Jamestown Community College
Title IX Program
“A Resource Guide to Understanding Sexual Misconduct”
# Table of Contents

- Sexual Offense Policy Statement ................................................................. 3
- Title IX statement ...................................................................................... 3
- Students' Bill of Rights ............................................................................... 4
- Reporting and Resources .......................................................................... 5
- Options for Confidently Disclosing Sexual Violence .................................. 7
- Anonymous Disclosure ............................................................................... 10
- Differences between the criminal justice system and the college disciplinary system relative to sexual violence ......................................................... 10
- Institutional Crime Reporting ...................................................................... 11
- Role of the Title IX Coordinator ................................................................ 11
- Training of the campus community ........................................................... 12
- Misconduct Statement ................................................................................ 12
- Definitions ................................................................................................. 12
- Procedures for Handling Allegations of Misconduct ................................. 14
- Special Circumstances ............................................................................... 14
- Protection and Accommodations .............................................................. 16
- Hearing Panel Procedure .......................................................................... 17
- Appeal of a Judicial Decision ..................................................................... 18
- Types of Sanctions in Sexual Violence cases ............................................ 20
- Retaliation ................................................................................................. 21
- Bystander Intervention ............................................................................... 21
- Good Samaritan Policy ............................................................................... 21
- Policy for Alcohol and/or Drug Use Amnesty in Sexual and Interpersonal Violence Cases ................................................................................................. 22
- Consequences of Inappropriate Campus Behavior .................................... 22
Sexual Offense Policy Statement:

JCC’s administration fully supports all local, state, and federal laws governing harassment, rape, and sexual assault and will prosecute violators to the fullest extent possible. Students violating this policy are subject to judicial procedures and sanctions, up to and including expulsion, which are outlined in the student constitution. Employees violating this policy shall be subject to disciplinary actions as defined in their respective labor contracts or human resource policies.

JCC is committed to providing prompt and compassionate support services to any victims of such assaults. If you or anyone you know has been a victim of a sexual offense on a JCC campus, you are urged to report the incident to JCC authorities as well as the police. If you are a victim of a sexual assault, you have the right to:

- report the incident to the coordinator of Campus Safety and Security for internal reporting and/or to pursue criminal charges;
- access support services, including free and confidential counseling, provided by JCC and/or the community.

For additional information and a list of campus and other community support resources concerning sexual offenses, contact the coordinator of Campus Safety and Security.

JCC prohibits gender and sexual discrimination (Title IX statement):

Title IX of the Education Amendment prohibits discrimination in the provision of services or benefits offered by Jamestown Community College based upon gender. Sexual discrimination includes sexual harassment, sexual assault, and sexual violence.

As defined by the Equal Employment Opportunity Commission, and the Office of Civil Rights Department of Education, sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature.

The following are examples of types of conduct that may constitute sexual harassment:

- Inappropriate touching, patting, or pinching
- Physical assault or coerced sexual activity
- Demands or subtle pressure for sexual favors
- Obscene phone calls, email, or gestures

Any person (student, faculty, or staff) who believes that discriminatory practices have been engaged in based upon gender may discuss their concerns and file informal or formal complaints of possible Title IX violations with JCC’s Title IX coordinator.
Students' Bill of Rights

The State University of New York and Jamestown Community College are committed to providing options, support, and assistance to victims/survivors of sexual assault, domestic violence, dating violence, and/or stalking to ensure that they can continue to participate in College-wide and campus programs, activities, and employment. All victims/survivors of these crimes and violations, regardless of race, color, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction, have the following rights, regardless of whether the crime or violation occurs on campus, off campus, or while studying abroad.

All students have the right to:

- Make a report to local law enforcement and/or state police;
- Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
- 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 from the institution;
- Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
- Be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available;
- 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;
- Describe the incident to as few institutional representatives as practicable and not to be required to unnecessarily repeat a description of the incident;
- Be free from retaliation by the institution, the accused and/or the respondent, and/or their friends, family, and acquaintances within the jurisdiction of the institution;
- Access to at least one level of appeal of a determination;
- 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;
• Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the College.

