



**TITLE IX POLICY AND PROCEDURES**

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**I. Policy Statement**

- A. Johnson & Wales University (also “JWU”) prohibits sexual discrimination and harassment (defined to include sexual assault, dating violence, domestic violence, and stalking and retaliation for reporting any such alleged conduct), which may also violate federal and state law. The university has adopted this policy and the accompanying procedures (collectively, “Policy”) to comply with its legal obligations under Title IX of the Education Amendments of 1972 (“Title IX”), entitled Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, codified at 34 C.F.R. Part 106, <https://www2.ed.gov/about/offices/list/ocr/docs/titleix-regs-unofficial.pdf> (“Title IX Regulations”). Examples of prohibited conduct include applying rules concerning a student’s actual or potential parental, family, or marital status in a manner that treats students differently on the basis of sex or discriminating against any student or excluding them from any program or activity on the basis of such student’s pregnancy, childbirth, false pregnancy, termination of pregnancy or recovery therefrom, unless the student requests voluntarily to participate in a separate portion of the program or activity of the institution.
- B. This Policy applies to all JWU community members.
- C. This Policy is not intended to, and does not, create a contractual agreement with any student,

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 on the university's website.

## **II. Application of Policy**

- A. This Policy will apply to all matters determined to fall under Title IX. If any matter is dismissed as outside the scope of Title IX, then, in the sole discretion of the university, the university may bring charges and address such conduct under any other applicable university codes, policies, practices, procedures, or rules (collectively, "Rules"), which will apply to matters outside the scope of Title IX. Only for avoidance of doubt, that includes the "Prohibited Discrimination and Harassment (including Sexual Harassment) Policy" as it relates to Title VII of the Civil Rights Act of 1964 ("Title VII"). The university shall take such steps as needed to ensure compliance with any other university Rules. Such steps could include taking disciplinary action against respondents who are not subject to adjudication under this Policy or are found not responsible for violations of this Policy. For avoidance of doubt, a respondent may be found not responsible for Title IX violations but, thereafter, be found responsible for violations of any other university Rules and including violations of Title VII.

## **III. Title IX Coordinator**

- A. The Title IX Coordinator monitors the university's compliance with Title IX. This includes responding to reported conduct that could trigger this Policy. As a neutral resource for complainants and respondents, the Title IX Coordinator is available to answer questions about the Policy, the associated process, and available resources. All references in this Policy to the Title IX Coordinator shall include the Title IX Coordinator's designee.
- B. The Title IX Coordinator can be contacted by phone, mail, email or in person during regular business hours (subject to appointment and availability, depending on the Title IX Coordinator's schedule and depending on health and safety considerations):

Matthias Rubekeil, JD Title IX Coordinator 91 Friendship Street Providence, RI 02903 Telephone: 401-598-2703 E-mail: <a href="mailto:titleix@jwu.edu">titleix@jwu.edu</a>
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## **IV. Education about Sexual Harassment and Prevention**

- A. JWU takes a proactive stance to educate its community regarding sexual harassment and methods of prevention, including addressing societal or environmental causes, alcohol use, awareness-raising, bystander behavior, definition of consent, healthy sexuality and relationships, risk reduction, and self-defense.
- B. JWU's programs may be in-person or online (depending in part on health and safety considerations). Programs may include a mix of guest speakers, university staff members, externally-created programs, and university-created programs, in the sole discretion of the university.
- C. For students, education about sexual harassment begins at new student orientation, where incoming students and involved families are invited to participate in educational sessions addressing the university's stance against sexual harassment.
- D. Appropriate staff members are trained to handle issues of sex-based harassment and participate in programming designed to help students understand university expectations and policy

