



# ANNUAL SECURITY REPORT AND ANNUAL FIRE SAFETY REPORT

2023

This report has been prepared to comply with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act of 1990, the 2008 Higher Education Opportunity Act, and the 2013 Campus Sexual Violence Elimination Act (Campus SaVE Act). This publication is part of John Carroll University's effort to provide information and services that help maintain a safe and secure environment for its students, faculty, staff and visitors.



The information and statistics in this document are from the calendar year 2023. This information is compiled and distributed annually by the John Carroll University Police Department (JCUPD). Crimes and student conduct referrals reported to the following offices, agencies and individuals are included:

- **John Carroll University Police Department (JCUPD)**
- **University Heights Police Department (university owned properties)**
- **Title IX Coordinator**
- **Office of Community Standards & Student Wellbeing**
- **Office of Residence Life**

Other University officials (Campus Security Authorities or CSAs) who have significant responsibility for campus activities, who have the authority and duty to respond on behalf of the Institution, and to whom crimes have been reported. CSAs are responsible for reporting covered crimes to JCUPD even if they have parallel or alternate reporting obligations pursuant to other University policies or procedures. In addition to the list of personnel above, other persons, such as Coaches, Student Organization Advisors, and Student Activities staff are also considered to be Campus Security Authorities at John Carroll University.

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## MESSAGE FROM THE CHIEF

On behalf of the dedicated police and security officers of the John Carroll University Police Department, welcome to our website and thank you for taking the time to review the 2023 Annual Security Report. Our officers take seriously their charge to maintain a safe campus, and to foster a sense of safety, so that our entire campus community can thrive.

We all strive to uphold our departmental values of community, integrity, respect, service and responsiveness. We also ask the campus community to assist us by reporting incidents, practicing good safety habits and looking out for other members of the campus community. Together we can ensure everyone gets the most out of what this dedicated community has to offer.

Onward On!  
**Chief Jeffrey Daberko**

## JCUPD

JCUPD is a police department under **Section 1713.50** of the **Ohio Revised Code**. JCUPD officers are armed, sworn police officers, certified through the Ohio Peace Officers Training Council and have arrest authority and police powers on the JCU campus. Officers receive over 600 hours of basic police training and additional in service training annually. JCUPD also employs in house security officers to supplement police patrol staff.



Officers patrol the campus grounds, buildings and parking lots 24 hours a day. JCUPD are first responders to criminal, medical, fire and other emergencies, and coordinate response with other campus and community responders. JCUPD provides escorts, vehicle assistance, lost and found services, parking enforcement, and campus event support. Officers take reports and investigate criminal and University conduct violations. The training, orientation and philosophy of the department is to provide professional services to enhance the safety of the University community. JCUPD can be reached 24 hours a day at 216-397-1234, and by courtesy telephones in the lobbies or corridors of buildings.

## LOCAL POLICE

The University lies primarily within the City of University Heights. JCUPD has concurrent jurisdiction for University property within the city, and works closely with UHPD. JCUPD has a mutual aid agreement with the University Heights Police Department (UHPD), which describes reporting and investigation of crimes involving JCU students and employees on campus and in the city. It also details information-sharing and other cooperative arrangements between the departments. JCUPD notifies UHPD of serious crimes when they occur, and provides weekly notice of all crimes reported to JCUPD. UHPD shares information with JCUPD weekly about both on-campus and off-campus crimes and incidents involving JCU students, staff, organizations or property. Both agencies utilize the Shaker Heights Municipal Court and the Cuyahoga County court system. JCUPD may investigate criminal incidents occurring on and off campus involving students and employees. However, should a victim wish to seek (or a prosecutor wish to pursue) criminal prosecution, the police department with jurisdiction will investigate and work with prosecutors.



## PUBLIC RECORDS

JCUPD police records are considered Public Records as defined in the Ohio Public Records Act. Release of police records are governed by requirements and exceptions set out in that Act. Information about Ohio public records are found here: <https://www.ohioattorneygeneral.gov/legal/sunshine-laws>. The JCUPD records policy, records request procedures, and Records Commission meeting notes is found at: <https://jcu.edu/student-life/health-wellness-and-safety/jcu-police-department/public-records-policy>.

## REPORTING CRIMES AND OTHER EMERGENCIES

Crimes or other emergencies should be reported 24 hours a day to JCUPD at 216-397-1234. Other options for reporting, or for obtaining advice/guidance if you are unsure if a crime has occurred are:

- Visit the JCUPD office in room 14 of the Recplex. JCUPD officers can provide information for decision making on reporting to local police, criminal prosecution, campus processes, and on and off campus resources available. Officers address immediate safety and health needs and concerns, and discuss options for protection orders, campus no-contact orders and other protective measures.
- Call University Heights Police at 216-932-1800, or visit their offices at 2300 Warrensville Center Road. JCUPD currently uses an off site dispatching service, Central Dispatch, to provide dispatch and phone answering services to our department.

For any emergency, call Central Dispatch at the 216-397-1234 number and give the following information:

- Your name, and your current location.
- The nature of the emergency (person bleeding, not breathing, fire etc.).
- The exact location of the emergency (Dolan Science Center room \_\_, Jardine Room etc.).
- A phone number for the dispatcher to call you back if needed.
- Any other information the dispatcher asks you.
- Do not hang up until the dispatcher indicates you should do so.

By calling 216-397-1234 instead of 911 directly, JCUPD, JCUEMS and other campus responders can respond to the emergency while Central Dispatch calls 911. This enables help to be on scene quickly while campus responders meet and take local responders directly to the emergency location, thus avoiding delays by local responders. If you do call 911, also call Central Dispatch, give the information above, and tell them that you called 911. Reported incidents are investigated by JCUPD along with other agencies as needed. All criminal matters should be reported to JCUPD, even if a report is made to residence hall assistants or other personnel.

- If you believe that you have been the victim of a crime, or are in a danger, it is important to get to a safe place. Call 911 or 216-397-1234 on campus. Focus on relaying information to the dispatcher as asked. Attend to medical needs for you and others with you.
- Preserve evidence - texts, voicemails, social media posts, photos, videos and anything else that might help in investigating what happened. This evidence may be crucial in obtaining a protection order, and/or provide a basis for criminal prosecution.

- If you have experienced Sexual Assault, Sexual Violence, Relationship/Domestic Violence or Stalking, please consider taking the following immediate steps:
  - Go to a safe place.
  - Call 911 or JCUPD at (216) 397-1234 or University Heights Police at (216) 932-1800.
  - Preserve Evidence.
  - If possible, don't shower, brush teeth, eat or drink. Put clothes you were wearing (unwashed) in a paper or cloth bag.
  - Get medical attention at Hillcrest Hospital (440) 312-7890, University Hospitals (216) 844-3722 or Metro Health Medical Center (216) 778-7800. All listed resources have a 24-hour Sexual Assault Nurse Examiner.
  - Medical Centers on and off campus can provide treatment for injuries, and a hospital can conduct a no-cost forensic sexual assault examination.

*You do not need to make a formal report or press charges to receive medical care!*

## CONFIDENTIAL REPORTING

Reporting incidents, experiences and concerns to University Officials is encouraged so that members of the JCU community can find help for difficult situations and take appropriate action. Should anyone wish to make a report in confidence, there are various options to consider:

1. You may report a crime to someone possessing legal privilege. If you do so, that person must maintain confidentiality unless he/she determines that there is imminent risk of harm to self or others, or you give permission to share discussed information. Those possessing legal privilege include:
  - Licensed counselors, psychologists and psychiatrists in the University Counseling Center, or off-campus agencies/offices.
  - Physicians or certain health care providers in University Health Service, a hospital, clinic or doctor's office.
  - Members of the clergy who are ordained and acting in the capacity of a pastoral counselor.
2. You may report crimes or incidents to University Officials (Residence Life staff, coaches, professors etc.) and ask that the University handle the matter confidentially. A request for confidentiality may limit the University's ability to respond to the reported crime or incident. It is important to note that confidentiality cannot be guaranteed. University Officials receiving a report in confidence will try to maintain your privacy; however, they may be required to report the crime or incident to others within the University or to law enforcement agencies outside the University, in order to address the issues raised and meet the University's legal obligations.

Federal and State laws have reporting requirements, which designate most faculty and staff as "mandatory reporters," who are required to report to JCUPD crimes listed in this report, and any felony crimes. Additionally, any incident of sexual harassment or sexual assault must be reported to the University Title IX Coordinator. Accommodations and protective measures will be maintained as confidential as long as it would not impair the ability to provide those accommodations and measures. Statistical information gathered and reported to the U.S. Department of Education for Clery Act reporting will be reported in aggregate, without personally identifiable information about the parties involved.

# THREAT ASSESSMENT PROCESS

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The University has established a Threat Assessment Team, whose goals are to advise and make recommendations on incidents involving members of the university community that pose, or may reasonably pose, a threat to the safety and well-being of themselves and/or other members of the University community through outreach and educational programming, consultation and appropriate referrals. The Threat Assessment Team will:

- Act as a campus wide location for receiving reports of possible circumstances of violence or threatening behavior by students, faculty, staff, visitors or contractors which has not reached the level of life threatening or criminal activity;
- Coordinate and assess information from faculty, administrators, students, and local authorities;
- Determine if a realistic threat is present and act accordingly;
- Identify resources for troubled individuals and make referrals to appropriate campus and off campus agencies;
- Periodically assess outcomes of actions taken;

Further information about the Threat Assessment Team, including members and contact information can be found at: <https://jcu.edu/emergency>

# CAMPUS EMERGENCY RESPONSE AND EVACUATION POLICIES

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Emergencies and disasters are unpredictable and often strike without warning. It is essential that all John Carroll faculty, staff, and students respond quickly and appropriately to emergency situations in order to reduce the risk of injury and property damage. Please view the [Emergency Response Guide](#) for information about what you should do, and what responders will do in the event of an emergency.

# EMERGENCY COMMUNICATIONS

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## EMERGENCY NOTIFICATION

If an emergency or dangerous situation arises which could pose an immediate threat to the health or safety of the JCU community, the University will issue an Emergency Notification. An Emergency Notification will describe the threat and give direction to recipients of the message. The JCU ALERT text message system is the primary method of this emergency communication. Additionally, audible alarms, public address systems, campus phone and voicemail, e-mail, the University website, and other methods deemed appropriate for the situation will be used. Decisions on sending an alert, including the methods and content, will be made by JCUPD supervision within the framework of the University's Emergency Management Plan.

## JCUAlert

In emergency situations that pose an immediate threat to the University community, you will receive a text message alert. JCUAlert is the University's text messaging system that will instantly and simultaneously distribute both an email and text message to registered users. The text message can be sent to cell phones, wireless PDAs, smart phones and satellite phones, and pagers. All students are enrolled in this system upon registration, and employees can register anytime. Employees' cell phone numbers are uploaded into the JCU Alert system several times per year.

## **Audible Alarms**

In the event of an emergency that would require the evacuation of a building, the building's fire alarm may be activated. For a campus-wide evacuation, all building fire alarm systems may be activated simultaneously. John Carroll police or other first responders will direct you to campus evacuation shelters or other sites as necessary.

## **Public Broadcast Systems**

In an emergency when needing to communicate to a group of people or outside, a public broadcast system may be used. This may be with building public address systems, emergency vehicle speakers, or by University officials with bullhorns.

## **Campus Phone and Voicemail Systems**

In some emergencies, you may be notified by the campus phone or a campus-wide voice mail. You may also be notified by phone if you are part of an administrative department phone tree.

## **E-Mail System and Website**

In some emergencies, you may be notified by a campus-wide e-mail. Additionally, there may be instructions, status reports or other information posted on the John Carroll website.

## **TIMELY WARNING**

If a crime or hate crime occurs which could pose a serious or continuing threat to the safety of the JCU community, the University will issue a Timely Warning (Security Alert) to the campus. The purpose of Security Alert is to enable the JCU community to protect themselves and aid in the prevention of similar crimes. Information provided in a Security Alert includes a description of the crime, the date(s), time(s) and location(s) as well as suspect(s) description or photo, if known and available and if the description or photo will assist in protection of the community or apprehension of the suspect(s). Other relevant information may be included that will help protect and inform, but not hinder investigation of the crime. JCUPD will issue a Security Alert once pertinent and sufficient information from police or other sources has been received to advise of the threat to safety. JCUPD may issue an initial Security Alert with available information and send a follow-up Security Alert(s) when additional information is available or has been verified.

A "Security Alert" (Timely Warning) will be issued when JCUPD is made aware of a crime or hate crime that has occurred on or near campus that may pose a serious or continuing threat to the safety of the campus community. Examples include, but are not limited to: homicide, sexual assault, assault or robbery.

In addition to a security alert, a "Security Advisory" may be issued when a pattern of property theft has been identified on campus. Examples include but are not limited to: thefts from buildings or vehicles.

JCUPD works closely with the University Heights Police and other neighboring police agencies, sharing information regarding crimes and crime trends.

The JCUPD Chief, or designee, will make a determination on sending a timely warning/alert or advisory once pertinent information from police reports and/or other sources is received. When time and circumstances allow, other appropriate University officials such as the Dean of Students, the Director of Regulatory Affairs & Risk Management, and/or the General Counsel may be consulted as necessary in making a determination on a Timely Warning/Security Alert or Security Advisory. Factors considered in whether a Timely Warning/Security Alert or Security Advisory is issued include:

- The immediate and long term health and safety of the campus community
- The nature of the threat

- The time lapse since the threat arose
- Privacy interests of persons involved
- Impact on police and university investigations.

Names and other personal identifiers of victims or witnesses will not be used in the alerts or advisories. Names, descriptions or photos/videos of known suspects will be provided when the information is provided and confirmed; is necessary to protect the health or safety of the campus community and/or to assist in the apprehension of the suspect, and will not impede a criminal investigation.

Information provided in the alert or advisory will be: a description of the crime; the date(s), time(s) and location(s); as well as suspect(s) description or photo if known and if helpful in the apprehension of the suspect(s). Other relevant information may be included that will help protect and inform, but will not hinder investigation of the crime. Prevention strategies and JCUPD contact information will also be provided. Alerts and advisories will be sent via email, as mass text messages, via other appropriate media, and posted on the JCUPD website: <https://jcu.edu/student-life/health-wellness-and-safety/jcu-police-department>

## CRIME STATISTICS • 2021-2023

<b>Total Crimes:</b> on campus, residence halls, non-campus and public property			
<b>OFFENSE</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>
Criminal Homicide - Murder/Non-Negligent Homicide	0	0	0
Criminal Homicide - Negligent Manslaughter	0	0	0
Sexual Assault - Rape	1	6	3
Sexual Assault - Fondling	0	5	1
Sexual Assault - Incest	0	0	0
Sexual Assault - Statutory Rape	0	0	0
Domestic Violence	0	0	0
Dating Violence	1	0	0
Stalking	2	0	5
Robbery	0	0	1
Aggravated Assault	0	0	0
Burglary	3	0	0
Motor Vehicle Theft	0	0	3
Arson	0	0	0
<b>TOTALS</b>	<b>7</b>	<b>11</b>	<b>13</b>

<b>Crimes on Campus:</b> includes residence halls			
<b>OFFENSE</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>
Criminal Homicide - Murder/Non-Negligent Homicide	0	0	0
Criminal Homicide - Negligent Manslaughter	0	0	0
Sexual Assault - Rape	1	6	3
Sexual Assault - Fondling	0	5	1
Sexual Assault - Incest	0	0	0
Sexual Assault - Statutory Rape	0	0	0
Domestic Violence	0	0	0
Dating Violence	1	0	0
Stalking	2	0	5
Robbery	0	0	1
Aggravated Assault	0	0	0
Burglary	3	0	0
Motor Vehicle Theft	0	0	3
Arson	0	0	0
<b>TOTALS</b>	<b>7</b>	<b>11</b>	<b>13</b>



### CRIMES IN RESIDENCE HALLS

OFFENSE	2021	2022	2023
Criminal Homicide - Murder/Non-Negligent Homicide	0	0	0
Criminal Homicide - Negligent Manslaughter	0	0	0
Sexual Assault - Rape	1	4	3
Sexual Assault - Fondling	0	4	1
Sexual Assault - Incest	0	0	0
Sexual Assault - Statutory Rape	0	0	0
Domestic Violence	0	0	0
Dating Violence	1	1	0
Stalking	0	0	5
Robbery	0	0	1
Aggravated Assault	0	0	0
Burglary	2	2	0
Motor Vehicle Theft	0	0	0
Arson	0	0	0
<b>TOTALS</b>	<b>4</b>	<b>8</b>	<b>10</b>

### CRIMES ON PUBLIC PROPERTY

OFFENSE	2021	2022	2023
Criminal Homicide - Murder/Non-Negligent Homicide	0	0	0
Criminal Homicide - Negligent Manslaughter	0	0	0
Sexual Assault - Rape	0	0	0
Sexual Assault - Fondling	0	0	0
Sexual Assault - Incest	0	0	0
Sexual Assault - Statutory Rape	0	0	0
Domestic Violence	0	0	0
Dating Violence	0	0	0
Stalking	0	0	0
Robbery	0	0	0
Aggravated Assault	0	0	0
Burglary	0	0	0
Motor Vehicle Theft	0	0	0
Arson	0	0	0
<b>TOTALS</b>	<b>0</b>	<b>0</b>	<b>0</b>

### CRIMES ON NON-CAMPUS PROPERTY

OFFENSE	2021	2022	2023
Criminal Homicide - Murder/Non-Negligent Homicide	0	0	0
Criminal Homicide - Negligent Manslaughter	0	0	0
Sexual Assault - Rape	0	0	0
Sexual Assault - Fondling	0	0	0
Sexual Assault - Incest	0	0	0
Sexual Assault - Statutory Rape	0	0	0
Domestic Violence	0	0	0
Dating Violence	0	0	0
Stalking	0	0	0
Robbery	1	0	0
Aggravated Assault	0	0	0
Burglary	0	0	0
Motor Vehicle Theft	0	0	2
Arson	0	0	0
<b>TOTALS</b>	<b>0</b>	<b>0</b>	<b>2</b>

# ARRESTS AND REFERRALS RELATED TO LIQUOR LAWS, DRUG LAWS AND WEAPONS LAWS · 2021-2023

ARRESTS - ON CAMPUS (includes residence halls)				REFERRALS - ON CAMPUS (includes residence halls)			
Offense	2021	2022	2023	Offense	2021	2022	2023
Liquor Law Arrests	1	1	1	Liquor Law Referrals	89	67	59
Drug law Arrests	0	0	1	Drug Law Referrals	31	19	17
Weapons Law Arrests	0	0	0	Weapons Law Referrals	0	0	1
<b>TOTALS</b>	<b>1</b>	<b>1</b>	<b>2</b>	<b>TOTALS</b>	<b>120</b>	<b>86</b>	<b>77</b>
ARRESTS - RESIDENCE HALLS				REFERRALS - RESIDENCE HALLS			
Offense	2021	2022	2023	Offense	2021	2022	2023
Liquor Law Arrests	1	1	0	Liquor Law Referrals	86	64	59
Drug law Arrests	0	0	1	Drug Law Referrals	31	17	16
Weapons Law Arrests	0	0	0	Weapons Law Referrals	0	0	1
<b>TOTALS</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>TOTALS</b>	<b>117</b>	<b>81</b>	<b>76</b>
ARRESTS - PUBLIC PROPERTY				REFERRALS - PUBLIC PROPERTY			
Offense	2021	2022	2023	Offense	2021	2022	2023
Liquor Law Arrests	3	0	2	Liquor Law Referrals	0	0	0
Drug law Arrests	0	0	0	Drug Law Referrals	0	0	0
Weapons Law Arrests	0	0	0	Weapons Law Referrals	0	0	0
<b>TOTALS</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>TOTALS</b>	<b>0</b>	<b>0</b>	<b>0</b>
ARRESTS - NON-CAMPUS PROPERTY				REFERRALS - NON-CAMPUS PROPERTY			
Offense	2021	2022	2023	Offense	2021	2022	2023
Liquor Law Arrests	0	0	0	Liquor Law Referrals	0	0	0
Drug law Arrests	0	0	0	Drug Law Referrals	0	0	0
Weapons Law Arrests	0	0	0	Weapons Law Referrals	0	0	0
<b>TOTALS</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>TOTALS</b>	<b>0</b>	<b>0</b>	<b>0</b>

## UNFOUNDED CRIMES

A crime reported to and investigated by campus or local police may be withheld from crime statistics if the crime is determined to be “unfounded”. This means that, based on evidence gained in the investigation, the crime reported is false or baseless. Only sworn police officers may make this determination. There were 0 unfounded reports in 2020, and 0 unfounded reports in 2021, and unfounded reports in 2022.