Reporting and Resources:

To disclose confidentially the incident to one of the following college officials, who by law may maintain confidentiality, and can assist in obtaining services (more information on confidential report is available in the Options for Confidently Disclosing Sexual Violence Policy;

• Counseling Centers – 716.338.1007 for Jamestown; 716.376.7508 for Cattaraugus; 716.363.6500 for the North County Center
• Health Centers – 716.338.1013 for Jamestown; 716.376.7569 for Cattaraugus

To disclose confidentially the incident and obtain services from the New York State, New York City or county hotlines: http://www.opdv.ny.gov/help/dvhotlines.html. Additional disclosure and assistance options are catalogued by the Office for the Prevention of Domestic Violence and presented in several languages: http://www.opdv.ny.gov/help/index.html (or by calling 1.800.942.6906), and assistance can also be obtained through:

• SurvJustice (survjustice.org/know-your-rights);
• Legal Momentum (www.legalmomentum.org);
• NYSCASA (nyscasa.org/get-help);
• NYSCADV (www.nyscadv.org);
• Pandora’s Project (www.pandys.org/lgbtsurvivors.html);
• GLBTQ Domestic Violence Project (www.glbtqdv.org); and
• Safe Horizons: http://www.safehorizon.org. (Note that these hotlines are for crisis intervention, resources, and referrals, and are not reporting mechanisms, meaning that disclosure on a call to a hotline does not provide any information to the campus. Reporting individuals are encouraged to additionally contact a campus confidential or private resource so that the campus can take appropriate action in these cases).

To disclose the incident to one of the following college officials who can offer privacy and can provide information about remedies, accommodations, evidence preservation, and how to obtain resources. These college officials will disclose that they are private and not confidential resources, and they may still be required by law and college policy to inform one or more college officials about the incident, including but not limited to the Title IX Coordinator. They will notify reporting individuals that the criminal justice process uses different standards of proof and evidence than internal procedures, and questions about the penal law or the criminal process should be directed to law enforcement or the district attorney.

• Title IX Coordinator;
• JCC Safety and Security Office (during regular business hours);
• Student Judicial Officer;
• Director of Residence Life;
• JCC Health Centers;
• Counseling Centers.

To file a criminal complaint with local law enforcement:

• Jamestown Police Department: 201 E. 2nd St., Jamestown, NY 14701 – 716.483.7536
• Olean Police Department: 101 E. State St., Olean, NY 14760 - 716.376.5677
• Dunkirk Police Department: 342 Central Ave., Dunkirk, NY 14048 – 716.366.2266
• NY State Police 24-hour hotline to report sexual assault on a NY college campus: 1.844.845.7269.

To receive assistance by the JCC Safety and Security Office in initiating legal proceedings in family court or civil court.

To file a report of sexual assault, domestic violence, dating violence, and/or stalking, and/or talk to the Title IX Coordinator for information and assistance. Reports will be investigated in accordance with JCC policy and the reporting individual’s identity shall remain private at all times if said reporting individual wishes to maintain privacy. If a reporting individual wishes to keep his/her identity anonymous, he or she utilize the Silent Witness process anonymously to report the situation and access available options:

• Barry Swanson, Title IX Coordinator, Office College-Wide Safety and Security, 716.338.1015 barryswanson@mail.sunyjcc.edu

When the accused is an employee, the reporting individual may also report the incident to the Office of Human Resources may request that one of the above referenced confidential or private employees assist in reporting to Human Resources.

Disciplinary proceedings will be conducted in accordance with applicable collective bargaining agreements. When the accused is an employee of an affiliated entity or vendor of the college, college officials will, at the request of the victim/survivor, assist in reporting to the appropriate office of the vendor or affiliated entity and, if the response of the vendor or affiliated entity is not sufficient, assist in obtaining a persona non grata letter, subject to legal requirements and college policy.

• JCC Office of Human Resources, Hamilton Collegiate Center, 525 Falconer St., Jamestown, NY 14702 716.338.1035

You may withdraw your complaint or involvement from the JCC process at any time.

JCC will ensure that at the first instance of disclosure by a reporting individual to a college representative, the following information shall be presented to the reporting individual:
“You have the right to make a report to the JCC Safety and Security Office, local law enforcement, and/or State Police or choose not to report; to report the incident to JCC; to be protected by JCC from retaliation for reporting an incident; and to receive assistance and resources from JCC.”

SUNY Sexual Assault & Violence Resource (SAVR) – JCC understands that students visit other SUNY campuses and we educate our campus community about this link that provides a list of both on and off campus resources SUNY-wide.

Options for Confidently Disclosing Sexual Violence:

The State University of New York and Jamestown Community College want you to get the information and support you need regardless of whether you would like to move forward with a report of sexual violence to campus officials or to police. You may want to talk with someone about something you observed or experienced, even if you are not sure that the behavior constitutes sexual violence. A conversation where questions can be answered is far superior to keeping something to yourself. Confidentiality varies, and this document is aimed at helping you understand how confidentiality applies to different resources that may be available to you. In this Policy:

- Confidential Resources.
- Privileged Non-Professional Counselors and Advocates.
- Privacy versus Confidentiality.
- Requesting Confidentiality: How JCC Will Weigh the Request and Respond.
- Anonymous Disclosure.
- Institutional Crime Reporting.

