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Applicability St. Joseph  
School of  
Nursing

## Sexual Harassment and Non-discrimination Policy

### PURPOSE:

St. Joseph School of Nursing believes that all employees, applicants for employment, and students, and applicants for admission have a right to work in an environment free of discrimination, which includes freedom from harassment, whether that harassment is based on sex, pregnancy, age, race, color, national origin, religion, sexual orientation, marital status, physical or mental disability, genetic information, veteran or military status, legally recognized civil union status or membership in other protected groups.

The purpose of this policy is to provide a working and learning environment free from all forms of harassment, discrimination or intimidation. Harassment of any sort (verbal, physical, sexual or visual) against or by any person, including employees, supervisors, co-workers, students, or other persons will not be tolerated.

### SCOPE:

School of Nursing

### DEFINITIONS:

#### Definition of Sexual Harassment

Sexual harassment is one form of unlawful harassment. It is also considered to be discrimination. Sexual harassment is defined here separately because the line between acceptable social contact between individuals and unlawful sexual harassment is sometimes more difficult to determine.

Sexual harassment includes a wide range of behaviors, from the actual coercion of sexual relations to

unwelcome offensive comments, jokes, innuendos and other sexually oriented statements and unwelcome emphasizing of sexual identity. Sexual harassment includes a wide range of behaviors, from the actual coercion of sexual relations to unwelcome offensive comments, jokes, innuendos and other sexually oriented statements and unwelcome emphasizing of sexual identity.

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal, physical, and nonphysical conduct of a sexual nature when:

- Submission to such conduct is made explicitly or implicitly a term or condition of employment or condition for educational benefit
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting that individual; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's performance at work or at school, or creates an intimidating, hostile, or offensive work or learning environment.
- Any sexual behavior that a reasonable person would find so severe, pervasive, and objectively offensive that it denies a person equal educational access.
- Any instance of sexual assault as an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation (as defined in 20 U.S.C. 1092(f)(6)(A)(v) including:
  - -dating violence as defined in 34 U.S.C. 12291(a)(10), as defined as 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: (i) The length of the relationship. (ii) The type of relationship. (iii) The frequency of interaction between the persons involved in the relationship (as defined in 34 U.S.C. 12291(a)(8).
  - -domestic violence 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 the 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.
  - - or stalking as defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to— (A) fear for his or her safety or the safety of others; or (B) suffer substantial emotional distress (as defined in 34 U.S.C. 12291(a)(30). Stalking can occur online or through messaging platform (commonly known as cyberstalking) when it occurs in the school's education program or activities.

Employees and students need to be concerned not only with the intent of their actions of this kind but also the effects; even unintentional conduct (including conduct that is intended as a "joke") can be deemed a violation of this policy. Repeated occurrences will be considered intentional violations of the policy.

A hostile work environment may be created by supervisors, co-workers, and subordinates as well as by non-employees, such as students, patients, suppliers, vendors, and contractors who have work-related dealings with employees. Sexual harassment includes behavior by members of the same sex, as well as members of the opposite sex, directed at a person because of his/her sex or sexual orientation.

This policy prohibits all of the activities discussed above, whether engaged in by a supervisor, agent of the School, coworker, student or non-employee who is on School premises or who comes in contact with the School's students and employees.

**Definitions:**

**Complainant:** an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

**Respondent:** an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

**Formal complaint:** a document filed and signed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the school investigate the allegation of sexual harassment.

