



## TITLE IX POLICY AND PROCEDURES

### Table of Contents

I.	Policy Statement.....	1
II.	Application of Policy .....	1
III.	Title IX	

employee, or other individual, and it does not grant any student, employee, or other individual any contractual rights. Instead, this Policy is intended solely to comply with Title IX. This Policy is subject to revision at any time for any reason without any notice other than its posting



- a) Washing anything (including hands, mouth, and face) or showering;
  - b) Going to the bathroom, brushing teeth, eating, drinking, douching, or changing clothes.
  - c) It is recommended to bring an extra set of clothes to the hospital.
3. Time sensitive steps: Some actions are more effective or only may be taken within a few days after an incident of sexual harassment. You may wish to consult with medical personnel quickly regarding these items:
  - a) Preventative treatments for pregnancy and sexually transmitted infections
  - b) Evidence collection
  - c) Toxicology testing if there are signs that drugs or alcohol may have facilitated the incident of sexual misconduct.
4. Consider steps to preserve and record physical and other evidence, which may be important to enforce rights or obtain remedies (including pressing criminal charges or seeking a civil protective order).
5. Details that may be important to identify the allegedly responsible individual include the perpetrator's name (if known) and a description of the perpetrator (including clothing worn and a physical description of the perpetrator), and the details of the incident of sexual harassment (including, for example, the location, possible witnesses, etc.).
6. If you do change or have access to other materials like sheets or blankets present during the assault/violence, those materials can be brought to the hospital or given to law enforcement for evidence collection. You should use a paper bag, not a plastic bag, if you choose to transport any of these materials on your own. Note that this is by no means an exhaustive summary regarding evidence preservation, which is outside the scope of this Policy.
7. You may also consider preserving electronic evidence and other relevant information, such as communications from the perpetrator (including email, text messages, mail, instant messaging, etc.).
8. Seek confidential counseling services. You can obtain confidential counseling assistance whether or not you file a report.
9. Seek assistance regarding obtaining interim supportive or protective measures at the university, including no contact orders and changes to university academic, living, student financial aid, transportation, visa and immigration, and working situations, regardless of whether you choose to report the sexual misconduct. The Title IX Coordinator or CS&S will provide you with written information about university and community resources for changing situations or addressing needs.
10. Create a safety plan. The Title IX Coordinator, CS&S, and other university administrators are able to assist you with creating such a plan. Community organizations may be able to assist as well.
11. You may seek a protective order or similar order from a court. Please note that the local authorities are responsible for the enforcement of these items and not CS&S, but CS&S will provide assistance.

**VI.**

- b) Reporting to the Title IX Coordinator
  - (1) Individuals who would like to pursue the procedures outlined in this Policy or who would like to seek additional information about the university's procedures should contact the Title IX Coordinator.
- c) Reporting to CS&S
  - (1) Individuals may also report to JWU's CS&S. CS&S is available 24/7/365 and works closely with the university's Title IX Coordinator to appropriately address reports of sexual harassment.
  
- d) Reporting Anonymously
  - (1) Individuals may make a report about conduct covered by this Policy without disclosing their name by using the online form located at: <https://www.jwu.edu/about-jwu/equity-and-compliance-services.html>.
  - (2) Individuals may also call 833-JWU-LINE (1-833-



**IX. Prohibited Conduct**

**A. Retaliation**

1. JWU strictly prohibits retaliation against individuals because of their good faith report of prohibited conduct or their participation in any proceeding under this Policy. Retaliation means any adverse action or conduct taken by individuals or groups of individuals that may reasonably be perceived to discourage reasonable individuals from making a report or adversely affecting their educational or work environment. Retaliation may include intimidation, threats, coercion, adverse employment or educational actions, other forms of harassment, whether oral or written, by any individuals, including the parties, or others acting on their behalf with their consent.

**B. Sexual Harassment**

1. Sexual harassment is a form of sex discrimination prohibited by federal and state laws and university policy. Sexual harassment is defined as conduct on the basis of sex that satisfies one or more of the following:

- a) **Quid Pro Quo Sexual Harassment**
  - (1) An employee of the university conditioning the provision of an aid, benefit, or service of the university on an individual’s participation in unwelcome sexual conduct.
- b) **Unwelcome Conduct**
  - (1) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the university’s education program or activity.
- c) **Clery Act Crimes: Sexual assault, dating violence, domestic violence, and stalking.**

<b>Crime</b>	<b>Statute</b>	<b>Definition</b>
<b>Sexual Assault (Rape)</b>	20 U.S.C. § 1092(f)(6)(A)(v) Definition used by the National Incident-Based Reporting System (NIBRS)	Rape means the carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.
<b>Sexual Assault (Sodomy)</b>	20 U.S.C. § 1092(f)(6)(A)(v) Definition used by NIBRS	Sodomy means oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.
<b>Sexual Assault (With An Object)</b>	20 U.S.C. § 1092(f)(6)(A)(v) Definition used by NIBRS	To use an object or instrument5-5( )-324(a)-5(n )-324(obj).