Confidential Resources:

Individuals who are confidential resources will not report crimes to law enforcement or college officials without your permission, except for extreme circumstances, such as a health and/or safety emergency. At JCC, this includes:


Off-campus options to disclose sexual violence confidentially include (note that these outside options do not provide any information to the campus):

- Off-campus counselors and advocates. Crisis services offices will generally maintain confidentiality unless you request disclosure and sign a consent or waiver form. More information on an agency’s policies on confidentiality may be obtained directly from the agency.
• The Salvation Army Anew Center – 83 S. Main St., Jamestown, NY 14701 716.664.6567 (office) and 800.252.8748 (Hot Line).

• Cattaraugus Community Action – Cattaraugus Community Action Victim Services & Rape Crisis Program, 25 Jefferson St., Salamanca, NY 14779 716.945.1041 X119 (Office) and 888.945.3970 (Hot Line).

• Chautauqua County Sexual Assault Nurse Examiner (SANE) Services – WCA Hospital (Emergency Room), 207 Foote Ave., Jamestown, NY 14701 716.664.8120.

• Cattaraugus County Sexual Assault Nurse Examiner (SANE) Services – Olean General Hospital (Emergency Room), 515 S. Main St., Olean, NY 14760 716.372.6275

• Off-campus healthcare providers

• Note that medical office and insurance billing practices may reveal information to the insurance policyholder, including medication and/or examinations paid for or administered. The New York State Office of Victim Services may be able to assist in compensating victims/survivors for health care and counseling services, including emergency compensation. More information may be found here: http://www.ovs.ny.gov/files/ovs_rights_of_cv_booklet.pdf, or by calling 1.800.247.8035.

Options are explained here: http://www.ovs.ny.gov/helpforcrimevictims.html

Note that even individuals who can typically maintain confidentiality are subject to exceptions under the law, including when an individual is a threat to him or herself or others and the mandatory reporting of child abuse.

Privileged Non-Professional Counselors and Advocates:

Non-professional counselors and advocates are considered privileged resources and can assist you without sharing information that could identify you with anyone other than the Title IX Coordinator. At Jamestown Community College, this includes certain members of JCC’s Counseling and Career Center: https://www.sunyjcc.edu/student-life/student-services/counseling

• Jamestown – Hamilton Collegiate Center: 716.338.1007
• Cattaraugus – Student Center 716.376.7508
• North County Center - 716.363.6500
These individuals are required to report the nature, date, time, and general location of an incident to JCC's Title IX Coordinator, but will consult with you to ensure no personally identifying details are shared without your consent. These individuals are not considered confidential resources as discussed above.

**Privacy versus Confidentiality:**

JCC employees who cannot guarantee confidentiality will maintain your privacy to the greatest extent possible. The information you provide to a non-confidential resource will be relayed only as necessary to investigate and/or seek a resolution and those resources are required to notify the Title IX Coordinator or designee, who is responsible under the law for tracking patterns and spotting systemic issues. Jamestown Community College will limit the disclosure as much as possible, even if the Title IX Coordinator determines that the request for confidentiality cannot be honored.

**Requesting Confidentiality: How JCC Will Weigh the Request and Respond:**

If you disclose an incident to a JCC employee who is responsible for responding to or reporting sexual violence or sexual harassment, but wish to maintain confidentiality or do not consent to the institution’s request to initiate an investigation, the Title IX Coordinator must weigh your request against our obligation to provide a safe, non-discriminatory environment for all members of our community, including you.

We will assist you with academic, housing, transportation, employment, and other reasonable and available accommodations regardless of your reporting choices. While reporting individuals may request accommodations through several college offices, the office of the Vice President for Student Affairs (Hamilton Collegiate Center, 716.338.1025, kirkyoung@mail.sunyjcc.edu) can serve as a primary point of contact to assist with these measures. We also may take proactive steps, such as training or awareness efforts, to combat sexual violence in a general way that does not identify you or the situation you disclosed.

We may seek consent from you prior to conducting an investigation. You may decline to consent to an investigation, and that determination will be honored unless JCC’s failure to act does not adequately mitigate the risk of harm to you or other members of the JCC community. Honoring your request may limit our ability to meaningfully investigate and pursue conduct action against an accused individual. If we determine that an investigation is required, we will notify you and take immediate action as necessary to protect and assist you.

When you disclose an incident to someone who is responsible for responding to or reporting sexual violence or sexual harassment, but wish to maintain confidentiality, Jamestown Community College officials will consider many factors to determine whether to proceed despite that request. These factors include, but are not limited to:

- Whether the accused has a history of violent behavior or is a repeat offender;
• Whether the incident represents escalation, such as a situation that previously involved sustained stalking,
• The increased risk that the accused will commit additional acts of violence;
• Whether the accused used a weapon or force;
• Whether the reporting individual is a minor;
• Whether we possess other means to obtain evidence such as security footage;
• whether the report reveals a pattern of perpetration at a given location or by a particular group.