- At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the school with which the formal complaint is filed.
- A formal complaint may be filed with the Title IX Coordinator by mail, electronic mail, in person, or by using the contact informati
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**Sexual misconduct:** Encompasses a broad range of behavior, from harassing statements to criminal sexual assault. It includes "non-consensual sexual penetration", "non-consensual sexual contact", "sexual exploitation", and "sexual harassment". (See section below for Sexual Harassment information)

**Rape shield laws:** During the investigation and hearing, questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

**Supportive Measures:** individualized services, reasonably available that are non-punitive, non-disciplinary and not unreasonably burdensome to the other party while designed to ensure equal educational access, protect safety, or deter sexual harassment. Supportive measures must be offered before or after the filing of a formal complaint and when a complainant does not wish to initiate or participate in a grievance process. Supportive measures are designed to restore or preserve access to the recipient's education program or activity; protect the safety of all parties and the recipient's educational environment. Supportive measures may include counseling, course-related adjustments, modifications of work or class schedules, campus escort services, increased security and monitoring of certain areas

of the school/campus, and mutual restrictions on contact between the parties.

**Non-Consensual Sexual Contact:** Defined as touching of intimate body parts such as genitalia, groin, breast, buttocks, or mouth or any clothing covering them, without consent; the removal of another person's clothes without consent; touching a person with one's own intimate body parts without consent; compelling another to touch one's intimate body parts without consent; or any other intentional sexual touching with any object by a person upon another person, without consent.

**Non-consensual sexual penetration:** Defined as any sexual 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 consent.

**Sexual Exploitation:** Occurs when an individual takes non-consensual or abusive sexual advantage of another to benefit anyone other than the one being exploited. Examples of sexual exploitation include, but are not limited to: engaging in voyeurism; electronic transmission of pornographic or other sexually inappropriate material; exposing one's genitals or breasts in non-consensual circumstances or inducing another to expose genitalia or breasts; and any other sexual activity that goes beyond the boundaries of consent, such as recording of sexual activity, allowing another person to observe sexual activity without the other person's consent, or engaging in sexual activity with another person while knowingly infected with an STI or HIV without informing the other person of the infection.

**Consent:** An active agreement to participate in a sexual act. An active agreement is words and/or actions that indicate a willingness to participate in a sexual act. Consent cannot be given by an individual who is asleep; unconscious; or mentally or physically incapacitated, either through the effect of drugs or alcohol or for any other reason; or is under duress, threat, coercion, or force. Past consent does not imply future consent. Silence or an absence of resistance does not imply consent. Consent can be withdrawn at any time.

**Victim:** Means a person who suffers direct or threatened physical emotional, psychological, or financial harm as a result of the commission or the attempted commission of a crime.

**Crime:** A crime is defined under the Crime victim's Rights Enhancement Act of 2020 as a violation of a penal law of the state of New Hampshire for which the offender, upon conviction, may be punished by imprisonment for more than one year or an offense expressly designated by law to be a felony.

## **POLICY:**

### **Examples of Prohibited Conduct:**

Each employee/student must exercise his or her own good judgment to avoid engaging in conduct that may be perceived by others as harassment. Forms of prohibited harassment include, but are not limited to:

- Verbal: sexual innuendos, racial or sexual epithets, derogatory slurs, off-color jokes, propositions, threats or suggestive or insulting sounds;
- Visual/Non-verbal: derogatory posters, cartoons or drawings; suggestive objects or pictures; graphic commentaries; leering; or obscene gestures;

- Physical: unwanted physical contact including touching, interference with an individual's normal work movement or assault; and
- Retaliation: making or threatening reprisals as a result of a negative response to harassment.

## **Consequences for Violating this Policy**

Harassment may be indirect and even unintentional. Violations of this policy, whether intended or not, will not be permitted. Employees and students who violate this policy will be subject to disciplinary action up to and including termination. Non-employees and vendors will be asked to leave the premises and may be barred from returning.

## **What You Should Do if You are Harassed**

Harassment is a violation of the School's policy and is prohibited by state and federal law. Experience has shown that a clear statement to the person engaging in the offensive behavior is often all that is necessary to stop the conduct. Employees/students who believe they are being harassed are encouraged to let the person engaging in the conduct know how they feel, but they are not required to do so.

Employees/students who have complaints of harassment should report the incident immediately in accordance with our Reporting Procedure for Harassment and Discrimination, set forth below.

