

In Brief

Updates from the Office of Legal Affairs



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Get Ready for Election Time with Political Activity Guidance

Election season may bring lots of political advertisements, but also questions about what is permissible political activity for JCU and its employees and students. As a 501(c)(3) not-for-profit educational institution, JCU has federal tax-exempt status. That means JCU must comply with certain legal



obligations to be free from payment of federal tax. This includes federal Internal Revenue Service (IRS) restrictions on University-sponsored or University-related political activity, such as participation in candidate campaigns or using University resources for partisan purposes.

JCU's **Political Activity Policy** outlines for JCU employees and University departments political activity that is permissible and not permitted under the policy and IRS guidance. This includes restrictions and guidance on employee political activity; public forums or debates; candidates appearing on campus for different reasons; voter registration activities; issue advocacy; and JCU facility use.

University-sponsored political activities need to be approved by the appropriate division or department head. Questions should be directed to the Office of Legal Affairs or Human Resources.

Student-related political activity is governed by slightly different requirements under federal law, as outlined in the Student Political and Campaign Activities Policy. Questions about the student policy should be directed to the Office of Student Engagement.

See "Political Activity Guidance" (continued on Page 3)

Working with Students as an Advisor or Coach? JCU's Anti-Hazing Training is for You

Are you an advisor to a great student organization? An athletic coach guiding student-athletes? Then you know the importance of ensuring a safe and welcoming environment for all the students involved.

JCU's anti-hazing training is an important step in being prepared to take on the challenge, and to comply with Ohio law at the same time.



Since 2022, Ohio's Collin's Law and **JCU's Anti-Hazing Policy** has required all students to complete mandatory training and education regarding hazing. In addition, all JCU employees and volunteers who advise or coach any student organization or team and who have direct contact with students must complete mandatory anti-hazing

See "Anti-Hazing Training" (continued on Page 3)

OFFICE OF LEGAL AFFAIRS

Rodman Hall, Room 115

Colleen Tremblé
General Counsel
ctrembl@jcu.edu
216-397-1595

Mike TouVelle
Assistant General Counsel
mtouvelle@jcu.edu
216-397-1994

Jen Drozdowski
Legal Office Coordinator
jdrozdowski@jcu.edu
216-397-1590

Disability Accommodations: How They Work at JCU

Student disability accommodations are essential measures that ensure equal access to education for students with disabilities. Disability accommodations are designed to address individual needs, allowing students to more fully participate in academic programs and activities. The legal foundation for these accommodations is rooted in two federal laws, the Americans with Disabilities Act ("ADA") and Section 504 of the Rehabilitation Act ("Section 504").



See "Disability Accommodations" (continued on Page 4)

U.S. Supreme Court Update: *Loper Bright* and the Impact on Regulatory Law

Along with other much-watched cases before the U.S. Supreme Court this past summer, the U.S. Supreme Court, by a 6-3 decision, overturned the “Chevron Doctrine” in *Loper Bright v. Raimondo*, altering the way federal agency decisions and rules are reviewed in court after 40+ years as judicial precedent.



Executive agencies, such as the U.S. Department of Education or the Environmental Protection Agency, make rules that must be based on an empowering congressional statute. The Chevron Doctrine, created in the 1984 Supreme Court decision in *Chevron U.S.A.*

Inc. vs. Natural Resources Defense Council, generally says: when a statute from Congress is unclear or ambiguous, courts should defer to the federal agency’s interpretation of the statute, as long as it fits reasonably within the statute. This all changed with the 2024 *Loper Bright* decision.

For example, the U.S. Department of Education (DOE) agency is enabled by the congressional statute Title IX to oversee enforcement of discrimination based on sex. If the DOE passes rules regulating sexual harassment in higher education, and a question arises as to how to interpret the Title IX rules and the Title IX rule is not clear, the court would no longer defer to how the DOE interprets the rule.

The Chevron Doctrine has been controversial since it was adopted in 1984. Proponents of the rule take the position that it placed less burden on the courts, and made executive agencies more efficient. Opponents of Chevron thought it gave too much “wiggle room” to executive agencies, and allowed them to overstep boundaries set by Congress.