If JCC determines that it must move forward with an investigation, the reporting individual will be notified and JCC will take immediate action as necessary to protect and assist them.

Anonymous Disclosure:

Jamestown Community College understands the difficulty people may experience in face-to-face reporting of crimes or incidents of concern. As a result, the College offers the Silent Witness Program to anyone who has witnessed, or knows about, a crime committed on campus.

An individual can pull up the silent Witness form on the JCC web page from any computer and enter information on the type of crime, location of the crime and any details. The information is then routed to the Director of Campus Wide Security who follows up with an investigation. More information and the reporting form may be found at: http://www.sunyjcc.edu/student-life/campus-safety/silent-witness-form.

The Hotline is for crisis intervention, resources and referrals and is not a reporting mechanism.

New York State Hotline for Sexual Assault and Domestic Violence: 1.800.942.6906

**Differences between the criminal justice system and the college disciplinary system relative to sexual violence:**

There are many differences between the criminal justice system and the college disciplinary system relative to sexual violence. Some of the differences are the goals, reporting requirements, and investigative processes, standards of evidence, hearings, findings/results and sanctions that can be imposed between the two systems.

The goals of the criminal justice system are public safety, deterrence, and punishment, whereas, the goals of the college are education, safety, and providing a supportive campus environment.

The laws governing law enforcement are the New York State Penal Code, New York State Criminal Procedure law, Federal Criminal Law, and Rules of Evidence. The college is mandated
to comply with Federal Title IX, The Clery Act as amended by the Violence Against Women Act; NYS Education Law sections 129-A and 129-B and New York State Enough is Enough legislation.

Contact the Title IX Coordinator for more information regarding the differences between the two systems.

**Institutional Crime Reporting:**

Reports of certain crimes occurring in certain geographic locations will be included in the JCC Clery Act Annual Security Report in an anonymized manner that neither identifies the specifics of the crime or the identity of the reporting individual or victim/survivor. The contact for Title IX and Clery reporting is: Barry Swanson, Title IX Coordinator and JCC Coordinator of Safety and Security, Hamilton Collegiate Center, 716.338.1015.

Jamestown Community College is obligated to issue timely warnings of Clery Act crimes occurring within relevant geography that represent a serious or continuing threat to students and employees (subject to exceptions when potentially compromising law enforcement efforts and when the warning itself could potentially identify the reporting individual or victim/survivor). A reporting individual will never be identified in a timely warning.

The Family Educational Rights and Privacy Act allows institutions to share information with parents when (1) there is a health or safety emergency, or (2) when the student is a dependent on either parents’ prior year federal income tax return. Generally, JCC will not share information about a report of sexual violence with parents without the permission of the reporting individual.

**Role of the Title IX Coordinator:**

- Oversight of the College’s Title IX program, which includes all forms of sexual violence, to ensure prompt and equitable resolution of all complaints.
- Providing a central place to report an incident.
- Providing information about college policies and procedures.
- Providing referrals to campus and community resources and victim advocates.
- Facilitating accommodations to address safety concerns and to support reporting persons/victims so that academic and professional pursuits may continue unimpeded.
- Collaborating with community partners to assist with a resolution that balances the needs of the individuals involved with those of the larger community.
- Maintaining records and compiling required reports.
- Facilitate investigations of misconduct to ensure fairness, impartiality, and equity.
• Coordinating and providing training, education, and prevention programs for the entire college community.

• Assure compliance with NYS Enough is Enough legislation, Federal Title IX and other applicable laws.

Training of the campus community:

Jamestown Community College provides comprehensive onboarding and ongoing training to the campus community through a variety of training options and venues. The training covers topics required by Title IX and NYS Enough is Enough mandates.

Training is provided to first-year and transfer students via onboarding and student success seminar classes. Members of student leadership groups, all athletes, coaches, athletic directors, residence life staff and residents of the campus residence life program receive annual Title IX training. The college requires employees to participate in annual Title IX training.

The Title IX Coordinator and Title IX Investigators receive annual training commensurate with their responsibilities.

Misconduct Statement:

Students shall be subject to disciplinary or legal action, or both, for misconduct on the campus or at college sponsored activities or off campus when there is a significant relation to or effect on the college or the student population. Physical harm or threat of physical harm to anyone or verbal abuse resulting in intimidation, harassment or coercion of another person or group of persons including such acts as: assault, battery, stalking, sexual assault, or sexual harassment of another person, dating or domestic violence, or any other conduct which directly threatens or endangers the health and safety of any person is prohibited.

Definitions:

Affirmative Consent: Affirmative consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant’s sex, sexual orientation, gender identity, or gender expression.

