



culinaryarts.edu
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Sexual and Gender-Based Harassment Policy Statement

JNA Institute (the “School”) is committed to maintaining a safe and healthy educational and work environment in which no member of the School community is, on the basis of sex, sexual orientation, or gender identity, excluded from participation in, denied the benefits of, or subjected to discrimination in any School program or activity. Gender-based and sexual harassment, including sexual violence, are forms of sex discrimination in that they deny or limit an individual’s ability to participate in or benefit from School programs or activities.

This Policy is designed to ensure a safe and non-discriminatory educational and work environment and to meet legal requirements, including: Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in the School’s programs or activities; relevant sections of the Violence Against Women Reauthorization Act; Title VII of the Civil Rights Act of 1964, which prohibits discrimination on the basis of sex in employment; and Pennsylvania laws that prohibit discrimination on the basis of sex, sexual orientation, and gender identity. It does not preclude application or enforcement of other School policies.

If someone wishes to make an anonymous report, they can do so via the Student Services area of the School’s LMS or at: www.CulinaryArts.edu/Clery

It is the policy of the School to provide educational, preventative and training programs regarding sexual or gender-based harassment; to encourage reporting of incidents; to prevent incidents of sexual and gender-based harassment from denying or limiting an individual’s ability to participate in or benefit from the School’s programs; to make available timely services for those who have been affected by discrimination; and to provide prompt and equitable methods of investigation and resolution to stop discrimination, remedy any harm, and prevent its recurrence. Violations of this Policy may result in the imposition of sanctions up to, and including, termination, dismissal, or expulsion, as determined by the appropriate officials at the School.

Retaliation against an individual for raising an allegation of sexual or gender-based harassment, for cooperating in an investigation of such a complaint, or for opposing discriminatory practices is prohibited. Retaliation is also unlawful pursuant to Title IX and other laws. Submitting a complaint that is not in good faith or providing false or misleading information in any investigation of complaints is also prohibited.

Nothing in this Policy shall be construed to abridge academic freedom and inquiry, principles of free speech, or the School’s educational mission. As you read the following document, please address all questions or concerns to the School’s Campus Security Authority (CSA):

- Nicole DiGironimo, 215-468-8800, director@jna.edu

DEFINITIONS

CONSENT (FROM RAINN.ORG)

Consent is an agreement between participants to engage in sexual activity. Consent should be clearly and freely communicated. A verbal and affirmative expression of consent can help both you and your partner to understand and respect each other's boundaries.

Consent cannot be given by individuals who are underage, intoxicated or incapacitated by drugs or alcohol, or asleep or unconscious. If someone agrees to an activity under pressure of intimidation or threat, that isn't considered consent because it was not given freely. Unequal power dynamics, such as engaging in sexual activity with an employee or student, also mean that consent cannot be freely given.

Consenting to one activity, one time, does not mean someone gives consent for other activities or for the same activity on other occasions. One can withdraw consent at any point.

Enthusiastic consent is a newer model for understanding consent that focuses on a positive expression of consent. Simply put, enthusiastic consent means looking for the presence of a "yes" rather than the absence of a "no." Enthusiastic consent can be expressed verbally or through nonverbal cues, such as positive body language like smiling, maintaining eye contact, and nodding. These cues alone do not necessarily represent consent, but they are additional details that may reflect consent. It is necessary, however, to still seek verbal confirmation.

SEXUAL HARASSMENT

Sexual harassment is defined as unwelcome behavior of a sexual nature that relates to the gender or sexual identity of an individual and that has the purpose or effect of creating an intimidating, offensive, or hostile environment for study. Conduct alleged to be sexual harassment will be evaluated by considering the totality of the particular circumstances, including the nature, frequency, intensity, location, context, and duration of the questioned behavior. Repeated incidents or a pattern of harassing behavior may be cause for serious corrective action. However, a more serious incident, even if isolated, may be sufficient cause for action under this policy including referral to law enforcement when applicable.

Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, graphic, or physical conduct of a sexual nature, when: (1) submission to or rejection of such conduct is made either explicitly or implicitly a condition of an individual's employment or academic standing or is used as the basis for employment decisions or for academic evaluation, grades, or advancement (quid pro quo); or (2) such conduct is sufficiently severe, persistent, or pervasive that it interferes with or limits a person's ability to participate in or benefit from the School's education or work programs or activities (hostile environment).

Quid pro quo sexual harassment can occur whether a person resists and suffers the threatened harm, or the person submits and avoids the threatened harm. Both situations could constitute discrimination on the basis of sex.

A hostile environment can be created by persistent or pervasive conduct or by a single severe episode. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment. Sexual violence, including rape, sexual assault, and domestic and dating violence, is a form of sexual harassment. In addition, the following conduct may violate this Policy:

- Observing, photographing, videotaping, or making other visual or auditory records of sexual activity or nudity, where there is a reasonable expectation of privacy, without the knowledge and consent of all parties
- Sharing visual or auditory records of sexual activity or nudity without the knowledge and consent of all recorded parties and recipient(s)
- Sexual advances, whether or not they involve physical touching
- Commenting about or inappropriately touching an individual's body
- Requests for sexual favors in exchange for actual or promised job benefits, such as favorable reviews, salary increases, promotions, increased benefits, or continued employment
- Lewd or sexually suggestive comments, jokes, innuendoes, or gestures
- Stalking

Other verbal, nonverbal, graphic, or physical conduct may create a hostile environment if the conduct is sufficiently persistent, pervasive, or severe so as to deny a person equal access to the School's programs or activities. Whether the conduct creates a hostile environment may depend on a variety of factors, including: the degree to which the conduct affected one or more person's education or employment; the type, frequency, and duration of the conduct; the relationship between the parties; the number of people involved; and the context in which the conduct occurred.

UNWELCOME CONDUCT

Conduct is unwelcome if a person (1) did not request or invite it and (2) regarded the unrequested or uninvited conduct as undesirable or offensive. That a person welcomes some sexual contact does not necessarily mean that person welcomes other sexual contact. Similarly, that a person willingly participates in conduct on one occasion does not necessarily mean that the same conduct is welcome on a subsequent occasion.

Whether conduct is unwelcome is determined based on the totality of the circumstances, including various objective and subjective factors. The following types of information may be helpful in making that determination: statements by any witnesses to the alleged incident; information about the relative credibility of the parties and witnesses; the detail and consistency of each person's account; the absence of corroborating information where it should logically exist; information that the Respondent has been found to have harassed others; information that the Complainant has been found to have made false allegations against others; information about the Complainant's reaction or behavior after the alleged incident; and information about any actions the parties took immediately following the incident, including reporting the matter to others.

In addition, when a person is so impaired or incapacitated as to be incapable of requesting or inviting the conduct, conduct of a sexual nature is deemed unwelcome, provided that the Respondent knew or reasonably should have known of the person's impairment or incapacity. The person may be impaired or incapacitated as a result of drugs or alcohol or for some other reason, such as sleep or unconsciousness. A Respondent's impairment at the time of the incident as a result of drugs or alcohol

does not, however, diminish the Respondent's responsibility for sexual or gender-based harassment under this Policy.

GENDER-BASED HARASSMENT

Gender-based harassment is verbal, nonverbal, graphic, or physical aggression, intimidation, or hostile conduct based on sex, sex-stereotyping, sexual orientation or gender identity, but not involving conduct of a sexual nature, when such conduct is sufficiently severe, persistent, or pervasive that it interferes with or limits a person's ability to participate in or benefit from the School's education or work programs or activities. For example, persistent disparagement of a person based on a perceived lack of stereotypical masculinity or femininity or exclusion from an activity based on sexual orientation or gender identity also may violate this Policy.

INVESTIGATIONS OF COMPLAINTS

A complaint that a student or employee has committed sexual harassment or engaged in nonconsensual sexual activity may be made to the Title IX Officer, or other employee. The School will conduct an investigation, as appropriate under the circumstances.