## HATE CRIMES

Year	Bias Type & Location	Bias Type & Location
2020 - 0 Hate Crimes reported		
2021 - 0 Hate Crimes reported		
2022 - 0 Hate Crimes reported		

JCU must report hate crimes, including the location and bias type that manifest evidence that the victim was intentionally selected because of the perpetrator’s bias. The definitions below are utilized in determining criminal reports that are categorized as hate crimes and the type of hate crime involved:

**Bias:** The Bias types utilized for reporting crimes in this category include race, gender, gender identity, religion, sexual orientation, ethnicity, national origin and disability.

## HATE CRIME DEFINITIONS

JCU must report crimes manifest evidence that the victim was intentionally selected because of the perpetrator’s bias for the Clery defined crimes listed below, as well as the following crimes:

**Intimidation:** To unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.

**Larceny:** The unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another.

**Simple Assault:** An unlawful physical attack by one person upon another where neither the offender displays a weapon, nor the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration or loss of consciousness.

**Vandalism:** To willfully or maliciously destroy, injure, disfigure, or deface any public or private property, real or personal, without the consent of the owner or person having custody or control by cutting, tearing, breaking, marking, painting, drawing, covering with filth, or any other such means as may be specified by local law.

## DAILY CRIME LOGS

A log, summarizing crimes reported to JCUPD, is posted at: <https://jcu.edu/student-life/health-wellness-and-safety/jcu-police-department/reports-and-logs>. Hard copies are available during business hours in the JCUPD office, Recplex room 14. The log is updated within 48 hours of a report. Items included on the crime log are:

1. The nature of the crime
2. The date and time the incident occurred
3. The location of the crime
4. The disposition of the complaint, if known.

## GEOGRAPHY DESCRIPTIONS

**On Campus** - Any building or property owned or controlled by JCU within the same reasonably contiguous geographic area and used by JCU in direct support of, or in a manner related to, JCU's educational purposes, including residence halls; and any building or property within or reasonably contiguous to the campus, owned by JCU, is frequently used by students, and supports institutional purposes.

**Residential Facilities** - A subset of the on-campus category includes residential facilities for students on campus.

**Non-Campus Building or Property** - Any building/property owned/controlled by a student organization that is officially recognized by JCU; or any building/property owned/controlled by JCU that is used in direct support of, or in relation to, JCU's educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of JCU.

**Public Property** - All public property, including thoroughfares, streets, sidewalks, and parking facilities, that is within the campus, or immediately adjacent to and accessible from the campus.

## CRIME STATISTIC DEFINITIONS

Definitions are from the Summary Reporting System User Manual of the Uniform Crime Reporting (UCR) Program, unless otherwise noted. References to Ohio statutory crimes are for purposes of reference to similar crimes defined under Ohio law:

**Murder and Nonnegligent Manslaughter:** The willful (nonnegligent) killing of one human being by another

**Negligent Manslaughter:** The killing of another person through gross negligence.

Ohio crimes of "Murder and Manslaughter" and related offenses are defined here: <http://codes.ohio.gov/orc/2903>

## SEX OFFENSES

Sex Offense Definitions are from the National Incident-Based Reporting System of the Uniform Crime Reporting Program unless noted otherwise.

**Sexual Assault (Sex Offenses):** Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent. Ohio Sex Offense crimes are defined here: <http://codes.ohio.gov/orc/2907>

**Consent:** Ohio law does not specifically define consent.

**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, without the consent of the victim. This offense includes the rape of both males and females. Ohio crimes of “Rape” are defined here: <http://codes.ohio.gov/orc/2907.02v1>

**Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity. Ohio crimes similar to “Fondling” are defined here: <http://codes.ohio.gov/orc/2907.05v1> and here: <http://codes.ohio.gov/orc/2907.06v1>

**Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law. Ohio crimes similar to “Incest” are defined here: <http://codes.ohio.gov/orc/2907.02v1> and here: <http://codes.ohio.gov/orc/2907.03v1>

**Statutory Rape:** Sexual intercourse with a person who is under the statutory age of consent. Ohio crimes similar to “Statutory Rape” are defined here: <http://codes.ohio.gov/orc/2907.04v1>

**Robbery:** The taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear. Ohio crimes of “Robbery” and related offenses are defined here: <http://codes.ohio.gov/orc/2911>

**Aggravated Assault:** An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm. Ohio crimes of “Assault” and related offenses are defined here: <http://codes.ohio.gov/orc/2903>

**Burglary:** The unlawful entry of a structure to commit a felony or a theft. For reporting purposes, this definition includes unlawful entry with intent to commit a larceny or felony; breaking and entering with intent to commit a larceny; housebreaking; safecracking; and all attempts to commit any of the aforementioned. Ohio crimes of “Burglary” and related offenses are defined here: <http://codes.ohio.gov/orc/2911>

**Motor Vehicle Theft:** The theft or attempted theft of a motor vehicle. Ohio crimes of “Motor Vehicle Theft” and related offenses are defined here: <http://codes.ohio.gov/orc/2913.02>

**Arson:** Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc. Ohio crimes of “Arson” and related offenses are defined here: <http://codes.ohio.gov/orc/2909>

## **Definitions of Dating Violence, Domestic Violence and Stalking are from the Violence Against Women Act (VAWA).**

**Dating Violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party’s statement with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence. \* Ohio does not define “Dating Violence” as a crime.

**Domestic Violence:** A felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the victim; by a person with whom the victim shares a child in common; by a person who is or has cohabitated with the victim as a spouse or intimate partner; by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

Ohio crimes of "Domestic Violence" and related offenses are defined here: <http://codes.ohio.gov/orc/2919.25>

**Stalking:** 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. Course of Conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling. Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim. Ohio crimes of "Menacing by Stalking" and related offenses are defined here: <http://codes.ohio.gov/orc/2903.211>

**Weapon Law Violations:** The violation of laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, concealment, or use of firearms, cutting instruments, explosives, incendiary devices, or other deadly weapons. Ohio crimes of "Weapons Offenses" and related offenses are defined here: <http://codes.ohio.gov/orc/2923>

**Drug Law Violations:** The violation of laws prohibiting the production, distribution, and/or use of certain controlled substances and the equipment or devices utilized in their preparation and/or use. The unlawful cultivation, manufacture, distribution, sale, purchase, use, possession, transportation, or importation of any controlled drug or narcotic substance. Arrests for violations of state and local laws, specifically those relating to the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs. Ohio crimes of "Drug Offenses" and related offenses are defined here: <http://codes.ohio.gov/orc/2925>

**Liquor Law Violations:** The violation of state or local laws/ordinances prohibiting the manufacture, sale, purchase, transportation, possession, or use of alcoholic beverages, not including driving under the influence and drunkenness. Ohio crimes of "Liquor Offenses" and related offenses are defined here: <http://codes.ohio.gov/orc/4301>.

## CAMPUS SEX CRIME PREVENTION ACT

The 2000 Campus Sex Crime Prevention Act requires that certain convicted sex-offenders identify themselves to colleges and universities if they; a) attend classes, b) work on a college or university campus, or c) volunteer on a college or university campus. Colleges and universities are required inform their communities of where sex-offender information can be obtained.

In Cuyahoga County, information on registered sex-offenders is available from the Sex Offender Unit at (216) 443-5567 or by visiting the Sheriff's Office website at <http://sheriff.cuyahogacounty.us/en-US/Sexual-Offender-Unit.aspx>

Ohio information on registered sex offenders is at: <http://www.icrimewatch.net/index.php?AgencyID=55149&disc>

# ANNUAL FIRE SAFETY REPORT

## FIRE SAFETY POLICY AND STATISTICS

Campus buildings are protected from fire by fire alarm systems in each building. Fire alarms on campus are monitored by Paladin Protective Services 24 hours a day, 7 days a week, 365 days a year. Strobes and horns or automated voice commands sound in each building to alert occupants that a fire condition exists. Alarms may be generated manually by pull stations, or automatically by smoke or duct detectors, and sprinklers in some buildings.

Once an alarm is received by Paladin dispatchers, JCUPD officers are dispatched to the building to determine the exact location and cause of the alarm, as well as assist with building evacuation. During business hours, Facilities Services staff will also respond. The dispatcher will then call the local fire department to report the alarm. The dispatcher will continue to receive updates from the officers on scene and relay that information to responding fire units. JCUPD, facilities staff and local firefighters will work together to determine the cause of the alarm. These responders will take steps to resolve the cause of the alarm, including fighting the fire. Once the building is determined to be safe by the ranking fire department official on scene, occupants will be allowed to re-enter. Fires and fire-related incidents should be reported to Central Dispatch at 216-397-1234 in both emergency scenarios and after the fact.

Facilities Department staff conduct inspections to ensure that fire detections devices (smoke detectors), fire annunciation devices (strobes/horns/voice commands) are working properly, inspect building fire systems quarterly.

Qualified contractors inspect fire suppression systems (sprinklers, fume hood suppression systems) annually. Fire extinguishers are checked monthly by facilities staff and tested annually by qualified contractors.

## RESIDENCE HALL FIRE SAFETY POLICIES AND EDUCATION

A fire safety program is conducted in each building during the fall semester. Two fire drills are conducted in each residence hall, once per semester. A fire alarm is activated in each building, and JCUPD and Residence Life staff monitor the evacuation and response to the alarm by building occupants. Immediate and follow up corrective actions are taken to ensure compliance with fire safety procedures listed below. Residence Life staff are trained by the University Heights Fire Department and the Risk Management Office in fire safety and response procedures annually before the beginning of the Fall semester. The University Fire Safety Officer is David Tramte at 216 397 6260.

Failing to evacuate the building during an alarm will result in disciplinary action. The University Heights Fire Marshall inspects each residence hall regularly. The Fire Marshall may enter any room without notification to determine if there is a violation of fire safety policies. All fire alarms should be considered true indications of danger and the building must be evacuated as safely and quickly as possible. While staff will attempt to alert residents to leave, it is incumbent upon each person to take personal responsibility to exit the building. Staff will indicate when people may safely return inside.

Electrical appliances must be in compliance with the housing and fire codes of the City of University Heights. Each appliance must be UL approved. Approved appliances include stereos, computers, televisions, DVD players, refrigerators (4.6 cubic feet or smaller), microwaves (1 cubic foot and 700 - 900 watts), blankets, fans, coffee makers, desk lights, hair dryers, and curling irons. Prohibited items include toasters, toaster ovens, hot plates, hot pots, sun lamps, electric skillets and woks, grills (including the George Foreman grill), oil popcorn poppers, space heaters, percolators, air conditioners (unless medically approved), halogen bulb lamps, and potpourri burners. Only UL approved, circuit breaker type extension cords and power-strips may be used.

## What to do when a fire alarm sounds

- Residents and their guests must evacuate the building immediately.
- Feel the door with the back of your hand to test for heat.
- Cover entire body with clothing, if possible, and carry an extra towel to protect face and hair.
- Close the room windows and leave the drapes/blinds open.
- Close and lock the door.
- Walk quickly and quietly.
- Leave the building by the nearest exit.
- Once outside the building, move away from the entrances, pair up with your roommate, move to the spot designated for your floor and do not block the street or parking lot.

## If you cannot leave your room because of heat or smoke:

- Place a towel at the base of the door to prevent smoke from coming into the room.
- Hang a sheet out of the room window to indicate that you are there.
- Call x1234 to give JCUPD your location.

# FIRE SAFETY MISCONDUCT

Causing a building to go into alarm falsely can carry grave consequences. Students may panic or may ignore the alarm believing it to be false. This may in turn cause students to become injured, overcome by smoke, or to lose their lives. Therefore, the University takes the actions of tampering with fire alarms, smoke detectors, sprinklers, and fire extinguishers which trigger an alarm very seriously.

## The following will be considered as sufficient cause for immediate expulsion from the University:

- Intentionally setting a fire of any nature.

The following will be considered as sufficient cause for immediate suspension from the University:

- Pulling a fire alarm when no danger is present.
- Tampering with smoke detectors or sprinkler systems resulting in triggering the alarm system.

## The following will be considered as sufficient cause for immediate removal from the residence halls for a designated period of time:

- Misuse of fire extinguishers.
- Setting off fire crackers or similar incendiary devices.
- Tampering with the protective hood on fire alarm pull stations.
- Leaving candles lit and unattended.
- Removing batteries from a room smoke detector.
- Vandalizing exit signs.



# FIRE STATISTICS • 2023

RES HALL	# of Fires	Cause of fire	Deaths from fires	Injuries from fires	Damage from fires	Fire drills	Fire System
Bernet	0	n/a	0	0	\$0	2/year	Smoke detectors, sprinklers, and pull stations monitored 24 hours by Paladin Protective Services.
Campion	0	n/a	0	0	\$0	2/year	Smoke detectors, partial sprinklers, standpipes and pull stations monitored 24 hours by Paladin Protective Systems.
Dolan	0	n/a	0	0	\$0	2/year	Smoke detectors sprinklers and pull stations monitored 24 hours by Paladin Protective Systems.
Hamlin	0	n/a	0	0	\$0	2/year	Smoke detectors, partial sprinklers, standpipes and pull stations monitored 24 hours by Paladin Protective Systems
Millor <small>Building demolished May 2023</small>	0	n/a	0	0	\$0	2/year	Smoke detectors and pull stations monitored 24 hours by Paladin Protective Systems.
Murphy	0	n/a	0	0	\$0	2/year	Smoke detectors, sprinklers and pull stations monitored 24 hours by Paladin Protective Systems.
Pacelli	0	n/a	0	0	\$0	2/year	Smoke detectors, sprinklers and pull stations monitored 24 hours by Paladin Protective Systems.
Sutowski	0	n/a	0	0	\$0	2/year	Smoke detectors, standpipes and pull stations monitored 24 hours by Paladin Protective Systems.

## Fire Safety Log

A log containing incidents of fires in campus buildings is included in the crime log, and posted at: <https://jcu.edu/student-life/health-wellness-and-safety/jcu-police-department/reports-and-logs>.

Hard copies are available in the JCUPD office, RecPlex Room 14 during business hours.

The log is updated within 48 hours of a report.

- the date the fire was reported;
- the nature of the fire;
- the date and time of the fire; and
- the general location of the fire

# PREVENTION AND AWARENESS PROGRAMS

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Programs offered to the campus community emphasizing prevention and safety awareness are created, coordinated and/or presented by the following offices:

- Residence Life Office of Residence Life website
- Wellness Center Student Health and Wellness Center website
- Title IX Office Title IX website
- JCUPD JCUPD website

These programs emphasize that JCU prohibits dating violence, domestic violence, sexual assault and stalking, and seeks to educate and empower the entire campus community to prevent these from occurring, and to respond appropriately if they do occur. Below are descriptions of programs offered to the entire campus or specific audiences in 2023. These offices will work with groups and individuals in presenting or developing a program to fit specific needs/concerns.

## STUDENT PROGRAMS

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### PRIMARY PREVENTION PROGRAMS

Prevention programs informed by research and assessed for value, effectiveness or outcome that are intended to stop dating violence, domestic violence, sexual assault, and stalking before they occur through the promotion of positive and healthy behaviors that foster healthy, mutually respectful relationships and sexuality, encourage safe bystander intervention, and seek to change behavior and social norms in healthy and safe directions.

#### **Vector Online Training**

Two hours of online, on-demand training for students and employees on recognizing gender-based violence, intervention techniques, JCU policies, state law, resources for safety and support, and how to report concerns. This training is required.

#### **Building Safer Environments**

A course designed for those who host others at events or parties by giving tools to take responsibility for how to influence people and what happens in their space. This event takes a look at how we can create environments that are safer, specifically regarding sexual misconduct.

