

JACKSONVILLE STATE UNIVERSITY
Manual of Policies and Procedures

POLICY NUMBER: I:01:25

DATE: August 2020

REVIEW/REVISION DATES: TBD

SUBJECT: Sex-Based Harassment and Misconduct Policy (Including Grievance Procedure)

APPROVED: Dr. Don C. Killingsworth, Jr., President

PURPOSE

Jacksonville State University (JSU) is committed to maintaining a safe, inclusive campus community where all can feel secure and free from sexual harassment, discrimination, and misconduct in the classroom, social environments, recreational environments, residential environments, and the workplace. With this in mind, all members of the JSU community are expected to adhere to the requirements of the law, to the standards set forth in this policy, and to other codes of conduct.

This policy further intends to provide for proper recourse for those individuals whose rights may have been violated; it outlines appropriate procedures for investigating and determining the outcome of any such report and/or complaint. This policy provides the enforcement procedures used in implementing this policy, while balancing the rights of complainants, respondents, and witnesses.

NOTICE OF NON-DISCRIMINATION

Jacksonville State University does not discriminate on the basis of sex in the educational programs or activities that it operates. JSU is required, by Title IX of the Education Amendments of 1972 and Department of Education regulations to implement Title IX, not to discriminate in such a manner. This requirement to not discriminate in educational programs and activities extends to employment by the university and to admission thereto. Questions regarding Title IX and the implementing regulations may be referred to JSU's Title IX Coordinator and/or the Department of Education, whose information is provided below.

ROLE OF TITLE IX COORDINATOR AND TITLE IX TEAM

The Title IX Coordinator is the employee who oversees the university's centralized review, investigation, and resolution of reports of sexual misconduct, sex-based discrimination, and/or sex-based harassment (including incidents of sexual assault, stalking, dating violence, and domestic violence). The Title IX Coordinator also coordinates JSU's efforts to comply with the responsibilities contained in the Title IX regulations and other applicable statutes, including but not limited to the Violence Against Women Act and the Campus Sexual Violence Elimination (Campus SaVE) Act.

The Title IX Coordinator is the clearly designated option for reporting sexual harassment, discrimination and/or misconduct to initiate JSU response obligations. The up-to-date contact information for this individual/office will always be available online at www.jsu.edu/titleix. The current contact information is as follows:

Title IX Coordinator
Jacksonville State University
Angle Hall, Suite 301-A
700 Pelham Road North
Jacksonville, AL 36265
(256) 782-5769
TitleIX@jsu.edu

Any person may report any conduct that is prohibited by this policy (whether or not the person reporting is the person alleged to be the victim of said conduct), in person, by mail, by telephone, or by electronic mail, using the contact information listed above for the Title IX Coordinator or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time (including during non-business hours) by completing the "Report a Concern" form at www.jsu.edu/titleix, using the telephone number or electronic mail address or by sending mail to the office address listed above for the Title IX Coordinator. For more information regarding reporting, please refer to the "Reporting" section below.

The Title IX Coordinator is supported by the Title IX team. Members of this interdepartmental team include the Title IX Coordinator, the Deputy Title IX Coordinators, investigators, hearing panel members and appeal officers. The Title IX team is comprised of campus volunteers who assist in various ways with the investigations, resolutions, and appeals processes. A list of team members will always be available online at www.jsu.edu/titleix.

While all members of the campus community are expected to contribute to creating and maintaining a safe campus environment in accordance with this policy, the Title IX Coordinator and/or the Deputy Title IX Coordinators are the only JSU employees who have the authority to formally institute corrective measures on behalf of JSU. Therefore, reports should be made directly to one of these individuals.

Inquires or complaints concerning the application of Title IX may be referred to JSU's Title IX Coordinator (using the contact information above) and/or the U.S. Department of Education's Office for Civil Rights (using the information below):

Office for Civil Rights (OCR)
U.S. Department of Education
Headquarters
400 Maryland Avenue, SW
Washington, DC 20202-1100
Customer Service Hotline: (800) 421-3481
Fax: (202) 453-6012
TTY: (877) 521-2172
Policy Number: I:01:25

E-Mail: OCR@ed.gov
Website: http://www.ed.gov/ocr

Office for Civil Rights, Region IV

Atlanta Office

U.S. Department of Education

61 Forsyth Street S.W.

Suite 19T10

Atlanta, GA 30303-8927

Telephone: (404) 974-9406

Fax: (404) 974-9471

E-Mail: OCR.Atlanta@ed.gov

PRIVACY AND CONFIDENTIALITY

JSU is committed to protecting the privacy of all individuals involved in a report of sexual misconduct, sex-based discrimination and/or sex-based harassment, including sexual violence, stalking, dating violence, or domestic violence. All university employees who are involved in the university's Title IX response, including investigators, hearing panel members, and appeal panel members receive specific instruction about respecting and safeguarding private information.

Please note that privacy and confidentiality have distinct meanings under this policy.

- A. Privacy** generally means that information related to a report will only be shared with a limited group of individuals. The use of this information is limited to those individuals who “need to know” in order to assist in the active review, investigation, or resolution of the report, including the coordination of supportive measures. While not bound by confidentiality, these individuals will be discreet and will respect and safeguard the privacy of all individuals involved in the process.

- B. Confidentiality** means that information shared by an individual with a designated campus or community professionals (including pastoral counselors and professional counselors and licensed social workers) cannot be revealed to any other individual without the express permission of the individual.
 - a. Pastoral Counselors:** A person who is associated with a religious order or denomination, is recognized by that religious order or denomination as someone who provides confidential counseling, and is functioning within the scope of that recognition as a pastoral counselor.
 - b. Professional Counselors and Licensed Social Workers:** A person whose official responsibilities include providing mental health counseling to members of the institution's community and who is functioning within the scope of the counselor's license or certification.

These individuals (identified in this policy as “confidential resources”) are prohibited from breaking confidentiality unless there is an imminent threat of harm to self or others or as otherwise required by law, such as in the case of child abuse of a minor or vulnerable adult. Conversations with confidential resources do not

constitute reports to the university and do not initiate any university response under this policy.

- **On-Campus Confidential Resources** include, but are not limited to,:
 - JSU Counseling Services
 - Employee Assistance Program (JSU employees may access confidential assistance through this program)
- **Off-Campus Confidential Resources** include, but are not limited to,:
 - 2nd Chance, Inc
 - Rape Response crisis center

C. Medical Providers: An individual who has experienced a physical assault or trauma may also seek assistance from a medical provider. In general, the disclosure of private information contained in medical records is protected and will not be disclosed. Furthermore, individuals seeking medical care after a sexual assault have the right to request that a sexual assault advocate be present and to request that law enforcement pursue or not pursue a criminal charge. Neither campus nor community medical providers will notify JSU of the report; therefore, it is the responsibility of the individual to contact the Title IX Coordinator or any Deputy Title IX Coordinator in order to pursue any action or seek supportive measures under this policy.

- a. **On Campus Medical Providers** include, but are not limited to:
RMC/JSU Health Center
- b. **Off Campus Medical Providers** include, but are not limited to,:
 - Northeast Alabama Regional Medical Center in Anniston, Alabama
 - Stringfellow Memorial Hospital in Anniston, Alabama
 - Gadsden Regional Medical Center in Gadsden, Alabama
 - Riverview Regional Medical Center in Gadsden, Alabama
 - St. Vincent's St. Clair in Pell City, Alabama
 - UAB Hospital in Birmingham, Alabama
 - Children's of Alabama Hospital in Birmingham, Alabama

D. Clery Annual Security Report: In certain situations, anonymous statistical information must be reported by all institutions of higher education. The information contained in the Clery annual security report (ASR) tracks the number of Clery-reportable offenses occurring at campus locations or university-sponsored programs and does not include the names or any other identifying information about the person(s) involved in the report.

E. Timely Warning: If a report discloses a criminal incident that represents a serious and continuing threat to JSU students and/or employees, the university may issue a campus wide timely warning or notification (which may take the form of an e-mail, text, or other electronic communication to community members) to protect the health or safety of the community and to heighten safety awareness. A timely warning may include a campus wide notification for a report of different type of incidents (including incidents involving sexual assault, stalking, dating violence and

domestic violence). JSU reserves the right to send campus wide notifications on any report.

Other Required Reporting: There are also other limited situations where anonymous statistical information is required. The information contained in these reports will provide very limited numbers and will not include the names or other identifying information about any person (s) involved in the report.

F. Request for Confidentiality: Whenever possible, JSU will pursue a course of action consistent with the reporting party and/or complainant's request. Anytime there is a request that an individual's name or other identifiable information to not be shared with another party, the Title IX Coordinator (and all members of the Title IX team) will balance this request with the dual obligation to provide a safe and non-discriminatory environment for all JSU community members and to remain true to principles of fundamental fairness that require notice and an opportunity to respond before disciplinary action is taken against a respondent. The Title IX Coordinator, in consultation with one or more other members of the Title IX team, will evaluate requests for confidentiality. During this evaluation the Title IX Coordinator may consider, among other factors, the seriousness of the conduct, the respective ages of the parties, whether there have been other complaints or reports of harassment or misconduct against the respondent, the existence of independent evidence, and the rights of the respondent to receive notice and relevant information before disciplinary action is sought.