<b>Crime</b>	<b>Statute</b>	<b>Definition</b>
<b>Sexual Assault (Incest / Statutory Rape)</b>	20 U.S.C. § 1092(f)(6)(A)(v) Definition used by NIBRS	Incest is defined as non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.  Statutory Rape is defined as non-forcible sexual intercourse with a person who is under the statutory



weapons, the Title IX Coordinator may sign a Formal Complaint.

2. A Formal Complaint is different from a report of alleged sexual harassment. While a report allows a complaining party to receive supportive measures, a Formal Complaint is required if the complaining party wishes to initiate an investigation or pursue an informal resolution.

3. How to submit a Formal Complaint.

a) Before filing a Formal Complaint, the university recommends that individuals contact the Title IX Coordinator to discuss the process.

b) A Formal Complaint can be a written or electronic document that contains the complaining party's physical or digital signature or otherwise indicates that the complaining party is the person filing the Formal Complaint. It must allege sexual harassment against a respondent and request that the university investigate the allegation of sexual harassment.

c) Individuals must file the Formal Complaint either online or with the Title IX Coordinator and may download a form from the university website to use to submit to the Title IX Coordinator (generally by email or mail or, if circumstances permit, in person).

d) Third parties are unable to file a Formal Complaint on behalf of another individual. However, in the case of a parent or guardian who has the legal right to act on behalf of a minor, they may act on the complaining individual's behalf.

e) In cases where there is more than one complainant or respondent in matters the Title IX Coordinator, in its sole discretion, deems related or where a cross-complaint has been filed by a respondent against a complainant, the university will consider the consolidation of Formal Complaints in appropriate cases.

4. Dismissal of Formal Complaints.

a) Once a Formal Complaint is filed, the Title IX Coordinator will review the Formal Complaint to determine whether the alleged incident falls under the auspice of Title IX.

b) In certain instances, the Title IX Coordinator will be required to dismiss the Formal Complaint. Such instances consist of incidents where the allegations, if true, would not meet the jurisdictional conditions set forth by the Title IX regulations.

c) Mandatory dismissal would be required in the following instances ("Mandatory Dismissal"):

(1) The alleged incident does not meet the definition of sexual harassment as outlined by this Policy.

(2) The alleged incident occurred during a time where the complainant was not a person located in the United State-10( Tm0 g0d(r)-7(son 1)8(oc)12

sexual harassment occurred, and also includes any building owned or controlled by a student organization that is officially recognized by JWU.

d) The Title IX Coordinator will also consider dismissal of a Formal Complaint in the following instances (“Discretionary Dismissal”):

(1) The Complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the Formal Complaint or any allegations therein.

(2) The respondent is no longer enrolled or employed by the university.

(3) Specific circumstances prevent the university from gathering evidence sufficient to reach a determination as to the allegations contained in the Formal Complaint.

5. As discussed below, the university offers (a) an informal resolution process for certain types of cases and (b) a formal grievance process. In these processes, the university will not ask questions about or use evidence that is protected by a legally recognized privilege in any proceeding hereunder, unless the person holding the privilege waives the privilege.

#### C. Next Steps and Time-Frames

1. The university strives to resolve complaints promptly and has designated appropriate time frames for each step of the process.

2. Once a Formal Complaint alleging sexual harassment and requesting investigation has been submitted to the Title IX Coordinator, the Title IX Coordinator will acknowledge receipt of the Formal Complaint and send a written notice of the allegations to the parties. This notice will be generated as soon as practicable, but no more than ten (10) calendar days after the receipt of the Formal Complaint.

3. After the parties receive notice, the university will begin its investigation. The investigation will take no more than sixty (60) calendar days, but it may be extended in ten (10) calendar day intervals with written notice to the parties explaining the reason for the extension.

4. If both parties agree to informal resolution after the Title IX Coordinator receives a Formal Complaint, any ongoing investigation will be put on hold while the informal resolution process takes place. Informal resolution will take no more than sixty (60) calendar days but may be extended in ten (10) calendar day intervals with written notice to the parties explaining the reason for the extension. If a party withdraws from the informal resolution process, the

have the right to withdraw from the informal resolution process and elect the university's formal grievance process with respect to a Formal Complaint. Withdrawal from the informal resolution process must be in writing.