#### **Title IX Training for Peer Health Educators, Resident Assistants, Graduate Assistants, and international students**

Training on the University's Sexual Harassment & Interpersonal Violence Policy, reporting obligations, how to have a conversation with a person disclosing an experience of gender-based violence, and resources for safety and support.

## **NCAA Training**

Every year all student athletes, including club sport athletes, complete an in-person training on sexual harassment and interpersonal violence. These trainings are on a three year rotating cycle, each year focusing on a different topic; consent, healthy relationships, and Bystander 201. Each year the Title IX reporting process and resources are revisited. In 2022 the topic covered was Bystander 201.

## **BYSTANDER INTERVENTION**

Training on safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault, stalking or other unsafe behavior.

### **Bystander 101**

All first year students are invited to complete this training in the second semester. This training goes over the role of being a bystander in preventing sexual assault, including specific strategies of helping and scenarios you might encounter.

### **Bystander 201**

Many students have asked for a more in depth look at being a bystander. In this program we talk about the key roles in situations such as being a sober monitor or a bartender. We also discuss what to do when you're not sure what the right choice is and encouraging others to be active bystanders.

## **AWARENESS PROGRAMS**

Community-wide or audience specific programming, initiatives and strategies that increase audience knowledge and share information, and resources to prevent violence, promote safety and reduce perpetration.

### **#Relationshipgoals**

When do we know when we are ready for a relationship? When is it even defined as a relationship? In this program we tackle questions we often ask like; "What are we?" and talk about getting over the fear of talking about what you want out of a relationship, so you can have the relationship of your dreams.

### **Imagination Theater at Orientation**

At Orientation, a theater troupe is brought in to discuss and interact with the crowd on issues of sexual assault, consent, and drinking.

## **RISK REDUCTION**

Options to decrease perpetration and bystander inaction and to increase empowerment for victims in order to promote safety and to help individuals and communities address conditions that facilitate violence.

### **Healthy Relationships Topics Certification (HRT)**

Implemented in 2021, the Wellness Center promoted a certification process for students and organizations. Students must complete three core programs, and then two of their choosing from other programs offered. There was also a HRT certification day to allow for students to complete the certification in one day.

# SEXUAL ASSAULT AWARENESS MONTH

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The Wellness Center worked with Fraternity and Sorority Life as well as other student organizations to put on a month of programming related to sexual misconduct prevention.

## ONGOING AWARENESS AND PREVENTION CAMPAIGNS

Programming, initiative and strategies that are sustained over time and focus on increasing understanding of topics relevant to and skills for addressing dating violence, domestic violence, sexual assault, and stalking, using a range of strategies with audiences throughout the institution.

### Army SHARP program

All ROTC students participate in SHARP (Sexual Harassment/Assault Prevention Program) sexual harassment and sexual assault training to address prevention at the earliest point in the continuum of harm.

### Sexual Assault Prevention for Undergraduates

Web-based program using a population level approach to educate all first year and transfer students on issues associated with sexual assault and relationship violence, taking into account their unique perspectives and experiences. This training is required.

### Curriculum Infusion

Interpersonal violence discussions integrated into academic courses. Various courses in the following departments: Sociology, Women and Gender Studies, Philosophy, Psychology, and Religious Studies

## PEER BASED PROGRAMMING AND ADVOCACY

Peer Health Advocates- A peer-to-peer based programming model in which JCU students provide prevention programming on health and wellness topics to students. Programming topics include interpersonal violence, substance use and abuse, bystander intervention, mental health, nutrition and disordered eating.

# FACULTY/STAFF PROGRAMS

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## NEW STAFF ORIENTATION

New staff are trained in recognizing and preventing sexual harassment and other forms of discrimination. They are also trained in their reporting obligations, processes and campus resources. This training is required.

## RESPONDING TO INTERPERSONAL VIOLENCE

Residence Life staff and Resident Ministers are trained in recognizing, preventing and responding to incidents of interpersonal violence, including sexual assault, sexual harassment, dating and domestic violence and stalking, reporting obligations and processes, as well as campus and community resources. This training is required.

## TITLE IX OFFICER TRAINING

The employees who are involved in Sexual Harassment and Interpersonal Violence Policy processes, including as officers, investigators, hearing, or appeal members were trained in reporting,, investigation, hearing,and appeal processes as it relates to Title IX requirements, the investigative process and campus services and resources. This training is required.

## DRUG AND ALCOHOL POLICIES

Members of the University community are expected to be aware of and obey federal, state, and municipal laws or ordinances regulating the use, possession or sale of alcoholic beverages, illegal drugs, or controlled substances. Persons under the age of 21 are not permitted to consume alcohol under any circumstances on University property, or at any university event, regardless of where the event takes place. The University prohibits the illegal use, possession, or distribution of illegal drugs or controlled substances or association with gatherings involving such use, possession, or distribution. Those cited for violations of law or ordinances by state, federal, or municipal authorities may face University disciplinary proceedings. The University reserves the right to take disciplinary action against any student for off-campus behavior that violates this policy. These policies, and the education efforts referenced below, are part of the University's compliance with the Drug-Free Schools and Communities Act of 1989.

Student drug and alcohol policies are detailed here: <https://jcu.edu/about-us/administrative-offices/dean-of-students/student-conduct-community-standards>

Employee drug and alcohol policies are detailed here: [http://webmedia.jcu.edu/hr/files/2016/11/Drug-Free-Workplace-Policy\\_11\\_22\\_2016.pdf](http://webmedia.jcu.edu/hr/files/2016/11/Drug-Free-Workplace-Policy_11_22_2016.pdf)

## MISSING STUDENT POLICY

Any student who resides in on-campus housing has the option to identify an individual that University officials can contact no later than 24 hours after the student has been determined to be missing by University officials.

On-campus resident students may register this contact information at the time they provide emergency contact information for the University housing contract. Providing this information is optional, and the information will be kept confidential and will only be accessible to authorized University officials.

Any student, faculty, staff, administrator or other party who reports an on-campus student missing should be directed to JCUPD. JCUPD will, in conjunction with appropriate outside public safety agencies, investigate the missing person report. If JCUPD determine that an on-campus student has been missing for 24 hours or more, the individual identified by the student as a contact will be called to notify him/her, and gather information for the investigation. If the missing student is under 18 years of age and not emancipated, JCUPD will immediately contact the custodial parent or legal guardian of the student. JCUPD, University officials and appropriate outside agencies will continue to investigate and attempt to locate the missing student.

<b>Policy:</b> Interim Sexual Harassment & Interpersonal Violence Policy	<b>Policy No.:</b> Pending
<b>Policy Owner(s):</b> Division of Diversity, Equity & Inclusion	<b>Original Date:</b> January 16, 2008
<b>Last Revised Date:</b> August 24, 2021 <i>[contact information in sections I and XII last updated March 25, 2022]</i>	<b>Approved Date:</b> Pending

## I. TITLE IX NOTICE OF NON-DISCRIMINATION

Title IX of the Education Amendments of 1972 protects individuals from discrimination based on sex/gender in any educational program or activity operated by recipients of federal financial assistance. Sexual harassment, which includes particular acts of sexual and interpersonal violence, is a form of sex discrimination prohibited by Title IX, as well as Title VII of the Civil Rights Act of 1964, as amended. John Carroll University does not discriminate on the basis of sex in employment, admission, or in educational programs and activities that it operates.

John Carroll University has appointed a Title IX Coordinator to oversee the University’s Title IX compliance measures, which include: publishing notices of the University’s policies and grievance procedures; offering supportive measures; facilitating resolution of Formal Complaints; developing training and education programs/materials for faculty, staff and students; overseeing retention of records and monitoring trends and effectiveness of the University’s Title IX educational efforts. Questions regarding the University’s compliance with Title IX should be referred to:

Emily Sherwood, Director of Community Standards, Title IX Coordinator  
 1 John Carroll Blvd, LSC 207b  
 University Heights, OH 44118  
 216-397-4402  
[TitleIX@jcu.edu](mailto:TitleIX@jcu.edu) or  
[esherwood@jcu.edu](mailto:esherwood@jcu.edu)

Additional information and questions regarding Title IX also may be referred to the U.S. Department of Education’s Office for Civil Rights by contacting:

U.S. Department of Education Office for Civil Rights  
 Assistant Secretary for Civil Rights  
 Lyndon Baines Johnson (LBJ) Department of Education Building  
 400 Maryland Ave, SW  
 Washington, DC 20202  
 1-800-421-3481  
[OCR@ed.gov](mailto:OCR@ed.gov)

## II. PURPOSE

John Carroll University seeks to provide a community for faculty, staff and students that promotes personal growth and development in a safe and welcoming environment. The University is committed to the belief that respect for the rights and dignity of all people must be protected. This goal is an integral part of all aspects of University life, rooted in our Jesuit Catholic identity, and is essential to our academic community. The purpose of this Policy is to help ensure that John Carroll University provides an environment free from Sexual Harassment and Interpersonal Violence for all members of the community. The policy defines the various forms of Sexual Harassment and Interpersonal Violence, which are subject to resolution using the University’s Sexual Harassment and Interpersonal Violence Resolution Process, and/or the Grievance Process for Title IX Sexual Harassment, as

appropriate.

### III. SCOPE

- A. This Policy applies to all: enrolled students (whether full-time or part-time); employees (including all faculty and staff members); vendors; contractors; visitors; third-party field experience partners; volunteers; and guests, whether the behavior(s) took place on University property, online, or at off-campus University-related programs, activities or events, including, but not limited to, study abroad programs, internships and immersion experiences.
- B. This Policy also applies to any off-campus conduct and to actions online that affect a substantial University interest. The Title IX Coordinator—in consultation with other University offices as appropriate—will determine on a case-by-case basis whether conduct or actions affect a substantial University interest, based on pertinent factors including but not limited to:
  - 1. Whether the action constitutes a criminal offense as defined by federal, state, or local law, regardless of whether the action takes place on the University’s property or elsewhere;
  - 2. Whether any person involved may present a danger or threat to the health or safety of others;
  - 3. Whether the conduct or actions involves a situation that significantly impinges upon the rights, property or learning opportunities of a University community member or members, or significantly breaches the peace and/or causes social disorder;
  - 4. Whether conduct or actions that occur off University property cause, or would cause, a substantial on-campus disruption;
  - 5. Whether the situation is detrimental to the educational interests or mission of the University;
  - 6. Whether online postings or other electronic communication (including cyber-bullying, cyber-stalking, cyber-harassment, etc., including those occurring outside of the University’s control - e.g., not with use of University Information Technology resources such as networks, websites or between University email accounts) cause or have the potential to cause a substantial on-campus disruption; and/or
  - 7. Whether the alleged conduct or actions could be appropriately assessed and addressed via the University’s Policy and Resolution Process in light of the University’s access to the facts and to the parties in the matter, and in light of other similar factors.
- C. While this Policy applies broadly to the constituents and circumstances described above, the scope of a “Title IX Sexual Harassment” violation (defined in Section V(D)(1) of this policy) and the circumstances in which the procedures governing a Title IX Sexual Harassment violation will apply are narrower than the scope of this Policy as a whole.
- D. This Policy considers harassment, as well as other prohibited behaviors under this Policy, based on gender identity, gender expression, or sexual orientation as a form of sex- or gender-based harassment.
- E. This Policy’s scope does not apply to complaints regarding employment matters not involving sexual harassment or interpersonal violence, governed by Title VII of the Civil Rights Act, and resolved through other University policies through the Human Resources Office or Faculty Handbook, including but not limited to employment, promotion, pay, demotion, transfer, recruitment, hiring, termination, and compensation.

### IV. DEFINITIONS

- A. “Actual Knowledge”: notice of Sexual Harassment or Interpersonal Violence, or allegations of Sexual Harassment of Interpersonal Violence, to the University’s Title IX Coordinator or any Deputy Title IX Coordinator, or any other official of the University who has authority to institute corrective measures on behalf of the University.

- B. “Complainant”: an individual who is alleged to be the victim of conduct that could constitute Sexual Harassment and Interpersonal Violence.
- C. “Deputy Title IX Coordinator”: a designated University employee who has been assigned a supporting role to assist the Title IX Coordinator with coordinating all Title IX compliance measures, which includes tracking and overseeing the resolution of Formal Complaints of Sexual Harassment and Interpersonal Violence falling under this Policy.
- D. “Formal Complaint”: a document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting that the University investigate the allegation of Sexual Harassment. Such a Formal Complaint does not need to contain a detailed statement of facts.
- E. “Report”: a disclosure by any person to the Title IX Coordinator (or Deputy Title IX Coordinator or a University official who has authority to institute corrective measures) that is sufficient to provide Actual Knowledge of Sexual Harassment or Interpersonal Violence; such a disclosure does not need to contain the information required of a Formal Complaint in order to constitute a Report.
- F. “Respondent”: an individual who has been reported to be the perpetrator of conduct that could constitute Sexual Harassment and Interpersonal Violence.
- G. “Sexual Harassment and Interpersonal Violence” or “Sexual Harassment”: the terms that will be used throughout this Policy to refer collectively to any or all of the violations described in Section V(D).
- H. “Third-Party Reporter”: any person who was not the recipient of the behavior and reports an incident of Sexual Harassment or Interpersonal Violence. This term can apply to witnesses or other employees who report allegations of Sexual Harassment and Interpersonal Violence.
- I. “Title IX Coordinator”: the University employee having primary responsibility for coordinating all Title IX compliance measures, which includes tracking and overseeing the resolution of Formal Complaints of Sexual Harassment and Interpersonal Violence falling under this Policy.

## V. POLICY ON SEXUAL HARASSMENT AND INTERPERSONAL VIOLENCE

### A. Policy Statement

1. Students and employees are entitled to a working environment and educational environment free of Sexual Harassment and Interpersonal Violence. Acts of Sexual Harassment and Interpersonal Violence may be committed by any person upon any other person, regardless of the sex, gender or sexual orientation of those involved.
2. Sexual Harassment as defined in this Policy—which includes quid pro quo sexual harassment, sexual harassment which creates a hostile environment, and acts of sexual assault, dating violence, domestic violence, and stalking—is a type of sex discrimination. Sexual Harassment and Interpersonal Violence violates basic human dignity and impedes the fundamental mission of the University. In keeping with its commitment to social justice and honoring the inherent dignity of all persons, John Carroll University prohibits acts of Sexual Harassment and Interpersonal Violence as provided in this Policy. Therefore, any employee, student, or other person over whom the University exercises substantial control who engages in an act of Sexual Harassment and Interpersonal Violence is in violation of this Policy.
3. Alleged violations of this Policy are subject to resolution using the University’s Sexual Harassment and Interpersonal Violence Resolution Process, and Grievance Process for Title IX Sexual Harassment as appropriate. When a Complainant (or the Title IX Coordinator) files a Formal Complaint alleging that a Respondent has violated the Sexual Harassment and Interpersonal Violence Policy, the University’s response will aim to end the Sexual Harassment and Interpersonal Violence, prevent its recurrence, and remedy the effects on both the individuals and the University community.

### B. Resolution of Sexual Harassment and Interpersonal Violence



1. The processes described in the Sexual Harassment and Interpersonal Violence Resolution Process or Grievance Process for Title IX Sexual Harassment shall serve as the only internal University processes for resolution and appeal of Formal Complaints of Sexual Harassment and Interpersonal Violence. The Title IX Coordinator may delegate specific functions to other University officials as described in the Sexual Harassment and Interpersonal Violence Resolution Process or Title IX Grievance Process, or as necessary on a case-by-case basis.
2. The University reserves the right to impose any level of sanction, ranging from education up to and including suspension or dismissal from the University for any act of Sexual Harassment and Interpersonal Violence based on the facts and circumstances of the particular allegation. Such sanctions may include: educational programs; coaching/mentorship; verbal or written reprimand or warning; time and place restrictions; probation; suspension; deferred suspension; delayed conferral of degree; revocation of admission; removal from the residence halls; dismissal; termination; revocation or withdrawal of degree; and remedies for the Complainant, as appropriate.
3. Respondents will be presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the Interim Sexual Harassment and Interpersonal Violence Resolution Process or Grievance Process for Title IX Sexual Harassment.
4. In resolving complaints that include allegations falling within the purview of this Policy as well as related allegations falling under other University policies, the Title IX Coordinator, in consultation with other appropriate University officials, has the discretion to investigate and/or resolve the entire complaint under the Interim Sexual Harassment and Interpersonal Violence Resolution Process or Grievance Process for Title IX Sexual Harassment.

#### C. Academic Freedom

1. The University's policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom to advance the classroom experience or support the learning goals or other relevant pedagogical reasons that include relevant, but controversial or sensitive, subject matter protected by academic freedom. Each faculty member may consider in classes any topic relevant to the subject matter of the course as defined by the department or academic dean.
2. Classroom topics also must be in balance with the rights of others not to be sexually harassed. If there are questions about whether the course material or the manner in which it is presented falls within the definition(s) of the various forms of sexual harassment, the concerned party should contact the Title IX Coordinator or appropriate Deputy Title IX Coordinator to discuss the concern.

#### D. Prohibited Behaviors

The various behaviors constituting Sexual Harassment and Interpersonal Violence are addressed in three categories: (1) Title IX Sexual Harassment; (2) Sexual Harassment and Interpersonal Violence Beyond the Purview of Title IX; and (3) Other Prohibited Behaviors.

1. Title IX Sexual Harassment
  - a. The definition of Title IX Sexual Harassment below applies to all employees (including all faculty and staff members), student-employees, volunteers, and any other person over whom the University exercises substantial control in the context of their employment or volunteer role with the University. This definition of Title IX Sexual Harassment also applies to all current and prospective students participating in or attempting to participate in any education program or activity of the University. It applies to acts in locations, events, or circumstances over which the University exercises substantial control over both the Respondent and the context in which the Sexual Harassment occurs, including Sexual Harassment that occurs in any building owned or controlled by a student organization that is officially recognized by the University.
  - b. Formal Complaints alleging acts of Title IX Sexual Harassment will be resolved using the Grievance Process for Title IX Sexual Harassment, which is incorporated into Section XII of the Sexual

Harassment & Interpersonal Violence Resolution Process.