Stalking: Intentionally engaging in a course of conduct, directed at a specific person, which is likely to cause a reasonable person to fear for his or her safety or the safety of others or cause that person to suffer substantial emotional damage. Examples include, but are not limited to, repeatedly following such person(s), repeatedly committing acts that alarm, cause fear, or
seriously annoy such other person(s) and that serve no legitimate purpose, and repeatedly
communicating by any means, including electronic means, with such person(s) in a manner
likely to intimidate, annoy, or alarm him or her.

**Sexual Misconduct**
Sexual misconduct can be defined as, but not limited to, one or more of the following:

**Intimate Partner Violence** includes Dating Violence and Domestic Violence, both of which are
further defined below. Intimate Partner Violence can occur in relationships of the same or
different genders.

**Dating Violence:** Any act of violence committed by a person who is or has been in a social
relationship of a romantic or intimate nature with the victim. The existence of such a
relationship shall be determined based on the victim’s statement and with consideration of the
type and length of the relationship and the frequency of interaction between the persons
involved in the relationship. Two people may be in a romantic or intimate relationship,
regardless of whether the relationship is sexual in nature; however, neither a casual
acquaintance nor ordinary fraternization between two individuals in a business or social
context shall constitute a romantic or intimate relationship. This definition does not include
acts covered under domestic violence.

**Domestic Violence:** Any violent felony or misdemeanor crime committed by a current or
former spouse or intimate partner of the victim, a person
sharing a child with the victim, or a
person cohabitating with the victim as a spouse or intimate partner.

**Sexual Assault:** A sexual assault has been committed when an individual engages in sexual
activity without the explicit consent of the other individual involved.
Sexual activity is any touching of a sexual or other intimate part of a person for the purpose of
gratifying sexual desire of either party. This includes coerced touching of the actor by the victim
as well as the touching of the victim by the actor, whether directly or through clothing.
Sexual assault includes any forced act against one's will where sex is the weapon. This can
include, but is not limited to:

- Sexual battery: the unwanted touching of an intimate part of another person for the
  purpose of arousal by the actor
- Sodomy: forced anal intercourse
- Oral copulation: forced oral-genital contact
- Rape by a foreign object: forced penetration by a foreign object including digits (fingers
  and toes)
- Rape: penile-vaginal intercourse against a person's will and without consent
Procedures for Handling Allegations of Misconduct:

Pending action on the charges, the status of a student should not be altered, or his right to be present on the campus and to attend classes suspended, except for reasons relating to the safety and well-being of students, faculty, or other members of the college community or college property as determined by the appropriate college administrator.

For minor infractions, an attempt will be made by the faculty member or administrator involved to rectify the misconduct problem on an informal basis. At this point, the faculty member or administrator has the right to and may take action to determine an appropriate penalty or remedy if warranted. For minor infractions that occur within the residence halls, the judicial process will be carried out by the residence directors or other professional staff in residence life.

The JCC conduct proceeding is not a trial; any attempt to make it such will impair its educational function in which open discussion, rather than adversarial debate, is sought. The college is committed to providing due process to all students involved in the college conduct proceedings. In more complicated cases or in cases where the student chooses to appeal the initial faculty or administrative action, appeal will be made to the vice president of student affairs. In strictly student versus student conflicts, the offended sides shall bring the case to the vice president of student affairs.

The vice president of student affairs or the vice president’s designee shall review the complaint and conduct an investigation. During the investigation, the vice president of student affairs or the vice president’s designee shall interview all principals and witnesses and maintain a written record of what transpired. The vice president of student affairs will render a decision within five class days of receipt of the case and a written notice will be sent to the student. Whenever, in the judgment of the vice president of student affairs, clear danger exists to the individual or to the institution, immediate suspension may be imposed. If suspended in this way, the individual shall be entitled to an interview with the vice president of student affairs to discuss the basis for the decision. After further review of the case the vice president of student affairs may take other appropriate action.

Special Circumstances:

In judicial cases involving sexual harassment, sexual violence, domestic violence, dating violence, and stalking, the following student conduct process will apply:

- To file student conduct charges against the accused, conduct proceedings are governed by the procedures set forth in the JCC Code of Conduct as found in the JCC Constitution of the Student Body http://www.sunyjcc.edu/files/JCCstudent%20constitution.pdf as well as federal and New York state law, including the due process provisions of the United States and New York State constitutions.
Throughout conduct proceedings, the respondent and the reporting individual will have:

- The same opportunity to be accompanied by an advisor of their choice who may assist and advise the parties through the conduct process and any related hearings or meetings. Participation of the advisor in any proceeding is governed by federal law and the Student Code of Conduct;
- The right to a prompt response to any complaint and to have their complaint investigated and adjudicated in an impartial, timely, and thorough manner by individuals who receive annual training in conducting investigations of sexual violence, the effects of trauma, impartiality, the rights of the respondent including the right to a presumption that the respondent is “not responsible” until a finding of responsibility is made, and other issues related to sexual assault, domestic violence, dating violence, and stalking.
- The right to an investigation and process conducted in a manner that recognizes the legal and policy requirements of due process (including fairness, impartiality, and a meaningful opportunity to be heard) and is not conducted by individuals with a conflict of interest.
- The right to receive advance written or electronic notice of the date, time, and location of any meeting or hearing they are required to or are eligible to attend. Accused individuals will also be told the factual allegations concerning the violation, a reference to the specific code of conduct provisions alleged to have been violated, and possible sanctions.
- The right to have a conduct process run concurrently with a criminal justice investigation and proceeding, except for temporary delays as requested by external municipal 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.
- The right to offer evidence during an investigation and to review available evidence held by JCC.
- The right to present evidence and testimony at a hearing, where appropriate.
- The right to a range of options for providing testimony via alternative arrangements, including telephone/videoconferencing or testifying with a room partition.
- The right to exclude prior sexual history with persons other than the other party in the conduct process or their own mental health diagnosis or treatment from admittance in college disciplinary stage that determines responsibility. Past findings of domestic violence, dating violence, stalking, or sexual assault may be admissible in the disciplinary stage that determines sanction.
- The right to ask questions of the decision maker and via the decision maker indirectly request responses from other parties and any other witnesses present.
- The right to make an impact statement during the point of the proceeding where the decision maker is deliberating on appropriate sanctions.
- The right to simultaneous (among the parties) written or electronic notification of the outcome of a conduct proceeding, including the decision, any sanction, and the rationale for the decision and any sanctions.
The right to written or electronic notice about the sanction(s) that may be imposed on the accused based upon the outcome of the conduct proceeding. For students found responsible for sexual assault, the available sanctions are suspension with additional requirements and expulsion/dismissal.

Access to at least one level of appeal of a determination before a panel, which may include one or more students, that is fair and impartial and does not include individuals with a conflict of interest.

The right to have access to a full and fair record of a student conduct hearing which shall be preserved and maintained for at least five years.

JCC’s vice president of student affairs is the college judicial officer and is located in the administration wing, Hamilton Collegiate Center, 525 Falconer St., Jamestown, NY 14702 (716.338.1025).

The right to choose whether to disclose or discuss the outcome of a conduct hearing.

The right to have all information obtained during the course of the conduct or judicial process be protected from public release until the appeals panel makes a final determination unless otherwise required by law.

**Protection and Accommodations:**

In judicial cases involving sexual harassment, sexual violence, domestic violence, dating violence, and stalking, the following accommodations may be applied at the discretion of the judicial officer:

- When the accused is a student, to have the college issue a “no contact order,” meaning that continuing to contact the protected individual is a violation of college policy subject to additional conduct charges; if the accused and a protected person observe each other in a public place, it is the responsibility of the accused to leave the area immediately and without directly contacting the protected person.

- When the accused is a student and presents a continuing threat to the health and safety of the community, to have the accused subject to interim suspension pending the outcome of a conduct process.

- Either party may request a prompt review of the need for and terms of an interim suspension.

- When the accused is not a student but is a member of the college community and presents a continuing threat to the health and safety of the community, to subject the accused to interim measures in accordance with applicable collective bargaining agreements, employee handbooks, and JCC policies and rules.

- When the accused is not a member of the college community, to have assistance from the JCC safety office or other college officials in obtaining a persona non grata letter, subject to legal requirements and college policy.
To obtain reasonable and available interim measures and accommodations that effect a change in academic, housing, employment, transportation, or other applicable arrangements in order to ensure safety, prevent retaliation, and avoid an ongoing hostile environment. Parties may request a prompt review of the need for and terms of any interim measures and accommodations that directly affect them.

While reporting individuals may request accommodations through any of the offices referenced in this policy, the office of the vice president of student affairs can serve as a point to assist with these measures.

Both the accused/respondent and reporting individual may request a prompt review of the need for and terms of a “no contact order,” consistent with JCC policy. Parties may submit evidence in support of their request.

Students have a right to:

- Assistance from the JCC safety office or other college officials in initiating legal proceedings in family court or civil court, including but not limited to obtaining an order of protection or, if outside of New York state, an equivalent protective or restraining order;
- To receive a copy of the order of protection or equivalent and have an opportunity to meet or speak with a college official who can explain the order and answer questions about it, including information from the order about the accused’s responsibility to stay away from the protected person(s); that burden does not rest on the protected person(s);
- To an explanation of the consequences for violating these orders, including but not limited to arrest, additional conduct charges, and interim suspension.
- To have assistance from the JCC safety office in effecting an arrest when an individual violates an order of protection or, if outside of New York state, an equivalent order.