Release of Information: Unless otherwise required by law, at no time will anyone on the JSU Title IX team release the name of the complainant, any witness, or the respondent to the general public without the express consent of that individual.

PROHIBITED CONDUCT

SEXUAL HARASSMENT

Jacksonville State University prohibits sexual harassment. Sexual harassment includes any of the following conduct that is based on sex:

- Quid pro quo harassment: An employee of JSU conditioning the provision of an aid, benefit, or service of JSU on an individual's participation in unwelcome sexual conduct;
- Unwelcome conduct determined by a reasonable person (in the shoes of the complainant) to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to JSU's educational programs or activities;
- Sexual assault as defined within this policy;
- Dating violence as defined within this policy;
- Domestic violence as defined within this policy; and/or
- Stalking as defined within this policy.

It should be noted that sexual harassment can occur between individuals who are known to one another or have an intimate or sexual relationship, or it may involve individuals who are not known to one another.

Sexual harassment:

- May be committed by anyone, regardless of gender, age, position, or authority. While there is often a power differential between two persons, perhaps due to differences in age, social, educational, or employment relationships, harassment can occur in any context;
- May be committed by a stranger, an acquaintance, or someone with whom the complainant has an intimate or sexual relationship;
- May occur in the classroom, in the workplace, in residential settings, or in any other setting; and/or
- May be committed in the presence of others or when the parties are alone.

SEXUAL ASSAULT

Jacksonville State University prohibits sexual assault, which is defined as any sexual act (forcible or nonforcible) directed against another person, without the consent of the person, including instances where the complainant is incapable of giving consent, if that sex act meets the definition of one of the following:

- Rape: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person;
- Fondling: The touching of the private body parts of another person for the purpose of sexual gratification;
- Incest: Sexual intercourse between persons who are related to each other as:
 - Parent or child;
 - Step-parent or step-child, while the marriage creating the relationship exists;
 - Sibling; or
 - Aunt/uncle or nephew/niece.
- Statutory rape: Sexual intercourse with a person who is under the age of 16

STALKING

Jacksonville State University prohibits stalking, which is defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- Fear for the person's safety or the safety of others; or
- Suffer substantial emotional distress.

A "course of conduct" refers to a pattern of behavior of two or more acts, including, but not limited to, acts in which the respondent directly, indirectly, or through a third party/parties-by any action, method, device, or mean-follows, monitors, observes, surveils, threatens, or communicates to or about a person or interferes with a person's property.

Stalking can include cyber-stalking, a particular form of stalking in which technological means are used. These methods can include the use of the Internet, e-mails, social media,

blogs, landlines, cell phones, text messaging, Global Positioning System (GPS), spyware on a person's computer or other device, or other similar devices or forms of contact.

DATING VIOLENCE

Jacksonville State University prohibits dating violence, which the Clery Act defines as violence (including but not limited to sexual or physical abuse or the threat of such abuse) committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant.

- The existence of a such a relationship shall be determined based on the reporting party's statement and with consideration of:
 - The length of the relationship,
 - The type of relationship, and
 - The frequency of interaction between the persons involved in the relationship.

DOMESTIC VIOLENCE

Jacksonville State University prohibits domestic violence, which the Clery Act defines as a felony or misdemeanor crime of violence (including, but not limited to, sexual or physical abuse or the threat of such abuse) committed by:

- A current or former spouse or intimate partner of the complainant;
- A person with whom the complainant shares a child in common;
- A person who is cohabitating with, or has cohabitated with, the complainant as a spouse or intimate partner;
- A person similarly situated to a spouse of the complainant under the domestic or family violence laws of the jurisdiction in which the violence occurred; or
- Any other person against an adult or youth who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the violence occurred.

RETALIATION

No one is allowed to retaliate, intimidate, threaten, coerce, or otherwise discriminate against any individual for exercising their rights or responsibilities under this policy. Retaliation can be any act or attempt to retaliate or seek retribution against any individual or group of individuals involved in the report, investigation, and/or resolution of any allegation of sex-based misconduct, harassment, or discrimination. Forms of retaliation can include intimidation, threats, coercion, or discrimination, or preventing participation in JSU's activities or proceedings.

OTHER CAMPUS CODE VIOLATIONS

When potential violations of other university policy/policies occur in conjunction with an alleged violation of this policy, proceedings under this policy may be carried out prior to, simultaneously with, or following other conduct proceedings on campus.

CONSENT AND RELATED DEFINITIONS

CONSENT: A clear, knowing and voluntary decision by each participant to engage in mutually agreed-upon sexual activity. Anything less than clear, knowing, and voluntary

consent should be considered a “No!” It is the responsibility of the initiator of any sexual activity to obtain their potential partner’s consent. The definition of consent does not vary based upon a participant’s sex, sexual orientation, gender identity, or gender expression. The following are essential elements of consent:

- **Affirmative:** Consent does not always have to be verbal, but there should be some affirmative words and/or actions that indicate a clear willingness to engage in the proposed sexual activity or contact.
 - A person who does not physically resist or verbally refuse sexual activity is not necessarily giving consent.
 - Please note that relying solely upon non-verbal communication can lead to a misunderstanding or false conclusion as to whether consent was sought or given.
 - If at any time during the sexual activity or contact, an individual is no longer an engaged participant, all parties should stop and clarify verbally the other’s willingness to continue before continuing such activity.
- **Coherent:** An individual must be able to recognize exactly what is happening (i.e. understand the who, what, when, how, where) in order to consent. An individual who is incapacitated and/or incoherent is considered unable to give consent.
 - **Alcohol and Other Drugs:** Alcohol and drugs may impair a person’s decision-making capacity, awareness of the consequences, and ability to make informed judgments. This applies even when voluntarily ingested. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent. If there is any doubt as to the level or extent of the other person’s intoxication and/or impairment and/or incapacitation, the prudent course of action is to forgo or cease any sexual contact or activity.
 - **Incapacitation:** A mental or physical state in which individuals are unable to make a rational, reasonable decision because they lack the ability to understand the consequences of their actions. Incapacitation may be caused by the lack of consciousness, being asleep, being involuntarily restrained, or any other mental or physical state in which an individual lacks the ability to knowingly choose to participate in a sexual activity. An individual who is incapacitated is considered unable to give consent.
- **Willing:** Consent must be gained without force, coercion, deception, threats, pressure, or manipulation from any other person.
 - **Force:** The use or threat of physical violence, intimidation, or coercion to overcome an individual’s freedom of will to choose whether or not to participate in sexual activity. Such action would cause a person to fear for their physical or psychological well-being. For the use of force to be demonstrated, there is no requirement that a complainant resist the sexual advance or request. However, resistance by the complainant will be viewed as a clear demonstration of non-consent.
 - **Coercion:** The use of pressure that compels another person to initiate or continue sexual activity against their will. Coercing an individual into engaging in sexual activity violates this policy in the same way as physically forcing someone into engaging in sexual activity.

- **Ongoing:** Consent must exist from the beginning to the end of each sexual activity or each form of sexual contact. Either party may withdraw consent at any time. Recognizing the dynamic nature of sexual activity, individuals choosing to engage in sexual activity must evaluate consent in an ongoing manner and communicate clearly throughout all stages of sexual activity.
- **Mutual:** All parties must demonstrate a clear and mutual understanding of the nature and scope of the act to which they are consenting and a willingness to do the same thing, at the same time, in the same way.
 - Consent to one form of sexual contact does not constitute consent to all forms of sexual contact, nor does consent to sexual activity with one person constitute consent to sexual activity with any other person.
 - Even in the context of a relationship, consent must be based on mutually understandable communication that clearly indicates a willingness to engage in sexual activity each time such activity occurs.
 - The mere fact that there has been prior intimacy or sexual activity does not, by itself, imply consent to future acts.

AGE FOR CONSENT: Persons under the age of sixteen (16) are deemed incapable of consenting under Alabama law. Sexual intercourse with anyone under the age of sixteen (16) is prohibited by this policy, as noted in the definition of “sexual assault” above.

OTHER DEFINITIONS

ACTUAL KNOWLEDGE

Notice of the occurrence of conduct prohibited by this policy or notice of the allegation(s) of the occurrence of conduct prohibited by this policy to the JSU Title IX Coordinator or any JSU Deputy Title IX Coordinator. However, if the JSU Title IX Coordinator or a JSU Deputy Title IX Coordinator is the respondent in the case, then the report would need to be made to an individual (the Title IX Coordinator or any Deputy Title IX Coordinator) who is not the respondent.

BUSINESS DAY(S)

Monday through Friday (8:00 a.m. – 4:30 p.m.), excluding any day (or time) when the institution is closed.

