJVC will take prompt and appropriate corrective action to stop and remedy retaliation if it occurs.

It is a violation of College policy to file a knowingly false complaint under this Policy. An individual who feels they have been the subject of a knowingly false complaint may pursue their own complaint in response. A complaint filed in good faith under this provision shall not constitute a false report. A finding of no responsibility is not, by itself, evidence that the underlying complaint was not filed in good faith.

Below are definitions applicable to the above Prohibited Conduct:

3.3 Complainant is the individual who is the alleged recipient of conduct that could constitute Prohibited Conduct.

3.4 Consent is the affirmative, conscious, and voluntary agreement to engage in sexual activity. Consent cannot be implied or assumed. It is the responsibility of each person involved in the sexual activity to ensure that they have the affirmative

Consent of the other(s) to engage in the sexual activity. Lack of protest or resistance does not mean Consent, nor does silence mean Consent. Consent must be ongoing through a sexual activity and can be revoked at any time. The existence of a dating relationship between the persons involved, or a past sexual relationship between them, should never by itself be assumed to be an indicator of Consent. It is not a valid excuse that the Respondent believed that the Complainant Consented to the sexual activity under either of the following circumstances:

- The Respondent's belief arose from his/her own intoxication or recklessness; or
- The Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the Complainant affirmatively Consented.

A person who is incapacitated is not capable of giving Consent to sexual activity. A person may be incapacitated by a temporary or permanent mental or physical condition, sleep, unconsciousness, or be incapacitated as a result of consumption of alcohol or drugs. Incapacitation is a state beyond mere intoxication or "drunkenness." Impairment must be significant enough to render a person unable to understand the fact, nature, or extent of the sexual activity. In evaluating Consent in cases involving incapacitation, SJVC considers the state of incapacitation of the Complainant and the knowledge of the Respondent.

It is not a valid excuse that the Respondent believed that the Complainant Consented to the sexual activity if the Respondent knew or reasonably should have known that the Complainant was unable to Consent to the sexual activity under any of the following circumstances:

- The Complainant was asleep or unconscious,
- The Complainant was incapacitated due to the influence of drugs, alcohol, or medication, so that the Complainant could not understand the fact, nature, or extent of the sexual activity, or
- The Complainant was unable to communicate due to a mental or physical condition.

Even when relationships are Consensual, care must be taken to eliminate the potential for harassment or other conflicts. SJVC's practice, as well as more general ethical principles, prohibits individuals from participating in evaluating the academic performance of those with whom they have amorous and/or sexual relationships. Sexual or romantic relationships between a student and employees, most especially faculty and administrators, are prohibited. Upon learning of the existence of such a relationship, Responsible Employees (as defined below) have an obligation to report it to the Title IX Coordinator and SJVC's VP of Administration, and Ember Education's Human Resources Director. (Note: Ember Education is a shared services division of San Joaquin Valley College, Inc., SJVC's owner and operator, which provides, among other things, human resources services to College.

3.5 Respondent is the individual who is alleged to have engaged in conduct that could constitute Prohibited Conduct.

Section 4.0 – Privacy

SJVC will maintain the privacy of all individuals involved in a Report or Formal Complaint of Prohibited Conduct, to the extent possible. Privacy generally means that information related to a report of Prohibited Conduct will only be shared with those individuals who have a “need to know.” All SJVC employees who are involved in the institution’s response, including, but not limited to, the Title IX Coordinators, receive specific instruction about respecting and safeguarding private information. Throughout the process, every effort is made to protect the privacy interests of all individuals involved, in a manner consistent with the need for a thorough review of the matter. SJVC will inform all individuals involved in the investigation and/or hearing process of the critical importance and expectation that, while the processes are ongoing, they maintain privacy in the process and any information shared with them as a result of their participation. Further, all documents provided in preparation for or related to the hearing proceedings may not be disclosed to any other party except as may be required or authorized by law.

Section 5.0 – Preservation of Evidence

Because Sexual Misconduct (see definition above) may involve physical trauma, individuals who have experienced one or more acts of Sexual Misconduct are urged to seek medical treatment as soon as possible. They are strongly encouraged to preserve all physical and digital evidence of the violence. This may be needed to prove criminal sexual violence, or for obtaining a protective order. Individuals who have experienced sexual violence should not shower, bathe, douche, eat, drink, wash their hands, or brush their teeth until after they have had a medical examination. They should save all the clothing they were wearing at the time of the incident. Each item of clothing should be placed in a separate paper bag (not plastic). They should not clean or disturb anything in the area where the sexual violence occurred. Digital evidence relating to the incident, such as texts, emails, and social media posts, should also be preserved.

