

In Brief

Updates from the Office of Legal Affairs



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What to Do if You or Someone Else is Injured at JCU

Being involved in or witnessing an accident or injury can be a stressful and concerning experience. In order to help to maintain a safe environment on campus and protect members of the JCU community, the University maintains an Accident/Incident Reporting Policy and Procedure. This policy is designed to outline how University personnel are expected to respond to common injury scenarios.

The first step in all scenarios is to respond to any medical and safety issues, and prevent others from entering a dangerous area or situation. If you witness someone in need of **immediate medical attention**, you should immediately contact JCUPD at 216-397-1234 or 911. In the case of more routine first aid, it may be appropriate to contact JCUPD and see if JCU EMS can respond to the situation at hand. Additionally, students are also able to go to the Student Health Center (216-397-4349) for non-emergency care when it is open.

After any medical issue has been addressed, the second major step in the process is making sure to report the issue appropriately to remediate any risks and ensure that appropriate follow-up action is taken to address any unsafe situations on campus. The responsibilities for reporting differ depending on whether or not you are a supervisory employee.

Reporting and follow-up if an employee under your supervision is hurt on campus:

- Supervisors are responsible for reporting occupational accidents to Human Resources as soon as possible, but no later than three days after the accident. Accidents and incidents can be reported using the Accident/Incident Report and Investigation Form found at <http://sites.jcu.edu/businessoffice/pages/regulatory-affairs-risk-management/>. Garry Homany, the Director of Regulatory Affairs and Risk Management, is available to assist managers and employees with reporting and accident investigation processes and to handle any federal or state reporting.
- If the accident results in a fatality or the hospitalization of more than three employees, then it must be reported **immediately** to Human Resources or Risk Management once it is safe to do so.
- Supervisors are responsible for determining the cause of the accident using the Accident/Incident Report and Investigation Form. While doing so and depending on the nature of the accident, you should make sure that any un-

safe conditions that contributed to the accident are corrected through appropriate follow-up and, whenever possible, ensure that safety equipment utilized during the accident is replaced or readied for subsequent use.

- If you saw the injury take place, write down what happened while your memory is fresh and take pictures of the accident site if appropriate after medical aid has been provided.

Reporting and follow-up if someone (student, visitor, employee, etc.) is hurt on campus while not working:

- You should report this accident as soon as possible via an appropriate departmental report (JCUPD report, Residence Hall incident report, etc.) or via the Accident/Incident Report and Investigation Form.
- You should make sure that any unsafe conditions are reported through an appropriate channel such as a work order.
- As noted above, if you saw the injury take place, write down what happened right away and take pictures of the accident site if appropriate after medical aid has been provided.

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FERPA: Requests from Parents for a Dependent Student's Educational Records

If you are ever struggling with whether you can release a student's educational records (such as grades or conduct history) to a third party, you would want to consider the requirements of the Family Educational Rights and Privacy Act (FERPA), a federal law in place to protect the privacy of student educational records. FERPA permits a university to release student educational records without the student's consent in certain instances.

One such instance is when a parent, who claims the child as a dependent for tax purposes as defined by the Internal Revenue Code, requests the student's educational records.

The parent would have had to claim the student as a dependent on the most recent IRS tax return form. The University cannot rely on a parent's representation that the student is a dependent student, but must verify the dependent status by confirming this with the Office of Financial Aid. If the student is listed on the parent's most recent

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Hiring Best Practices: Some Tips to Help with Legal Compliance

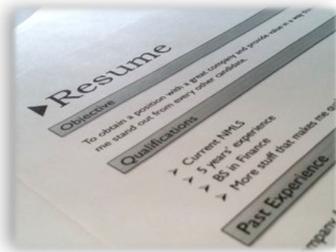
So, you are about to embark on the hiring process for the perfect new addition for your department? Before you begin the busy recruitment process, consider these best practices that will help ensure a legally compliant search:

Screening Applications

- Document the process you will use to review applications.
- Review each application in light of the job description/position requirements.
- Be able to articulate why certain candidates should be interviewed and others not.
- Use a consistent review process for all applicants.
 - Will the same people review all applications?
 - If not, how will you attempt to ensure consistency in review of candidates?

Conducting Interviews

- Establish a consistent interview schedule.
 - Will all candidates be asked to give a presentation?
 - Who will be involved in each interview?
 - Will the environment of the interviews be as comparable as possible (conference room, classroom, or offsite location)?
- Plan out major topics and questions in advance to ask all candidates.
- Be sure to consider accommodations that may be necessary



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tax form, the University, and its faculty and staff members, may release the records to the parent or parents.

Even if FERPA permits disclosing records, it is important to note that FERPA is discretionary. That means you could choose not to release educational records to a parent. While FERPA permits the University or its faculty and staff members to release records to parents of a dependent student, the University is under no obligation to release such records. There may be academic or professional development reasons you decide to address issues directly with the student, and not with the parent.

If it is not clear whether the student is a dependent student, what's the process for a student to give a parent permission to access educational records? Students may use the Proxy Access system in the Banner system to provide parents and other third persons with access to certain educational information, including grades, schedule, other academic records, financial aid and finance information. Alternatively, students can sign a FERPA authorization form to disclose educational records to a parent or a third person. The

for individuals with disabilities who are interviewing on campus (i.e. a sign language interpreter, the need to conduct the interview in an accessible location).

Deciding on a Finalist

- Use an evaluation tool or a matrix to complete during and/or after the interview to evaluate the candidates based on the position description/requirements.
- Document the process used for selecting the final candidate.
- Articulate in writing the reason for selection of the candidate.
- Be sure any records or notes are consistent with the decision.
- Be aware that any records or notes may be accessible to an outside agency or in litigation.