COMPLAINANT

An individual who has been reported to be the victim of conduct that is prohibited by this policy. Any individual can be a complainant, regardless as to whether such individual is a student, faculty member, another JSU employee, or other person with or without any affiliation with JSU. An individual may be a complainant even where no formal complaint has been filed and no grievance process is pending.

EDUCATIONAL PROGRAM OR ACTIVITY

Locations, events, or circumstances over which Jacksonville State University exercises substantial control over both the respondent and the context in which the prohibited conduct/behavior occurs. This includes any building owned or controlled by a student organization that is officially recognized by JSU. However, an educational program or activity does not simply depend on the geographic location.

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EMPLOYEE

Any faculty or staff member, including but not limited to members of the administration and instructional staff.

EVIDENCE

The available body of facts or information from any source, such as documents, objects, or witnesses, that causes a person to believe that something is true or untrue.

- Inculpatory evidence: Evidence that shows or tends to show a person's is responsible for a policy violation.
- Exculpatory evidence: Evidence that tends to justify, excuse, or show that that a person is not responsible for a policy violation.

FORMAL COMPLAINT

A document submitted by a complainant, a complainant's parent or legal guardian (if a parent or legal guardian has the right to act on behalf of the complainant), or signed by the Title IX Coordinator alleging a violation of this policy against a respondent and requesting that the university investigate the allegation of sexual harassment.

- At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in a JSU educational program or activity.
- A formal complaint can be submitted to the Title IX Coordinator or one of the Deputy Title IX Coordinators. Please see the "Reporting" and/or "Role of the Title IX Coordinator and Title IX Team" section(s) for additional information.

PRIVATE BODY PARTS

Refers to the breast(s) or chest, genitals, buttocks, groin, or mouth.

REPORTING INDIVIDUAL

The person who reported the conduct or potential violation to the Title IX office. At times this may be the complainant but may be another individual who makes the report to the Title IX office.

REPORT/ INFORMAL REPORT

A report that is made that allows for supportive measures but does not require a full investigation and will not result in formal discipline against the alleged individual.

RESPONDENT

An individual who has been reported to be the perpetrator of conduct that is prohibited by this policy. Any individual can be a respondent, regardless as to whether such individual is a student, faculty member, another JSU employee, or other person with or without any affiliation with JSU. An individual may be a complainant even where no formal complaint has been filed and no grievance process is pending.

RESOURCES

Jacksonville State University is committed to treating all members of the community with dignity, care and respect. Any individual who experiences or is affected by sex-based misconduct, harassment or discrimination, whether as a reporting party, complainant,

respondent, witness or third party, will have equal access to support and counseling services through the university. Interim measures are also available to all parties. JSU recognizes that deciding whether to make a report, either to the Title IX office or to law enforcement, and choosing how to proceed can be difficult decisions. The university encourages all individuals affected by sexual harassment or misconduct to seek the support of campus and community resources. These professionals can provide guidance in making decisions, information about available resources and procedural options, and assistance to either party in the event that a report and/or resolution under this policy is pursued. Individuals are encouraged to use all available resources on and off campus, regardless of when or where the incident occurred.

JSU is committed to providing a comprehensive and integrated prevention, education, and awareness program that attends to the multifaceted dynamics of sexual harassment, sexual violence, dating violence, domestic violence, and stalking. The university strives to create a non-discriminatory and harassment-free living, learning, and working environment for all members of the JSU community, including students, staff, faculty, and visitors.

Emergency Support and Response Services in the Event of Sex-Based

Violence: JSU encourages anyone who has experienced an incident of sexual violence, dating violence and/or domestic violence to seek assistance from a medical provider and/or law enforcement as soon as possible after the incident. This is the best option to provide physical safety, emotional support, and medical care to anyone impacted by sexual violence, domestic violence, and/or dating violence. It is also the best option to ensure preservation of evidence and to begin a timely investigative and remedial response.

Assistance is available from JSU UPD and/or the Jacksonville Police Department year round, 24 hours a day, 7 days a week.

[Jacksonville State University Police Department: \(256\) 782-5050](#)

[Jacksonville City Police Department: \(256\) 435-6448 or 911](#)

Protection from Abuse Orders: For information regarding protection from abuse orders and assistance in applying for a protection from abuse order, please contact a Victim Services Officer (VSO) at the Calhoun County District Attorney's Office at (256) 231-1770.

Medical Resources in the Event of Sexual Violence/Domestic Violence/Dating Violence/Stalking:

A medical provider can provide emergency and/or follow-up medical services. The initial medical exam can have two goals: first, to diagnose and treat the full extent of any injury, or physical effect (e.g., stitches for a cut, a cast for a broken arm, concussion protocol for a head injury, prevention of sexually transmitted illnesses, or possibility of pregnancy after a sexual assault) and second, to properly collect and preserve evidence. There is a limited window of time; the exact amount of time depends on the injuries and/or evidence that will need to be collected, but ideally, evidence would be collected as quickly as possible. Taking the step to gather evidence immediately does not commit an individual to any

particular course of action. However, the decision to seek timely medical attention after an incident that causes physical harm and gather any evidence will preserve the full range of options to seek resolution under this policy and/or through the pursuit of criminal prosecution.

An initial medical exam after a sexual assault may include testing and prophylactic treatment for HIV/AIDS, STIs, and pregnancy; a thorough physical examination, which includes the genital and/or anal area; and a blood draw. There is a limited window of time (typically up to 72 hours) following an incident of sexual assault to preserve physical and other forms of evidence. On campus, the [RMC/JSU Health Center](#) can provide medical care to students and employees during their regular business hours; however, the [RMC/JSU Health Center](#) is not equipped for forensic examinations. Anyone has the option-and is encouraged- to go to the Northeast Alabama Regional Medical Center in Anniston or Rape Response in Birmingham for care and to have evidence collected. Regional Medical Center is located in Anniston, Alabama and provides forensic exams through its Emergency Department. Rape Response is a standalone SANE (Sexual Assault Nurse Examiner) program located in Birmingham, Alabama that provides care and forensic exams to those not suffering from life-threatening injuries. Please call the Rape Response hotline at (205) 323-7273 if you are in need of SANE services.

Note that medical office and insurance billing practices may reveal information to the insurance policyholder, including medication and/or examination paid for or administered. Individuals are encouraged to let hospital personnel know if they do not want their insurance policyholder to be notified about access to these services.

The Alabama Crime Victims' Compensation Fund may be able to assist in compensating victims/survivors for health care and counseling services, including emergency compensation. In the state of Alabama, the cost of a forensic rape exam can be billed directly to the Alabama Crime Victims' Compensation Commission (ACVCC) or, if the victim chooses, to their private insurance. No cost is incurred if the bill is directly submitted to ACVCC. For additional information regarding ACVCC, you may call (800) 541-9388 or visit their webpage at <https://acvcc.alabama.gov/>.

Confidential Support

- **On-Campus Confidential Support** include, but is not limited to:
 - **Counseling Services**
 - **Employee Assistance Program (EAP)**
- **Off-Campus Confidential Support** include, but is not limited to:
 - **2nd Chance, Inc.**
 - **RAINN**
 - **National Domestic Violence Hotline**

Private Resources and Reporting Options

In addition to the confidential resources listed above, JSU community members have access to a variety of resources provided by the university. The

professionals listed below are trained to support individuals affected by sexual harassment, sexual violence, stalking, domestic violence, dating violence, or other forms of sex-based misconduct, harassment, or discrimination and to coordinate with the Title IX Coordinator consistent with the university's commitment to a safe and healthy educational and work environment. The Title IX Coordinator, Deputy Title IX Coordinators, and University Police Department (UPD) employees can:

- Provide information regarding the university's policies and procedures;
- Assist in accessing other support services; and
- Help arrange for supportive measures or remedies.

While not bound by confidentiality, these resources will maintain the privacy of an individual's information to those individuals who "need to know" in order to assist in the active review, investigation, or resolution of the report.

REPORTING

Any complainant is encouraged to report any sex-based misconduct to the Title IX Coordinator (or any Deputy Title IX Coordinator). JSU only has jurisdiction to take disciplinary action against a respondent who is a current student or employee. However, JSU can provide supportive measures in some cases, even if the incident did not occur on our campus or was not alleged to have been perpetrated by a JSU student or employee. The Title IX Coordinator is specifically charged with coordinating the initial assessment; initiating the investigation; responding to allegations of sex-based misconduct, harassment, or discrimination; addressing its effects; and preventing its recurrence.

At the time a concern is brought to the attention of the Title IX Coordinator (or any Deputy Title IX Coordinator), a complainant does not have to decide whether or not to file a formal complaint. Choosing to make a report and deciding how to proceed after making the report can be a process that occurs over time.

In every report under this policy, the university will undertake good faith efforts to make an immediate assessment of any risk of harm to the complainant, reporting individual, or to the broader campus community and will take reasonable steps necessary to address those risks. In this process, the university will balance the complainant's interests with the university's obligation to provide a safe and non-discriminatory environment for all members of the university community.