(including where to obtain resources and where to report violations); the intersection between alcohol and sex-based harassment; and ways to reduce the risk of, as well as prevent, sex-based harassment. This programming promotes safety and introduces options to decrease perpetration, increase reporting, and empower individuals to take safe and comfortable bystander action. Students are also encouraged to learn about safe and effective forms of bystander intervention to prevent harm or intervene when there is a risk of sexual assault, dating violence, domestic violence, or stalking. Bystander intervention means safe and positive options an individual may carry out that proactively promote safe and respectful interactions before the precursors to harm occur. Bystander intervention includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene. The university addresses bystander behavior by participating in bystander intervention programs. Prevention and education efforts continue throughout the year and are supported by multiple departments, such as Student Engagement (including student clubs and organizations and fraternities and sororities), Residential Life, Counseling Services, and Athletics. This programming targets some combination of the following topics: addressing societal or environmental causes, alcohol use, awareness raising, bystander behavior, definition of consent, healthy sexuality and relationships, risk reduction, and self-defense. The university provides education through its “Consent Initiative,” which informs students about the university’s expectations and policies (including where to obtain resources and where to report violations); the intersection between alcohol and sex-based harassment; and ways to reduce the risk of, as well as prevent, sex-based harassment. Literature addressing issues of sexual harassment is available from multiple departments including Athletics, Campus Safety & Security, Community Standards and Conduct, Counseling Services, Equity & Compliance Services, the Bridge for Diversity, Equity & Social Justice, Health Services, Residential Life, and Student Engagement.

- E. Many of the educational initiatives offered to students are open to employees, and employees have the opportunity and are encouraged to participate in a variety of educational programs. In addition, employees are offered programming on the Prohibited Discrimination and Harassment (including Sexual Harassment) Policy, the Sexual Assault and Relationship Violence Policy, and this Policy.

For information regarding sexual assault and relationship violence awareness and prevention programming, contact the Title IX Coordinator or the director of the Bridge for Diversity, Equity & Social Justice. Upcoming programs can also be found on [jwuLink](#) and the student calendar.

## **V. Steps to Follow if Sexual Harassment Occurs**

- A. If you believe that you are the victim of sexual harassment, particularly in cases involving sexual assault, stalking or dating/domestic violence, you are encouraged to take the following steps:
  - 1. Seek immediate medical attention. A medical examination is important to diagnose and treat any injuries (including internal injuries) or infections which may have resulted from the incident. Getting a medical examination does not mean that you are required to report the incident to the police or the university; however, the hospital may retain forensic examination information as part of the medical record and may contact a law enforcement agency to provide the agency with the evidence kit. The forensic examination information may be helpful if you choose to report to police or the university or otherwise seek to enforce your rights.
  - 2. Try to avoid the following pending a medical examination:

- 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. Reporting Options

A. JWU encourages all individuals to promptly report any potential violations of this Policy. Individuals have several reporting options, including reporting to law enforcement or reporting to the university, including reporting to the Title IX Coordinator, CS&S, or other university officials. An individual may choose to report only to one of the foregoing or may choose not to report at all.

### 1. Reporting to Law Enforcement

a) Individuals who believe that they are the victim of a crime involving sexual harassment (like sexual assault, dating violence, domestic violence, and stalking), are strongly encouraged to contact law enforcement authorities and file a criminal complaint by dialing 911 or contacting local police. A report to law enforcement is separate from a report to the university. JWU CS&S will assist with notifying law enforcement authorities, if so desired. However, individuals are not required to seek out assistance from law enforcement authorities.

#### Providence

<b>Emergency</b>	<b>911</b>
Providence Police Department (non-emergency line)	401-272-3121
Cranston Police Department (non-emergency line)	401-942-2211
Massachusetts: Rehoboth Police Department (non-emergency line)	508-252-3722

#### Charlotte

<b>Emergency</b>	<b>911</b>
Charlotte-Mecklenberg Police Department (non-emergency line)	704-336-7600

### 2. Reporting to the University

#### a) General Statements about Reporting

(1) Individuals who have been a victim of sexual harassment will be provided with a written list of rights and resources available at the university and in the community, such as information about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, and student financial aid. The university will also provide written notification about options for, available assistance in, and how to request changes to academic, living, transportation, and working situations and protective measures.

(2) The university will maintain as confidential any accommodations or protective measures provided to the complainant, to the extent that maintaining such confidentiality would not impair the ability of the university to provide the accommodations or protective measures and except as otherwise provided under applicable law.

- 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.

**Providence Campus Safety & Security**  
 264 Weybosset St., Providence, RI  
 401-598-1103 (24 hours a day, 7 days a week)

**Charlotte Campus Safety & Security**  
 Cedar Hall South, Suite 113  
 980-598-1900 (24 hours a day, 7 days a week)

- 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 (1-833-598-5463) to report. The telephone line is not answered; however, messages are retrieved on a regular basis, Monday through Friday. If you want to leave an anonymous message on the JWU Reporting Hotline please dial \*67 plus the hotline telephone number (\*67-401-383-7026) to block your caller ID before leaving your message.
  - (3) Individuals should note that an anonymous report might limit the university's ability to respond to the allegations.