Section 6.0 – Resources

SJVC encourages individuals who have experienced one or more acts of Sexual Misconduct to seek immediate support and advocacy services. The Title IX Coordinator or other campus officials will provide information regarding off-campus resources for support and advocacy.

6.1 Off-Campus Resources

SJVC encourages individuals who have experienced Sexual Misconduct to seek immediate support and services through the following organizations:

National Sexual Assault Hotline

(800) 656-HOPE

www.rainn.org

National Domestic Violence Hotline

(800) 799-7233

www.thehotline.org

National Suicide Prevention Lifeline

(800) 273-8255

www.suicidepreventionlifeline.org

Section 7.0 – Reporting to SJVC

7.1 Making a Report

Any person may report actual knowledge of conduct that could constitute the Prohibited Conduct defined in this policy by submitting a Report directly to the Title IX Coordinator. Reporting by mail, telephone, or electronic mail to the Title IX Coordinator through TitleIX@SJVC.edu is acceptable.

The receipt of a Report provides an opportunity for SJVC to offer information, resources, and Supportive Measures. Reports may be made without disclosing the Complainant's identity, but doing so may impact SJVC's ability to provide Supportive Measures. A Report does not constitute a Formal Complaint subject to investigation and determination of responsibility for Prohibited Conduct.

7.2 Filing a Formal Complaint

A Formal Complaint is a document filed with the Title IX Coordinator alleging Prohibited Conduct against a Respondent and requesting that SJVC investigate the allegation. A Formal Complaint can only be filed by the Complainant or the Title IX Coordinator. At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in SJVC's education program or activity.

A Formal Complaint may be filed with the Title IX Coordinator (see below) in person, by mail, or via email. Complainants may use the Title IX Coordinator's email address: TitleIX@sjvc.edu. The Formal Complaint must indicate that the Complainant is the person filing the formal complaint. If a Complainant would like support and guidance in filing a Formal Complaint, they may contact the Title IX Coordinator.

Upon receipt of a Formal Complaint, the Title IX Coordinator will assess the complaint for a Title IX violation and, if appropriate, refer the matter for investigation and a hearing pursuant to the procedures set forth in Appendix A, which follows this Policy. A Complainant may, at any time, request a dismissal of some or all of the allegations in the Formal Complaint. All requests for dismissal must be sent to the Title IX Coordinator and be in writing.

7.3 Title IX Coordinator and Designee

The Title IX Coordinator is responsible for coordinating SJVC's compliance with Title IX and for SJVC's overall response to conduct falling under this Policy. The Title IX Coordinator oversees all Title IX Formal Complaints, monitors outcomes, identifies and addresses any patterns of systemic problems that arise, and assesses effects on the campus climate. The Title IX Coordinator will also discuss with both parties the offering of any "Supportive Measures," which are non-disciplinary, non-punitive individualized services that are designed to restore or preserve equal access to the education program or activity without unreasonably burdening the other party. Please see Appendix A to this Policy for more details. The Title IX Coordinator also oversees the implementation and application of this Policy, coordinates responses to Formal Complaints, and ensures consistent treatment of

parties involved as well as prompt and equitable resolution of Formal Complaints. The contact information for the Title IX Coordinator and Deputy Title IX Coordinator can be found below:

Title IX Coordinator:

Shannon Koh
3828 W. Caldwell Avenue
Visalia, CA 93277
(951) 848-0412
TitleIX@sjvc.edu

Deputy Title IX Coordinator:

Stephanie Simmons
3828 W. Caldwell Avenue
Visalia, CA 93277
(559) 500-2658
TitleIX@sjvc.edu

If a Complainant believes that the Title IX Coordinator has a conflict of interest or is biased, the Complainant may request the appointment of a designee.

7.4 Responsible Employees

If an individual discloses Prohibited Conduct to any Responsible Employee, the Responsible Employee must report to the Title IX Coordinator all relevant details about the alleged conduct. Additionally, to the extent either the Complainant and/or Respondent are SJVC employees, the Responsible Employee must also notify Ember Education's Human Resources Department.

Responsible Employees are defined to include certain College officials who have authority to institute appropriate corrective measures. The following are Responsible Employees:

- Title IX Coordinator
- Deputy Title IX Coordinator
- Title IX Investigators
- Campus Directors
- Program Managers
- Campus Security Authority

7.5 Notification of Law Enforcement

Individuals who have experienced Sexual Misconduct (see definition above) are encouraged to notify local law enforcement. SJVC will provide assistance in notifying law enforcement if the individual so chooses. An individual may also decline to notify law enforcement or SJVC.