- c. Title IX Sexual Harassment is defined as conduct on the basis of sex that satisfies one or more of the following:
- i. An employee conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct;
  - ii. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to an educational program or activity of the University; or
  - iii. Sexual assault, defined as:
    1. Sex Offenses, Forcible: Any sexual act, or attempted sexual act, directed against another person, without the consent of the Complainant including instances where the Complainant is incapable of giving consent.
      - a. Forcible Rape: 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, without the consent of the Complainant.
      - b. Forcible Sodomy: Oral or anal sexual intercourse with another person, forcibly and/or against that person's will or not forcibly or against the person's will (non-consensually) in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
      - c. Sexual Assault with An Object: To use an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will or not forcibly or against the person's will (non-consensually) in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
      - d. Forcible Fondling: The touching of the private body parts of another person (buttocks, groin, breasts) for the purpose of sexual gratification, forcibly and/or against that person's will (non-consensually) or not forcibly or against the person's will in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
    2. Sex Offenses, Nonforcible— Nonforcible sexual intercourse.
      - a. Incest: Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law in the State of Ohio.
      - b. Statutory Rape: Nonforcible sexual intercourse with a person who is under the statutory age of consent under the law in the State of Ohio.
  - iv. Dating Violence
    1. Dating Violence is defined as: violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant.
    2. The existence of such a relationship shall be determined based on the Complainant'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.
    3. For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.
  - v. Domestic Violence

1. Domestic Violence is defined as: Any felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the Complainant under the family or domestic violence laws of the State of Ohio, OR
2. The use or attempted use of:
  - a. Physical abuse; or
  - b. Sexual abuse. OR
3. Any pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a Complainant, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by:
  - a. A person who is a current or former spouse or intimate partner of the victim or similarly situated to a spouse of the Complainant;
  - b. A person who is cohabitating with, or has cohabitated with the Complainant as a spouse or intimate partner;
  - c. A person who shares a child in common with the Complainant; or
  - d. A person who commits acts against a youth or adult Complainant who is protected from those acts under the domestic or family violence laws of the State of Ohio.
4. To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

vi. Stalking

1. Stalking is defined as: engaging in a course of conduct directed at a specific person that would cause a reasonable person to—
  - a. Fear for the person’s safety or the safety of others; or
  - b. Suffer substantial emotional distress.
2. For the purposes of this definition—
  - a. Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property.
  - b. Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
  - c. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily require medical or other professional treatment or counseling.

vii. Economic Abuse

1. Behavior that is coercive, deceptive, or unreasonably controls or restrains a person’s ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, or manipulation to:
  - a. restrict a person’s access to money, assets, credit, or financial information;
  - b. unfairly use a person’s personal economic resources, including money, assets, and credit, for one’s own advantage; or
  - c. exert undue influence over a person’s financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or failing or neglecting to act in the best interests of a person to whom one has a fiduciary duty.

viii. Technological Abuse

1. Act or pattern of behavior that occurs within domestic violence and is intended to harm,

threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor, except as otherwise permitted by law, another person, that occurs using any form of technology, including but not limited to:

- a. Internet enabled devices;
- b. Online spaces and platforms;
- c. Computers;
- d. Mobile devices;
- e. Cameras and imaging programs;
- f. Apps, location tracking devices;
- g. Communication technologies, or
- h. Any other emerging technologies.

## 2. Sexual Harassment and Interpersonal Violence Beyond the Purview of Title IX

- a. Consistent with the Scope of this Policy described in Section III, the University also prohibits acts of Sexual Harassment and Interpersonal Violence that may occur outside the scope of employment or an education program or activity, or that may include behaviors other than those described in Section V(D)(1) as Title IX Sexual Harassment.
- b. All Formal Complaints alleging such acts of Sexual Harassment and Interpersonal Violence Beyond the Purview of Title IX will be resolved through the Sexual Harassment and Interpersonal Violence Resolution Process, and will not be subject to the Grievance Process for Title IX Sexual Harassment. However, where a Formal Complaint alleges violations of both Title IX Sexual Harassment and Sexual Harassment and Interpersonal Violence Beyond the Purview of Title IX arising from the same set of facts or circumstances, the University will have the discretion to adjudicate some or all of the alleged violations together under the Grievance Process for Title IX Sexual Harassment.
- c. Such prohibited forms of Sexual Harassment and Interpersonal Violence Beyond the Purview of Title IX include the following:
  - i. Forcible Rape, as defined in Section V(D)(1)(c)(3) above.
  - ii. Forcible Sodomy, as defined in Section V(D)(1)(c)(3) above.
  - iii. Sexual Assault with an Object, as defined in Section V(D)(1)(c)(3) above.
  - iv. Forcible Fondling, as defined in Section V(D)(1)(c)(3) above.
  - v. Incest, as defined in Section V(D)(1)(c)(3) above.
  - vi. Statutory Rape, as defined in Section V(D)(1)(c)(3) above.
  - vii. Dating Violence, as defined in Section V(D)(1)(c)(4) above.
  - viii. Domestic Violence, as defined in Section V(D)(1)(c)(5) above.
  - ix. Stalking, as defined in Section V(D)(1)(c)(6) above.
  - x. Economic Abuse, as defined in Section V(D)(1)(c)(7)??
  - xi. Technological Abuse, as defined in Section V(D)(1)(c)(8)??
  - xii. Quid Pro Quo Sexual Harassment
    1. Quid Pro Quo Sexual Harassment is defined as: any person conditioning the provision of any aid, benefit, or service on another individual's participation in sexual conduct;
    2. This prohibition applies to all members of the University community, regardless of their role at the University.
    3. Examples of such unwelcome sexual conduct may include, but are not limited to: dating; entering a romantic or sexual relationship; engaging in sexual any act(s), including but not limited to acts of voyeurism or exposure.
    4. The target of the Quid Pro Quo Sexual Harassment need not accept the proposed aid,

benefit, or service, nor engage in the sexual conduct, in order for a violation to occur. An individual violates this policy upon making it known to the targeted person that the provision of the aid, benefit, or service is conditioned upon the sexual conduct.

#### xiii. Sexual Harassment Resulting in a Hostile Environment

1. Sexual Harassment Resulting in a Hostile Environment is defined as: any unwelcome verbal, written, pictorial, online and/or physical conduct that is based on sex and/or gender or is sexual in nature that:
  - a. is sufficiently serious (i.e., severe, pervasive, or persistent) and objectively offensive so as to deny or limit a person's ability to participate in or benefit from the University's programs, services, opportunities, or activities; or
  - b. when such conduct has the purpose or effect of unreasonably interfering with an individual's employment or educational experience.
2. A hostile environment can be created by anyone involved in a University program or activity (e.g., staff, faculty members, students, campus visitors or guests). Mere offensiveness is not enough to create a hostile environment. Although repeated incidents increase the likelihood that harassment has created a hostile environment, a serious incident, such as non-consensual sexual intercourse or non-consensual sexual touching, even if isolated, can be sufficient.
3. The University will remedy all forms of Sexual Harassment when reported, whether or not the harassment rises to the level of creating a hostile environment. Harassment that does not rise to the level of creating a hostile environment may be addressed through alternative means, such as respectful conversation, remedial actions, education or conflict resolution.

#### xiv. Non-Consensual Sexual Contact

1. Non-Consensual Sexual Contact is defined as: any intentional sexual touching of another without consent.
  - a. The following types of contact will be deemed sexual per se: intentional contact (whether using part of one's body or an object) with the breasts, buttocks, groin, genitals, anus, or mouth of another, as well as the touching of another with any of these body parts, by a person upon any other person.
  - b. Contact with other parts of the body will also constitute sexual touching where the contact would be interpreted by the objective, reasonable person to be sexual in nature.
  - c. This prohibition includes any action that constitutes an attempt to commit such sexual contact.

#### xv. Sexual Exploitation

1. Sexual Exploitation is defined as: taking non-consensual or abusive sexual advantage of another for one's own advantage or benefit, regardless of whether such behavior constitutes one of the other Sexual Harassment and Interpersonal Violence offenses. Examples include, but are not limited to:
  - a. Non-consensual recording: Non-consensual digital, video or audio recording of sexual activity or nakedness (full or partial). This includes the unauthorized sharing or distribution of digital, video or audio recording of sexual activity or nakedness (full or partial).
  - b. Compelling Prostitution: Forcing or inducing another individual to engage in sexual activity for hire.
  - c. Voyeurism: Engaging in secretive observation of another for personal sexual pleasure or engaging in non-consensual video or audio recording of sexual acts or nakedness. This behavior is a form of sexual misconduct and violates the dignity of the affected

party(ies), regardless of whether the person secretly viewed or recorded is aware of the observation or recording.

d. Exposure: Disrobing or exposure of one's breasts, buttocks, groin or genitals to another without the consent of the other person, or inducing another to disrobe or to expose their breasts, buttocks, groin or genitals to another person without their consent.

e. Administering alcohol/drugs: Administering alcohol or drugs to another person without their knowledge or consent in an attempt to facilitate sexual contact.

xvi. Threats or Causing Physical Harm/Abuse

1. Threats or Causing Physical Harm/Abuse is defined as: Threatening or causing physical harm, extreme verbal abuse or other conduct that threatens or endangers the health or safety of any person on the basis of sex or gender or is associated with an act of interpersonal violence.

xvii. Intimidation

1. Intimidation is defined as: Implied threats or acts that cause an unreasonable fear of harm in another on the basis of sex/gender or are associated with an act of interpersonal violence.

xviii. Hazing

1. Hazing is defined as: Any planned/executed action or activity, based on sex or gender, by or against an active member, associate member, new member, pledge or potential member of an organization or group that inflicts physical or mental harm, distress, anxiety, or which may demean, degrade, embarrass or disgrace any person, regardless of location, consent or intention of participants, is prohibited.

2. Hazing that falls outside this Policy (i.e., is not based on sex or gender or an act of interpersonal violence) may nonetheless violate other University policies.

xix. Bullying

1. Bullying is defined as: repeated, severe, and/or aggressive behavior likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally on the basis of actual or perceived sex and/or gender.

2. Bullying that falls outside this Policy (i.e., is not based on sex or gender or an act of interpersonal violence) may nonetheless violate other University policies.

3. Other Prohibited Behaviors

a. A violation of any other University rule or policy, when motivated by the individual's actual or perceived sex or gender, may be resolved under this Policy and the Interim Sexual Harassment and Interpersonal Violence Resolution Process. This Policy's scope generally does not apply to complaints regarding employment matters not involving sexual harassment or interpersonal violence. These complaints, including but not limited to, employment, promotion, pay, demotion, transfer, recruitment, hiring, termination, and compensation, are governed by other university policies and Title VII of the Civil Rights Act. These complaints are referred for resolution to Human Resources, the appropriate resolution processes in the Faculty Handbook, or other appropriate university process. The Title IX Coordinator will consult with appropriate University personnel in determining the applicable resolution process for a complaint.

b. Objectionable conduct that does not rise to the level of Sexual Harassment or Interpersonal Violence or that is of a generic nature not on the basis of sex/gender may not result in the imposition of sanctions/corrective action under this University policy, but may be addressed through other policies and may include sanctions/corrective actions, remedial actions, education and/or conflict resolution mechanisms. For assistance with conflict resolution, individuals should contact the Title IX Coordinator, who may refer the parties to the Director of Community Standards and Student Wellbeing for student Respondents, to the appropriate department chair or Dean for faculty Respondents, or to the Human Resources

Department for staff Respondents.

c. Making Statements Known to be False During Sexual Harassment and Interpersonal Violence Resolution Processes

- i. No Complainant, Respondent, or Witness may make a statement (or present evidence in any other form) that they know to be false or fabricated to any Title IX Officer in the course of any proceeding under the University's Sexual Harassment and Interpersonal Violence Resolution Process & Grievance Process for Title IX Sexual Harassment.
- ii. Without more, any final determinations regarding the responsibility of the Respondent for any policy violation in the Resolution Processes are insufficient to prove that a statement by any participant was known to be false. The determination that any Complainant, Respondent, or Witness made such a knowingly false statement must be independently determined based on a preponderance of the evidence in a separate proceeding under the Sexual Harassment and Interpersonal Violence Resolution Process. Such an allegation of a knowingly false statement must be supported by information beyond mere suspicion or speculation before it will be referred to the Resolution Processes.
- iii. The Title IX Coordinator, or designee, will review the sufficiency of any allegation(s) before referring a matter for resolution under the Interim Sexual Harassment and Interpersonal Violence Resolution Process.

d. Retaliation

- i. No person or group, including University officials or the institution as an entity, may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or this Policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy.
- ii. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or Sexual Harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or Formal Complaint of Sexual Harassment, for the purpose of interfering with any right or privilege secured by Title IX or this Policy, constitutes retaliation.
- iii. Where the agent of a student or employee—such as an Advisor who is not an employee of the University—engages in conduct that constitutes retaliation pursuant to this policy while acting on that student or employee's behalf, the student or employee will be accountable for the retaliatory conduct of the agent.
- iv. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this part does not constitute retaliation, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.
- v. Complaints alleging retaliation may be filed as a Formal Complaint under this Policy, and will be resolved through the Sexual Harassment and Interpersonal Violence Resolution Process. However, where the alleged act of Retaliation occurs within the context of the resolution or adjudication of a Formal Report of Title IX Sexual Harassment, then the Formal Complaint of retaliation will be resolved through the Grievance Process for Title IX Sexual Harassment.

## VI. CONSENT TO ENGAGE IN SEXUAL ACTIVITY

### A. Standards for Consent to Engage in a Sexual Activity

1. Consent is granted when a person freely, actively and knowingly agrees at the time to participate in a particular sexual act with a particular person.
2. Consent requires mutually understandable words and/or actions that demonstrate a willingness to

participate in mutually agreed-upon activity at every stage of that sexual activity.

3. Consent is mutually understandable when an objective, reasonable person would consider the words and/or actions of the parties to have reached agreement to engage in the particular sexual activity.
4. In the absence of mutually understandable affirmative words or actions, it becomes the responsibility of the initiator (the person who wants to engage in a specific sexual activity) to obtain effective consent from the other partner.
5. Consent has time boundaries. Consent at one time does not imply consent at any other time.
6. The existence of a dating/romantic relationship between the persons involved or the fact of a previous sexual relationship does not automatically establish consent for future sexual activity.
7. Regardless of the state of the Respondent, the University will use the perspective of a “sober and reasonable person” in determining whether one should have known about the impact of the use of alcohol; drugs; the deceptive administering of any drug, intoxicant or controlled substance; mental illness, etc. on another’s ability to give consent.

B. Consent does not exist if:

1. Agreement is only inferred from a person’s silence or lack of resistance;
2. There is threat of physical force, harm or intimidation; or there is coercion.
3. The person is under the age required by law in the jurisdiction in which the act took place.
4. Someone engaging in sexual behavior knew or should have known that the other person was incapacitated.

C. Incapacitation

1. Incapacitation exists when a person is unaware, blacked out, asleep, unconscious, unable to make rational/reasonable decisions and/or otherwise physically or mentally helpless to give effective consent.
2. Indicators of incapacitation include, but are not limited to: inability or diminished ability to accurately discern one’s environment (who, what, where, when and/or how); slurred speech; vomiting; severe intoxication; loss of voluntary motor skills; loss of involuntary motor skills; disjointed speech patterns (unable to follow a conversation or verbalize complete thoughts); sleepiness that demonstrates an inability to control one’s ability to stay awake; and/or outrageous or unusual behavior.
3. Because incapacitation may be difficult to discern, the person seeking the sexual behavior is strongly encouraged to err on the side of caution; i.e., when in doubt, assume the other person is incapacitated and therefore unable to give effective consent.

D. Coercion

1. Coercion exists when a person engages in threats, sexual pressuring or oppressive behavior to force another person to engage in unwanted sexual activity. Real or perceived power differentials between the individuals involved may create an atmosphere conducive to coercion. (Coercion can be differentiated from seduction by a repetition of the coercive activity in the face of resistance, the degree of pressure applied, or the initiator’s knowledge that the pressure is unwanted.)
2. When one party has any professional responsibility for another’s academic or job performance or professional future (i.e. faculty member and student, supervisors and employees etc.), consent may be difficult to assess, may be deemed not possible, and may be construed as coercive.

## VII. SUPPORTIVE MEASURES

- A. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to the University’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the University’s educational environment, or deter Sexual Harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules,



campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

- B. Upon acquiring Actual Knowledge of Sexual Harassment and Interpersonal Violence, the Title IX Coordinator or designee will promptly reach out to the Complainant to discuss the availability of appropriate Supportive Measures, including considering the Complainant's wishes with respect to supportive measures and explaining the process for filing a Formal Complaint/
- C. In the event that a Formal Complaint is filed against a Respondent, the Title IX Coordinator or designee will also reach out to the Respondent to discuss the availability of appropriate Supportive Measures.
- D. The University will maintain as confidential any supportive measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the supportive measures.
- E. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

## VIII. EMERGENCY REMOVAL

- A. Any person may be removed from an educational program or activity on an emergency basis where University officials determine in an individualized safety and risk analysis that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Harassment justifies removal.
- B. Where a person is removed on an emergency basis, the removed person will have a timely notice and opportunity to challenge the removal. The Sexual Harassment and Interpersonal Violence Resolution Process will describe the process for making such a determination regarding emergency removal, including the removed person's opportunity to challenge that removal.

## IX. REPORTING AND CONFIDENTIALITY/PRIVACY

### A. Reporting Options

- 1. The University strongly encourages persons who experience Sexual Harassment to file a Formal Complaint with the Title IX Coordinator or a Deputy Title IX Coordinator in person, by phone or online using the form located at: <http://jcu.edu/title-ix>.
- 2. To avoid a conflict of interest, any allegations of Sexual Harassment by the Title IX Coordinator should be reported directly to either the Vice President for Diversity, Equity, and Inclusion, or to the University President.