**VII. Confidential Resources**

- A. JWU has confidential resources who are not required to share any information provided to them by an individual unless the individual gives them express permission, or as otherwise permitted or required by law. Individuals should direct any questions about the confidentiality status of an individual to the Title IX Coordinator.
- B. Resources for Students
  - 1. On campus, students may seek out JWU employees in Counseling Services and Health Services for support. These employees serve in a professional capacity that provides them confidential status under the law. Students and employees may also contact Michael Waugh and Korina Ramsland Short, who serve as a confidential resource designated by the university.

Providence Campus:

**Counseling Services**

Wales Hall, second floor, 401-598-1016

Appointments are available. In case of an emergency, the on-call counselor is available after hours by calling 1-888-222-4805 or through Campus Safety & Security (401-598-1103).

**Health Services**

Harborside Campus: 401-598-1151, Harborside Academic Center

Downtown Campus: 401-598-1104, Wales Hall, third floor

**Korina Ramsland Short**, Director of Student Support & Advocacy Services,  
401-598-2248

**Michael Vaughn**, Director of Inclusion & Belonging, 401-598-1784

Charlotte Campus

**Counseling Services**

Cedar Hall South, Suite 102

980-598-1710 (by appointment, 8:30 a.m.– 4:30 p.m.)

In case of an emergency, the on-call counselor is available after-hours through Campus Safety & Security (980-598-1900).

**Health Services**

Academic Center, second floor

980-598-1700

*University confidential resources may provide non-identifying information to be counted for the Annual Security Report.*

C. Resources for Employees

- a) Employees may contact the university's employee assistance provider, Coastline EAP, at 401-732-9444 or 800-445-1195.

**VIII. Supportive Measures**

- A. Supportive measures are non-disciplinary and non-punitive accommodations and services JWU offers, as reasonably available, after an individual reports an incident of sexual harassment. Individuals are not required to file a Formal Complaint in order to receive supportive measures. The Title IX Coordinator will work with individuals and may consult with other JWU employees, if appropriate, to determine which supportive measures should be implemented.
- B. Supportive measures are offered without fee or charge and are available to both complaining and responding parties; they are intended to support individuals' safety, deter sexual harassment, and restore or preserve continued access to educational or workplace programs and activities. The university will maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair JWU's ability to provide the supportive measures and to the extent disclosure is not otherwise mandated by law.
- C. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

**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>	<ul style="list-style-type: none"> <li>• 20 U.S.C. § 1092(f)(6)(A)(v)</li> <li>• Definition used by the National Incident-Based Reporting System (NIBRS)</li> </ul>	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>	<ul style="list-style-type: none"> <li>• 20 U.S.C. § 1092(f)(6)(A)(v)</li> <li>• Definition used by NIBRS</li> </ul>	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>	<ul style="list-style-type: none"> <li>• 20 U.S.C. § 1092(f)(6)(A)(v)</li> <li>• Definition used by NIBRS</li> </ul>	To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of 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 (Fondling)</b>	<ul style="list-style-type: none"> <li>• 20 U.S.C. § 1092(f)(6)(A)(v)</li> <li>• Definition used by NIBRS</li> </ul>	Fondling means the touching of the private body parts of another person for the purpose of sexual gratification, 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>Crime</b>	<b>Statute</b>	<b>Definition</b>
<b>Sexual Assault (Incest / Statutory Rape)</b>	<ul style="list-style-type: none"> <li>• 20 U.S.C. § 1092(f)(6)(A)(v)</li> <li>• Definition used by NIBRS</li> </ul>	<p>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.</p> <p>Statutory Rape is defined as non-forcible sexual intercourse with a person who is under the statutory age of consent.</p>
<b>Dating Violence</b>	34 U.S.C. § 12291(a)(11)	<p>Dating violence means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:</p> <ul style="list-style-type: none"> <li>• The length of the relationship.</li> <li>• The type of relationship.</li> <li>• The frequency of interaction between the persons involved in the relationship.</li> </ul>
<b>Domestic Violence</b>	34 U.S.C. § 12291(a)(12)	<p>The term domestic violence includes felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding, by a person who:</p> <p>(A) is a current or former spouse or intimate partner of the victim, or person similarly situated to a spouse of the victim;</p> <p>(B) is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;</p> <p>(C) shares a child in common with the victim; or</p> <p>(D) commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.</p>
<b>Stalking</b>	34 U.S.C. § 12291(a)(36)	<p>Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others; or suffer substantial emotional distress.</p>
<b>Definition of Consent</b>		