Section 8.0 – Requests for Confidentiality or that Complaint Not Be Pursued

If a Complainant discloses an incident to the Title IX Coordinator or a Responsible Employee, but requests that their name not be disclosed to the Respondent, that the College not pursue an investigation, or that no disciplinary action be taken, SJVC will weigh the request against its obligation to provide a non-discriminatory environment.

The Title IX Coordinator will determine the appropriate manner of resolution. . The Title IX Coordinator will attempt to address the conduct consistent with the Complainant’s request and the College’s Title IX obligations by taking action to stop the Prohibited Conduct, limit its effects, and prevent its recurrence. However, in those instances where the Title IX Coordinator determines that SJVC must proceed with the Formal Complaint process despite the request of the Complainant, the Title IX Coordinator will inform the Complainant of SJVC’s intention to initiate a Formal Complaint and that their identity will be disclosed to the Respondent as part of the written notice of allegations. SJVC’s ability to fully investigate and respond may be limited if the Complainant requests anonymity or declines to participate.

In all cases, the final decision on whether, how, and to what extent SJVC will conduct an investigation, and whether other measures will be taken in connection with the Report of Prohibited Conduct, rests solely with the Title IX Coordinator.

Section 9.0 – Contacting Government Agencies

Employees, students and others participating in SJVC’s educational programs or activities may direct questions regarding Title IX or file complaints with the U.S. Department of Education Office for Civil Rights, (800) 421-3481, www2.ed.gov/about/offices/list/ocr/index.html. Filing a complaint with a federal agency under Title IX must be done within 180 days after an alleged discriminatory or harassing event and there is no requirement to exhaust remedies through SJVC’s internal procedures before filing directly with a federal agency. Participants in programs funded by other federal agencies providing federal financial assistance to SJVC may file directly with those agencies.

Section 10.0 – Informational Resources

Information on Prohibited Conduct, as well as copies of this Policy and attached procedures (Appendix A) are available from the Title IX Coordinator assigned to the SJVC campuses and on the InfoZone site.

Appendix A - Procedures for Investigating and Resolving Complaints of Prohibited Conduct

I. Introduction and Scope of Procedures

These procedures implement SJVC’s Sexual Harassment and Sexual Assault Prevention Policy (the “Policy”). SJVC will take prompt and appropriate action to address all Reports and Formal Complaints of Prohibited Conduct in an equitable and impartial manner. SJVC takes all allegations of Prohibited Conduct seriously. SJVC’s policy is intended to ensure that: individuals accused of engaging in Prohibited Conduct are not prejudged and are presumed not responsible until a Determination is made; they have notice and a full and fair opportunity to respond to allegations before a Determination is reached; and Determinations are based on the evidence gathered in a process that is equitable for both Complainants and Respondents. SJVC will conduct an equitable, impartial, timely and thorough investigation.

When a Formal Complaint of Prohibited Conduct involves a third party who is not affiliated with the institution, SJVC’s ability to investigate and take action against the person accused of Prohibited Conduct may be limited. However, in all cases SJVC will conduct an inquiry into what occurred and take prompt action as is practicable to stop any such conduct, prevent its recurrence, and remedy its effects.

II. The Formal Complaint

A Complainant may file a Formal Complaint of Prohibited Conduct at any time. Please see Policy Section 7.0 for instructions on how to make a Formal Complaint of Prohibited Conduct. A Formal Complaint may also be filed by the Title IX Coordinator in the absence of a Formal Complaint or following the withdrawal of any or all of the allegations in a Formal Complaint. In making a determination as to whether to file a Formal Complaint, the Title IX Coordinator will consider the wishes of the Complainant. If filing a Formal Complaint would be against the Complainant’s wishes, the Title IX Coordinator will only do so if not clearly unreasonable in light of the known circumstances.

Any individual may file a Report of Prohibited Conduct at any time. Please see Policy Section 7.0 for instructions on how to make a Report of Prohibited Conduct.

III. Initial Assessment, Supportive Measures, and Dismissals

A. Initial Assessment and Outreach

After receiving a Report or Formal Complaint, the Title IX Coordinator will conduct an initial assessment of the allegations to determine whether the conduct, as alleged, could reasonably

constitute Prohibited Conduct and, for Formal Complaints, whether dismissal (discussed below) may be appropriate.