While all employees have the ability to report sexual harassment and should do so, most employees do not have the authority to formally institute corrective measures on behalf of JSU. In fact, the Title IX Coordinator and/or the Deputy Title IX Coordinators are the only JSU employees who have the authority to formally institute corrective measures on behalf of JSU; therefore reports should be made directly to one of these individuals.

While reports can be received from anyone with knowledge of an incident, formal complaints can only be submitted by a complainant (who is participating in or attempting to participate in a JSU educational program or activity), a complainant's parent or legal guardian (if the complainant has a parent or legal guardian who has the legal right to act on behalf of the complainant), or signed by the Title IX Coordinator.

In situations where the Title IX Coordinator signs a formal complaint, it should be noted that the Title IX Coordinator is not assumed to be the complainant or otherwise a party under this policy.

Reporting to and Coordinating with Law Enforcement: JSU encourages individuals to pursue criminal action for incidents of sexual harassment, sexual violence, stalking, domestic violence and dating violence that may also be crimes under Alabama criminal statutes. To the extent permitted by law, the university will assist a complainant, at the complainant's request, in contacting law enforcement and will cooperate with law enforcement agencies if a complainant decides to pursue the criminal process to the extent permitted by law.

Further, if the UPD is made aware of an incident or alleged incident that could violate this policy, the UPD will inform the Title IX Coordinator, at which time the Title IX Coordinator will begin an initial Title IX review (as discussed below) and may attempt to contact the person who made the report to the UPD and/or the complainant in an effort to meet and discuss supportive measures and determine if the complainant desires to file a formal complaint.

The university's policy, definitions, and standard of proof may differ from Alabama criminal law. For more information regarding Alabama criminal offenses, please visit the University Policy Department's web page at www.jsu.edu/police. A complainant may seek resolution through the university's complaint process, may pursue criminal action, may choose one but not the other, or may choose both. Neither law enforcement's decision whether or not to prosecute a complaint nor the outcome of any criminal prosecution are determinative of whether a violation of this policy has occurred. Proceedings under the university's policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus. Individuals are not required to file a criminal complaint.

In an effort to cooperate with law enforcement, the Title IX office may agree to defer its Title IX fact-gathering until after the initial stages of a criminal investigation. The university will nevertheless communicate with the complainant regarding their Title IX rights, procedural options, and the implementation of interim measures to assure safety and well-being. The university will promptly resume its Title IX fact-gathering as soon as appropriate.

Individuals seeking more information about filing a criminal report, may contact the University Police Department directly at (256) 782-5050. No one is required to file a criminal complaint.

Anonymous Reporting: Any individual may make an anonymous report concerning a potential violation of this policy. An individual may report the incident without disclosing their name, identifying the respondent, or requesting any action. Depending on the extent of information available about the incident

or the individuals involved, however, the university's ability to respond to an anonymous report may be limited.

Jacksonville State University's anonymous reporting system is hosted by Maxient, a protected record keeping database specially designed for the maintenance of conduct records. This service does not allow the university any access regarding the person making the report, nor does it allow us to communicate with the person making the report for further information. Therefore, it is important that the reporting party include as much information as possible when making an anonymous report.

The Title IX Officer will receive the information contained in the anonymous report and will determine any appropriate response or action, including individual or community remedies, as appropriate. In consultation with the University Police Department, the Title IX Coordinator will determine if the anonymous report provides sufficient information to submit a Clery crime report.

To report anonymously online, go to www.jsu.edu/titleix, select the "Reporting a Concern" tab and click "Report an Incident." However, please note that this link is not an emergency response service and a response may not be immediate. If you require immediate or emergency assistance, please contact the University Police Department at (256) 782-5050 or dial 9-1-1.

Reporting Considerations: Timeliness of Report and Location of

Incident: The university does not limit the time frame for reporting. However, if the respondent is no longer a student or employee or is not a member of the JSU community, the university may not be able to take disciplinary action against the Respondent.

An incident does not have to occur on campus to be reported to the university. For example, off-campus conduct that is likely to have a substantial adverse safety effect on JSU or any member of the JSU community may possibly be addressed under this policy.

Amnesty for Alcohol and Other Drugs: Jacksonville State University seeks to remove barriers to reporting. An individual who reports sexual harassment or misconduct addressed in this policy (including domestic violence, dating violence, stalking, and sexual assault) to the Title IX Coordinator, either as a complainant or as a third party, will not be subject to disciplinary action by the university for their own personal consumption of alcohol or drugs at or near the time of the incident.

Further, the JSU Code of Student Conduct includes a "Medical Amnesty Policy," which also provides for medical amnesty in certain situations.

Good Samaritan Amnesty: Jacksonville State University encourages students to offer help and assistance to others in need. Sometimes students are hesitant to

offer assistance to others, for fear that they may get in trouble themselves (e.g., an underage student who has been drinking might hesitate to help an alleged victim of sexual misconduct). A bystander or other person acting in good faith who discloses sexual harassment or misconduct addressed in this policy (including domestic violence, dating violence, stalking, and sexual assault) to the Title IX Coordinator, either as a complainant or as a third party, will not be subject to disciplinary action by the university for their own personal consumption of alcohol or drugs at or near the time of the incident.

Further, the JSU Code of Student Conduct includes a “Good Samaritan Amnesty” policy, which also provides for good Samaritan amnesty in certain situations.

False Reports: JSU takes the accuracy of information very seriously, as an allegation of sexual harassment, sexual violence, stalking, domestic violence or dating violence may have severe consequences. Knowingly making a false report or complaint under this policy-or knowingly providing false, distorted, or intentionally misleading information during an investigation-may result in disciplinary action up to and including dismissal from the university or termination of employment. A good-faith complaint that results in a determination that the evidence is not sufficient to support a formal charge or constitute a violation of this policy is not considered to be a false report.

When an individual is found to have fabricated an allegation or given false, distorted, or misleading information during the course of an investigation with malicious intent or in bad faith, that individual may be subject to disciplinary action. Falsification, distortion, or misrepresentation of information before a university official, staff member, and/or judicial body is a violation of the Code of Student Conduct and other university policies.

Reports Involving Suspected Child Abuse: Alabama law requires that certain people (including but not limited to any employee of a public institution of higher education) make a report when a person under the age of 18 is known or suspected to be a victim of child abuse or neglect. That report must be made to a law enforcement officer or to the Department of Human Resources. Said report must be reported orally, either by telephone or direct communication immediately, followed by a written report.

This requirement extends to confidential resources as outlined in this policy, including counselors and licensed social workers.

SAFETY MEASURES/ SUPPORTIVE MEASURES/ ACCOMMODATIONS

Upon receipt of a report, the university will offer reasonable and appropriate supportive measures/accommodations. The Title IX Coordinator will attempt to address concerns regarding safety for all individuals involved and the university as a whole.

To the extent possible, the university will endeavor to maintain as private any supportive measures provided to either party (complainant and/or respondent).

The Title IX Coordinator (or the Deputy Title IX Coordinator for employees, if both parties are employees and either party is a student) will coordinate the effective implementation of all supportive measures; therefore, all supportive measures should be requested by contacting the Title IX Coordinator using the contact information located in this policy and/or at www.jsu.edu/titleix.

Range of Safety/ Supportive Measures/Accommodations: These measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant and/or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Furthermore, supportive measures can be provided at any stage of the process and do not require a responsible finding to implement. These measures are designed to restore or preserve equal access to the university's educational program or activities, without unreasonable burden to other party-including measures designed to protect the safety of all parties or JSU's educational environment-or deter further violations. These measures can be offered regardless of whether the reported conduct occurred outside JSU's program or activities. The following are examples of supportive measures that the Title IX office may consider, but the exact supportive measures that may be implemented in any particular case will determined on a case by case basis:

- Providing access to counseling services and assistance in setting up an initial appointment (on or off campus);
- Providing access to medical services and assistance in setting up an initial appointment (on or off campus);
- Rescheduling of exams and assignments (in conjunction with appropriate faculty);
- Providing alternative course completion options (with the agreement of the appropriate faculty);
- Changing a class schedule, including the ability to take an incomplete, drop a course without penalty, or transfer sections (with the agreement of the appropriate faculty);
- Changing a job assignment;
- Limiting an individual or organization's access to certain university facilities or activities pending resolution of the matter;
- Providing a voluntary leave of absence;
- Extensions of deadlines or other course-related adjustments;
- Modifications of work or class schedules;
- Campus escort services (e.g., providing an escort to ensure safe movement between classes, parking lots and/or activities);
- Mutual restrictions on contact between the parties;
- Changes in work or housing locations;
- Providing academic support services (such as tutoring);
- Assisting with transportation needs;
- On-Campus residence lock change;
- Increased security and monitoring of certain areas of the campus; and
- Any other measure that can be tailored to the involved individuals (students or employees) to achieve the goals of this policy.

Emergency Removal: In certain situations, an individual may need to be removed from the campus environment on a temporary basis. The procedure for removal is different depending on whether the individual is a student or not.