### B. Confidentiality and Privacy

- 1. Concerns regarding Sexual Harassment and Interpersonal Violence may also be shared with University community members, but the obligations of each University community member to report to the Title IX Coordinator or one of the Deputy Title IX Coordinators depends on their reporting responsibilities. In order to make informed choices when consulting campus resources, one should be aware of confidentiality and mandatory reporting requirements described in the paragraphs below.
- 2. On campus, some resources may maintain confidentiality, offering options and advice without any obligation to inform University officials or an outside agency or individual unless the Complainant requests that the information be shared. Other campus resources, such as JCUPD or other "Responsible Employees" as referenced in Section IX(B)(5) below, cannot by law provide confidentiality (although they will make reasonable efforts to limit disclosure of information so as to protect privacy).
- 3. By making a disclosure to a Non-Confidential Formal Reporting Option, one is initiating formal action by the University. The nature and extent of that action by the University will depend on the circumstances of the reported concern, including whether the Complainant decides to request Supportive Measures or file a Formal Complaint.

4. In every instance, the University as an entity will keep private the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a Report or filed a Formal Complaint of Sexual Harassment and Interpersonal Violence (any Complainant), any individual who has been reported to be the perpetrator of sex discrimination (any Respondent), and any witness, except as may be permitted by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.
5. The following describes the reporting options and confidential resources available at the University:
  - a. Non-Confidential Formal Reporting Option for Sexual Harassment and Interpersonal Violence
    - i. A party wishing to initiate a Formal Complaint, an investigation or other action by the University is encouraged to speak to a “responsible employee” to make a Formal Complaint concerning incidents of Sexual Harassment and Interpersonal Violence. Under the University’s Mandatory Reporting Policy, all University employees, except those identified as confidential resources in Section IX(B)(5)(c) of this Policy, are designated as “mandatory reporters” and have a duty to report incidents of possible Sexual Harassment and Interpersonal Violence to the Title IX Coordinator. This makes all employees (except for those identified in Section IX(B)(5)(c)) “Responsible Employees” with regard to incidents of Sexual Harassment and Interpersonal Violence.
    - ii. When a party informs a “Responsible Employee” about an incident involving Sexual Harassment and Interpersonal Violence, the Responsible Employee is required to report all relevant details about the incident to the University’s Title IX Coordinator or designee. This includes the names of the Complainant(s), alleged Respondent(s), witnesses and any other relevant facts, including the date, time and specific location (if known).
  - b. Requests for Confidentiality
    - i. A party’s request for confidentiality or that no investigation be pursued should be made to the Title IX Coordinator or to the Responsible Employee at the time the report is made. The Responsible Employee will then inform the Title IX Coordinator of the request. The request will be weighed by the Title IX Coordinator considering relevant information that may be received in consultation with others involved in monitoring University safety matters. Those considerations will be weighed against the University’s obligation to provide a safe, non-discriminatory environment for all members of the University community, including the Complainant. Where the Title IX Coordinator makes the decision to honor that request for confidentiality, doing so may limit the University’s ability to meaningfully investigate and pursue conduct action against a Respondent.
    - ii. Complainants and Third-Party Reporters have the right, and can expect, to have reports taken seriously by the University, and to have Formal Complaints investigated and properly resolved through these procedures. When a Respondent is found in violation, the University will act to end the discrimination, prevent its recurrence and remedy its effects.
    - iii. Even when a Formal Complaint is filed, this Policy still affords privacy to the Complainant and Respondent, and only a small group of officials who need to know will be told. Information will be shared as necessary with investigators, witnesses and the parties (unless otherwise required by law). The University may also need to share limited information with certain staff members in order to facilitate supportive measures and other elements of its institutional response to Sexual Harassment and Interpersonal Violence. The people with this knowledge are charged with preserving a parties’ rights and privacy to the extent reasonable in order for an adequate, reliable and impartial investigation to be conducted.
    - iv. Privileged and Confidential Communications for All Sexual Harassment and Interpersonal Violence Reports
      1. If a party who has experienced an incident of Sexual Harassment and/or Interpersonal

Violence does not desire action by the University and would like the details of the incident to be kept confidential, but desires to confide in someone, the party may speak with:

- a. a counselor at the University Counseling Center;
- b. a doctor, or nurse acting under a doctor's direction, at the University Health Center;
- c. an ordained member of the clergy (e.g. a priest) acting in the context of pastoral care/spiritual advising; or
- d. off-campus local rape crisis counselors, domestic violence resources, local or state assistance agencies.

2. University employees who fall within this category will submit anonymous statistical information to JCUPD or the Title IX Coordinator for Clery Act (Campus Crime Statistics Act) purposes unless they believe it would be harmful to their client, patient or spiritual advisee, but will not otherwise share the information. Confiding in someone within this category does not provide the University with Actual Knowledge of the concern, and will not result in outreach by the Title IX Coordinator, an investigation, or other action by the University.
3. Exceptions may exist where the professional who receives the confidential concern has a good faith belief that reporting the concern to University officials, law enforcement, or other appropriate person(s) is necessary to prevent or lessen a serious and imminent threat to the health or safety of any person or the community. Common immediate safety concerns could include, but are not limited to, a pattern of alleged conduct, predation, weapons, violence or threat.

c. Non-Confidential but "Private" Communications

- i. Non-Confidential but Private resources for discussing claims of Sexual Harassment include any staff member who works for the University Counseling Center, Health Center, or Campus Ministry who is not otherwise a confidential resource as defined in Section IX(B)(5)(c). These resources are initially required to provide a limited report to the Title IX Coordinator that includes the nature, date, time and general location of the incident, but these resources do not share any personally identifiable information in the report unless the disclosing party gives permission, except in the rare event that the incident reveals a need to protect the immediate safety of the disclosing party and/or other members of the University community. Common immediate safety concerns could include, but are not limited to, a pattern of alleged conduct, predation, weapons, violence or threat.
- ii. Unlike the confidential resources listed in Section IX(B)(5)(c), these resources are required to report as described above under the University's Mandatory Reporting Policy and cannot guarantee confidentiality. If a party who wishes to discuss an incident is unsure of someone's duties and ability to maintain privacy, one should ask that person about confidentiality before talking to them.

d. Reporting of Instances Involving Minors

- i. Sexual Harassment and Interpersonal Violence involving a minor who is a student will be processed consistent with this Policy. Anyone witnessing or otherwise knowing of a violation of this Policy that involves a non-student individual under the age of 18, or under the age of 21 and physically or mentally impaired, should refer to the University's Minors on Campus Policy.
- ii. Any observed violations of that policy should be reported to the Title IX Coordinator and/or to JCUPD and the person in charge of the program. Whether involving a student or non-student, the University, the Title IX Coordinator, and/or privileged and confidential resources

also may be required to report Sexual Harassment and Interpersonal Violence involving a minor to Cuyahoga County's Children & Family Services at (216) 431-4500.

## **X. REPORTING TO POLICE AND FEDERAL TIMELY WARNING OBLIGATION**

- A. There may be instances in which Sexual Harassment and Interpersonal Violence constitutes a criminal act. Anyone who has experienced Sexual Harassment and Interpersonal Violence that they believe may constitute a crime may choose to contact at any time the JCU Police Department or a local police jurisdiction where the Sexual Harassment and Interpersonal Violence occurred. Pursuant to Ohio law and depending on the behaviors alleged and the location of the behavior, the Title IX Coordinator will be obligated to report certain reported crimes (i.e. felonies) to the JCU Police Department, who will be obligated to report the crime to the appropriate police jurisdiction. Reports made to police departments are generally public records.
- B. Choosing not to pursue criminal action does not alter the responsibility of the University to investigate and take appropriate action related to the report of Sexual Harassment and Interpersonal Violence.
- C. Parties reporting Sexual Harassment and Interpersonal Violence should be aware that under the Clery Act, the University, via JCUPD, must issue timely warnings for incidents reported to them that pose a substantial threat of bodily harm or danger to members of the campus community. The University will undertake reasonable efforts to ensure that a Complainant's name and other identifying information is not disclosed in any timely warning, while still providing enough information for community members to make safety decisions in light of the potential danger. Also under the Clery Act, certain designated individuals who are deemed Campus Security Authorities have an obligation to report to the JCUPD certain crimes defined under federal law.

## **XI. RETENTION OF RECORDS & UNIVERSITY TRANSCRIPT NOTATION POLICY**

- A. The University will maintain for a period of at least seven (7) years records of-
  - 1. Any actions, including any supportive measures, taken in response to a Report or Formal Complaint of Sexual Harassment and Interpersonal Violence. In each instance, the University will document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the educational program or activity. If the University does not provide a Complainant with supportive measures, then the University will document the reasons why such a response was not clearly unreasonable in light of the known circumstances.
  - 2. Each investigation of Sexual Harassment and Interpersonal Violence, including any determination regarding responsibility and any audio or audiovisual recording or transcript of any Title IX grievance process hearing, any disciplinary sanctions imposed on the Respondent, and any remedies provided to the Complainant designed to restore or preserve equal access to the educational program or activity;
  - 3. Any appeal and the result therefrom;
  - 4. Any informal resolution and the result therefrom;
  - 5. Any notes or external sources relied upon by the review panels; and
  - 6. All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. The University will also make these training materials publicly available on its website.

## B. Transcript Notation Policy

1. Transcript notations, consistent with the University's transcript notation policy, may be applied and maintained for the designated period of time.

Any incidents of Sexual Harassment and Interpersonal Violence should be reported to the Title IX Coordinator. Incidents can also be reported to a designated Deputy Title IX Coordinator for a particular constituency.

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### All Complaints and Complaints Involving Visitors

#### **Emily Sherwood**

Director of Community Standards and Student Wellebing, Title IX Coordinator

1 John Carroll Blvd, LSC 207b  
University Heights, OH 44118

TitleIX@jcu.edu or  
(216) 397-4402 • esherwood@jcu.edu

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### Complaints Involving Students

#### **Christina Kusold**

Deputy Title IX Coordinator and Coordinator for Diversity, Equity, Inclusion, and Belonging

St. Ignatius Hall, Room 128  
1 John Carroll Blvd.  
University Heights, OH 44118

(216)-397-4425 • ckusold@jcu.edu

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### Complaints Involving Athletics

#### **Kerry Bebie**

Deputy Title IX Coordinator and Associate Athletic Director

DeCarlo Varsity Center, Room 110  
1 John Carroll Blvd.  
University Heights, OH 44118

(216) 397-1997 • kbebie@jcu.edu

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### Complaints Involving Faculty

#### **Rebecca Drenovsky, Ph.D.**

Deputy Title IX Coordinator and Associate Academic Vice President

Administration Bldg., Room 133E  
1 John Carroll Blvd.  
University Heights, OH 44118

(216) 397-4762 • rdrenovsky@jcu.edu

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### Complaints Involving Staff

#### **Jennifer Rick**

Deputy Title IX Coordinator and Assistant Vice President for Human Resources

Rodman Hall  
1 John Carroll Blvd.  
University Heights, OH 44118

(216)-397-1726 • jrick@jcu.edu

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### EXTERNAL CONTACTS

Inquiries about this Policy and accompanying complaint procedures may be made externally to:

#### **Office for Civil Rights (OCR)**

U.S. Department of Education  
(800) 421-3481 • OCR@ed.gov  
Web: <http://www.ed.gov/ocr>

#### **Equal Employment Opportunity Commission (EEOC)**

Contact: <http://www.eeoc.gov/contact>

## I. INTRODUCTION

### A. General Information

John Carroll University (“the University”) will act on any Actual Knowledge or Formal Complaint regarding an alleged violation of the University’s Sexual Harassment and Interpersonal Violence Policy that is received by the Title IX Coordinator or a Deputy Title IX Coordinator. These actions will include, as appropriate, steps to eliminate the harassment, prevent its recurrence and address its effects.

Emily Sherwood, Director of Community Standards, Title IX Coordinator  
1 John Carroll Blvd, LSC 207b  
University Heights, OH 44118  
216-397-4402  
[TitleIX@jcu.edu](mailto:TitleIX@jcu.edu) or  
[esherwood@jcu.edu](mailto:esherwood@jcu.edu)

Concerns regarding violations of the Sexual harassment and Interpersonal Violence Policy can be reported online, both during and outside of business hours, at [jcu.edu/title-ix](https://jcu.edu/title-ix).

### B. Scope

1. The Sexual Harassment and Interpersonal Violence Complaint Resolution Process & Grievance Process for Title IX Sexual Harassment (collectively, “Resolution Processes”) apply to all Reports and Formal Complaints brought within the scope of the University’s Interim Sexual Harassment and Interpersonal Violence Policy.
2. This Interim Sexual Harassment and Interpersonal Violence Complaint Resolution Process will be used to resolve Formal Complaints implicating any of violations described in Section V(D) of the Interim Sexual Harassment and Interpersonal Violence Policy.
3. The additional procedures described in the Grievance Process for Title IX Sexual Harassment (Section XII of this document) will be used to resolve any Formal Complaint(s) of Title IX Sexual Harassment, which is defined in Section V(D)(1) of the Interim Sexual Harassment and Interpersonal Violence Policy.
4. These Resolution Processes are the exclusive processes for resolution of Formal Complaints brought under the University’s Interim Sexual Harassment and Interpersonal Violence Policy.
5. Definitions contained in the Interim Sexual Harassment and Interpersonal Violence Policy will be applicable to this Interim Sexual Harassment and Interpersonal Violence Process as well.
6. While all Formal Complaints involving any individual not a member of the University community will be investigated, alternative procedures may be utilized to respond to such complaints
  - a. In cases in which the Complainant is not a student or employee of the University (including employees of a third-party contractor) and where the Respondent is a current student or employee (whether staff or faculty), the matter will be handled through the University process deemed most appropriate by the Title IX Coordinator or designee based on an individualized assessment of the circumstances in each specific case. Appropriate processes for resolution of the complaint may include, but are not limited to: the Resolution Processes described in this document; student conduct processes; processes relating to staff misconduct through Human Resources and Human Resources policies; processes relating to faculty misconduct through the Provost’s Office and Faculty Handbook; referrals to criminal processes through local law enforcement; or other processes as appropriate.

- b. In cases in which the Complainant is a student or employee (whether staff or faculty) and the Respondent is an employee of a third-party contractor or other individual over whom the University lacks substantial control, the University may use alternative procedures or coordinate the resolution with the procedures of the third-party contractor. However, this will not prevent the University from offering reasonable and appropriate Supportive Measures to the Complainant.

## II. CONFIDENTIALITY

Where a non-confidential University employee becomes aware of an allegation that the University's Interim Sexual Harassment and Interpersonal Violence Policy has been violated, the information must be reported to the University's Title IX Coordinator. For a list of confidential resources and further information regarding confidentiality, please consult the University's Mandatory Reporting Policy or Section IX of the Sexual Harassment and Interpersonal Violence Policy.

Once the University receives Actual Knowledge of an alleged violation of the Interim Sexual Harassment & Interpersonal Violence Policy, the University will keep private the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a Formal Complaint of Sexual Harassment and Interpersonal Violence, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness, except as may be permitted by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

While Complainants, Respondents, and witnesses are encouraged to respect the private and sensitive nature of every matter, nothing in these procedures is intended to restrict the ability of any party to discuss the allegations under investigation or to gather and present relevant evidence.

Other relevant provisions on Confidentiality are set out in Section IX of the University's Interim Sexual Harassment and Interpersonal Violence Policy.

## III. PRE-FORMAL COMPLAINT EFFORTS

Any individual experiencing sexual harassment or interpersonal violence is not expected to confront the other individual(s) about their behavior. However, whenever appropriate and safe in light of the circumstances, anyone experiencing an issue may first attempt discussing the issue with the party(ies) involved. Such discussions also may help prevent tense situations from escalating to an actual hostile environment. **However, the University strongly discourages individuals from attempting to engage in such discussions on their own when the safety of any individual may be in jeopardy.**

For allegations that do not rise to the level of Title IX Sexual Harassment, as defined in the Policy Section V(D)(1), the Title IX Office can often facilitate such discussions, upon request, and monitor them for safety. At any time, a member of the University community may reach out to the Title IX Office for support and to understand how the Title IX Office may be able to help.

**Please note that the University may not facilitate pre-complaint informal resolutions for allegations of Title IX Sexual Harassment, as specifically defined in the Sexual Harassment and Interpersonal Violence Policy.** For allegations of Title IX Sexual Harassment, the University may facilitate a Resolution by Agreement (see Section VIII of this document) for allegations of Title IX Sexual Harassment once a Formal Complaint is filed.

Complainants are encouraged to contact the Title IX Coordinator if, prior to taking the step of filing a Formal Complaint, they have questions regarding the process, they are uncertain as to whether their problem is appropriate for pre-complaint efforts, or they are interested in advice on ways to discuss the issue with the other person, etc. The University prefers to take a proactive approach to preventing and addressing sexual harassment and interpersonal violence, including stopping the harassment if it is found to have occurred, remedying its effects, and preventing its recurrence. Therefore, the University encourages individuals to seek support from the Title IX Coordinator or other University officials before the behavior escalates and creates a hostile environment.

The University also may determine that some reports are not appropriate for pre-complaint resolution based on an individualized assessment of whether any proposed resolution is likely to satisfy the stated purpose of the Sexual Harassment and Interpersonal Violence Policy. In conducting this individualized assessment, the University will consider: the preferences of the parties; the voluntary concurrence of the Complainant; the nature of the alleged behaviors; the policies implicated; the safety of the parties; the safety of the campus community; the parties' ability to access educational programs and opportunities; and any pattern of reported violations. As such, some reports of sexual harassment or interpersonal violence—such as reports involving violent behavior—may not be appropriate for pre-complaint resolutions.

Pre-complaint resolution efforts are voluntary, and the parties have a right to end the process at any time. Pre-complaint resolution efforts also do not preclude any person from filing a Formal Complaint at a later time. If satisfactory resolution is not reached after discussion with the other individual(s), the Complainant or Title IX Coordinator may file a Formal Complaint to initiate the Resolution Processes described in this document.

## IV. SUPPORTIVE MEASURES

The Title IX Coordinator will work with other University officials to coordinate the effective implementation of appropriate Supportive Measures for the Complainant, Respondent, or witnesses. Supportive Measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to the University's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the University's educational environment, or deter Sexual Harassment and Interpersonal Violence.