If the Title IX Coordinator determines that the alleged conduct could reasonably constitute Prohibited Conduct and that dismissal is not appropriate, the Title IX Coordinator will make an initial outreach to the Complainant. The Title IX Coordinator will discuss the process for filing a Formal Complaint (if not already done), the availability of Supportive Measures with or without filing a Formal Complaint, and the Complainant's wishes with respect to Supportive Measures.

During this time, the Title IX Coordinator will also make an individualized safety assessment which will include an analysis of any immediate threat to the physical health or safety of any student or other individual arising from the allegations. If the Title IX Coordinator determines that an immediate threat exists and justifies removal of the Respondent, the Title IX Coordinator will provide the Respondent with notice and an opportunity to challenge the decision immediately following the removal.

B. Dismissals

The Title IX Coordinator must dismiss a Formal Complaint if the alleged conduct:

1. Would not constitute even if proved,
2. Did not occur in SJVC's education program or activity, or
3. Did not occur against a person in the United States.

The Title IX Coordinator may dismiss a Formal Complaint if:

1. The Complainant submits a written request to withdraw the Formal Complaint or specific allegations,
2. The Respondent is no longer enrolled or employed by SJVC, or
3. Specific circumstances prevent SJVC from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

For all dismissals, the Title IX Coordinator will provide the parties with a written notice explaining the decision. Although a Formal Complaint may be dismissed under this Policy, a complaint may constitute a violation of other College policies and may be processed accordingly.

IV. Informal Resolution

At any time prior to the issuance of a Determination on the Formal Complaint, the Title IX Coordinator may offer Informal Resolution. In doing so, the Title IX Coordinator will provide written notice of the allegations and the requirements of the Informal Resolution

process. Informal Resolution requires the voluntary, written consent of all parties, and any party may withdraw from the informal resolution process at any time prior to reaching an agreement.

Informal Resolution is not available for incidents in which an employee is accused of Sexual Harassment or Sexual Misconduct against a student. Except for these limited circumstances, the Title IX Coordinator has sole discretion to determine whether the Formal Complaint is appropriate for Informal Resolution, to determine the type of Informal Resolution to pursue, and to stop the process at any time before its conclusion and move to Formal Resolution.

The Title IX Coordinator generally will conduct the Informal Resolution. The Title IX Coordinator will endeavor to complete the Informal Resolution process promptly, typically within thirty (30) calendar days of notifying the parties in writing of starting the process. However, the Title IX Coordinator may extend the Informal Resolution process past 30 days for good cause. The Title IX Coordinator will notify the parties in writing of the reason for any extension and the projected new timeline. The actual time required will depend on the specific circumstances, including the complexity of the allegations and the nature of the alleged conduct.

Informal Resolution may result in outcomes such as:

- Referral for disciplinary action;
- Referring the Respondent to targeted preventive educational and training programs; and/or
- Conducting a follow-up review to ensure that the resolution has been carried out effectively, and/or
- Another agreement between the parties.

Once the parties have agreed to the terms of an Informal Resolution, SJVC will not refer the matter to Final Resolution. To the extent a Respondent violates the terms of the Informal Resolution Agreement, or if SJVC has other compelling reasons, the Title IX Coordinator has the discretion to void the Informal Resolution agreement and initiate or resume the Formal Resolution process.

The Title IX Coordinator will keep records of all Formal Complaints addressed through Informal Resolution.

V. Supportive Measures

As described in the Policy, Supportive Measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge by SJVC in response to a Report or Formal Complaint of Prohibited Conduct and will be made available to both parties as appropriate. Supportive Measures are designed to restore or preserve equal access to SJVC's education program or activity without

unreasonably burdening the other party, including measures designed to protect the safety of all parties or the educational environment, or deter Prohibited Conduct.

Supportive Measures may include, but are not limited to:

1. Interim security measures,
2. Academic accommodations,
3. Mutual “no contact” orders between individuals,
4. Restrictions on access to SJVC or to specific College campus areas or activities,
5. Limitations on extracurricular activities,
6. Changes to class or work schedules or locations,
7. Leave of absence (including administrative leave),
8. Transfer of supervisory or evaluative responsibility regarding grading or supervision, and/or
9. Any other remedy that can be tailored to the involved individuals to achieve the goals of the Policy.

SJVC will maintain as confidential any Supportive Measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair its ability to provide the Supportive Measures. The Title IX Coordinator is responsible for coordinating the effective implementation of Supportive Measures.