A student respondent may be removed from Jacksonville State University based on alleged conduct that could constitute a violation of this policy on an emergency basis if necessary. Due to the impact that an emergency removal can have on a student's access to JSU's educational programs and activities, a student respondent will only be subject to an emergency removal, if it is determined to be necessary by the Title IX Coordinator after completing an individualized safety and risk analysis and determining that an immediate threat to the physical health or safety of any student or other individual arising from a violation of this policy justifies the emergency removal. Before the Title IX Coordinator makes such a decision regarding an emergency removal, the Title IX Coordinator must consult with at least one other member of the Title IX team and reach a consensus with that member regarding the removal. If a respondent is removed from JSU, that respondent will be provided written notice of this decision in person or via e-mail to their stu.jsu.edu e-mail address. Written notice will include how to proceed if the respondent desires to appeal the decision for emergency removal.

A non-student employee respondent may be placed on administrative leave during the pendency of any investigation regarding a violation of this policy, after consultation between Human Resources and the Title IX Coordinator. This administrative leave may be with or without pay and/or benefits.

GRIEVANCE PROCEDURE

Overview of Procedural Options (Student, Staff, Faculty): While procedures will differ based on whether the respondent is a student, staff, or faculty member, JSU will endeavor in good faith to administer these policies and procedures fairly and impartially.

The Title IX Coordinator and/or the Deputy Title IX Coordinators are the only JSU employees who have the authority to formally institute corrective measures on behalf of JSU. Therefore, reports should be made directly to one of these individuals.

Conflict of Interest/ Bias: The Title IX Coordinator, investigator(s), and/or decision-maker(s) must be free from any conflict of interest or bias for or against any party involved in the case. Furthermore, if an informal resolution process is facilitated, the person designated to facilitate that process must also be free from any conflict of interest or bias for or against any party involved in the case. Therefore, if at any point during an investigation, a party believes the coordinator, informal facilitator, investigator(s), and/or decision maker(s) has a conflict of interest, the party shall make the Title IX Coordinator or Vice President of Student Affairs aware of the potential conflict or bias in writing (via e-mail or written letter) and request that another individual(s) be assigned. No retaliation will be permitted based on said notice and request.

Advisor: Each party will be given the opportunity to be accompanied to any meeting, interview, or proceeding by an advisor of their choice. However, neither party's advisor will be able to advocate or otherwise actively participate in said meetings, interviews, or proceedings except to question the other party during the hearing. At the request of either party, JSU will provide either party with an advisor who is familiar with the JSU Title IX policy and grievance procedure. Each party must have an advisor to question the other party during the hearing. Therefore, if either party does not have an advisor to serve in that role at that time, JSU will appoint an advisor to serve in that capacity at that time.

Support Person: In addition to an advisor, each party is also allowed to be accompanied to any meeting, interview, or proceeding by a support person of their choice. However, the support person is present solely for support and is not an active participant in said meeting, interview, or proceedings. If this support person is distracting or disruptive during the meeting, interview, or proceeding, JSU may, in its discretion, terminate or restrict the support person's ability to participate in future proceedings.

Initial Title IX Review: Once a report is received, the university will initiate an immediate assessment of any risk of harm to individuals or to the campus community and will begin taking steps necessary to address those risks. These steps may include supportive measures/accommodations discussed above.

Thereafter, further action may be initiated depending on a variety of factors, such as the complainant's thoughts on pursuing a formal complaint, the risk posed to any individual or the campus community by not proceeding, and the nature of the allegation.

As part of the initial assessment of the facts, the university will:

- Assess the nature and circumstances of the allegation;
- Respond to and address immediate physical safety and emotional well-being;
- Notify the complainant of the options to contact law enforcement, seek medical treatment, and mental health treatment;
- Notify the complainant of the importance of preservation of evidence;
- Assess the reported conduct for the need for a timely warning under the Clery Act;
- Provide the complainant with information about resources (on and off campus);
- Notify the complainant of the range of available supportive measures;
- Provide the complainant with an explanation of the procedural options, including informal resolution and formal resolution options;
- Assess for pattern evidence or other similar conduct by the respondent;
- Discuss the complainant's expressed preference for manner of resolution and any barriers to proceeding; and
- Explain to the complainant the university's policy prohibiting retaliation.

How to File a Report or Formal Complaint: To file a formal complaint, the complainant (or complainant's parents or legal guardian, if the parents or a legal guardian have a legal right to act on behalf of the complainant) must meet with the Title IX Coordinator or one of the Deputy Title IX Coordinators. A meeting can be arranged via e-mail or telephone and can occur on campus or at a mutually agreed-upon location off campus. Every effort will be made to meet in person; however, in some circumstances,

this meeting can occur via video conference. During said meeting, the complainant will be given the opportunity to request any accommodations needed, will be given the opportunity to review the policy and procedures, and will be given the option of filing an informal report or formal complaint. The differences between these options will be explained, and the complainant will be allowed to ask any questions regarding the options. The complainant will be allowed additional time to consider all options and will not be required to make a decision at the time of said meeting. The complainant can notify the Title IX Coordinator and/or one of the Deputy Title IX Coordinators at any time in the future if any/additional accommodations are needed or if the complainant decides to pursue a formal complaint.

Notice to the Title IX Coordinator and/or any of the Deputy Title IX Coordinators ensures that JSU is aware of the issue and can work to address it appropriately. As such, if one of the Deputy Title IX Coordinators receives any information regarding any misconduct described in this policy, that Deputy Title IX Coordinator is required to immediately (within 12 hours) contact the Title IX Coordinator and provide the Title IX Coordinator with all the information that Deputy Title IX Coordinator has regarding the situation.

Formal Complaint Requirement: A complainant must be participating in or attempting to participate in a JSU educational program or activity at the time of filing a formal complaint. Examples of individuals who may be considered as a complainant attempting to participate in a JSU educational program or activity may be an alumna/alumnus who intends to apply for admission to work toward another degree, an alumna/alumnus who intends to remain involved with alumni programs/activities, an individual who is on a leave of absence, or an individual who has left school due to sexual harassment with an expressed desire to re-enroll if there is an appropriate response to the sexual harassment.

Formal Grievance Process: Formal disciplinary action against a respondent may only be taken through the formal grievance process. Because the relationship of students, staff, and faculty to the university differs in nature, the procedures that apply when seeking formal disciplinary action necessarily differ somewhat as well. Each of the procedures, however, is guided by the same principles of fundamental fairness and respect for all parties, which require notice, an opportunity to be heard, and an opportunity to respond to a formal complaint under this policy.

Student Respondent: For a report against a student, disciplinary action may be taken by a hearing panel of three trained individuals.

Employee Respondent: For a report against a staff member, disciplinary action may be taken by the Director of Human Resources after a full investigation and a separate hearing by a panel of three trained individuals.

Timeline for Investigations/Hearings/Decisions/Sanctions/Appeals:

To the extent possible: 1) Investigations will be completed, and an investigative report will be provided to the hearing panel members within 60 business days from the filing of the formal complaint; 2) Hearings will be completed within 20 business days from the date that the investigation report is provided to the hearing panel members. The decision letter will be provided to each of the parties within three (3) business days of the hearing.

All appeals (from either party) will be filed no later than 4:30 p.m. on the 7th business day after the hearing (e.g., if a hearing was held at 2:00 p.m. on Tuesday, and the university was closed only on Saturday and Sunday, the appeal would need to be filed no later than 4:30 p.m. on the Thursday the week after the hearing). The other party will have an opportunity to provide a written statement in support of or challenging the outcome, but said statements must be provided no later than five (5) business days after the appeal request form is submitted. All appeals will be reviewed by the appeal panel members, and a decision on any appeal filed will be issued to each party (either in person or via jsu.edu) within 30 business days of the hearing date.

If an extension of any of these time frames is requested by either party or is, for good cause, needed, the Title IX Coordinator will provide written notice to each of the parties, explaining the reason for the delay.

Informal resolution will temporarily pause/delay the running of the period of time set forth above. For more information about informal resolution, please see the “Informal Resolution” section.

Consolidation: If the Title IX Coordinator believes that it would be appropriate, then formal complaints under this policy against more than one respondent, by more than one complainant against one or more respondents, or by one party against the other party—where the allegations (of violations of this policy) arise out of the same facts or circumstances—may be consolidated for investigation and/or hearing and/or appeal purposes. Where a grievance process involves more than one complainant or more than one respondent, references in this section to a singular “party,” “complainant,” or “respondent” include the plural, as applicable.

If the cases are consolidated for purposes of an investigation and/or hearing, the investigator(s) may issue a single investigative report.

Presumption: JSU will presume that a respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

Standard of Evidence: JSU uses a “preponderance of the evidence” standard when determining responsibility for any violation of this policy. This requires a showing of evidence that is over 50% or indicates that the information provided leads the hearing panel to decide that “more likely than not” the person is “responsible” for the violation. In a situation where the panel finds that the evidence in a case is “equal” or “level,” the preponderance-of-the-evidence standard would result in a finding of not responsible. The preponderance-of-the-evidence standard is lower than the standard of “beyond a reasonable doubt,” which is used in criminal court cases.