Crime	Statute	Definition
		<p>Consent means conduct that signifies through words or behaviors that the parties have indicated agreement to engage in sexual activity.</p> <ul style="list-style-type: none"> <li>• Past consent does not imply future consent.</li> <li>• Silence or absence of resistance, by itself, may not imply consent.</li> <li>• Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another.</li> <li>• Consent can be withdrawn at any time.</li> <li>• Coercion, force, or threat of force invalidates consent.</li> </ul> <p>Incapable of giving consent means that because of the person’s age or temporary or permanent mental incapacity the person cannot give intelligent, knowing, and voluntary consent. Where it is determined that complainant was incapable of giving intelligent, knowing, and voluntary consent, the respondent will be held responsible only if it is determined that the respondent either knew or a reasonable person in the same position would have known that the complainant was incapable of giving intelligent, knowing, and voluntary consent.</p> <p>Coercion means express or implied threats of any harm that would place a reasonable individual in fear of immediate or future harm and that is employed to make someone engage in sexual activity.</p> <p>Force means the actual use or threat of physical violence that is employed to make someone engage in sexual acts.</p>

**X. Reports and Formal Complaints**

**A. Reports**

1. After receiving a report alleging that sexual harassment has occurred, the Title IX Coordinator, in consultation with other university administrators, as appropriate, will assess the information and contact the complainant to initiate a conversation about available supportive measures and to share information about available on-campus and off-campus resources. The Title IX Coordinator will also discuss the grievance process outlined in this Policy, provide a copy of this Policy, and explain to the complainant how to file a Formal Complaint, if so desired. These initial steps are not an investigation of the alleged conduct, but they enable the university to assess any health and safety needs of the involved parties and, if applicable, the entire JWU community.
2. If an emergency situation warrants it, the university will conduct an individualized safety or risk analysis and may elect to remove a respondent through interim suspension or administrative leave. The university will provide respondent notice of such a decision as soon as practicable and will allow respondent to appeal the decision by contacting one of the appellate officers listed below within five days of the decision and submitting a written statement explaining why the respondent claims the interim measure is not warranted. The appellate officer will issue a decision within two days of receiving the appeal; that decision shall be final.
3. The identities of the complainant and respondent will not be disclosed except as necessary to carry out the disciplinary process or as otherwise permitted under applicable law.

**B. Formal Complaints**

1. The Formal Complaint is a written document filed by the complaining party online or with the Title IX Coordinator, requesting the university initiate the grievance process and begin an investigation of an allegation that sexual harassment occurred. In some instances, such as situations involving alleged serious threats, serial predation, violence, or

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 States.

(3) The alleged incident occurred to a person who, at the time of filing a Formal Complaint, is not participating in or attempting to participate in the university's education program or activity.

(4) The alleged incident did not occur within the university's education program or activity. Education program or activity includes locations, events, or circumstances over which the university exercised substantial control over both the respondent and the context in which the

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 university will promptly resume the investigation and the time frame for its completion will be extended to compensate for the delay due to the attempt at informal resolution.

### **XI. Informal Resolution**

A. JWU offers an informal resolution process to address certain Formal Complaints falling under this Policy. In cases involving alleged serious threats, serial predation, violence, or weapons, the Title IX Coordinator may determine that Informal Resolution is not available. The informal resolution process will not be available for matters involving allegations that an employee engaged in sexual harassment against a student.

B. In order to proceed in such a fashion, parties are required to provide their voluntary, written consent to the informal resolution process.

C. At any time prior to reaching an agreement through the informal resolution process, parties

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.