When taking steps to separate a Complainant and Respondent, SJVC will engage in an individualized and appropriate evaluation based on the information gathered by the Title IX Coordinator. Care will be taken to protect both parties with the greatest degree of privacy possible. If a party wishes to seek a temporary restraining order or similar judicial order, SJVC will provide the party with information to initiate that process.

The imposition of Supportive Measures is not indicative of a Determination of responsibility or any other outcome. These measures may be modified or terminated, as appropriate, at any time and may be kept in place after a Determination is reached.

All parties are expected to comply with any supportive measures that may be imposed until the Formal Resolution process concludes. Failure to comply with Supportive Measure directives may be separate grounds for disciplinary action.

VI. Formal Resolution Process and Appeals

The Formal Resolution process consists of an investigation and hearing. The Formal Resolution process will be completed in a reasonably prompt manner. The Title IX Coordinator may extend the Formal Resolution process for good cause. The Title IX Coordinator will notify the parties in writing of the reason for any extension and the projected new timeline. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

The following procedures apply to the investigation and hearing of Formal Complaints.

A. Notice of Allegations

Upon receipt of a Formal Complaint, SJVC will provide a written notice of the allegations to the known parties with sufficient time to prepare a response before any initial interview. The notice will contain:

1. Information about the Formal Resolution process, including where to find the Policy and these procedures;
2. The allegations of Prohibited Conduct, including the identities of the parties involved in the incident and the date and location of the alleged incident, if known,
3. A statement that the Respondent is presumed not responsible for the alleged Prohibited Conduct and that a Determination regarding responsibility is made at the conclusion of the Formal Resolution process,
4. The parties' ability to have an advisor of their choice, who may be, but is not required to be, an attorney. An advisor may be a family member, friend, or attorney but cannot be someone who may be a potential witness. The advisor may attend, but shall not participate in, meetings with the party they are advising. This includes writing or speaking on behalf of a party. An advisor may not be present for, or participate in, any other meetings unless expressly permitted by this Appendix.
5. The parties' ability to inspect and review evidence, and
6. SJVC's prohibition on knowingly making false statements or knowingly submitting false information during the Formal Resolution process.

If, in the course of the investigation, SJVC decides to investigate additional allegations about the Complainant or Respondent that are not included in the initial written notice, SJVC will provide notice of the additional allegations to the known parties.

The Title IX Coordinator may consolidate Formal Complaints against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations arise out of the same facts or circumstances.

B. Investigation Procedures

Formal Complaints that have not been dismissed or resolved informally, will be referred to a Title IX Investigator. The purpose of the investigation is to gather evidence sufficient to reach a Determination regarding responsibility. Evidence may include the testimony of any involved parties and/or witnesses, and any documents relating to the complaint. The burden of proof and the burden of gathering evidence sufficient to reach a Determination rests with SJVC, and not the parties.

Consistent with federal and state law, the Investigators will ask questions or seek evidence that is relevant and not protected by law. Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant unless offered to prove that someone other than the Respondent committed the alleged conduct alleged or offered to prove Consent through questions and evidence regarding specific incidents of the Complainant's prior sexual behavior with the Respondent. Evidence of a prior Consensual sexual, romantic, or intimate relationship between the Complainant and Respondent itself does not by itself imply Consent or preclude a finding of Prohibited Conduct. The investigation will occur independently from any legal/criminal proceedings that may take place. SJVC may defer fact-gathering for an appropriate time during a criminal investigation.

Investigators will be trained on issues related to Prohibited Conduct, trauma-informed responses, and investigation processes that protect the safety of all involved and promote accountability. The Investigators must be impartial and free of any conflict of interest.

Below are the procedures and processes related to Title IX investigations:

1. The investigation begins when the Title IX Coordinator assigns the matter to a Title IX Investigator.
2. The assigned Title IX Investigator will provide written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings to all parties whose participation is invited or expected with sufficient time for the party to prepare to participate.
3. Either party may object to a Title IX Investigator if they believe that the assigned Title IX Investigator has a conflict or cannot be impartial. A conflict of interest occurs where an individual's personal interests or relationships conflict with their ability to be a neutral fact finder in a particular case. The objection must be in writing, explaining the bias or conflict of interest, and be sent to the Title IX Coordinator no later than five (5) calendar days after the date of the notice of investigation. The Title IX Coordinator will consider any objections and notify the parties of the decision related to the Title IX Investigator.
4. The parties may suggest witnesses and present evidence to the Title IX Investigator. The parties may also suggest as well as questions for the Title IX Investigator to ask the other party and any witnesses. The Title IX Investigator will determine whether the suggestions are relevant and appropriate. SJVC asks the parties to keep the investigation private but cannot prohibit the parties from discussing the investigation with others in connection with identifying evidence for the Title IX Investigator to gather.
5. The Title IX Investigator will interview relevant witnesses and gather other evidence related to the allegations. Witnesses may also submit documents or written statements to the Title IX Investigator(s).