Now with Chevron overturned, courts will have to decide whether or not an agency decision is reasonable, and will not give relatively automatic deference to these federal administrative agencies. This shifts regulatory power away from administrative agencies, and gives judges independent authority to evaluate whether or not an agency has exceeded their authority under a statute passed by Congress.

Not all of the effects of the *Loper Bright* decision are known at this time, but here is how this decision could impact higher education in the immediate future:

- More lawsuits challenging agency decisions will be filed and will more frequently change compliance standards for universities.
- Previously controversial rules “protected” by Chevron

may be brought back into question.

- Speed of federal agency rulemaking will slow down to ensure rule is clear and unambiguous and consistent with the statute.
- More specific legislation from Congress may become necessary.
- Increased scrutiny will be given to major DOE decisions such as gainful employment and Title IX.

For any questions about this U.S. Supreme Court ruling, contact the Office of Legal Affairs.



Revisions to Title IX Regulations on Hold in Ohio and Other States

On June 17, 2024, a federal district court judge issued a preliminary injunction, placing on hold the new U.S. Department of Education Title IX regulations on sex-based discrimination and harassment. The order prohibits the enforcement of the regulations in several states, including Ohio. There are now 26 states in which the regulations are on hold. These states had sued the federal government, seeking a ruling that the new regulations are unlawful and invalid.

The new Title IX rule expanded the definition of “sex” to include “gender identity” along with “biological sex.” The Court ruled that when Title IX was passed, “sex” referred to an individual “either being male or female.” The Court found that the states will likely succeed in their claim that the U.S. Department of Education overreached its authority by including “gender identity” in the definition of “sex,” and put the entire rule on hold during the pendency of the lawsuit.

As a result of this ruling, colleges and universities in these states - including JCU - are not incorporating the new regulations into their sexual harassment policies. As of now, JCU’s **Sexual Harassment and Interpersonal Violence Policy** and **Complaint Resolution Process** will remain unchanged and the existing policy that is consistent with the 2020 regulations will continue to apply.

For questions about Title IX or JCU’s Sexual Harassment and Interpersonal Violence Policy, please contact the Title IX Coordinator or the Office of Legal Affairs.

Political Activity Guidance (continued from Page 1)

Here's a reminder about what is permissible and what is not under the **JCU Political Activity Policy**:

PERMITTED



- Public forums or debates conducted in a non-partisan way (see policy)
- Candidates appearing on campus with equal opportunity for all candidates (i.e. invitations, time, conduct, etc.)
- Voter registration or voter education activities not related to a candidate or political party
- Issue advocacy not related to a specific candidate or party
- Educational classroom discussions that may examine contemporary or historical political or policy issues
- Use of University property as a polling site for an authorized political election and permissible political activity or signs related to polling sites

NOT PERMITTED



- Employees supporting a particular candidate or political party on University property or during working hours
- Use of University email or IT systems, letterhead, logo, equipment or mailing lists for campaign use for a candidate
- Hosting or linking to content on the University website that supports a political candidate or party
- Use of University facilities for political fundraising
- Signs of support for a candidate in public-facing locations or during University working hours that could be viewed as a University endorsement of a candidate

Anti-Hazing Training (continued from Page 1)

training. This includes all advisors of academic and extracurricular organizations and teams (such as cultural, social, religious, or service clubs and Greek Life), and all coaches of intercollegiate, club or intramural teams. The training, provided on-line and which takes about 40 minutes, educates participants on awareness, prevention, intervention, and JCU's policy.

If you have not taken the training in a prior year or are new as an advisor or coach, watch for an email with information regarding how to log onto the online training. Training must be completed by coaches and advisors in the Fall semester by the date noted in the email. Advisors and coaches who do not take the training will not be able to advise or coach a student organization or team.

For questions, contact the Anti-Hazing Task Force via the Dean of Students Office, or the Office of Legal Affairs.



Do You Need Notary Services?



The Office of Legal Affairs offers complimentary notary services for members of the John Carroll community.