**Hearing Panel Procedure:**

1. The panel chair shall initiate the hearing by reading the allegations aloud.
2. The accuser presents evidence and/or testimony supporting the charges (45-minute limit).
3. The accused presents evidence and/or testimony to uphold the rationale for the appeal (45-minute limit).
4. At the conclusion, the accuser and the accused will have the opportunity to summarize their remarks.

If witnesses are giving testimony, the person calling that witness may question the witness first (direct examination), and then the opposing side may cross-examine the witness. It shall be the discretion of the panel chair to rule, if necessary, about the relevance or duration of the panel chair to rule, if necessary, about the relevance or duration of questioning and of concluding statements. In cases of sexual violence, cross-examination is not permitted.
Written statements in lieu of being present are not encouraged, but will be allowed. Such written statements can be challenged, but not defended. The chair will determine the relevance of the written statement.

Advisor(s) may attend the entire hearing, but will not speak to the panel directly. Lawyers are not permitted at the hearing except in allegations of sexual assault, dating violence, domestic violence, and stalking. In these cases, lawyers are permitted for both the accused and the complainant but will be limited to a silent observer role.

Panel members may ask questions of anyone providing testimony for purposes of clarification. After presentation of evidence, panel deliberations shall be held in private. Majority vote will decide the case.

The college will maintain a record (a tape recording) of the hearing. Thereafter, the record will remain the property of the college. In the event of further action, the accused and/or accuser will have access to the record.

If the accused or accuser fails to attend the scheduled hearing, the hearing will be held in their absence. The accused will be assumed to have entered a claim to uphold the rational for the appeal for each allegation, but forfeited their ability to present information on their behalf. The panel chair shall then investigate to determine why the student did not attend the hearing. If the panel chair determines that the absence is inexcusable, the decision of the hearing shall stand. Otherwise, the panel chair may grant a new hearing.

**Following the Hearing:**

As a result of this hearing:

a. the hearing panel (H.P.) will decide the case and set an appropriate penalty (if needed).

b. this procedure in no way limits the student’s right to appeal to the civil courts. The chair will notify the accused and accuser of the H.P.’s decision in writing within five class days of the hearing.

**For appeals involving Cattaraugus County Campus students at the formal hearing level, panel members are chosen by the Student Senate and faculty members are chosen from the Cattaraugus County Campus.**

**Appeal of a Judicial Decision:**

Upon request, either party may appeal the decision of the vice president of student affairs or the vice president’s designee to the hearing panel.
If a student should wish to appeal the decision of the vice president of student affairs, the person making the appeal must do so in written form to the vice president of student affairs within five class days of receipt of the vice president’s decision. Well-articulated rationale for the appeal must be stated in the written request and may only be made in cases of the following:

- Procedural error; due process was violated;
- Relevant information to the alleged violation was: 1) discovered after the conclusion of the disciplinary meeting, and/or 2) could not have been reasonably discovered prior to or during the meeting, and would have had a significant bearing on the outcome of the hearing.
- A sanction that is unreasonably severe in light of the offense(s) committed.
- Facts demonstrate that the conclusion of the hearing office was clearly unfounded.

The vice president of student affairs will forward all materials to the Student Affairs Committee chairperson upon notification that an appeal has been made.

The Chair and two other members of the Student Affairs Committee will review the written appeal request to determine whether or not the criteria for appeal has been met. The Chair of the Student Affairs Committee will send the student who is seeking an appeal a written confirmation or denial of the appeal within five class days of receipt of the appeal.

When an appeal is confirmed, the hearing is expected to commence within 10 class days following the appeal. The student shall be informed in writing of the charges by the chairperson of the Student Affairs Committee no later than three days before the hearing. An advocate to help the student navigate the appeal process will be made available upon request to the Student Affairs Committee Chair.

The case is heard before a hearing panel composed of three students, two faculty, and the vice president of academic affairs. The student panel members are chosen annually by the Student Senate for both the Jamestown and Cattaraugus County campuses. The faculty panel members are chosen annually by the faculty. In cases where there may be a conflict of interest, the student panel member’s replacement may be appointed by the Student Affairs Committee chairperson, and the vice president’s replacement may be appointed by the college president. In addition, the student may request for personal reasons that any two panel members be replaced by the above means. All student and faculty panel members and student advocates will be expected to attend annual appeal process training early in the academic year.

The hearing will be closed except to:

- the person charged
- his/her advocate (two maximum). Lawyers are not permitted at the hearing except in allegations of sexual assault, dating violence, domestic violence, and stalking. In these
cases, lawyers are permitted for both the accused and the complainant but will be limited to a silent observer role.

- the accuser
- witnesses at the time of their testimony
- the panel chairperson
- the members of the panel

The panel chairman's function is to conduct the hearing. The chairman is the chairman of the Student Affairs Committee or a designee, except where interests conflict in which case a replacement may be chosen by the Student Affairs Committee. In the case of a tie vote, the panel chair will cast the deciding vote.