Retention of Records

- Records must be retained on any search for a minimum of **1 year** from the date the record was made or the selection made, whichever is later.
- Records to be retained include applications, emails, notes, resumes, evaluation forms.
- Records can be retained for a longer period of time, if desired.
- Records must be retained for a longer period of time if a claim or litigation is filed related to the hiring decision.

Human Resources is available to work with you on utilizing the PeopleAdmin process to screen candidates, to generate emails to candidates not selected, and to document the rationale for decision-making related to each candidate.

For questions on the hiring process, please contact Human Resources at ext. 1905, or Legal Affairs at ext. 1590.

form is available at: <http://sites.icu.edu/legalaffairs/pages/ferpa-2/>.

If a dependent student has authorized the parent's access by signing the authorization form, the parents do not have to go through the process of demonstrating that their child is a dependent. If there is any doubt about whether the student is a dependent student, it is always advisable to require authorization by obtaining the written consent of the student before releasing the information to a parent.

For more information about FERPA, visit the Registrar's Office website at <http://sites.icu.edu/registrar/pages/students/ferpa/>. For questions about FERPA, please contact the Office of Legal Affairs at ext. 1590.



Upcoming Training Sessions

October 10, 2018
9:00 a.m.-10:30 a.m.

**"The Hiring Process:
Interviewing, Selection
& Retention of Records"**

Jardine Room

*Presented by
Office of Legal Affairs
and
Human Resources*

November 28, 2018
9:00 a.m.-10:00 a.m.

**"Wage and Hour Issues in the
Workplace: Understanding the
Fair Labor Standards Act
(FLSA)"**

Jardine Room

*Presented by
Office of Legal Affairs
and
Human Resources*

Web-Based Form Tools and Information Security

Advancements in technology have made it easier than ever before to survey, collect and share information, but they also have increased the risk of personal information being mishandled or misused. In the interest of protecting student, employee, or alumni information, it is important to consider security features that exist on web-based form tools to collect and share information. These include tools such as Qualtrics, Google Forms, and SurveyMonkey.

Web-based form tools have varying levels of security. When choosing a tool, you first must determine which tools have the appropriate level of security for the type of information being collected. This is especially important when the information being collected is personally identifiable information or health-related information such as name, history of medical diagnoses or drug use, home address, social security number, birth date, and IP address. Using a tool that lacks an appropriate level of security puts the participants' information at risk of being misused or stolen.

The web-based form tools with the highest levels of security are those that are subject to JCU software licenses, including Banner, Canvas, and Qualtrics. Because JCU has more ownership and control over the information that is collected with those tools, they are appropriate to use for collecting personally identifiable information or health-related information. In addition to these security guidelines, the University Institutional Review Board (<http://sites.jcu.edu/research/pages/irb/>) may impose additional security requirements.

Other third-party software tools such as Google Forms, Gravity Forms, SurveyMonkey, and Wufoo should only be used to collect non-personal information like product use, scheduling of non-sensitive meetings, or academic interests. In limited circumstances, use of these tools to collect basic personal information such as name, birth date, or IP address also may be acceptable. However, it is not appropriate to use third-party software tools to collect personally identifiable information like address, social security number, financial or credit card data, or health-related information, because the third-party software companies receive access to all of the information that is collected. JCU cannot guarantee the security of information that is collected using third-party software tools because JCU does not have sufficient ownership or control over the information.

In addition to using a web-based form tool with an appropriate level of security, you also should provide participants with a meaningful waiver or consent paragraph notifying them of any privacy or security risks involved before they provide their information.

If you have any questions or would like further guidance on using web-based form tools, please contact the Information Technology Services department at ext. 1614 or the Office of Legal Affairs at ext. 1590.

Tool	Non-personal information	Personally Identifiable Information	Health-Related Information
Banner	Ok	Ok	If appropriate
Qualtrics	Ok	OK	If appropriate
Canvas	Ok	Ok	no
Google Forms	Ok	Non-Sensitive and/or Academic Information Ok	no
Gravity forms, Survey Monkey, Wufoo, etc.	Ok	Non-sensitive information only	no

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Reporting and follow-up if you are hurt while working:

- When possible, notify your supervisor that you have been injured and complete an accident report.
- If the injury arose out of your job duties, you will need to file a workers' compensation claim. You must complete a First Report of Injury (FROI) form in order to initiate the claim and must follow other instructions outlined on the JCU workers' compensation fact sheet and in the Workers' Compensation Policy at http://webmedia.jcu.edu/hr/files/2017/11/I-4.8-Workers-Compensation_10_26_2017.pdf. Filing your FROI form incorrectly may create delays in processing your claim. Information regarding this process can be found at <http://sites.jcu.edu/businessoffice/pages/regulatory-affairs-risk-management/>.

GDPR Update

The new international General Data Protection Regulations for the European Union (EU) are now in effect and require special handling of documents or data involving residents of the EU, which is the 28 primarily European member countries joined in a political and economic union. As noted in the last Legal Affairs newsletter (See February 2018 Newsletter "General Data Protection Regulations"), these new data privacy regulations require consent of EU residents to use and process data on them, and also allow EU residents to request information about why the data is processed, who is holding the data, and how long it will be stored.

As part of its compliance efforts, JCU has now adopted an Interim Privacy Policy for GDPR-Covered Data, which details the obligations for collecting and processing data on EU residents. See the policy at http://webmedia.jcu.edu/hr/files/2018/06/Interim-GDPR-Privacy-Policy_060718B.pdf. The GDPR Policy requirements apply to JCU activities such as study abroad programs; solicitation of students or donors based in EU countries; international applicants and enrolled students; JCU faculty research collaborations with EU faculty; and research data on EU-based individuals. For more information on GDPR requirements, contact the Office of Legal Affairs at ext. 1590 or Information Technology Services at ext. 1614.