3. Advisors

a) Each party may bring to the interview an advisor of their choice, who may be an acquaintance, a friend, or any other person, so long as such person does not have a conflict in serving in the advisor role. If a party chooses a witness as an advisor, the witness is expected to participate in an interview about the reported behavior prior to serving as an advisor.

b) Advisors may:

- (1) Ask procedural questions;
- (2) Assist the parties in understanding the grievance process;
- (3) Seek clarification about the grievance process; and
- (4) Notify the university in the event of retaliation against either party, witnesses, or other members of the university community.

c) Advisors may not:

- (1) Appear or participate in lieu of the party's appearance or participation unless the advisor is a parent or guardian and the complainant is a minor or otherwise incapacitated (outside of cross-examination during the live hearing);
- (2) Testify or answer questions on behalf of a complainant or respondent;
- (3) Contact the opposing party or speak to the opposing party except during cross-examination at the live-hearing; and
- (4) Represent themselves as someone authorized by the university to act or speak on its behalf.

d) The university will provide each party an advisor package describing the restrictions regarding advisor participation in the grievance process.

e) Each party must communicate with the advisor any information about the interview and investigation and to share the advisor package with the advisor.

4. Evidence

a) JWU has the burden of collecting evidence sufficient to determine a respondent's responsibility or non-responsibility for the alleged sexual harassment. Evidence may include, but is not limited to, witness testimony physical evidence, electronic evidence (such as texts or social media posts), or documentary evidence (such as results of a forensic examination or other medical records).

b) The investigator will make all reasonable and practicable efforts to gather evidence during the investigation. Each party is expected to cooperate with the investigator, identify witnesses, and provide evidence pertinent to the allegations in the Formal Complaint. If the evidence is in the possession of the other party or a third-party, the interviewee should so disclose to the investigator.

5. Report

a) Prior to completion of the investigative report, the investigator will send to each party and each party's advisor, if any, the evidence directly related to the allegations in the Formal Complaint and give the parties 10 calendar days to submit a written response, which the investigator will consider prior to completion of the investigative report.

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 Timing**

1. JWU is committed to providing an adjudication process that is “prompt, fair, and impartial . . . from the initial investigation to the final result.” This is not a contract right but a requirement for certain claims under the Violence Against Women Act. *See* 34 C.F.R. § 668.46(k)(2)(i).

2. The timeframe for completing the adjudication process may be adjusted if (1) a party, advisor, or witness must be absent for good cause, (2) there is a need for delay to provide legal necessary accommodations, or (3) other good cause as determined by the Title IX Coordinator in consultation with appropriate university personnel as needed.

#### **B. Informational Meeting**

1. Each party will have an individual conference with the Title IX Coordinator or their designee (for students) or Human Resources (for employees) who will explain what will occur at the live hearing. The parties are strongly encouraged to ask questions and raise any concerns during this conference to prepare them for the hearing.

2. Each party may bring to the informational meeting an advisor of their choice, who may be, but is not required to be, an attorney retained by that party.

3. The university will provide each party an advisor package describing the restrictions regarding advisor participation in the grievance process (for a summary of the restrictions on advisors, see above).

4. Each party must communicate with the advisor any information about the interview and investigation and to share the advisor package.

#### **C. Live (Remote) Hearing**

1. Live hearings may be conducted with the adjudicator and any or all other participants physically present in the same geographic location or any or all participants may appear at the live hearing remotely, with technology enabling participants simultaneously to see and hear each other.

2. A party will timely notify the Title IX Coordinator (for students) or Human Resources (for employees) regarding how they prefer to appear. Most likely, at least certain participants will only appear remotely, and there will be no right for any participant to demand that the adjudicator or any other participant be physically present in the same geographic location.

#### **D. Recording**

1. There will be an audio recording created of the hearing that can be made available to the parties for inspection and review upon written request. No other recording (or transcription) will be permitted at any time during the grievance process; provided, however, that any party or any party's advisor may take notes at any stage of the grievance

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, trained adjudicator with the information gathered during the investigation, and the adjudicator will conduct a hearing to determine responsibility. Thereafter, the adjudicator will render a written determination regarding responsibility based on a preponderance of the evidence standard (i.e., that it is more likely than not that the claims in the Formal Complaint are true). The respondent is presumed not responsible unless and until the adjudicator finds the respondent responsible.
2. The parties may challenge the assignment of an adjudicator solely for reasons of bias or conflict of interest. JWU will notify parties of the adjudicator identity, and parties must lodge a written objection, if any, with the Title IX Coordinator within five (5) days; failure to lodge a timely written objection will be conclusively deemed waiver to make any objection to the alleged bias or conflict of interest of the adjudicator on grounds that were known or reasonably should have been known to the party at issue at the time the objection should have been made. JWU will have sole discretion to determine whether an adjudicator should be recused for reasons of bias or conflict of interest.
3. The adjudicator may pose his or her own questions to the parties or any witnesses regarding any matter of relevance. The adjudicator shall have the opportunity to pose his or her questions of each party and witness before any advisor does so. Once the adjudicator has completed his or her questions of the party or witness at issue, each advisor may pose any non-duplicative questions not already posed by the adjudicator (subject to the limitations discussed below). The adjudicator may ask any follow-up questions at any time during the hearing as he or she deems appropriate.