6. The Complainant and Respondent will be given equal opportunity to review and respond to all the evidence gathered by the Title IX Investigator.
7. The Title IX Investigator will prepare a preliminary written report that includes: the factual allegations; the alleged policy violations; statements of the parties; a summary of relevant evidence; an explanation of why any evidence was not considered (if applicable); and credibility assessments, when appropriate. Credibility determinations will not be based on a person's status as a Complainant, Respondent, or witness.
8. Prior to completion of the investigative report, the Title IX Investigator will send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties will have at least 10 calendar days to submit a written response, of no more than 10 pages (double-spaced and 12 point font), which the Title IX Investigator will consider prior to completion of the investigation report.
9. After the report has been finalized, the matter will be referred for a hearing. No less than fifteen (15) business days before any hearing, a copy of the investigation report will be provided to the Hearing Officer, the parties, and their advisors, if any, and the Title IX Coordinator for their review. The parties may submit a written response, of no more than 10 pages (double-spaced and 12-point font), to the Title IX Investigator, Title IX Coordinator, and Hearing Officer no later than five (5) business days prior to the hearing.
10. After reviewing the investigation report, the Title IX Coordinator shall have the authority to dismiss any Formal Complaint in accordance with these procedures any time before commencement of the hearing, and, if appropriate, refer the matter for resolution under another SJVC policy.

C. Hearing Procedures

Once the investigation has concluded, there will be a fact-finding hearing before a single Hearing Officer. The hearing is to determine whether a violation of the Policy occurred.

1. Hearing Officer

The Hearing Officer will be an outside contractor appointed by the Title IX Coordinator. They will be appropriately trained, including on how to make a trauma-informed response. The Title IX Coordinator will inform the parties of the Hearing Officer's identity. Within five (5) calendar days after the notification, the parties may request the Hearing Officer's disqualification because of bias or conflict of interest. The Title IX Coordinator shall have sole discretion to decide whether an actual bias or conflict of interest exists. Employment or affiliation with the College, or prior work as a contractor, on its own, does not warrant disqualification. Similarly, the Hearing Officer's gender, gender identity, race, ethnicity,

religion, sexual orientation or similar identifying characteristic, or the fact that they differ from those of any party, do not, on their own, warrant disqualification.

2. Pre-Hearing Meeting

The Hearing Officer will hold a separate pre-hearing meeting with each party and their advisors, if any, to explain the hearing process, address questions, begin to define the scope of the hearing, and address other issues to promote an orderly, productive, and equitable hearing. Each party should come to the pre-hearing meeting prepared to schedule dates for the hearing. If the parties fail to agree, the Hearing Officer shall unilaterally set the date and time.

A reasonable time before the pre-hearing meeting, the Hearing Officer will determine: the preliminary scope of the hearing; material disputed facts; whether to reasonably allow or exclude evidence including witness testimony; and/or make any other determinations necessary to promote an orderly, productive, and fair hearing. At the pre-hearing meeting, the Hearing Officer will discuss with each party which witnesses they intend to bring to the hearing, the scope of issues, and disputed facts. The Hearing Officer has the sole discretion to grant or deny, in whole or part, the parties' requests for witnesses. The Hearing Officer will discuss measures available to protect the well-being of parties and witnesses at the hearing, as appropriate.

If a party has an advisor, the advisor may attend the pre-hearing meeting but cannot speak on the party's behalf. To the extent required by law, the Hearing Officer shall inform any party without an advisor that SJVC will provide one without fee or charge. To the extent a party requires the appointment of an advisor, the Hearing Officer shall promptly inform the Title IX Coordinator.

Following the pre-hearing meetings, the Hearing Officer will request the attendance of all witnesses whose testimony is determined to be within the scope of the hearing. The College cannot compel parties or witnesses to testify in the hearing and their decision not to testify will not be a reason to cancel or postpone a hearing. However, the Hearing Officer shall inform the parties of the potential consequences of non-participation, including, but not limited to, the inability of the Hearing Officer to rely on any pre-hearing statements made by a party or witness who does not submit to cross-examination at the hearing.