Supportive Measures may include, but are not limited to: counseling; extensions of deadlines or other course-related adjustments; modifications of work or class schedules; escorts by the JCU Police Department; mutual restrictions on contact between the parties; changes in work or housing locations; leaves of absence; increased security and monitoring of certain areas of the campus; and other similar measures.

The University will maintain as confidential any Supportive Measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the Supportive Measures. The University will share information regarding Supportive Measures with those with a need to know in order to implement the measures effectively.

Appeals of supportive measures, like no-contact directives, must be submitted, in writing, to the Title IX Coordinator within five (5) business days of notice of the decision. The Vice President of Diversity, Equity, and Inclusion, or designee, will render a decision on the appeal, in writing, within five (5) business days.

## V. FILING A COMPLAINT AND MANDATORY REPORTING

Any person who believes that they have experienced one of the Prohibited Behaviors described in Section V(D) of the Sexual Harassment and Interpersonal Violence Policy, and who wishes to learn more about Supportive Measures or make a Formal Complaint, should contact the Title IX Coordinator or Deputy Title IX Coordinator in person, by email, by phone, or electronically by using the Online Reporting Form located on the Title IX Office webpage at: [jcu.edu/title-ix/](http://jcu.edu/title-ix/).

Most University employees receiving reports of a potential violation of the Sexual Harassment and Interpersonal Violence Policy are responsible employees with a mandatory duty to report the potential violation(s) to the Title IX Coordinator promptly after becoming aware of a report or incident. Only employees acting in their professional role and with a legal obligation to maintain confidentiality—such as counselors, doctors, nurses acting at the direction of a doctor, and clergy acting in those roles—are expected to maintain confidentiality consistent with their professional and legal obligations; those individuals are exempt from the reporting requirement. For further information, please see the Section IX of the Sexual Harassment and Interpersonal Violence Policy or the University's Mandatory Reporting Policy.



All Reports and Formal Complaints will be treated with privacy and shared only with those with a need to know. Subject to the University's obligation to take action regarding violations when warranted, a reasonable effort will be made to maintain the privacy of those submitting a Report or filing a Formal Complaint of a possible violation. In all cases, the University will give consideration to the Complainant's preferences with respect to which Resolution Processes are pursued, but the University reserves the right, when necessary to protect the community and the University or fulfill other legal obligations, to investigate and pursue a resolution when the Complainant chooses not to initiate or participate in a Formal Complaint.

## VI. ADVISORS

The Complainant, Respondent, and any interviewed witnesses have a right to be accompanied by one Advisor of their choosing during any meeting or interview.

The Advisor may be a friend, mentor, advocate, family member, attorney or any other person a party chooses. The University recommends that parties carefully consider their choice of Advisor, given the different roles Advisors serve throughout the Formal Resolution Process.

Generally, parties may do so, but it is not recommended for parties to choose a potential witness as their Advisor. If a complaint will be resolved through the Title IX Grievance Process in Section X, and a party chooses a witness as their Advisor during the investigation process, they will need to select a new Advisor to perform cross-examination during the live hearing.

Additionally, parties may do so, but it is not recommended that the same individual serve as Advisor to multiple participants (whether Complainants, Respondents, or witnesses) in the same investigation and hearing process. The role of the Advisor is to offer guidance and advice to the advisee throughout the process. The Advisor may be present at interviews and any other proceedings, but, with the exception of a Title IX Sexual Harassment hearing, may not speak on behalf of the advisee. The parties are expected to ask and respond to questions on their own behalf, without representation by their Advisor. Advisors may confer quietly with their advisees or in writing as necessary, as long as they do not disrupt the process.

Advisors are expected to refrain from interfering with the investigation and hearing process. Any Advisor who steps out of their role in any meeting will be warned once, and only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, they may be asked to leave the meeting. Advisors who serve in an additional role, such as an outside attorney, must nonetheless comply with the requirements for Advisors during the process.

The University expects that the parties will wish the University to share documentation related to the allegations with their Advisor. The University provides a consent form that authorizes such sharing. Each party must complete this form before the University is able to share records or information with an Advisor. The parties are not otherwise restricted from discussing information with others who may support or assist them in preparing and presenting during the process. Advisors are expected to maintain the privacy of the records shared with them by the University, which may include legally protected educational records. Advisors may not share records with third parties, disclose records publicly, or use records for purposes not explicitly authorized by the University.

The University may seek to restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the University's privacy expectations.

The parties must advise the Investigator(s) of the identity of their Advisor at least one (1) business day prior to the date of their first meeting with the Investigator(s). However, parties are encouraged to provide earlier notice to the Investigator(s) if they wish for the Advisor to have access to any materials that may be available for review prior to such a meeting.

Any party also may request the assistance of a University-appointed Advisor. Upon receiving such a request, the Title IX Coordinator will appoint an Advisor from a pool of Title IX Officers (Section XIV) who are trained as Process Advisors. The University's Process Advisors are specially trained to understand the University's Sexual Harassment and Interpersonal Violence Policies and resolution procedures so that they can provide informed

guidance to students during the process. The University's Process Advisors do not provide guidance on processes external to the University (e.g. criminal or civil processes) and do not provide legal advice of any kind. Although information shared privately with University Process Advisors will not be sought or used by the Investigator(s) or Complaint Review Panel, such communications are not legally confidential or privileged.

## VII. INTAKE: REVIEW OF REPORTS AND FORMAL COMPLAINTS

### A. Reports to the Title IX Coordinator

All Reports will be reviewed and acted upon promptly. Upon receiving a Report, the Title IX Coordinator (or designee) will promptly acknowledge receipt and conduct a preliminary review to determine if the Report alleges facts that, if true, could constitute a policy violation, and, if so, which policy violations are alleged in the report. The Title IX Coordinator may, as part of the preliminary review, conduct an initial inquiry to determine whether another University policy applies and/or the appropriate University process to be utilized to resolve the complaint.

Where a report does allege a possible policy violation under the Interim Sexual Harassment and Interpersonal Violence Policy, the Title IX Coordinator (or designee) will promptly contact the Complainant to discuss:

- the availability of Supportive Measures;
- consider the Complainant's wishes with respect to Supportive Measures;
- inform the Complainant of the availability of Supportive Measures with or without the filing of a Formal Complaint;
- explain to the Complainant the process for filing a Formal Complaint;
- offer information on applicable University policies and procedures, and/or
- discuss the option to pursue criminal charges through local law enforcement if a potential crime has occurred.

Where the person submitting the report is not the Complainant ("Third-Party Reporter"), the Title IX Coordinator (or designee) will respond to the Third-Party Reporter to advise that the University will contact any prospective Complainant(s) to discuss their options for support and/or resolution. However, the Third-Party Reporter will generally not be permitted to receive more information about how the matter is addressed. Exceptions may exist, such as where the Third-Party Reporter is the parent or legal guardian of a Complainant who is a minor child.

### B. Formal Complaints

Upon receipt of a Formal Complaint, the Title IX Coordinator (or designee) will provide a written Notice of Investigation to the parties (Complainant(s) and Respondent(s) who are known). The written Notice of Investigation will contain, at minimum:

- Notice of the University's Resolution Processes, including the Grievance Procedures for Title IX Sexual Harassment (where applicable), and any options for informal resolution of the Formal Complaint.
- Notice of the allegations of Prohibited Behavior(s), as defined by Section V(D) of the University's Sexual Harassment & Interpersonal Violence Policy. Sufficient details of the alleged behavior known at the time will include:
  - the identities of the parties involved in the incident, if known,
  - the conduct that allegedly violates the Policy, and
  - the date and location of the alleged incident, if known.
- A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the Resolution Processes.

- A statement informing the parties that they may have an Advisor of their choice—who may be, but is not required to be, an attorney (see Section VI below regarding Advisors).
- A statement informing the parties that they may inspect and review evidence in accordance with the procedures described in the Resolution Processes.
- A statement informing the parties of any provision of any applicable University policy that prohibits knowingly making false statements or knowingly submitting false information during the Resolution Processes.

The Title IX Coordinator has the discretion to consolidate Formal Complaints regarding allegations of Prohibited Behavior under the Sexual Harassment and Interpersonal Violence Policy against more than one Respondent, or by more than one Complainant against one or more Respondents, or one party against the other party, where the allegations arise out of similar facts or circumstances. Further, where a Formal Complaint alleges violations of both Title IX Sexual Harassment and Sexual Harassment and Interpersonal Violence Beyond the Purview of Title IX arising from the same set of facts or circumstances, the University will have the discretion to adjudicate all alleged violations together under the Grievance Process for Title IX Sexual Harassment.

If, in the course of an investigation, the University decides to investigate allegations about the Complainant or Respondent that are not included in the initial Notice of Investigation provided pursuant to paragraph above, the University must provide written notice of the additional allegations to the parties whose identities are known.

### C. Dismissal of Reports and Formal Complaints

If the Title IX Coordinator's review determines that a Report does not allege any violation of the University's Interim Sexual Harassment and Interpersonal Violence Policy, the case will be closed or referred to another office for resolution, and the Complainant will be so notified in writing.

Where a Formal Complaint is dismissed for failing to allege any violation of the University's Interim Sexual Harassment and Interpersonal Violence Policy, both the Complainant and Respondent will be notified in writing. Dismissal of a Formal Complaint may be appealed according to the appeal guidelines set forth in Section XI.

The Title IX Coordinator may refer the Report or Formal Complaint to the appropriate Academic Dean, Human Resources, or Dean of Students Office for a determination as to whether the conduct may violate another University policy depending on the constituency of the Respondent.

The University's ability to move forward in reviewing or investigating any matter depends on a number of factors including, but not limited to, knowledge of any party's identity and/or the Complainant's willingness to file a Formal Complaint. If a Report is submitted anonymously, the University's ability to investigate may be limited. Additionally, if the Complainant does not wish to file a Formal Complaint, an investigation typically will not follow unless the safety and well-being of the University community or legal compliance would be jeopardized if an investigation is not undertaken. In considering such requests by Complainants for anonymity or to not proceed with any investigation, the Title IX Coordinator must weigh the request against the University's obligation to provide a safe, non-discriminatory environment for all members of our community, including the Complainant.

Where the Complainant chooses not to file a Formal Complaint, the University will also assess whether there are any available actions that will increase safety and equitable access to educational programs or activities without restricting or infringing upon the rights of other members of the community. Examples of such actions may include—but are not limited to—increasing security measures, offering preventative education to the community, or offering individual Supportive Measures.

Note that specific provisions on the dismissal of Formal Complaints of Title IX Sexual Harassment apply to the Grievance Process for Title IX Sexual Harassment (Section X below). Where a matter is dismissed from the Grievance Process for Title IX Sexual Harassment, it may still be resolved through the broader Sexual Harassment and Interpersonal Violence Resolution Process or other University processes as applicable.

## VIII. RESOLUTIONS BY AGREEMENT

The University encourages resolutions by the agreement of both parties (sometimes referred to as an “informal resolution”) when the parties desire to resolve the situation cooperatively and expeditiously. Either party may propose a resolution by agreement for certain alleged violations of the University’s Sexual Harassment and Interpersonal Violence Policy. The parties also may agree to consider a resolution by agreement at any point during the Formal Investigation and Hearing Process (Section IX) or Grievance Process for Title IX Sexual Harassment (Section X), which will be subject to the approval of the University.

Prior to facilitating any resolution by agreement, the University will provide written notice to both the Complainant and Respondent disclosing:

- the allegations;
- the requirements of the resolution by agreement process, including the circumstances under which it precludes the parties from resuming a Formal Complaint arising from the same allegations; and
- any consequences resulting from participating in the resolution by agreement process, including the records that will be maintained or could be shared.

After providing the written notice, the University will obtain the parties’ voluntary, written consent to the process of seeking resolution by agreement.

In all instances, the Title IX Coordinator will determine if an informal resolution is appropriate based on an individualized assessment. **For allegations of Title IX Sexual Harassment involving a Complainant who is a student and a Respondent who is an employee, resolutions by agreement will not be available.** Some other Formal Complaints of sexual harassment or interpersonal violence—particularly those involving allegations of violent behavior—may not be appropriate for resolutions by agreement and may require use of the Formal Investigation and Hearing Process described below. In every instance, the University will determine whether a Formal Complaint is appropriate for resolution by agreement based on the individualized assessment of whether any proposed resolution is likely to satisfy the stated purpose of the Sexual Harassment and Interpersonal Violence Policy. In conducting this individualized assessment, the University will consider:

- the willingness of the parties to participate;
- the parties’ desired outcomes and preferences;
- the voluntary concurrence of the Complainant;
- the nature of the alleged violations;
- the policies implicated;
- any pattern of reported violations;
- the safety of the parties;
- the safety of the campus community;
- the parties’ ability to access educational programs and opportunities; and
- the ability of the informal resolution process to meet the goals of the Sexual Harassment and Interpersonal Violence Policy.

Resolutions by agreement may involve a multitude of interventions and remedies. Some may include mediation, targeted or broad-based educational programming or training for relevant groups or individuals, one-on-one discussions with the Respondent, formal mentoring relationships, agreed-upon sanctions, and/or any other remedial or protective measures that can be tailored to the involved individuals to achieve the goals of the Interim Sexual Harassment and Interpersonal Violence Policy.

Regardless of whether a resolution by agreement or the Formal Investigation and Hearing Procedure is utilized, the Respondent will be advised of the substance of the Complainant’s allegation(s). Where the parties opt to attempt resolution by agreement, and the parties have failed to achieve any resolution promptly, the University may elect to begin the investigative phase of the Formal Investigation and Hearing process while the parties

continue to work toward a resolution by agreement. Similarly, the Complainant or Respondent may request to engage in the process of reaching a resolution by agreement at any point during the Formal Investigation and Hearing process by contacting the Title IX Office.

The process of reaching a resolution by agreement is completely voluntary, and both the Complainant and Respondent have the right to withdraw from the process of seeking resolution by agreement at any time in order to begin or resume the Formal Investigation and Hearing Process.

Where the Complainant and Respondent reach an agreement on an appropriate resolution, and the University finds the terms of that agreement to be acceptable and appropriate under the Interim Sexual Harassment and Interpersonal Violence Policy, the terms of the resolution will be documented in writing and distributed to the Complainant and Respondent.

The Title IX Coordinator may serve as an intermediary or facilitator for resolution by agreement if they did not serve as an investigator for the matter. The Title IX Coordinator also may advise the intermediary or facilitator and/or may be present for an informal resolution in instances in which the Title IX Coordinator does not serve as the intermediary or facilitator.

## IX. FORMAL INVESTIGATION AND HEARING PROCEDURES

### A. Investigation Phase

#### 1. Investigator(s)

The Title IX Coordinator may appoint one or more Title IX Officers to serve as Investigator(s). The Investigator(s) will conduct a thorough, reliable and impartial investigation of the Formal Complaint. The number of Investigators assigned to a particular matter is at the discretion of the Title IX Coordinator. The assigned Investigator(s) may include the Title IX Coordinator or an external contractor with the requisite training.

Any real or perceived conflict of interest between an Investigator and a party must be disclosed, in writing, by the named Investigator or any party to the Title IX Coordinator. Where a concern regarding bias or conflict of interest is expressed by any person, the Title IX Coordinator (or Vice President for Diversity, Equity & Inclusion, where the Title IX Coordinator is serving as Investigator) will assess whether the Investigator in question is capable of serving in a neutral, fair, and objective manner, and will issue a written determination to the parties.

The Investigator(s) will act under the supervision of the Title IX Coordinator and/or an assigned Deputy Title IX Coordinator(s) during the course of the investigation.

#### 2. The Investigative Process

The Investigator(s) is tasked with gathering all information that is relevant to the Formal Complaint and reasonably available during the period of investigation. The Investigator(s) is also responsible for preparing a written investigation report that fairly summarizes the relevant evidence that was gathered in the course of the investigation.

The investigation generally will include: interviews with the parties, if available; interviews with other witnesses, including expert witnesses, as necessary and appropriate; and a review of other relevant information as appropriate. Participants in an investigation are encouraged to honor the privacy of all parties and to treat information received during the investigation as private so as to protect the integrity of the investigation; however, this is not meant to impinge on any legal rights they may have otherwise, such as their ability to speak with others about the investigation or to gather their own evidence to present to the Investigator(s).

The Respondent shall be permitted to review a copy of the Formal Complaint. If the Respondent cannot be located, attempts at notification shall be documented.

The Complainant shall be provided with a copy of the written response provided by the Respondent, if any,

or otherwise informed of the substance of the response to the allegations.

Both the Complainant and Respondent will be provided the opportunity to provide oral (through an interview) and written statements. Both parties will receive written notice of the date, time, location, participants, and purpose of all investigative interviews or other meetings in which they are invited or expected to participate, with sufficient time (up to one week) for the party to prepare to participate. No audio or video recording of any kind is permitted during meetings with the Investigator(s) or other campus officials involved in the investigation phase. A party may opt not to participate at all in the investigation or to provide a written statement in lieu of or in addition to any interview(s) with the Investigator(s). However, it is important to note that any decision by the parties not to participate, or to limit participation, in turn limits the ability of the University to discover facts that may support their version of the key events, as the investigation results will be based on the facts available to the Investigator(s) at the time of the investigation.

While the task of gathering relevant information is the responsibility of the Investigator(s), all parties will have an equal opportunity to present relevant witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence that they wish to be considered by the Investigator(s). Each party will have the opportunity to suggest questions they wish the Investigator(s) to ask of the other party and witnesses during subsequent investigative interviews.

During the course of the investigation, the Investigator(s) will make all reasonable efforts to obtain information that is relevant to the Formal Complaint. However, the Investigator(s) (or any other University personnel, including external contractors) 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 and maintained in connection with the provision of treatment to the party, unless the employee obtains that party's voluntary, written consent to do so for a resolution process described in this Process document. (If a party is not an "eligible student," as defined in 34 CFR 99.3, then the University must obtain the voluntary, written consent of a "parent," as defined in 34 CFR 99.3).