#### G. Opening/Closing

1. At the beginning of the live hearing, each party (and not the party's advisor) will be permitted to make a brief opening statement directly to the adjudicator outlining the relevant facts and evidence in support of the party's position with respect to the claims in the Formal Complaint. Each party may identify their witnesses at this time and explain the testimony each witness is expected to give.
2. No closings statements will be allowed.
3. Under no circumstances will either party be allowed to raise or address claims not alleged in the Formal Complaint.

#### H. Cross-Examination

1. Cross-examination at the live hearing will be conducted directly, orally, and in real time by the party's advisor of choice. The parties will have an equal opportunity to present witnesses. Questions asked during cross-examination are intended to challenge or clarify evidence or statements given by a party or any witnesses.



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 physical barriers or located in separate rooms with technology that allows the adjudicator and the parties to simultaneously see and hear responses from a party or witness.
5. Under no circumstances will either party directly question the other party or any witnesses during the live hearing.
6. Before a party or witness may answer a question, the adjudicator must determine if such question is relevant and explain, if not deemed relevant, why. The adjudicator shall not hear any argument about relevance.
7. The adjudicator cannot determine responsibility based solely on a party’s or witness’s absence from the hearing or refusal to submit to questions.

#### I. Witnesses

1. A fact witness is an individual who has relevant information personally heard or observed related to the alleged sexual harassment. Unless serving in the capacity of an advisor to a party, no witness shall be present during the testimony of another party or witness.
2. An expert witness is an individual whose education or training qualifies the individual to provide testimony to help an adjudicator assess the factual evidence provided.
3. At least twenty (20) calendar days prior to the hearing, a party will provide the Title IX Coordinator (for students) or Human Resources (for employees) with sufficient information to determine the expert’s qualification to testify and the relevancy of the expert’s expected testimony.
4. A character witness is an individual who can testify to a party’s moral conduct and good reputation. No party may present a character witness during a hearing. However, Community Standards and Conduct (for students) or Human Resources (for employees) may consider a character witness’s statements when determining sanctions.

#### J. Evidence and Relevance

1. At least ten (10) calendar days prior to a live hearing, the Title IX Coordinator or their designee (for students) or Human Resources (for employees) will provide to each party and each party’s advisors the investigative report and all evidence (whether deemed relevant or not) collected in an electronic format or a hard copy.
2. Relevant evidence is evidence tending to prove a material fact is more probable or less probable than it would be without the evidence. A material fact is a fact that directly relates to an element of a claim of sexual harassment.
3. Questions or evidence about a complainant’s sexual predisposition or prior sexual conduct are not considered relevant unless offered to prove that someone other than the respondent engaged in the sexual harassment.
4. Questions or evidence may be considered relevant based on specific incidents of

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 statement responding to the appeal or in support of the Outcome. The appealing party will be provided a copy of the non-appealing party’s submission, if any.
- D. Neither party shall be entitled to make any live or oral presentation to the appellate officer.
- E. Neither the adjudicator who made the determination of responsibility nor the Title IX Coordinator shall serve as the appellate officer.
- F. The appellate officer shall be the designee of the campus President.
- G. An appeal is permitted only on the following bases:
  - 1. The Outcome was affected by a procedural irregularity. A procedural irregularity will only be grounds for granting an appeal if it was material to the Outcome of the determination regarding responsibility;
  - 2. New evidence not reasonably available at time of the determination of responsibility or dismissal of the Formal Complainant that could have affected the Outcome; or
  - 3. The Title IX Coordinator, investigator(s), or adjudicator had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the Outcome.
  - 4. To request an appeal, the appealing party (a complainant or respondent) must submit a request in writing to Community Standards and Conduct (for students) or Human Resources (for employees). The request must be submitted within five (5) calendar days after the date of notification of the Outcome and must state clearly the basis for the appeal.
- H. Normally, the appellate officer shall render a decision on the appeal within fifteen (15) calendar days after the deadline to file a response to the appeal has passed. When the appeal review cannot reasonably be completed within that period, the appellate officer shall notify the parties of the delay and reason for the delay. The sanction(s) outlined in the notification of the Outcome will not go into effect until the conclusion of the appeal process. If supportive measures were placed, those conditions will remain in effect until the conclusion of the appeal process. The decision of the appellate officer will be final.
- I. The appellate officer simultaneously will provide to both parties a written decision of the Outcome of the appeal and the rationale for the Outcome.