This standard of evidence applies regardless of whether the respondent is a student or employee (staff or faculty).

Burden of Proof: Throughout the grievance process, the burden of proof and the burden of gathering evidence sufficient to meet the standard of evidence (including determining responsibility and the existence of consent) rests on the university, not on the parties.

However, it is important to note the following:

- The university cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity (or assisting in that capacity), and which are made or maintained in connection with the provision of treatment to the party, unless the university obtains the party's voluntary, written consent to do so for a grievance process. (When legally required, then the university must obtain the voluntary, written consent of the party's parent or legal guardian.)
- The university will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.
- There will be no restriction on the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.
- The parties will have the same opportunities to have an advisor and a support person present during any meeting or hearing.
- Any time a party's participation is invited or expected, that party will be provided notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings with the party. That party will also be provided sufficient time for the party to prepare to participate. If a hearing, interview or meeting is scheduled and the party who is to participate does not feel they have been provided sufficient time to prepare to participate, that party should contact the Title IX Coordinator (preferably via e-mail to TitleIX@jsu.edu); request that the meeting, interview, or hearing be rescheduled and provide additional dates and times when the party is available to participate.

Notice of Investigation: Upon receipt of a formal complaint, written notice will be provided to the respondent (a copy of which will be provided to the complainant). This notice will generally be provided via an e-mail to each party's jsu.edu e-mail account. Attached to said e-mail will be the notice/letter of investigation, a copy of JSU's policy and procedure, and a copy of the rights for said individual during the process.

This notice will be provided to the respondent at least 24 hours before the proposed initial interview time. However, if this does not provide the reporting party with sufficient time to prepare a response before the initial interview, the reporting party should e-mail the Title IX Coordinator, request that the initial interview be rescheduled and provide additional dates and times when the party is available to participate.

Amended Notice of Investigation: If, in the course of an investigation, there is a decision to investigate allegations that are not included in the initial notice of investigation, an amended notice of investigation will be provided to the parties.

Informal Resolution: This is a resolution option that allows corrective action to be taken without formal disciplinary action against the respondent. Corrective action under an informal resolution could include educational programming or training, direct confrontation of the respondent, or facilitated discussions between the complainant and/or respondent and/or witnesses. However, the university will never compel a complainant to engage in an informal resolution process or directly confront the respondent and/or particular form of informal resolution.

Once a formal complaint is filed, an informal resolution may be a potential resolution option. This option can be pursued at any time prior to 24 hours before the scheduled start time of the disciplinary hearing. If either party would like to discuss the option of informal resolution, then that party can contact the Title IX Coordinator and discuss the informal resolution they would propose. If the Title IX Coordinator determines that said proposal may be a viable option for resolution, then the Title IX Coordinator will discuss the proposal with the other party. If an agreeable resolution is determined after each party has had an opportunity to consult with the Title IX Coordinator, then the Title IX Coordinator will prepare the informal resolution agreement and give each party the opportunity to sign said agreement.

If the informal resolution agreement is signed by the complainant, the respondent and the Title IX Coordinator, then the investigation and resolution process will be placed on hold to allow the terms of the informal resolution agreement to be fulfilled.

Once the terms of the informal resolution agreement are fulfilled in a timely manner and as specified in the agreement, the Title IX Coordinator will e-mail the complainant and the respondent to notify them that the terms have been fulfilled and the case is being closed.

The Title IX Coordinator's first priority must be maintaining the safety of the parties involved and the campus as a whole. The Title IX Coordinator reserves the right to not sign/approve the informal resolution agreement for any reason. Furthermore, the Title IX Coordinator cannot sign/approve any informal resolution agreement involving an employee's prohibited conduct directed toward a student.

If the agreement is not signed by either party or the Title IX Coordinator, the case will continue forward. If both parties sign the agreement, but all terms of the agreement are not fulfilled in a timely manner and/or as specified in the agreement, the case will continue forward.

If a case continues forward, the parties maintain all of their rights to due process and to be heard and the case continues forward as if the informal resolution did not exist. The exception is that the informal resolution can be mentioned in any hearing as a reason for a delay in the resolution of the case.

Dismissals: There are certain situations (listed below) that require or permit dismissal of a Title IX case under this policy. If at any point during the process the case is dismissed, both parties will be notified of said dismissal, the reason for said dismissal and if the case has been referred for review under any other policy or code of conduct. Furthermore,

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either party will have the opportunity to file an appeal of the dismissal decision. An appeal must be filed no later than 4:30 pm on the 4th business day after receiving notification of dismissal (e.g., if the notification of dismissal was e-mailed to the parties at 2:00 p.m. on Tuesday and the university was closed only on Saturday and Sunday, the appeal would need to be filed no later than 4:30 pm on Monday the week after the notification of dismissal). Either party may file an appeal regarding the dismissal decision.

Required Dismissal: The case will be dismissed under this policy and referred for review and potential charges under other policies or codes of conduct if at any point during the process it is determined that the conduct or behavior alleged in the formal complaint:

- Would not violate this policy even if proven;
- Did not occur in a JSU educational program or activity (as defined above); or
- Did not occur against a person in the United States.

Potential Dismissal: The case may be dismissed under this policy and referred for review and potential charges under other policies or codes of conduct if at any point during the process:

- The complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
- The respondent is no longer enrolled in or employed by Jacksonville State University; or
- Specific circumstances prevent the recipient from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Investigation: When a report is received and the Title IX Coordinator determines that, based on all information known about the behavior, the location of the incident, and the other elements are present to allow the university to move forward under this policy, the university may initiate a formal investigation. The Title IX Coordinator will designate a trained investigator(s) who has specific training and experience investigating allegations of sexual harassment, sexual violence, stalking, domestic violence and dating violence. Any investigator(s) assigned will be impartial and free of any conflict of interest.

Parties and witnesses are strongly encouraged to provide all evidence and contact information for any potential witness(es) as early as possible in the process. This will assist in completing the investigation as promptly as possible. Please note that new evidence may not be introduced at the hearing without the agreement of the other party; therefore, it is important to provide all of the information and evidence during the investigation.

Preliminary Investigative Report: Once the investigation is complete, a preliminary investigative report will be created that will fairly summarize the relevant evidence.

Each party will be notified (via their jsu.edu e-mail address), and each party's advisor (who has been identified by the party) will be notified (at the e-mail address provided by the party for the advisor). In said notification e-mail, the party and that party's advisor

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will be invited to meet with the investigator(s), where they will be provided with a hard copy of the preliminary investigative report and all evidence. During the meeting, the investigator(s) will seek to answer any questions the parties may have regarding the investigation. The investigator(s) will verify that there are no additional witnesses that need to be interviewed nor any additional evidence that needs to be examined. The investigator(s) will discuss any requested changes to the preliminary investigative report. The parties are encouraged to make corrections and provide appropriate context. The investigator(s) will invite the parties to provide a written response and/or will invite each party to meet with the investigator(s) and/or review the evidence and/or report as frequently as needed. This initial meeting to receive the report and evidence should be held as quickly as possible after the initial notification and invitation to meet. Each party is allowed to submit a response, which the investigator(s) will consider prior to completion of the investigative report, but that response would need to be provided to the investigator(s) within ten(10) days.

Final Investigative Report: Once the parties' requested changes have been addressed in the investigative report, then the investigator(s) send notification to each of the parties explaining that the final investigative report is ready for review and schedule any meeting that the parties request at this time. Any meeting to discuss the final investigative report should be scheduled as quickly as possible, as any suggested changes to the final investigative report will need to be provided within ten (10) business days of receiving notification that the final investigative report has been completed.

Once the parties' have had an opportunity to review the final investigative report, then the final report will be provided to the Title IX Coordinator, who will begin preparing for the hearing.

Reviewing Documents and/or Evidence: The investigative report and all documents that are able to be provided will be provided to the parties (and their advisors) at least ten (10) business days before the hearing. However, originals of documents will need to be retained in the Title IX office or UPD custody. Therefore, to review originals simply follow this review procedure.

To the extent required and permitted by law, The Title IX Coordinator will make available the evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint. This will be available for inspections and/or review by either party and their advisors during the normal university operating hours, so long as it is scheduled at a mutually agreed-upon time, at least 24 hours in advance. To schedule said inspection and/or review, please e-mail the Title IX Coordinator at titleix@jsu.edu to request a time to inspect and/or review said evidence. Please provide the Title IX Coordinator with at least three (3) different times on three (3) different dates on which you are available to allow for the inspection and/or review to be scheduled at a time that is equally convenient for the Title IX Coordinator and the requesting party.

Privacy is generally of great concern to the parties in these matters. Therefore, the Title IX team will endeavor in good faith to maintain the privacy of the parties, including the reports, evidence, and other materials involved in these matters. As such, the Title IX

team also requests that the information not be shared with anyone else except as needed for purposes of preparing for the hearing.