Where any disagreement exists regarding whether information is relevant for the purposes of inclusion in the investigation report, the Title IX Coordinator will determine the relevance of the disputed information, and both parties will be informed if the evidence is deemed relevant.

a. Expert witnesses

- Expert witnesses are defined as a witness who is qualified as an expert by knowledge, skill, experience, training or education. The expert witness is an individual whose scientific, technical, or other specialized knowledge will help the panel to understand the evidence or to determine a fact at issue.
- At the request of a party or a determination of the investigators, the University may interview an expert witness at any point during the investigatory process. An expert witness must be part of the investigatory process in order to be invited to participate in the hearing phase of the resolution process.

3. Prior Sexual History

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent. For example, if the existence of consent is at issue, the sexual history between the parties may be relevant to help understand the manner and nature of communications between the parties and the context of the relationship, which may have bearing on whether consent was sought and given during the incident in question. However, even in the context of a relationship, consent to one sexual act does not, by itself, constitute consent to another sexual act, and consent on one occasion does not, by itself, constitute consent on a subsequent occasion. Where any

disagreement exists regarding whether information about prior sexual acts is relevant for the purposes of inclusion in the investigation report, the Title IX Coordinator will determine the relevance of this information, and both parties will be informed if the evidence of prior sexual history is deemed relevant.

#### 4. The Investigation Report

At the conclusion of the investigation, the Investigator(s) will prepare a written investigation report. Two versions of the investigation report will be shared with the parties: the preliminary investigation report, and the final investigation report.

The preliminary investigation report will include a statement of the allegations and issues; a description of the applicable standards; and any evidence obtained as part of the investigation that is directly related to the allegations raised in a Formal Complaint, including any inculpatory or exculpatory evidence, whether obtained from a party or other source, and regardless of whether the University intends to rely on that evidence in reaching a determination regarding responsibility. For all non-Title IX Sexual Harassment investigations, the Investigators may also include, in the report, credibility assessments and findings of fact, as applicable. The preliminary investigation report is intended to provide the parties with an opportunity to review and respond to all available evidence before the report is finalized and referred to the Complaint Review Panel for the final hearing.

The Complainant, Respondent, and their respective Advisors will each have the opportunity to review and respond to a copy of the preliminary investigation report, which may be in either electronic or hard copy at the discretion of the Title IX Coordinator. Upon receiving access to the preliminary investigation report, the parties then will have at least ten (10) calendar days to provide the Investigator(s) with any additional information, evidence, or witnesses they wish to be considered, as well as the opportunity to submit a written statement in response to the content of the preliminary investigation report. Parties also may propose additional questions for the Investigators to ask of any party or witness, which will be assessed by the Investigators for relevance and propriety in determining whether to direct those questions to the parties or witnesses.

Following the parties' opportunity to review and respond to the preliminary investigation report, the Investigators will assess whether any additional investigation is necessary. Once the Investigators determine that no additional investigation is necessary, the investigation report will be finalized. Prior to finalizing the investigation report, the Investigator(s) will incorporate into the report any responses or relevant evidence provided by the parties or additional witnesses, unless such information must be excluded pursuant to these procedures or applicable law.

If the Investigators determine that additional investigation is necessary, the Title IX Coordinator will have discretion to determine whether parties will have an additional ten (10) calendar days to review a new preliminary report or whether to finalize the report without an additional preliminary review period. The Title IX Coordinator will consider the totality of the circumstances, including timeliness and fairness concerns; whether parties reasonably should have known of the need for the additional investigation or interviews during the initial investigation stage prior to creation of the preliminary report; and whether parties' ability to respond to the final report and make a statement to the Complaint Review Panel would provide a sufficient opportunity to adequately respond to the new evidence.

The Complainant, Respondent, and their respective Advisors will each have the opportunity to review an electronic copy of the final investigation report. The parties and their Advisors will have access to the final investigation report at least ten (10) calendar days prior to the beginning of the hearing (described below). The parties may use this time to submit a written response to the final investigation report for the hearing body to consider.

During the 10-day review period, parties should submit:

- Questions that it would like to ask parties, witnesses, or investigators at the live hearing, if in a Title IX Sexual Harassment Grievance Process; or
- Questions it would like the hearing Chair to ask of parties, witness or investigators at the hearing, if in a non-Title IX resolution process.

As needed, the hearing Chair will make any relevance determinations for any proposed questions. Such questions will be submitted to the Complaint Review Panel through the Title IX Coordinator.

In compiling the preliminary investigatory report or final report, any irrelevant or prejudicial statements, documentary evidence, allegations, or personal information may be redacted at the discretion of the Title IX Coordinator, in whole or in part. The redacted selections will be maintained according to the recordkeeping practices outlined in the Interim Sexual Harassment and Interpersonal Violence policy (Section XI).

## B. Hearing Phase

The hearing processes set out below apply to Formal Complaint(s) of Prohibited Behavior under the Sexual Harassment and Interpersonal Violence Policy, except that alternative procedures described in the Grievance Process for Title IX Sexual Harassment (Section X) will be used to resolve any Formal Complaint(s) of Title IX Sexual Harassment.

### 1. The Complaint Review Panel Hearing

Once the investigation report is finalized, the Title IX Coordinator will forward the final investigation report and accompanying evidence to the designated Title IX Officers serving on a four-person Complaint Review Panel (CRP). The CRP will include a non-voting Chairperson and three (3) voting Title IX Officers. The voting CRP members may not have participated in the investigation phase. The Chairperson will be a non-voting member of the CRP, may make determinations on process and evidentiary issues, and may give the CRP additional context and guidance regarding the process and/or outcomes. The CRP will serve as the hearing body.

Once CRP members are notified of the identity of the parties, or vice-versa, any real or perceived conflict of interest between a CRP member and a party must be disclosed by the CRP member or the party, in writing, within three (3) business days to the Title IX Coordinator. The Title IX Coordinator will review the reported conflict of interest and make a determination on whether a material conflict exists. Remedies may include recusal or replacement of the CRP member.

The CRP voting members will make a final determination regarding responsibility and sanctions, if applicable, after holding an asynchronous hearing in which it considers all available information contained in the investigative report. On the date that the CRP is convened, the Investigator(s) will be present and available to answer any questions that the CRP may have regarding the investigation report, but will not be present during any deliberations when the CRP voting members determine responsibility (or sanctions, if applicable). A University representative from the Office of Legal Affairs may be present during any or all stages of the hearing to advise the CRP on process-related matters as well as monitor compliance with this process and the Interim Sexual Harassment and Interpersonal Violence Policy.

Typically, the Complainant and the Respondent will have the opportunity to appear separately before the CRP to provide a statement and address the CRP regarding the investigation report. At the discretion of the CRP, such an appearance by the parties may be in person, by phone, or via live video conference. The appearance before the CRP is voluntary and optional, and the CRP shall not consider the Complainant's or Respondent's decision not to appear before the CRP as relevant evidence in making a determination and imposing sanctions, if applicable. Parties may not use their appearance before the CRP to introduce new evidence that was not previously shared with Investigator(s) or attempt to introduce evidence that was excluded due to relevance under this process.

The CRP voting members, in its review of the evidence, may accept or reject the findings of the Investigators in the investigatory report, either in whole or in part, in making a determination.

#### 1. Determining Responsibility and Sanctions

##### a. Preponderance of the Evidence Standard

For the purposes of the CRP's determination process and evidentiary standards, the Respondent is presumed not responsible for the alleged conduct unless and until the CRP voting members find there is sufficient information to support a finding of responsibility. When determining responsibility, the CRP will base its finding on a preponderance of the



evidence, that is, whether it is more likely than not that the Respondent violated the policy as alleged.

b. Findings of the CRP

The CRP voting members may make findings of responsibility on individual alleged actions, or an aggregation of alleged actions. The CRP voting members will make a finding in one of the following ways for each alleged violation of policy:

- **Responsible** – Finding that evidence/information available to the University indicates that it is more likely than not that the Respondent violated the policy as alleged.
- **Not responsible** – Finding that evidence/information available to the University indicates that it is more likely than not that the Respondent did not violate the policy as alleged.

c. Sanctions and Responsive Actions

Sanctions or responsive actions to resolve the Formal Complaint may include, but are not limited to:

- educational programs;
- coaching, or mentorship;
- verbal or written reprimand or warning;
- time and place restrictions;
- probation
- suspension;
- deferred suspension;
- temporary withholding degree;
- delay degree conferral;
- dismissal;
- termination;
- revocation of admission;
- revocation or withdrawal of degree; and
- remedies for the Complainant, as appropriate.

Factors considered when determining a sanction or responsive action may include but are not limited to:

- The nature, severity of, and circumstances surrounding the violation;
- The safety of the individuals involved and/or the University community;
- An individual's conduct history;
- Any other information deemed relevant by the CRP;
- The need for sanctions or responsive actions to bring an end to the discrimination, harassment, and/or retaliation;
- The need for sanctions or responsive actions to prevent the future recurrence of discrimination, harassment and/or retaliation; and/or
- The need to remedy the effects of the sexual discrimination, harassment and/or retaliation on the Complainant and the community.

Prior to making a final determination on sanction(s), the CRP voting members typically will consult with the Title IX Coordinator, the Chairperson, and with one or more of the following offices regarding the effectiveness, consistency and practical application of any proposed sanction(s) to the Respondent in those circumstances:

- For sanctions related to staff: The Assistant Vice President of Human Resources, or designee.

- For sanctions related to faculty: The Provost and Academic Vice President, or designee.
- For sanctions related to students: The Vice President for Student Affairs, or designee.

## 2. Sanction Implementation

Sanctions will not take effect until the CRP decision is final, except as provided below. A CRP decision is considered final after (1) the appeal period has passed; (2) an appeal was not accepted; or (3) after the ARP renders a decision on any accepted appeal.

A properly filed and timely appeal under Section XI, will generally stay any sanction(s) imposed unless doing so would be inconsistent with the University's Title IX obligations and/or it is determined by the Title IX Coordinator, in consultation with others involved in monitoring University safety matters, that this action would present an unreasonable danger to any person or property or be disruptive to the University's living, learning or work environment.

If a resolution is still pending under this process at a time when a party is eligible to graduate, the University may temporarily withhold a degree, pending the completion of the process. The University may also make a determination on whether the party may participate in graduation ceremonies or be present on campus during the pendency of this process. The Title IX Coordinator, in consultation with other appropriate University officials, will make a case-by-case fact-specific determination as to whether such actions will be taken. The University's determination may be appealed within five (5) business days by submitting a written statement to the Title IX Coordinator. The written statement should address why the party believes the University's determination was made in error. The Vice President of Diversity, Equity, & Inclusion, or designee, shall make a determination on the appeal and respond to the appeal, in writing, within five (5) business days.

Any suspension, dismissal, or revocation of degree will also result in a transcript notation, consistent with the University's transcript notation policy through the Registrar's office.

If the CRP voting members make a finding of "responsible" and includes accompanying sanctions, the appropriate University official, depending on the constituency of the Respondent—the Dean of Students Office (students), the Assistant Vice President for Human Resources (staff) or the Provost (faculty)—will be responsible for implementing the sanctions in coordination with the Title IX Coordinator.

Any accommodation or remedy afforded to the Complainant will be consistent with the seriousness of the offense and will be designed and imposed in a manner reasonably calculated to end the harassment, to prevent recurrence, and remedy the effects.

In instances where a violation of the Interim Sexual Harassment and Interpersonal Violence Policy has been found to have occurred, the Title IX Coordinator and/or Deputy Title IX Coordinator will document and monitor the implementation of any accommodation or remedy. As appropriate, the Title IX Coordinator and/or Deputy Title IX Coordinator also may follow-up with the parties to ensure that the accommodation or remedy is effectively preventing recurrence of the harassment and serving as the proper remedy for any discriminatory effects on the Complainant and others. All resolutions may be subject to follow-up after a period of time to ensure that accommodations, remedies and any other resolution measures have been implemented effectively.

Any sanction resulting from the formal investigation and hearing process, following any appeal, that involves the dismissal for cause of a faculty member can be appealed through the corresponding Faculty Handbook procedures, so long as an adequate remedy for any violation determined under this process remains in place. Such an appeal can only consider whether the finding from the formal investigation and hearing process constitutes cause for the

recommended sanction under the Faculty Handbook and cannot include a rehearing on the finding of whether a violation of the Interim Sexual Harassment and Interpersonal Violence Policy occurred. The factual findings and conclusions from the formal investigation and hearing process, including any appeal, shall be determinative as to whether the University's Interim Sexual Harassment and Interpersonal Violence Policy has been violated. The Faculty Handbook procedures shall be limited to a determination of whether the finding constitutes cause for termination of the faculty member. All other sanctions involving faculty can only be appealed using the process outlined in this policy.

### 3. Notice of Outcome

Once the CRP voting members reach a decision regarding responsibility—and sanctions, where applicable—the parties will receive written notice from the Chairperson of the CRP via a “Notice of Outcome” which will typically be issued to the parties within five (5) business days of the conclusion of the asynchronous hearing. The Chair of the CRP will notify the parties if extenuating circumstances prevent the parties from receiving the Notice of Outcome within that time frame. The Notice of Outcome will specify the finding on each alleged policy violation, any sanctions that may result, and the rationale supporting the essential findings to the extent the University is permitted to share them under state or federal law. The notice also will include information on when the results are considered by the University to be final and any appeal options that are available.

### 4. Respondent Withdrawal

Should a Respondent unilaterally withdraw or separate from the University while a formal investigation and hearing process is pending, the Title IX Coordinator will have the discretion to either:

- continue the formal investigation and hearing process, or
- postpone the process until the Respondent requests to rejoin the University.

In either event, the individual will not be permitted to return to the University until the matter has been fully resolved through one of the resolution processes described in these procedures, and all conditions of the resolution process (including sanctions, if any) have been satisfied.

## C. Issues Outside of the Sexual Harassment and Interpersonal Violence Policy

Where an issue arises in a matter that is outside the scope of the policy or this process – i.e., an issue not related to misconduct involving sex/gender or interpersonal violence as defined in the Sexual Harassment and Interpersonal Violence Policy – those matters will be referred to the appropriate office to address under other appropriate University policies. If such issues arise, staff employees may contact Human Resources at (216) 397-1905; faculty may contact the Provost's office at (216) 397-4762; and students should contact the Dean of Students Office at (216) 397-3010.

Any visitor to campus who experiences perceived misconduct outside the scope of the policy or process should consult with the appropriate office on campus, or contact the Office of Legal Affairs at (216)-397-1590 or the Office of Regulatory Affairs and Risk Management at (216) 397-1982. In any situation where an emergency exists, contact the JCU Police Department at (216) 397-1234 or call 911.

## X. GRIEVANCE PROCESS FOR TITLE IX SEXUAL HARASSMENT

Where the Formal Complaint alleges facts that, if true, would constitute Title IX Sexual Harassment as defined by Section V(D)(1) of the Sexual Harassment and Interpersonal Violence [Policy](#), the Grievance Process for Title IX Sexual Harassment in this section will govern the resolution process. Conversely, where a Formal Complaint does not allege facts that would constitute Title IX Sexual Harassment, this section will not apply. Where a Formal Complaint alleges violations of both Title IX Sexual Harassment and Sexual Harassment and Interpersonal Violence Beyond the Purview of Title IX arising from the same set of facts or circumstances, the University will have the discretion to adjudicate some or all of the alleged violations together under the Grievance Process for Title IX Sexual Harassment.

This Grievance Process for Title IX Sexual Harassment incorporates Sections I through IX(A) above. Where any material conflict exists between those incorporated sections and these provisions of the Grievance Process for Title IX Sexual Harassment, the provisions of this section will control.

#### A. Investigation Phase

The Investigation Phase of the Grievance Process for Title IX Sexual Harassment will follow the same procedures described in Section IX(A) above.

#### B. Hearing Phase

At the conclusion of the investigation phase, the Title IX Coordinator will forward the final investigation report and accompanying evidence to the designated Title IX Officers serving on a four-person Complaint Review Panel (CRP). The CRP will include a Chairperson and three (3) Title IX Officers. The CRP voting members may not have participated in the investigation phase. The Chair will be a non-voting member of the CRP and will not have served as an investigator in the investigation phase. The CRP will serve as the hearing body and decision-maker(s) on questions of credibility, findings of fact, responsibility, and as applicable, sanctions and other responsive actions. The CRP voting members will only make final determinations after holding a live hearing.

The Chair of the CRP will schedule a separate pre-hearing informational meeting with the Complainant and the Respondent, which shall be no later than five (5) business days before the date of the hearing. Each party's respective Advisor is also permitted to attend the pre-hearing informational meeting. The parties and/or Advisor(s) are not required to attend the pre-hearing informational meeting, but a party's and/or Advisor's decision not to attend will not be accepted as grounds for rescheduling the hearing.

The Chair of the CRP will use the pre-hearing informational meeting to:

- review the hearing agenda, procedures and general expectations of the parties;
- review the standard of evidence;
- review the features of any technology to be used by the participants during the hearing (e.g. Zoom or other video conferencing programs);
- discuss which witnesses are expected to appear and speak at the hearing;
- discuss the role of the Advisor in the hearing, and/or to discuss the appointment of an Advisor if a party does not have an Advisor of choice;
- discuss any disability-related accommodations or other adjustments that the party or Advisor may require in order to effectively participate in the hearing; and
- answer any questions that the parties and/or Advisors may have about the hearing process.

The Title IX Coordinator (or designee), in consultation with the CRP Chair, will schedule a date and time for the live hearing, which shall be no sooner than ten (10) calendar days after the date on which the parties receive access to a copy of the final investigation report. The CRP will make reasonable efforts to conclude the hearing in one day, but hearings may occur over multiple days if necessary. Any hearing may be rescheduled for good cause, at the discretion of the Chair of the CRP.

The live hearing conducted by the CRP may be held in person or by using real-time video conferencing, at the discretion of the Chair of the CRP, in consultation with the Title IX Coordinator. Where the hearing is held in person, arrangements will be made for the parties to give their statements and answer questions from separate rooms using real-time video conferencing which enables the CRP and parties to simultaneously see and hear the party or the witness answering questions.

The parties will have access to a copy of the final investigation report and all other available evidence during the course of the live hearing conducted by the CRP.