Notary services in Ohio are governed by Ohio law, and a Notary Public must comply with these legal requirements. Please note:

- A Notary Public is verifying the signature is that of the person appearing before the Notary. The Notary cannot verify the document is valid or that it meets legal requirements.
- Always bring valid photo identification to prove your identity to the Notary Public (passport, driver's license or other government-issued photo ID).
- A signatory must always personally appear in front of a Notary Public. One may not present a document for notarization on behalf of another individual.
- Notary Publics who are not licensed attorneys are unable to provide legal advice in any capacity.

If you are in need of a notary or have a question about notary services, please contact Jen Drozdowski at jdrozdowski@jcu.edu or 216-397-1590 to schedule an appointment.

Disability Accommodations at JCU (continued from Page 1)

An accommodation is a modification or adjustment to a course, program, service, or facility, which ensures that a qualified student with a disability is not excluded, segregated, or otherwise treated differently.

Accommodations can vary depending on the nature of the disability and the specific needs of the student, and can be academic or non-academic in nature. Some common types of accommodations include, but are not limited to:

- **Extended Time for Tests and Assignments:** Many students with learning disabilities or attention-related issues require additional time to complete assessments.
- **Alternate Formats for Materials:** Students with visual impairments may require textbooks in Braille, audio formats, or digital texts that can be read by screen readers.
- **Physical Environment Adjustments:** Accommodations may involve seating arrangements that minimize distractions or provide ergonomic support for students with physical disabilities.
- **Assistive Technology:** Tools like speech-to-text software, audio recorders, and specialized calculators can be essential for students with various disabilities.
- **Support Services:** Institutions offer note-taking assistance, sign language interpreters, or mental health supportive measures to help students navigate their academic environment effectively.
- **Student Housing Arrangements:** Examples of housing accommodations include a private or semi-private bathroom, a wheelchair-accessible room, or assignment to a single room.

As outlined below, in order for a student to receive an accommodation, the student must: A) properly request an accommodation, B) be eligible for a disability accommodation, and C) participate in an interactive process so that SAS staff can determine reasonable accommodations.

A. Requesting an Accommodation.

All requests for student disability accommodations must be submitted by the student themselves through [JCU's Office of Student Accessibility Services \("SAS"\)](#).

Due to the complexity and confidential nature of accommodation requests, any JCU faculty or staff member who is approached by a student regarding an accommodation based on a disability should direct the student to the SAS office. All JCU personnel also should avoid making any inferences or diagnoses regarding a student's disability, and should not



make any assumptions based on preconceived notions or personal beliefs about a disability.

B. Eligibility for an Accommodation.

Accommodations are available for students with a documented disability. A disability protected under the ADA and Section 504 is defined as a physical or mental impairment that



substantially limits one or more major life activity. Major life activities include seeing, hearing, eating, sleeping, walking, learning, thinking, or any function that is important to daily life.

For purposes of determining eligibility and verifying the existence of a disability, the SAS office will obtain medical or mental health documentation and assessments from the student's healthcare provider or other external sources to verify the existence and scope of a disability.

C. The Interactive Process.

If an accommodation has been requested and the student is eligible for SAS services, the SAS office will begin an interactive process to engage with the student, the SAS staff, and, as needed, JCU offices or faculty or staff members to review requested accommodations and determine reasonable accommodations.

It is important to note that students are not entitled under the law to the specific requested accommodation, but only a "reasonable" accommodation. Therefore, JCU can provide an alternative reasonable accommodation that will address the impairment.

JCU may deny accommodation requests that pose an undue burden on the university or that would fundamentally alter the school's programming. This determination is made on a case-by-case basis. Factors to be considered in this determination include the nature and cost of the accommodation, the impact on academic standards or policies, the extent to which the curriculum is impacted, and whether suitable alternative accommodation arrangements are available. In the event an accommodation is denied, the university will work with the student to provide alternative accommodations.

To comply with applicable laws since JCU faculty and staff members may regularly interact with students with disabilities or disability accommodations, it is important to understand disability accommodations and how JCU's accommodations process functions. Questions about student disability accommodations should be directed to JCU's Student Accessibility Services or the Office of Legal Affairs.