There are certain situations where a party does not want to have possession of the documents or evidence and/or does not want their advisor to have possession of the documents or evidence. If a party does not want to (or does not want their advisor to) receive the evidence and documents, then they will need to complete a form with the Title IX office. Even if this form is completed, then the party will still be allowed to review the documents and evidence, at any point, in the Title IX office.

All evidence and reports will be made available to each party at the hearing and each party will have the opportunity to refer to such evidence during the hearing, including for purposes of questioning any/all parties and witnesses.

Hearing Panel: The hearing panel will consist of three (3) hearing panel members who are designated by the Title IX Coordinator, who is tasked with ensuring that each hearing panel member has the appropriate training regarding allegations of sexual harassment, sexual violence, stalking, domestic violence and dating violence. Any hearing panel member assigned will be impartial and free of any conflict of interest. Neither the Title IX Coordinator nor the investigator(s) on the case can serve as a member of the hearing panel.

The Title IX Coordinator will be responsible for scheduling the hearing and providing the investigative report to the hearing panel members for review. The Title IX Coordinator will also be available on the day of the hearing to assist with logistical matters.

Pre-Hearing Details: Preparing for a hearing that will include three hearing panel members, two parties, two advisors, support persons, and potentially three (or more) locations requires a great deal of planning and preparation. In an effort to make the hearing proceedings more efficient and less hectic for everyone involved, we ask for the parties' assistance in providing their preferences and requests in advance.

Witness Scheduling: If either party wants the university to schedule a particular person to address the hearing panel to answer questions, then that party should provide the Title IX Coordinator with the name and contact information for that witness so that arrangements can be made for that witness to be available for said hearing. (For example, if a party wants the university to make a non-party faculty member come to the hearing to answer questions, then arrangements will need to be made to ensure availability on the day of the hearing.)

Evidence: If either party wants the university to make additional copies or otherwise ensure that a particular piece of evidence is available in a certain form at the hearing, then that party should provide that information to the Title IX Coordinator with appropriate notice so that arrangements can be made for that evidence to be available in the preferred form. (For example, if a piece of evidence is housed in the evidence locker at UPD, then additional scheduling will be required for that evidence to be viewed in person.)

Requested Witness Order/Schedule: If either of the parties and/or witnesses have a preference regarding the order of witnesses or parties based on schedules or other preference, then that party and/or witness should make their preferences known to the Title IX Coordinator at least three (3) days before the hearing date to allow for the Title IX Coordinator to coordinate the attendance of each witness at the appropriate time. This particular order will not be able to be guaranteed as there are several people and schedules involved. (For example, if a witness desires to answer questions as the first person due to a class schedule conflict later in the day, then we will do our best to accommodate that request. If we are unable to accommodate such a request, then the Title IX Coordinator will work with the witness to provide an excuse or other appropriate assistance.)

Impact Statements: Impact statements are statements that are provided regarding the impact of the case on the party and that may provide to the panel members the party's thoughts on a fair sanction.

- Impact statements are only read by the panel members if there is a finding of “responsible.”
- In order to make these statements available to the panel members in the event of a “responsible” finding, the statements should be provided by each of the parties to the Title IX Coordinator before the hearing time. It is recommended that these statements be provided to the Title IX Coordinator at least 24 hours before the beginning of the hearing, but said statements will be accepted by the Title IX Coordinator up to 1 hour before the hearing time.
- Impact statements must be provided to the Title IX Coordinator in a sealed envelope.
- If, after the entire hearing, the panel returns a finding of “not responsible,” then the envelope will never be opened and will be shredded by the Title IX Coordinator. In the event of a “not responsible” finding (after the appeal, if an appeal is filed), the Title IX Coordinator will contact the party or parties who provided the impact statement(s) to let the party or parties know that the statements are to be shredded and can shred these statements in the presence of the party who provided the statement to prove that the envelope was never opened and was never read by any of the panel members.
- If, after the entire hearing, the panel returns a finding of “responsible,” then the Title IX Coordinator will provide the statements (in their sealed envelopes) to the panel members for their consideration regarding sanctioning. The panel members will then open the statements in the presence of all members of the panel and consider these statements during their deliberations regarding sanctioning.

Hearing:

Recording: All hearings will be recorded by JSU to allow for a proper records of the proceedings. This recording will be available for inspection and review by the parties using the same procedure for review of original documents and evidence described above.

Location: The hearing will be scheduled for an appropriate location that will allow for a comfortable atmosphere for each of the parties. When selecting a location, the privacy of the participants will be considered.

Virtual Attendance: JSU may, in the exercise of its discretion, require that any/all questioning and/or the entire hearing occur with the parties and/or any witnesses located in separate locations with technology enabling the panel members and parties to simultaneously see and hear the party and witness answering the questions.

Participation/Lack of Attendance: The panel members will not draw an inference about the determination regarding responsibility based solely on a party or witness's absence at the hearing or refusal to answer any questions. However, if any party or witness does not participate in the hearing (including answering all relevant questions by each party or advisor), then their previous statements will not be able to be considered by the hearing panel members.

Evidence and Reports: All evidence and reports will be made available to each party at the hearing and each party will have the opportunity to refer to such evidence during the hearing, including for purposes of questioning any/all parties and witnesses.

Procedure/Process for the Hearing: The hearing will begin with a brief introduction and overview of the procedure for the hearing.

Each of the parties will be given the opportunity to make a short (up to 5 minutes in length) statement during the hearing. Once that statement has been concluded, the other parties will be allowed to ask any relevant questions to that party.

Then questioning of each witness and party will begin. The witnesses and parties will submit to questioning in the order selected by the decision makers, following this questioning order:

- Panel members will ask questions first.
- Respondent will ask questions second.
- Complainant will ask questions third.
- Respondent will have another opportunity to ask questions fourth.
- Complainant will have another opportunity to ask questions fifth.
- Hearing panel members will have another opportunity to ask any remaining questions sixth.
- Then, the hearing will move forward with the next witness.
- After the last witness, the hearing panel members will explain the process of how and when to expect the decision document will be delivered, and the hearing will dismiss.

Questioning the Other Party: Each party will have an opportunity to ask the other party and any witnesses all relevant questions and follow-up questions, including

questions challenging credibility. However, questions to the other party will be asked by the questioning party's advisor.

- If either party does not have an advisor present at the hearing, JSU will provide that party with an advisor (at no cost to the party/parties), who is familiar with the JSU grievance process.

Decorum: These proceedings require that all persons present, including the parties, their advisors, any support persons, witnesses, and hearing panel members maintain appropriate decorum and participate respectfully and non-abusively throughout the proceedings.

- Abusive language and/or behaviors that disrupt the hearing will not be tolerated.
- Badgering any witness, including either party, is forbidden.
- Each party, advisor, and support person will remain seated in their designated seat throughout the proceedings, except during breaks.
- Conferring with one another loudly in such a way that the hearing is disrupted is prohibited.

Relevant Questions: The chairperson of the hearing panel must determine whether any question is relevant before the questioned individual responds. To accomplish this, there will be a "pause" in the proceedings after each question BEFORE the answering party provides the answer. This pause will allow the chairperson (with or without input from the other panel members) to determine if the question is relevant before the answer is provided. This will require patience, but it is an important element of the hearing process.

- The determination as to whether the question is relevant or not will be made by chair of the hearing (with or without input from the other panel members) by applying logic and common sense.
- Duplicative and/or repetitive questions may be deemed to be irrelevant.
- If any questions are excluded as not relevant, the chairperson of the hearing panel will explain to the party/the advisor who sought to ask the question why the question is due to be excluded.
- Questions requesting information regarding the following will be deemed non relevant:
 - Information protected by a legally recognized privilege (such as attorney-client privilege, medical provider privilege, etc.);
 - Any party's medical, psychological, or similar records (unless the party has given voluntary, written consent);
 - Party or witness statements that have not been subjected to cross-examination at a live hearing;
 - Evidence about a complainant's prior sexual history unless said sexual history evidence or question is offered:
 - To prove that someone other than the respondent committed the conduct alleged in the formal complaint; or

- To demonstrate specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. (This exception only applies to situations where consent is an issue at the hearing).

New Evidence: All evidence should be provided during the investigation phase. If either party attempts to present new evidence at the hearing, the hearing will end and the case will be sent back for further investigation. In the event that the other party agrees to allow for the new evidence to be presented, the hearing will break for at least 30 minutes to allow the new evidence to be properly reviewed before the hearing resumes.

Credibility Assessments: The panel members will make credibility assessments of all parties and witnesses. However, these assessments will not be based on a person's status as a complainant, respondent, or witness

Decision: After the hearing process is complete, the panel members will deliberate and make a finding of either "responsible" or "not responsible" based on a preponderance of the evidence. The panel will use a disciplined, unbiased evaluation of admissible, relevant evidence to reach this decision.

Sanctioning: If, after the entire hearing, the panel members make a finding of "responsible," then they will be provided with a copy of the impact statements. These statements are statements provided by one or both parties to the Title IX Coordinator in a sealed envelope before the beginning of the hearing. After fully reading the impact statements, then the panel members will be responsible for making a decision regarding the appropriate sanction. Again, the sanctioning determination does not need to be unanimous, but must be agreed upon by at least two of the three panel members.