## **Retaliation is Prohibited.**

Retaliation against an employee/student who complains in good faith about sexual or other unlawful harassment is a violation of the School's and hospital policy and is prohibited by state and federal law. Retaliation is a form of unlawful harassment and will be handled in the same manner as other forms of harassment. All incidents of retaliation should be immediately reported in accordance with the Reporting Procedure for Harassment and Discrimination.

## **REPORTING PROCEDURE FOR HARASSMENT AND DISCRIMINATION:**

If you believe that you have experienced unlawful discrimination or harassment, you must follow this reporting procedure to notify the School of the problem so that the School can promptly and thoroughly investigate the matter and take appropriate action. Do not allow an inappropriate situation to continue by not reporting it, regardless of who is creating the problem. No employee/student/visitor in this organization is exempt from our policies prohibiting harassment and discrimination.

1. Any employee/student who believes that he/she has been discriminated against or harassed should immediately notify the Title IX Coordinator or the Dean of School of Nursing or the Office of Employee Experience (HR) at St. Joseph Hospital as applicable.
2. Supervisors, managers, and associate deans, who become aware of discriminating or harassing conduct and/or a complaint of discrimination or harassment must report the conduct and/or complaint immediately to the Title IX Coordinator or the Dean of the School or the Director or Office of Employee Experience at St. Joseph Hospital.
3. Reports can be made in person, by mail, by telephone or by email to the Title IX Coordinator or the Dean of the School of Nursing or by any other means that results in the Title IX coordinator receiving the person's verbal or written report. A report may be made at any time, including non-business hours. The contact information for the Title IX Coordinator will be posted in the

Student Catalog/Handbook and on the School of Nursing website.

4. The School will investigate every reported incident promptly, thoroughly, and in a discreet manner. Upon receipt of a formal complaint, the school will send written notice to both parties. The investigation may include individual interviews with the parties involved and, where necessary, with individuals who may have observed the alleged conduct or may have other relevant knowledge. All complaints will be considered confidential to the extent possible. A Title IX complaint that possible requires investigation may be referred to the legal department of Covenant Health.
5. The School will provide supportive measures as noted under the definition provided above.
6. We encourage reporting of complaints so that we may appropriately address and correct any problems. An employee/student who participates in good faith in any investigation under this policy has the School's assurance that it will not tolerate any retaliation against them as a result of bringing the complaint or otherwise participating in the process. All employees/students are expected to be truthful, forthcoming, and cooperative in connection with a complaint investigation.
7. If in the course of the investigation, an emergency removal is necessary, the decision will be made by the Office of Employee Experience and the Vice President for Patient Care Services and Dean of the School of Nursing. Hospital policies will be followed if the complaint involves an employee.
8. The Investigation: the school will use the preponderance of evidence standard for all complaints of sexual harassment.
  - a. Confidentiality – In all cases, information will remain confidential to the extent under the law. In cases of harassment, the School of Nursing has a legal obligation to investigate the claim.
  - b. An investigator will be appointed. The investigator will work with the appropriate parties involved to conduct the investigation. The purpose of the investigation is to determine whether a policy violation has occurred. In most cases, the investigation will include interviews of the complainant and the respondent, as well as any witnesses or persons with pertinent factual knowledge and gathering and examining other relevant documents, social media, and evidence.
  - c. Impartiality in the Investigation: No conclusion will be drawn until all facts have been gathered and all information has been evaluated. Investigator(s) shall be free from conflicts of interest or bias against complainant or respondent.
9. The complainant, the respondent and any and all witnesses are required to comply with the following:
  - a. Honesty: All information given in the course of the investigation should be true and accurate to the best of the individual's knowledge.
  - b. No Retaliation: Retaliation against a student or employee who complains about unlawful harassment or discrimination is against the law and will be handled accordingly. Retaliation against anyone who participates, in an investigation is against policy and will be handled accordingly.
10. Once the investigation has been completed, a determination will be made as to whether or not

harassment has occurred and if the complaint shall result in a hearing.