Every live hearing will be documented by audio recording. At the discretion of the Chair of the CRP, a video recording may also be created where deemed feasible and helpful. Each recording will be retained by the Title IX Coordinator and remain available to the parties for inspection upon request in accordance with

Section XI of the Interim Sexual Harassment and Interpersonal Violence Policy.

The Chair of the CRP, in collaboration with the Title IX Coordinator or designee, will attempt to schedule the appearance of all necessary and relevant witnesses (including the parties, Investigator(s), and witnesses identified by the parties in the pre-hearing informational meeting) at the live hearing. Each individual may appear either in person or via real-time video conferencing which allows all participants to simultaneously see and hear each other. Witnesses and parties will appear for the purpose of answering relevant questions and relevant follow-up questions—including those challenging credibility—posed by the members of the CRP, and by each party’s Advisor (i.e. “cross-examination”). Such questions at the live hearing must be conducted directly, orally, and in real time by the party’s Advisor of choice, and never by a party personally. If a party does not have an Advisor present at the live hearing, the University must provide, without fee or charge to that party, an Advisor of the University’s choice (who may be, but is not required to be, an attorney) to conduct cross-examination on behalf of that party.

1. Participation in Hearing

Participation in the hearing by all witnesses and parties is voluntary. The CRP cannot draw an inference about the responsibility for a policy violation based solely on a party’s absence from the hearing or refusal to answer cross-examination or other questions. A witness’s absence or refusal to submit to cross-examination at the hearing may impact the CRP voting members’ assessment regarding credibility or weight of a party or witness statement. The CRP voting members will make a determination based on relevant information presented to the CRP. The Chair of the CRP will make determinations as to the relevance of statements and evidence to be considered by the CRP.

2. Relevant Questions

Only relevant questions may be asked of a party or witness. Before a Complainant, Respondent, or witness answers a question, the CRP must first determine whether the question is relevant. Where the relevance of any question is disputed, the Chair of the CRP will determine whether the disputed question is relevant before an individual is expected to answer the question. The Chair of the CRP will also explain any decision to exclude a question as not relevant.

Questions and evidence about the Complainant’s sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant’s prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant’s prior sexual behavior with respect to the Respondent and are offered to prove consent. (See Prior Sexual History, Section IX(A)(3)).

3. Role of Title IX Coordinator and University Legal Counsel

The Title IX Coordinator (or designee) may be consulted during a live hearing for process-related questions that may arise from the parties, any witnesses, or the CRP. Additionally, the University reserves the right to have University legal counsel present at the live hearing to ensure compliance with this resolution process.

1. Written Determination

Following the conclusion of the hearing, the CRP will issue a determination in writing to both parties simultaneously. The written determination will typically be delivered to the parties within five (5) business days of the hearing’s conclusion, but may be extended with written notice of delay to the parties.

The written determination of the CRP will include:

- Identification of the allegations potentially constituting Title IX Sexual Harassment;
- A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- Findings of fact supporting the determination;

- Conclusions regarding the application of the relevant provisions of the Sexual Harassment and Interpersonal Violence Policy to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the University imposes on the Respondent, and whether remedies designed to restore or preserve equal access to the University's education program or activity will be provided by the University to the Complainant; and
- The procedures and permissible bases for the Complainant and Respondent to appeal.

The Title IX Coordinator is responsible for effective implementation of any remedies/sanctions prescribed by the CRP.

The determination regarding responsibility becomes final either on the date that the CRP provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

#### C. Dismissal of a Formal Complaint of Title IX Sexual Harassment

Under certain circumstances, a Formal Complaint will be dismissed prior to resolution and/or prior to the conclusion of the live hearing conducted by the CRP.

The Title IX Coordinator MUST dismiss the Formal Complaint of Title IX Sexual Harassment from the Grievance Process for Title IX Sexual Harassment if:

- the conduct alleged in the Formal Complaint would not constitute Title IX Sexual Harassment as defined in the Sexual Harassment and Interpersonal Violence Policy, even if proved;
- the conduct did not occur in the University's education program or activity; OR
- the conduct did not occur against a person in the United States.

However, such a dismissal from the resolution process described by the Grievance Process for Title IX Sexual Harassment does not preclude action under another University resolution process, including those described Sections III, X, and XI in this document.

Further, the Title IX Coordinator has the discretion to dismiss the Formal Complaint of Title IX Sexual Harassment, if at any time during the investigation or hearing:

- a 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 or employed by the University; or
- specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

Where a Formal Complaint of Title IX Sexual Harassment is dismissed by the Title IX Coordinator, the Title IX Coordinator will promptly send written notice of the dismissal and reason(s) therefor simultaneously to the parties. Complainants and Respondents alike have the right to appeal any dismissal of the Formal Complaint using the Appeal Process described in Section XI below.

## XI. THE APPEAL PROCESS

### A. Filing an Appeal

For the formal resolution processes described in Sections IX and X above (including any decision to dismiss the Formal Complaint described under Section X(C)), any Complainant or Respondent may request an appeal of the findings by completing and submitting an Appeal Request Form. The appealing party must submit the Appeal Request Form and all supporting documentation within five (5) business days of receiving notice from the Title IX Coordinator of the notice of dismissal of the Formal Complaint, or outcome

of the hearing by the CRP.

The four grounds for appeal are as follows:

1. A procedural irregularity that affected the outcome of the matter;
2. 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;
3. 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; and/or.
4. The disciplinary sanction(s) imposed are substantially outside the parameters or guidelines set by the University for this type of violation or the cumulative conduct record of the Respondent.

Note that a decision by a party to withhold information for any reason, including pending criminal charges or litigation, does not qualify that same information as being “reasonably unavailable” for the purposes of the appeal.

Additionally, for appeals regarding dismissal of Formal Complaints, any party may also appeal the Title IX Coordinator’s decision on grounds that the decision is manifestly unreasonable in light of the known facts.

A properly filed and timely appeal under Section XI, will generally stay any sanction(s) imposed unless doing so would be inconsistent with the University’s Title IX obligations and/or it is determined by the Title IX Coordinator, in consultation with others involved in monitoring University safety matters, that this action would present an unreasonable danger to any person or property or be disruptive to the University’s living, learning or work environment.

Upon receipt of a party’s appeal request form, the Title IX Coordinator will notify the other party in writing that an appeal has been filed. The other party will also receive access to an electronic copy of the written appeal. Both parties will receive a description of the appeal procedures from the Title IX Coordinator.

#### B. The Appeal Review Panel

Upon receiving an appeal request, the Title IX Coordinator will designate a four-member Appeal Review Panel (“ARP”), which will consist of the following:

- The Chair of the ARP, who shall be a Deputy Title IX Coordinator who did not participate in the investigation or CRP and will serve as a non-voting member; and
- Three (3) other Title IX Officers who were not involved in the investigation or CRP.

No member of the ARP may be the decision-maker(s) that reached the determination regarding responsibility or dismissal, the Investigator(s), or the Title IX Coordinator. Additionally, no member of the ARP may have any other conflict of interest which would prevent them from assessing the appeal in an objective and impartial manner.

#### C. Appeal Outcomes

Generally, within five (5) business days after receipt of a request for appeal, the Chair of the ARP will conduct an initial review of the appeal request(s) to determine whether the appeal is timely and satisfies the grounds for appeal. Should the time to review a party’s request for appeal require more than five (5) business days, the party will be notified in writing. If the appeal request is not timely or does not satisfy the grounds for appeal, the appeal request will be denied, the individual who submitted the appeal request will be notified, and the finding and sanction(s) or other responsive action(s) will stand. The decision not to accept an appeal request is final and is not subject to further appeal.

If the appeal request is timely and meets the grounds for appeal, the Title IX Coordinator will notify both parties that the appeal has been accepted for consideration. The Title IX Coordinator will then share the appeal request with the other party (reporting or responding), and that individual may file a response within five (5) business days. The response (if any) will be shared with the other party.

The ARP will then convene to deliberate over the issues presented in the appeal, and any response. An appeal is not a full re-hearing of the allegation(s) but is a review of the findings and relevant evidence related only to one or more of the stated grounds for appeal noted in Section XI(A). The ARP can take any of the following actions:

- Affirm the original findings;
- Remand the case to the original Investigator(s) or CRP for consideration of new evidence or to remedy a procedural error or omission, or to the CRP to assign new sanctions that are within the parameters or guidelines set by the University for this type of violation or account for the cumulative conduct record of the Respondent;
- Remand the case to a new Investigator(s) or new CRP. In a rare case where an error or omission cannot be cured by the original Investigator(s) or original CRP members (as in a case of bias), the ARP may order a new investigation with a new Investigator(s);
- Administratively alter the sanction if the sanction is substantially outside the parameters or guidelines set by the University for this type of violation or the cumulative conduct record of the Respondent; or
- Refer the assigning of sanctions or responsive actions to the CRP.

Decisions rendered by the ARP voting members or actions taken following the ARP voting members' decision are final and not subject to further appeal. Cases that are sent back to the Investigator(s) or CRP are not eligible for a second appeal by the same party on the same grounds as the initial appeal.

Both parties will be informed simultaneously in writing of the outcome of the appeal and the rationale for the result.

## **XII. TIMELINESS OF RESOLUTIONS**

The Resolution Processes shall be completed as promptly as possible, with the goal of completing the Resolution Process in less than 120 calendar days. However, the unique nature of each case will result in varying timeframes for resolution. The Title IX Coordinator will consider whether extenuating circumstances interfere with such timely completion. During the course of any resolution, the parties will typically be notified at regular intervals and/or upon request of the status of the resolution process. Where good cause for delay of the resolution process exists, the Title IX Coordinator will notify the parties in writing. Examples of good cause for delay include, but are not limited to:

- the absence of a party, a party's Advisor, or a witness;
- the need for language assistance or disability-related accommodations;
- concurrent law enforcement activity.

In cases where a police investigation has been conducted or is being conducted, law enforcement may be unable to provide some information to the Title IX Coordinator. The University's investigation may be delayed by the University for a short period of time upon a request from law enforcement, and the Title IX Officers will promptly resume the resolution process once that period has elapsed or as soon as possible. In the absence of such a request by law enforcement, and where the University reasonably believes that it can proceed without unduly interfering with any law enforcement investigation, the University will proceed with its own Resolution Processes.

## **XIII. EMERGENCY REMOVAL**

In the instance that the University has reason to believe that there is an immediate threat to the physical health or safety of any student or other individual arising from allegations of Sexual Harassment or Interpersonal Violence, University officials may remove the person posing that threat from the University's education program or activity and/or from a position of employment on an emergency basis.

Before ordering the emergency removal of any person, the Title IX Coordinator will lead an individualized



safety and risk analysis in consultation with other appropriate University officials. The appropriate University officials to provide consultation will be determined based on the circumstances of the individual case, but may commonly include: administrators with responsibility for student conduct; Human Resources personnel; JCU Police Department; licensed counselors in the University Counseling Center; University Office of Legal Affairs; and appropriate members of the University's Senior Leadership Team. The Title IX Coordinator may also consult with appropriate external resources, such as local law enforcement, licensed counselors, and persons with relevant personal information about the involved parties.

Where the individualized safety and risk analysis determines that an immediate threat to the physical health or safety of any person arising from the allegations of Sexual Harassment or Interpersonal Violence justifies removal, the party subject to removal will be notified immediately, and will be provided with a written explanation of the decision as soon as practically possible.

Any removed person may challenge the emergency removal by submitting an appeal in writing to the Title IX Coordinator (or designee) at any point during the period in which the emergency removal is in effect, including immediately following the removal. The removed party's written appeal will be considered by the Vice President of Diversity, Equity, and Inclusion, or designee, who will determine whether the information presented in the appeal is sufficient to change the prior determination that an immediate threat to the physical health or safety of any person exists. That determination will be made in consultation with any appropriate University officials and/or external resources, as described above. The Title IX Coordinator will also notify the Complainant(s) (or any other person substantially impacted by the perceived threat) of the appeal, and offer the Complainant(s) the opportunity to respond to the information contained within the removed person's appeal. The Title IX Coordinator (or designee) will issue a final determination on each appeal in writing to the removed person and the Complainant(s).

In the absence of an appeal by the removed person, the emergency removal will remain in effect until the University has the opportunity to determine an appropriate final outcome through the Resolution Processes, or until the University possesses information that indicates that the threat to physical health and safety of any person no longer exists.

## XIV. TITLE IX OFFICERS

Formal Complaints brought forward under the University's Sexual Harassment and Interpersonal Violence Policy are resolved using both the Sexual Harassment and Interpersonal Violence Resolution Process, and/or the Grievance Process for Title IX Sexual Harassment. An important part of both of these Resolution Processes is the role of Title IX Officers. The list of current Title IX Officers can be found at [jcu.edu/title-ix](http://jcu.edu/title-ix).

Title IX Officers include the Title IX Coordinator, the Deputy Title IX Coordinators, and other University employees (both faculty and staff) who are specially trained to serve as Title IX Officers on an *ad hoc* basis in a number of different roles ("Title IX Officers"). Generally, Title IX Officers may serve as facilitators of an informal resolution process (either Pre-Complaint Resolution or Agreed Resolutions after a Formal Complaint has been filed), Investigators, members of a Complaint Review Panel ("CRP"), Process Advisors, or members of the Appeal Review Panel ("ARP"). The Title IX Coordinator, or designee, appoints the Title IX Officers.

Title IX Officers receive regular training on the following topics:

- the definition of sexual harassment;
- the scope of the University's education programs and activities;
- how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable;
- how to apply definitions under the Sexual Harassment and Interpersonal Violence Policy consistently and impartially as to consent;
- how to serve impartially, including by avoiding prejudice of the facts at issue, conflicts of interest, and bias;

- on any technology to be used at a live hearing or in any other stage of the Resolution Processes;
- on issues of relevance of questions and evidence, including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant;
- issues of relevance to create an investigative report that fairly summarizes relevant evidence;
- other topics as necessary to adequately serve in their role as an investigator, or member of the CRP or ARP.

Additionally, any materials used to train the Title IX Officers will not rely on sex stereotypes and will promote impartial investigations and adjudications of Formal Complaints of Sexual Harassment and Interpersonal Violence. Materials used to train the Title IX Officers will be posted for public review on the University's website at [jcu.edu/title-ix](http://jcu.edu/title-ix).

At the discretion of the Title IX Coordinator, the University may also retain external contractors to serve as Title IX Officers. Any such external contractor retained by the University must be trained in the manner required by law to serve in the appointed role. Where the University retains such a contractor to serve in any of these roles, the Complainant and Respondent will be made aware of the external contractor's identity and appointed role within the Resolution Process(es).

## **XV. STATEMENT OF RIGHTS OF COMPLAINANTS AND RESPONDENTS**

All Complainants and Respondents have the right:

- To be treated with respect by University officials, parties, and other participants in the Resolution Processes.
- To a fair, thorough, and objective resolution of any Formal Complaint of Sexual Harassment and/or Interpersonal Violence made in good faith to the appropriate University official(s).
- If a Respondent, to receive a written Notice of Investigation if accused in a Formal Complaint of violating the University's Interim Sexual Harassment and Interpersonal Violence Policy; if a Complainant, the right to receive written notification that the Respondent has been officially notified of the Formal Complaint.
- If a Respondent, to be notified of the substance of the allegations made by the Complainant. If a Complainant, to be notified of the substance of the Respondent's response, if any, to the allegations.
- To be informed of and have access to both on-campus and off-campus support services.
- To experience a safe living, educational and work environment.
- To bring an Advisor of their choosing, including, but not limited to, a friend, mentor, parent, advocate, or attorney, during any meeting, interview, or hearing. The role of the Advisor is to offer guidance and advice to the advisee throughout the process. They may be present at any meeting or interview, but are not permitted to speak, except for the purpose of asking questions on cross-examination of parties and witnesses during a hearing, as described in the Grievance Process for Title IX Sexual Harassment.
- To have a resolution process facilitated by a Title IX Coordinator, Investigator, decision-maker, or any person designated to facilitate an informal resolution process, who is free of conflict of interest or bias for or against Complainants or Respondents generally, or any individual Complainant or Respondent.
- To decline to participate in any of the Resolution Processes.
- To receive disciplinary amnesty for minor University policy violations ancillary to the incident, Amnesty may cover minor violations of the Alcohol Beverage Policy, Drug Policy, or other University policies, provided that the misconduct did not put the students or others at risk, as determined by the Title IX Coordinator in conjunction with the appropriate University officials. Educational interventions may be still implemented.

- To be free from retaliation for filing a complaint or otherwise participating in an investigation in good faith.
- To have Formal Complaints resolved in a manner that is substantially consistent with these procedures.
- To full participation in the Resolution Processes.
- To be informed in writing of the outcome/resolution of the Formal Complaint, sanctions where permissible, and the rationale for the outcome where permissible.
- If a Complainant, the right to be informed by University officials, when appropriate, of options to report sexual harassment to proper law enforcement authorities and the option to receive assistance in notifying those authorities, if the individual so chooses.
- To request accommodations or interim remedies/actions, as appropriate, including, but not limited to, academic accommodations. For residential students, the ability to request housing and living accommodations, if appropriate.
- The right to regular updates on the status of the Resolution Processes.

## **XVI. REVISION**

These Resolution Processes, along with the Interim Sexual Harassment and Interpersonal Violence Policy, will be reviewed and updated annually, if necessary, by the Title IX Coordinator with appropriate input from senior leaders and other appropriate stakeholders. Typically, such review and update will be concluded each summer, based on appropriate review and input from the preceding academic year. In addition, the Title IX Coordinator may make minor modifications to the Grievance Process at any time and during the academic year that do not materially jeopardize the fairness owed to any party.

The Title IX Coordinator may also vary procedures materially at any time and during the academic year with notice (on the University's website, with appropriate date of effect identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in the current policy and/or procedures. Policy and procedures generally will be effective as of the date of implementation. Policy and procedures in effect at the time of the offense will apply even if the policy or procedure is changed subsequently, unless the parties consent to be bound by the current policy.

## **VXII. DISCRETION**

Where an issue is encountered during a case that is not addressed specifically by this Grievance Process or the Policy, the University has the discretion to determine, in a good faith effort to comply with the Policy and applicable legal requirements, how to address such an issue.