The investigative process involves interviewing the parties involved and any witnesses while gathering documents or other evidence. In cases involving alleged criminal conduct, the complainant may file a criminal complaint with the local police department. A complainant need not pursue a criminal complaint in order to seek or to hold the accused responsible through the School's Code of Conduct. As soon as possible, the complainant and the accused will be offered appropriate assistance, and the Dean of Academics Affairs will be contacted if course adjustments are required.

Based on the outcome of the investigation, the Title IX Officer or their designee will determine if there is sufficient cause to proceed with the complaint. If so, the Title IX Officer or their designee will arrange for an informal resolution conference with the accused. (Complainants do not attend informal resolution meetings but are apprised of the meeting's outcome.) If the accused does not accept responsibility for the allegations and/or the proposed sanction, the Title IX Officer or their designee will suggest an appropriate responsive action.

The exact nature of the responsive action depends on the circumstances, but may include discipline up to and including suspension or dismissal from the School for a student or employee who is found to have violated School policies.

The School endeavors to resolve complaints promptly. Ordinarily, the investigative stage will take no longer than 60 calendar days from the time the complaint is received. In exceptional circumstances (including but not limited to especially complex cases or when the School is not in session), it may be necessary to extend these timelines. If that occurs, the parties will be informed of the expected timeline for completion.

JURISDICTION

This Policy applies to sexual or gender-based harassment that is committed by students, faculty, staff, School appointees, or third parties, whenever the misconduct occurs:

1. On School property; or

2. Off School property, if:
 - the conduct was in connection with a School or School-recognized program or activity; or
 - the conduct may have the effect of creating a hostile environment for a member of the School community.

MONITORING AND CONFIDENTIALITY

A variety of resources are available both on and off campus to assist those who have experienced gender-based or sexual harassment.

Individuals considering making a disclosure to School resources should make sure they have informed expectations concerning privacy and confidentiality. The School is committed to providing all possible assistance in understanding these issues and helping individuals to make an informed decision.

If someone wishes to make an anonymous report, they can do so via the Student Services area of the School's LMS or at: www.CulinaryArts.edu/Clery

It is important to understand that, while the School will treat information it has received with appropriate sensitivity, School personnel may nonetheless need to share certain information with those at the School responsible for stopping or preventing sexual or gender-based harassment. For example, School officers, other than those who are prohibited from reporting because of a legal confidentiality obligation or prohibition against reporting, must promptly notify the School or Title IX Officer about possible sexual or gender-based harassment, regardless of whether a complaint is filed. Such reporting is necessary for various reasons, including to ensure that persons possibly subjected to such conduct receive appropriate services and information; that the School can track incidents and identify patterns; and that, where appropriate, the School can take steps to protect the School community. This reporting by School officers will not necessarily result in a complaint; rather, the School Title IX Officer will assess the information and determine what action, if any, will be taken. Information will be disclosed in this manner only to those at the School who, in the judgment of the Title IX Officer or School, have a need to know.

Should individuals desire to discuss an incident or other information only with persons who are subject to a legal confidentiality obligation or prohibition against reporting, they should ask School officers for information about such resources.

School officers are available to discuss these other resources and to assist individuals in making an informed decision.

The School prohibits retaliation against any individual who in good faith makes a complaint of sex discrimination, sexual harassment, or sexual misconduct or participates as a witness in a proceeding under this or any other School policy. Retaliation is also unlawful pursuant to Title IX and other laws.

VIOLATIONS OF OTHER RULES

The School encourages the reporting of all concerns regarding sexual or gender-based harassment. Sometimes individuals are hesitant to report instances of sexual or gender-based harassment because they fear they may be charged with other policy violations, such as underage alcohol consumption.

Last Updated: January 2023

Because the School has a paramount interest in protecting the well-being of its community and remedying sexual or gender-based harassment, any witness or victim of an incident of sexual harassment or sexual violence who reports the incident in good faith will not be sanctioned by the school for admitting in the report to a violation of the school's student conduct policy on the personal use of drugs or alcohol.