11. Upon completion of the investigation, the Dean in consultation with the Office of Human Resources and the Vice President for Patient Care Services will determine the appropriate outcome, depending upon the results of the entire investigation. Possible results include:
  - a. A finding that the allegations are not supported
  - b. A negotiated resolution to the complaint
  - c. The complaint warrants a live hearing
12. The school may offer mediation with permission from all parties.

### **Grievance Process:**

If the complaint results in a hearing, the school will provide for a live hearing according to law.

1. Both parties shall receive written notice of the allegations, an equal opportunity to select an advisor of the party's choice, and an equal opportunity to submit and review evidence throughout the investigation. The school will appoint an equivalent advisor, at no cost, as needed.
2. The School will use trained Title IX personnel to objectively evaluate all relevant evidence without prejudgment of the facts at issue and free from conflicts of interest or bias for or against either party.
3. Both parties' privacy will be maintained by requiring a party's written consent before using the party's medical, psychological, or similar treatment records during a grievance process.
4. A voluntary, written consent from both parties will be obtained before using any kind of "informal resolution" process, such as mediation or restorative justice, and not use an informal process where an employee allegedly sexually harassed a student.
5. A presumption that the respondent is not responsible will be applied during the grievance process, so that the school bears the burden of proof and the standard of evidence is correctly applied.
6. The same standard of evidence shall be used as with the formal complaint against students and employees alike.
7. The decision-maker will be separate and different from the investigator or the Title IX Coordinator.
8. Cross-examination by party advisors and never the parties personally will be allowed during live hearings, however, parties will submit written questions for the other party and witnesses to answer.
9. Rape shield laws shall apply.
10. At the conclusion of the hearing, both parties shall receive a written determination at the same time, regarding responsibility, explaining how and why the decision-maker reached conclusions.
11. Remedies for a complainant will be effectively implemented if a respondent is found responsible for sexual harassment.
12. The complainant is not entitled to a particular sanction against the respondent.

13. If it is determined that a policy violation has occurred, the Dean in consultation with the Office of Employee Experience and the Vice President for Patient Care Services will determine the appropriate disciplinary action up to and including dismissal or termination.
14. Both parties will be offered an equal opportunity to appeal
15. Individuals, complainants, respondents and witnesses shall be protected from retaliation for participating (or refusing to participate) in any Title IX grievance process.
16. Any employee or student who has been found to have violated the school or hospital policies or otherwise acted inappropriately will be subject to disciplinary action, up to and including immediate termination of employment or matriculation. The School will also take other corrective or remedial actions, when appropriate.
17. If the allegations in a formal complaint do not meet the definition of sexual harassment or did not occur in the school's education program or activity, the school will dismiss the allegations for the purposes of a title ix violation. However, the school may still address the complaint/ allegations under the school's code of conduct.
18. Record Keeping: The original complaints and the investigation materials will be maintained at the School of Nursing. A confidential file will be created to specifically hold these materials. A record of the complaint, resolution, appeals and supportive measures will be maintained 7 years. A notation of a finding requiring disciplinary action will be kept in the respondent's file.
19. If the sexual harassment complaint includes assault, most adult sexual assault injuries are not required to be reported to the police, and it is the victim's decision whether or not to report the crime to law enforcement.
  - a. The current rules adopted under RSA 631:6 are as follows: If the victim is 18 years of age or older, and has received a gunshot wound or other serious bodily injury, the injuries must be reported to law enforcement.
  - b. As defined in RSA 161-F:43 "serious bodily injury" means any harm to the body which causes or could cause severe, permanent or protracted loss of or impairment to the health or of the function of any part of the body.
  - c. If the employee or student wishes to report the complaint/assault to the police, the School of Nursing will assist them in making that report if needed. The School is still required to conduct their own investigation but will coordinate with law enforcement officers.
20. Complaint Process when the Accused is a Third Party
  - a. A student or employee may bring a complaint of sexual harassment against a School of Nursing visitor, guest, or vendor. Complaints should be made immediately to the Dean. An investigation will begin immediately with consultation with the Vice President of Employee Experience and the Vice President for Patient Care Services. If deemed appropriate, steps may be taken to bar the alleged harasser from campus. The person who hosted or contracted with the alleged harasser may be informed of the actions taken and reasons for them.