- D. Information shared during an informal resolution process cannot be used in any subsequent university proceeding, should the parties withdraw from the informal resolution process.
- E. Through the Informal Resolution process, parties will reach agreed upon outcomes. These agreements might include a commitment to seek counseling, training opportunities, modification to class, work, and campus schedules, mutual restriction of contact between parties, changes to housing locations, etc. The terms of these agreements will be communicated in writing by the university representative overseeing the informal resolution process.
- F. Agreements reached through the informal resolution process cannot be appealed, and preclude the parties from going through the formal grievance process based on the same allegations as in the Formal Complaint. The parties agree to abide by any written agreements that are reached during the Informal Resolution process.

## **XII. Grievance Process – Investigations**

- A. When the Title IX Coordinator determines that the allegations in the Formal Complaint meet the Title IX threshold and do not require dismissal or if the Title IX Coordinator requires more information in order to make such a determination, a trained member of CS&S and/or the Title IX investigator (or the Title IX Coordinator) will begin an impartial investigation of the claims in the Formal Complaint.
  - 1. Notice of Investigation
    - a) At the beginning of an investigation, the investigator will send a notice of investigation to the complainant's and respondent's official JWU email accounts:
      - (1) identifying the parties, if known;
      - (2) describing the conduct allegedly constituting sexual harassment;
      - (3) identifying the date and location of the alleged incident, if known;
      - (4) stating that the respondent is presumed not responsible until a finding of responsibility is made by an adjudicator at the conclusion of the grievance process;
      - (5) reminding the parties of JWU's anti-retaliation policy; and
      - (6) citing to the provision in the applicable Rules that prohibits providing false information or statements
    - b) Notices will not be sent to personal email accounts. It is the parties' responsibility to monitor their student email account for communication regarding the investigation.
  - 2. Post-Notice Interviews and Discussions
    - a) The parties should schedule an interview with the investigator within five (5) calendar days from the date the notice is emailed. Interviews may be rescheduled for good cause as determined by the Title IX Coordinator on a case-by-case basis.
    - b) While JWU cannot prohibit the parties from discussing the allegations in the Formal Complaint, they should exercise discretion when discussing confidential or sensitive information that may be revealed during the investigation.



b) The investigator will prepare an investigative report that fairly summarizes relevant evidence and, at least 10 days prior to a hearing send to each party and each party's advisor, if any, the investigative report for review and written response.

6. Post-Investigation Dismissal

a) The Title IX Coordinator may dismiss a Formal Complaint on the same grounds as indicated above in the sections setting forth grounds for Mandatory Dismissal and Discretionary Dismissal.

**XIII. Grievance Process – Adjudication through Live Hearing**

A. General Statement about Process and

process.

E. Advisors

1. Each party **must** have an advisor at the live hearing. If a party does not have an advisor, JWU will provide an advisor for the live hearing.
2. The Title IX Coordinator (for students) or Human Resources (for employees) will communicate with the advisor regarding the live hearing and provide the advisor with a copy of the investigative report and evidence in electronic form or hard copy.
3. An advisor's participation in the live hearing is restricted to conducting cross-examination on behalf of a party.

F. Adjudicator

1. After the investigation is completed and assuming the Formal Complaint is not dismissed, the university will provide an impartial,



2. After the adjudicator has completed his or her questions of a party (“testifying party”), the non-testifying party’s advisor may pose relevant, non-duplicative questions and, thereafter, the testifying party’s advisor may pose relevant, non-duplicative questions. Neither advisor shall ask any further questions of that party or witness thereafter.
3. Only the adjudicator, not any party’s advisor, may ask follow-up questions after the advisors have completed their rounds of questions (or, in the adjudicator’s discretion, the adjudicator may pose questions at any time during the hearing).
4. The parties have the right to hear and see all individuals who testify at the hearing. However, each party may request that the hearing occur with the parties separated by

the complainant's prior sexual conduct with respect to the respondent if offered to prove consent.

5. The adjudicator shall assess all evidence and make credibility determinations based on consideration of all factors permissible under law and within the adjudicator's discretion. If a complainant, respondent, or witness does not submit to cross-examination, the adjudicator may still consider such complainant's, respondent's, or witness's statements as permitted under law, but the adjudicator may give less weight to such statement as the adjudicator deems appropriate in the adjudicator's discretion.

#### K. General Rules Regarding Conduct

1. All participants, including parties, advisors, and witnesses, must behave in an appropriate, civil, and courteous manner throughout all proceedings, including the hearing, and must abide by the rules established by the university and its agents and employees. Inappropriate, uncivil, or discourteous behavior or a failure to abide by the rules may result in disciplinary action and could lead to preclusion of participation by advisors in the proceeding at issue (in which case the offending advisor would have to be replaced) or future proceedings.

#### L. Written Decision

1. The adjudicator (with assistance from his or her staff and legal counsel, as needed) shall prepare a written decision that complies with Title IX but that leaves open the question of appropriate sanctions. The adjudicator shall share said written decision with the Title IX Coordinator (for students) or Human Resources (for employees). Where the adjudicator finds the respondent responsible for any violation, Community Standards and Conduct (for students) or Human Resources (for employees) shall determine the appropriate sanctions and identify such sanctions in the written decision.