## 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 housing, which prohibits the student from living or being a guest in any university or campus housing and from entering into a new housing contract for a specified duration of time. A new student housing contract will be permitted only if the student is able to demonstrate to the satisfaction of the university that the student will not engage in any further violations of this Policy, and all other conditions of the suspension, if any, have been met and all sanctions have been completed. As with permanent removal from housing, the student will be responsible to pay room/board charges and other fees for the remainder

of the semester during which the removal takes effect.

5. **Suspension of Privileges:** A suspension of privileges, which prohibits the student from participating in specified activities (such as intercollegiate or intramural athletics, campus events, extracurricular activities, student life activities, student leadership positions, student clubs or organizations, etc.) or from entering certain university buildings or facilities (such as residence halls, dining centers, university fitness or athletic facilities, certain administrative or academic buildings, parking garages/lots, etc.) or other areas of the university during the period of the suspension.

6. **Probation:** Conduct probation is a designated period of time in which the student must demonstrate that they will not engage in further violations of the Student Code of Conduct. A student who receives a sanction of conduct probation and has subsequent policy violations during their probationary period, may face more severe sanctions, up to and including university suspension or dismissal.

7. **No-Contact Order:** A no contact order is a requirement to avoid other person(s) and not have any direct or indirect contact with such person(s), including email, text messages, mail, telephone, instant messaging, face-to-face contact, social media interactions or any contact through a third party. A no contact order requires the student to take action to avoid encounters with the other person(s). In cases where a no contact order impacts class or similar educational programs or work activities, the student should notify the student's professors and/or supervisors to address any situations that may conflict with the no contact order. A no contact order may also be imposed as an interim action while a case is pending. If a student fails to abide by the no contact order, the student may be placed on interim suspension from the university.

8. **Educational Sanctions:** In addition to other sanctions, a student found responsible for violating this policy may be assigned educational sanctions, such as one or more of the following: required attendance at an educational program relevant to the violation for which the student was found responsible, reflective/research papers, classes, seminars, interviews, presentations, projects, or other creative sanctions. Educational sanctions must be completed by the date specified when the sanction is given.

9. **Degree Deferral and Revocation:** At any time before a degree is awarded, a student may have their academic degree deferred and be prohibited from participating in commencement activities until sanctions are completed. The university also may determine that revoking a degree or withholding transcripts is a proper remedy in individual cases.

- E. For employees, the range of possible disciplinary sanctions include one or more of the following: educational conversation and additional training, no-contact order, transfer of position, removal of any administrative appointment, demotion, suspension, termination of employment, or other appropriate disciplinary action.
- F. Neither the reporting party nor any witness will be subject to disciplinary proceedings arising out of the report unless there is a specific determination that the report was not made in good faith, or the reporting party or witness committed an egregious violation of a university Rule as determined by the university in its sole discretion.

**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. the reasons for not providing a complainant with supportive measures, if applicable; and
  9. actions taken to restore or preserve equal access to the university's education program or activity.
- B. Records will be destroyed seven (7) years from the date of the determination in an appeal.

**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 of duties hereunder or other university personnel as such person deems appropriate. As to consultation among university personnel, only by way of example, the Title IX Coordinator may assist or coordinate with investigators at any time and in any fashion (and, as noted above, may serve as an investigator) insofar as consistent with applicable law.
- B. If the university determines this Policy does not address a particular aspect of any procedure needed to carry out its Title IX obligations, the university shall identify an appropriate procedure to address such aspect consistent with the Title IX Regulations and otherwise in its discretion as it deems appropriate.