## **APPEALS PROCEDURE:**

The school must offer both parties an opportunity for an appeal from a determination regarding responsibility, and from the school's dismissal of a formal complaint or any associated allegations on



the following basis:

- a. Procedural irregularity that affected the outcome of the matter
- b. Newly discovered evidence that could affect the outcome of the matter
- c. And/or the Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias that affected the outcome of the matter.
- d. The school may offer an appeal equally to both parties on additional bases

NOTE: The complainant is not entitled to a particular sanction against the respondent. The request for an appeal shall be filed/submitted to the Dean of the School of Nursing and include documentation/evidence for the basis of an appeal. The matter shall be referred to another decision-maker, other than the original decision-maker, for resolution. Supportive measures will be provided during the appeal process.

NOTE: Materials used to train the Title IX personnel are publicly available of the school's website.

Annual Awareness Training

## Annual Awareness Training

The school shall provide mandatory annual sexual misconduct primary prevention and awareness programming for all students and all employees of the school that shall include:

- A.
  1. an explanation of consent as it applies to sexual activity and sexual relationships
  2. the role drugs and alcohol play in an individual's ability to consent
  3. Information on options relating to the reporting of an incident of sexual misconduct, the effects of each option, and the methods to report an incident of sexual misconduct, including confidential and anonymous disclosure.
  4. Information on the school's procedures for resolving sexual misconduct complaints and the range of sanctions or penalties the school may impose on students and employees found responsible for a violation
  5. the name, contact information, and role of the confidential resource advisor
  6. Strategies for bystander interventions and risk reduction.
  7. Opportunities for ongoing sexual misconduct prevention and awareness campaigns and programming

### Contact information

Designated Title IX Coordinator  
5 Woodward Avenue, Nashua, NH 03060  
(603) 594-2567

Dean of the School of Nursing

5 Woodward Avenue, Nashua, NH 03060  
(603) 594-2567

Director of Employee Experience  
Office of Employee Experience St. Joseph Hospital  
172 Kinsley Street, Nashua, NH 03060  
(603) 595-3034

Vice President for Patient Care Services  
Patient Care Services  
172 Kinsley Street, Nashua, NH 03060  
(603) 882-3000 x66001

### **Resources:**

If you or someone you know has been affected by sexual or domestic violence, help is available 24-hours a day through the member programs of the **New Hampshire Coalition Against Domestic and Sexual Violence** <https://www.nhcadv.org/nh-resources.html>. To speak to an advocate, please contact your local crisis center.

To find the crisis center nearest you, please go to [http://www.nhcadv.org/crisis\\_centers.cfm](http://www.nhcadv.org/crisis_centers.cfm) or call 1-800-277-5570 to be connected with an advocate for free and confidential services. You don't have to be in crisis to call.

### **Bridges: Domestic & Sexual Violence Support Services, Inc.**

Nashua: (603) 889-0858 – Milford (603) 672-9833  
24 Hour Support Line (603) 883-3044 (Collect Calls Accepted)

### **Crisis Intervention:**

Suicide Hotline 1-800-784-2433  
Community Council Access Line 1-800-987-6562

### **Emergency Shelter:**

Harbor Homes, Inc. (603) 882-3616  
Nashua Soup Kitchen & Shelter (603) 889-7770  
Homeless Hotline 1-800-852-3388

### **Legal Information and Court Advocacy:**

NH Legal Assistance 1-800-517-0577  
Legal Advice & Referral Center (603) 224-3333

## Approval Signatures

Step Description	Approver	Date
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Dean, School of Nursing

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