If a party submits a written response to the investigation report at least five (5) business days prior to the hearing, the parties may also provide additional information for potential consideration by the Hearing Officer at the hearing.

At least three (3) business days prior to the hearing, the parties will receive the Hearing Officer's written confirmation of scope and evidence; copies of all the evidence that will be considered at the hearing, including, without limitation, the investigation file; and the names of expected witnesses and a summary of their expected testimony. If the Hearing Officer has excluded evidence (including witness testimony) that a party has requested to present, they will explain why in writing. The Hearing Officer will also notify the parties of any procedural determinations they have made regarding the hearing.

3. Hearing Procedures

- a. The hearing will be live and recorded. For the convenience of the parties, Hearing Officer, and/or witnesses, the entire hearing, or portions of it, may be conducted over videoconference. All parties, witnesses and other participants must be able to simultaneously hear (or if deaf or hard of hearing, to access through auxiliary aids for services) and see each other.
- b. The parties and witnesses will address only the Hearing Officer and the parties' advisors.
- c. Courtroom rules of evidence and procedure will not apply.
- d. During the hearing, the Hearing Officer may: reasonably exclude evidence, including witness testimony; decide any procedural issues for the hearing; and/or make any other determinations necessary to promote an orderly, productive, and fair hearing.
- e. The Title IX Investigator shall make himself/herself available for the hearing.
- f. Witnesses will attend the hearing only to provide their testimony and will not be permitted to sit in attendance for any other part of the proceedings.
- g. The investigation file will be entered as evidence at the hearing. The Hearing Officer may rely on any facts or credibility assessments in the report that are undisputed.
- h. The Hearing Officer may not draw an inference about responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.
- i. At the request of either party, the Hearing Officer will allow the parties and/or witnesses to be visually or physically separated during the hearing. This may include, but is not limited to, the use of a physical partition, a separate physical location, videoconference, and/or any other appropriate technology.
- j. The parties will have the opportunity to present the evidence they submitted at the pre-hearing meeting or pre-hearing submission deadline, subject to any permissible exclusions determined by the Hearing Officer. Unless good cause is shown, such as, evidence was genuinely unavailable and could not have been made available through the party's diligent efforts, the parties may not introduce evidence, including witness testimony, at the hearing that they did not identify during the pre-hearing meeting or at the time of the pre-hearing submission deadline.
- k. The Hearing Officer will determine the order of questioning. The Hearing Officer may exclude questions that are unduly

repetitive, irrelevant, harassing, or seek privileged or protected information. The Hearing Officer will briefly explain his or her reasons for excluding questions as not relevant.

- l. Only the Hearing Officer and parties' advisors may ask questions of the parties and witnesses. All questions must be relevant, and the Hearing Officer shall make a determination of relevancy before the witness or party answers. Relevancy determinations may not be challenged by the party's advisor. In the event the use of advisors at the hearing are no longer required by law, the parties may submit questions to the Hearing Officer to ask questions of the opposing party and witnesses.
- m. To the extent required by law, if a party does not have an advisor present at the live hearing, SJVC will provide one without fee or charge. Advisors who are disruptive will receive one warning to refrain from disrupting the proceedings. After the first warning, any additional disruption may result in removal from the hearing.
- n. The Hearing Officer will adjourn the hearing after he/she has determined that each side has had an opportunity to present their respective case and no other evidence is required to form reasonable conclusions.

4. Determination of Responsibility and Sanctions

Once the Hearing Officer has adjourned the hearing, the Hearing Officer will render a decision based on the *preponderance of evidence* standard. The Hearing Officer will consider all evidence he/she determines to be relevant, credible, and not otherwise impermissible. The Hearing Officer may determine and weigh the relevance of any witness testimony or other evidence. On any disputed issue of significance, the Hearing Officer will make his/her own reasonable findings and credibility determinations based on all the evidence before them. Credibility determinations will not be based on a person's status as a Complainant, Respondent, or witness.

For each allegation of Prohibited Conduct, the Hearing Officer may reach any one of the conclusions below:

- a. Respondent was responsible for misconduct under the Policy
- b. Respondent was not responsible for misconduct under the Policy

If the Hearing Officer found that the Respondent was responsible for misconduct under the Policy, the Hearing Officer must sanction the Respondent but has discretion as to which of the applicable sanctions below will be imposed, understanding that the Hearing Officer may choose more than one sanction:

- a. Verbal warning

- b. Training
- c. Mandatory counseling/coaching
- d. A formal written warning placed in the Respondent's file
- e. Exclusion from participation in certain activities for specified period
- f. Suspension (from campus and/or employment)
- g. Termination
- h. Revocation of admission
- i. Other appropriate remedies or corrective action

SJVC will take appropriate measures to prevent the reoccurrence of any Prohibited Conduct, and to correct any discriminatory effects on the Complainant and others, as appropriate. The Title IX Coordinator will be responsible for effective implementation of any sanctions.