Decision Letter: The panel members will provide a written decision letter to each of the parties (via their jsu.edu e-mail address) within three (3) business days of the hearing. If the hearing panel members find the respondent responsible for a violation of the policy, the decision letter will also include the sanction decided upon by the panel members. This letter will be signed by the panel members and then provided to the Title IX Coordinator, who will e-mail the letter to each of the parties and their advisors.

Potential Sanctions:

The following are a list of potential sanctions that can be implemented upon a finding of responsible after a proper investigation and hearing:

Warning- Notice, in writing, that any continuation or repetition of prohibited conduct for a specific or indefinite period of time may be cause for further disciplinary action.

Educational Sanction- Requiring the individual to perform mandated service, or to participate in an educational program or activity, including but not limited to an educational seminar, a treatment program, or another program/task designed to

manage the behavior, understand why the behavior was inappropriate, and/or assist the individual in learning more about how their behavior impacted themselves and/or the community.

Disciplinary Probation- A period during which an individual must behave in a manner acceptable to the university and comply with specific terms. Under the status of disciplinary probation, an individual is encouraged to seek advice from appropriate university officials. Conditions of probation may be set forth that restrict the individual's participation in specific activities. Violation of the terms of probation or additional incident(s) of misconduct while on probation may result in suspension or dismissal.

Facilitated Discussion- Informal facilitated conversation between the respondent and other impacted parties to resolve conflict, to formulate an action plan, and/or to decide whether and how to implement change.

Loss of Privileges- The withdrawal of a privilege, use of a service, participation in a program or organization, event or activity for a specific period of time. The loss of privileges may prohibit an individual from participating in co-curricular activities, continuing in a degree program, being present in or using certain campus facilities or services, and/or prohibit an individual from enrolling in a class or classes.

Formal Performance Improvement Plan- A plan designed to improve the individual's performance in the future. This can include terms that require completion of certain tasks, programs, or other behavior modification items that is specifically designed for the individual.

Termination of Employment- An individual may be terminated from their employment with the university and/or be prohibited from applying for employment with the university for a specific amount of time. This will be recorded in the employee's file.

No Contact Order – No contact orders are designed so that individuals involved in a conduct process do not have any communication with each other to help minimize further altercations between those involved. Individuals who receive no contact orders are directed to refrain from contacting an identified individual using ANY means. This includes but is not limited to comments, words or gestures in person, through postal mail, e-mail, social networking sites, or by having others (friends, acquaintances, family members, etc.) act on the individual's behalf. Any order of no contact will remain in place until both parties agree in writing to cancel the order, pending final approval by the Title IX Coordinator.

Suspension- Any action that excludes an individual from class attendance, residence in university- owned or managed housing, and use of university facilities for a specified period of time. This action results in loss of privilege unless there is specific written permission, otherwise obtained from the Title IX

Coordinator. Suspension typically includes a trespass from all university property during the designated suspension timeframe. Should an individual who is suspended be found on university property, further disciplinary action may be warranted.

- i. A suspension may be imposed in any increment (weeks, months, academic year or calendar year) but must be specific as to when the individual will be allowed to return to the educational program or activity, including whether the individual may be allowed to participate in online activities or not.
- ii. A suspension may be deferred based on the timing of the semester (e.g., end of semester). This decision is at the discretion of the panel members and will only be considered if the individual's presence on campus is deemed not to be a threat. Should the individual be readmitted, further incident(s) of misconduct may result in additional suspension periods or dismissal from the university. Additionally, the failure to observe the terms and conditions of a suspension may cause the extension of the suspension period or further disciplinary action.
- iii. A suspension will take place once the appeal time frame or process is complete. In the event of an academic suspension, individuals are encouraged to consult with Student Accounts and the University Registrar regarding possible tuition and fee refunds. The panel members will make no determination regarding potential refunds.

Deferred Suspension- This sanction is a suspension that is delayed pending specified behavioral performance. A definite period of observation and review occurs during a deferred suspension. If an individual is again found responsible of violating any (or a specific) code of conduct, the suspension will take place immediately, without appeal. The expectation will be addressed fully in a sanctioning document.

Dismissal- The permanent loss of the privilege of registration, class attendance, employment, and/or residence in university owned or university-managed housing. The privilege to use university facilities or property is typically also permanently withdrawn by this action. An individual who has been dismissed is not eligible for readmission or reemployment. Any individual who is dismissed will not be entitled to any refund of tuition or fees. Dismissal typically includes a trespass from all university property. Should an individual who is dismissed from the university be found on university property, further disciplinary action may be warranted.

Transfer of Work Assignment- The temporary or permanent transfer from one work assignment and/or location to a different work assignment and/or location.

Delay of Tenure Track Progress- The temporary or permanent delay of tenure track progress.

Revocation of Tenure- The temporary or permanent loss of tenure.

Assignment to Different Supervisor- The temporary or permanent reassignment to alternative supervisor.

Demotion- A change in employment status to reflect of loss of a promotion.

Denial of Pay Increase- The loss of an opportunity for a pay increase that would have ordinarily been provided.

Loss of Pay Grade- A decrease in pay and/or benefit for a specific amount of time.

Restriction of Stipends, Research, and/or Professional Development Resources- A general or specific restriction placed on an employees ability to receive stipends, research resources, and/or professional development resources.

Enhanced Supervision, Observation, or Review- A general or specific enhancement of supervision, observation, or review for employees.

Remedies: If there is a finding of “responsible,” the panel and/or the Title IX Coordinator can address remedies. Remedies are individualized services that are designed to restore or preserve equal access to JSU’s educational programs or activities. These may include the same or similar individualized services that are described in the “Supportive Measures” section. However, these remedies need not be non-disciplinary nor non-punitive and need not avoid burdening the respondent.

Remedies may include:

- Counseling;
- Extensions of deadlines or other course-related adjustments;
- Modifications of work or class schedules for either party;
- Campus escort services;
- Restrictions on contact between the parties;
- Changes in work or housing locations for either party;
- Leaves of absence;
- Increased security and monitoring of certain areas of campus; and
- Other similar measures.

The Title IX Coordinator will be responsible for the effective implementation of these remedies. Any remedies that are provided to the complainant will not be disclosed to the respondent unless said remedies directly affect the respondent, and disclosure is required for effective implementation.

Appeals: An appeal may be filed by either party or both parties. An appeal can be filed based on the decision of responsibility or the lack thereof, the sanction imposed, and/or the restoration or preservation remedies imposed. Any appeal must be filed by completing the appeal request form. This form is available electronically at www.jsu.edu/titleix, or a hard copy can be completed in the Title IX Coordinator’s office. Any such appeal must be filed no later than 4:30 p.m. on the 7th business day after the

hearing (e.g., if a hearing was held on 2:00 p.m. on Tuesday, and the university was closed only on Saturday and Sunday, the appeal would need to be filed no later than 4:30 p.m. on the Thursday the week after the hearing).

Appeal Grounds:

- **Procedural Irregularity:** Procedural irregularity that affected the outcome of the matter (e.g., a failure to objectively evaluate all relevant evidence or an erroneous relevance determination that affected the outcome);
- **New Evidence:** New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and/or
- **Conflict of Interest/ Bias:** The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

If an appeal is filed, the Title IX Coordinator will notify the other party in writing (via jsu.edu e-mail address) and attach a copy of the appeal that has been filed by the other party.

Each party will have the opportunity to submit a written statement in support of, or challenging, the outcome. Said statement must be e-mailed to titleix@jsu.edu no later than five (5) business days after the appeal request form is submitted.

All relevant documents, including the appeal request form and written statements responding to said appeal, will be placed in a packet for the appeal panel members.

All appeals will be reviewed by a separate appeal panel. These appeal panel members will not include any members of the original hearing panel or any investigator(s) that has involvement with the case. After reviewing the appeal documents, a decision on any appeals filed will be issued to each party (either in person or via jsu.edu e-mail) within twenty (20) business days of the hearing date.

Parties' Bill of Rights: All members of the Jacksonville State University community have the right to:

- Make a report to the University Police Department and/or local law enforcement;
- Make a report to the Title IX Coordinator and/or any Deputy Title IX Coordinator;
- Have disclosures of sexual harassment (including disclosures of domestic violence, dating violence, stalking, and sexual assault) treated seriously;
- Make a decision about whether or not to disclose a crime or violation and participate in the title ix process and/or criminal justice process free from pressure by the university;
- Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;

- Be treated with dignity, receive from the university courteous, fair and respectful health care and counseling services, and to be referred to other health care and/or counseling resources if the needed services are not available on campus;
- Have access to an appeal of any determination; and
- Be accompanied by an advisor and/or support person of choice who may assist and advise the party throughout the conduct process, including during all meetings and hearings related to such process.

RESPONSIBILITY

The Title IX Coordinator is responsible for implementation and application of this policy.

EVALUATION

This policy will be reviewed every two (2) years by the Title IX Coordinator.