2. Within fifteen (15) calendar days after the hearing is completed (or a reasonable time later than fifteen (15) calendar days, where more than this time period is reasonably necessary), the Title IX Coordinator (for students) or Human Resources (for employees) will simultaneously provide in writing to each party the adjudicator's written determination. The written determination will include:

- a) The allegations that constitute sexual harassment;
- b) The procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- c) Any findings of fact supporting the determination;
- d) Application of Title IX standards to the facts;
- e) A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions imposed on the respondent, and whether remedies will be provided to the complainant; and
- f) The procedures and permissible bases for the complainant and respondent to appeal.

3. The determination regarding responsibility becomes final either on the date the parties are provided with the written determination of the result of the appeal or, if no appeal is filed within the applicable deadline, the date on which the time to file an appeal has expired.

**XIV. Grievance Process – Appeals**

- A. The parties will be offered an equal opportunity to make a one-time appeal of an adjudicator’s written determination or the Title IX Coordinator’s dismissal of a Formal Complaint (in whole or in part) or any allegations therein (collectively, “Outcome,” solely for purposes of this section).
- B. Each party will have the opportunity to submit a single written statement appealing the Outcome.
- C. The other party will be notified in writing when an appeal is filed, provided a copy of the appeal, and will have five (5) calendar days from being provided the appeal to submit a

## XV. Remedies and Disciplinary Sanctions

- A. The university will treat complainants and respondents equitably by providing remedies after determining at the conclusion of the grievance process or informal resolution process that a respondent is responsible for sexual harassment. The Title IX Coordinator, in consultation with appropriate university personnel, will implement remedies designed to restore or preserve equal access to education programs, the workplace, and activities for students, faculty, staff and all members of the university community. Remedies also may include the continuation or expansion of supportive measures as determined on a case-by-case basis by the Title IX Coordinator. Remedies shall be consistent, equitable, and appropriate based on the adjudicator's written rationale for finding a respondent responsible for sexual harassment.
- B. The Title IX Coordinator will provide a written rationale for any remedies imposed and whether the remedies are designed to restore or preserve the complainant's equal access to education programs, activities, or the workplace.
- C. If a respondent is found responsible, the university may impose appropriate disciplinary sanctions, which shall be reflected in the written decision, as noted above.
- D. For students, the range of possible disciplinary sanctions include:
  1. **University Dismissal:** Permanent dismissal from the university (noted in the student's education records), which prohibits the student from attending the university (at any campus or learning site) or any university events and from entering or being present without permission on any property of the university. A student who is dismissed from the university will still be responsible for certain tuition and room/board charges and other fees, subject to any applicable refund policy.
  2. **University Suspension:** A temporary suspension from the university, which prohibits the student from attending the university (at any campus or learning site) or any university events and from entering or being present without permission on any property of the university. During a university suspension, a hold is placed on the student's academic record, which prevents the student from registering for classes and/or graduating. Requests for reinstatement after a university suspension will not be granted until all conditions of the suspension have been met and all other sanctions have been completed. Students who receive a university suspension will be provided information regarding the appropriate steps for requesting reinstatement to the university. As with dismissal, a student who is suspended from the university will still be responsible for certain tuition and room/board charges and other fees, subject to any applicable refund policy. When a student returns from suspension, the student will be placed on probation for a minimum of one semester. In certain instances, a student may be suspended until the complainant graduates.
  3. **Permanent Removal from Housing:** Permanent removal from university housing, which prohibits the student from living or being a guest in any university or campus housing. In the case of permanent removal from housing, the student is required to pay room/board charges and other fees for the remainder of the semester during which the removal takes effect.
  4. **Temporary Removal from Housing:** A temporary removal from university



**XVI. Records**

A. JWU also will maintain a record of its response to each report of sexual harassment. The record will include information about:

1. investigations;
2. written determinations regarding responsibility;
3. disciplinary sanctions imposed;
4. remedies provided to the complainant;
5. any appeals and result of appeals;
6. training materials;
7. the basis upon which JWU determined its response to a report of sexual harassment was not deliberately indifferent;
- 8.

**XVII. Training Documentation**

- A. Materials used to train the Title IX Coordinator, investigators, adjudicators, appellate officers, and any person who facilitates an informal resolution process with regard to sexual harassment, are made available on the university's website.

**XVIII. Miscellaneous**

- A. The Title IX Coordinator, investigators, adjudicators, or appellate officers (or any other personnel involved in the process) may, at any time, consult the Office of General Counsel or outside counsel retained by the Office of General Counsel in connection with such person's discharge