Results of disciplinary proceedings may be disclosed in a manner consistent with applicable law, including Family Educational Rights and Privacy Act (FERPA), Title IX, and the Clery Act.

5. Notification of Decision and Sanctions

The Hearing Officer will send written notice to the Complainant, Respondent, and Title IX Coordinator, setting forth his or her determination and the sanctions to be imposed (if any) no later than thirty (30) calendar days after the conclusion of the hearing. The written notice will include:

- a. Identification of the allegations;
- b. A description of the procedural steps taken from the receipt of the Formal Complaint through the Determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- c. Findings of fact supporting the determination;
- d. Conclusions regarding the application of the Policy to the facts;
- e. A statement of, and rationale for, the result as to each allegation, including a Determination regarding responsibility, any disciplinary sanctions imposed on the Respondent, and whether the sanctions or other remedies designed to restore or preserve equal access to SJVC's education program or activity will be provided to the Complainant; and
- f. The procedures and permissible bases for the Complainant and Respondent to appeal.

C. Appeals

Appeals of a Hearing Officer's final, written Determination of responsibility, or a Title IX Coordinator's Dismissal of the Formal Complaint, are strictly limited to: (1) procedural irregularity that affected the matter's outcome; (2) new evidence that was not reasonably available when the Determination of responsibility or Dismissal was made that could affect the matter's outcome; and/or (3) the Title IX Coordinator, Title IX Investigator, or Hearing Officer had a conflict of interest or bias that affected the matter's outcome. There are no other grounds for an appeal.

Appeals may be made by either the Respondent or Complainant and must be in writing and submitted to the Title IX Coordinator within ten (10) calendar days of notification of the Hearing Officer's final, written Determination of responsibility or of the Title IX Coordinator's Dismissal (mandatory or discretionary) of a Formal Complaint.

The process begins with submitting a Petition for Appeal to the Title IX Coordinator which must contain a brief statement that identifies the party bringing the appeal and its basis (see above). The Title IX Coordinator will refer only timely and appealable matters to an Appeal Officer, who may be an employee or an outside contractor. If the Title IX Coordinator determines that the matter cannot be appealed, he or she will provide written notice to both parties. If the matter is referred to an Appeal Officer, the Title IX Coordinator will provide written notice of the appeal to both parties, and disclose, in writing, the Appeal Officer's identity. Either party will have three (3) business days after being notified of the Appeal Officer's identity to request, in writing, that the Title IX Coordinator appoint a new Appeal Officer and identify the alleged conflict of interest. The Title IX Coordinator, or designee, has the sole discretion to appoint another Appeal Officer or deny the appealing party's request for a new Appeal Officer.

After the Appeal Officer has been selected and the matter is assigned, the Appeal Officer will notify both parties in writing and set a schedule for each party to submit statements supporting or challenging the appeal. Both parties may submit written statements of no more than 10 pages (double-spaced and 12-point font). Although the Appeal Officer will set deadlines for submissions, all appeals generally should be concluded within thirty (30) calendar days from the Petition for Appeal.

After reviewing the written statements, the Appeal Officer has the sole discretion to deny or grant the appeal, and, if granted, order a new hearing, or refer the case back to the Hearing Officer or Investigator with instructions. The Appeal Officer, if he or she grants the appeal, may order the Title IX Coordinator to reopen a Dismissed case. The Appeal Officer may only rely on the evidence presented at the hearing; no other evidence may be considered. However, the Appeal Officer may consider new evidence for the limited purpose of determining whether the new evidence was not reasonably available when the Determination of responsibility was made that could affect the matter's outcome. Within a reasonable amount of time after rendering a decision, the Appeals Officer will send a copy of the decision to both parties and the Title IX Coordinator. The written notice shall include

reasons supporting the granting or denial of the appeal and the remedy chosen. All appeal decisions are final.

D. Additional Complaints

If the corrective action does not end the Prohibited Conduct, the Complainant should immediately notify the Title IX Coordinator. In such cases, the Complainant has the right to file another Formal Complaint.