**For appeals involving Cattaraugus County Campus students at the formal hearing level, panel members are chosen by the Student Senate and faculty members are chosen from the Cattaraugus County Campus.**

**Types of Sanctions in Sexual Violence cases:**

If a student is found responsible for sexual misconduct the following sanctions shall apply:

**Disciplinary suspension** - A decision that removes the student from the college for a specific period of time, ranging from one day to an academic year. The terms of reinstatement will be set forth in the notice of suspension, which include meeting with the dean of student affairs regarding the intent to return to the campus. A record of the incident will be added to the student’s conduct file. The student will be barred from college premises and college sponsored events during the suspension period, except with the express written permission of the dean of student affairs. Students who are suspended will not be eligible for a refund. This includes tuition and the cost of on-campus housing. JCC considers dating violence, domestic violence, sexual assault, and stalking as extremely serious violations, subject to suspension and/or expulsion from the college, and will result in a transcript notation.

**Disciplinary expulsion** - A lengthy separation of the student from the college, to be more than one academic year in length. A record of the incident will be added to the student’s conduct file. The student will be barred from college premises and college sponsored events. If the student is desirous to return to the campus after the terms of expulsion have been met, the student must meet with the vice president of student affairs, who will determine if the student could be allowed to request readmission to the college. If readmitted, the student would be placed on probation status. (See 3). JCC considers dating violence, domestic violence, sexual assault, and stalking as extremely serious violations and subject to suspension and/or expulsion from the college, and will result in a transcript notation.

**Transcript Notations** - For crimes of violence, including, but not limited to sexual violence, a notation shall be made on the transcript of students found responsible after a conduct process
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 the respondent who withdraws from JCC while such conduct charges are pending, and declines to complete the disciplinary process, JCC shall make a notation on the transcript of such students that they “withdrew with conduct charges pending.” Respondents may appeal the decision and seek the removal of a transcript notation for a suspension, provided that such notation shall not be removed prior to one year after conclusion of the suspension, while notations for expulsion shall not be removed. If a finding of responsibility is vacated for any reason, any such transcript notation shall be removed.

**Retaliation:**

No member of the JCC community shall retaliate, intimidate, threaten, coerce or otherwise discriminate against a person who files a Title IX complaint, serves as a witness, or assists or participates in a Title IX proceeding in any manner.

Retaliation defined:

A. Engaging, directly or indirectly, in any action or attempting to harass, intimidate, retaliate against, or improperly influence any individual involved with the Student Conduct System.

B. An intentional act taken against an individual who initiates any sexual misconduct complaint, including stalking of intimate partner violence, pursues legal recourse for such a complaint, or participants in any manner in the investigation of such a report. Any act of retaliation is prohibited and is subject to a student conduct referral.

**Bystander Intervention:**

Bystander Intervention is a philosophy and strategy for prevention of various types of violence, including bullying, sexual harassment, sexual assault, and intimate partner violence. Simply put, it’s when someone interrupts a potentially harmful situation. That includes stopping actions or comments that promote sexual violence and discourages victim blaming, offers the chance to change social norms and shifts responsibility to both men and women to intervene.

**Good Samaritan Policy:**

The JCC Good Samaritan 911 Policy supports students who reach out for assistance in the case of a medical emergency, as well as supports the student who is helped. This policy also applies to victims of and witnesses to crimes, including sexual violence. Therefore, a student or student organization seeking medical treatment for him/herself, or for any other student who is in immediate medical need, or any student who is the recipient of this emergency medical help, will not be subject to disciplinary sanctions related to the violation of using or possessing
alcohol or other drugs, as defined in the JCC Code of Conduct. This policy applies to emergencies both on and off campus.

Policy for Alcohol and/or Drug Use Amnesty in Sexual and Interpersonal Violence Cases:

The health and safety of every student at the State University of New York and its state-operated and community colleges is of utmost importance. JCC 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.

JCC strongly encourages students to report incidents of 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 JCC officials or law enforcement will not be subject to JCC’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.

Consequences of Inappropriate Campus Behavior:

Faculty or other college personnel have the right and the responsibility to take appropriate action when an instance of inappropriate behavior is observed. The form of intervention taken by the instructor or other college personnel will depend on the nature of the misconduct observed. The Constitution of the Student Body outlines the process to be followed and sanctions that may be placed on students who engage in various forms of misconduct.

A Final Note

JCC is committed to creating and maintaining an effective community of learners in which all can grow and develop. We look forward to interacting with you in a civil and respectful classroom environment that encourages dialogue, supports the acquisition of knowledge, and assists all students in meeting their academic and personal goals.