



**JACKSONVILLE**  
COLLEGE

# **TITLE IX/ SEXUAL & INTERPERSONAL MISCONDUCT P O L I C Y**

**August - December 2024**

# Title IX/Sexual and Interpersonal Misconduct Policy (T9/SIM Policy)

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# 1. Overview

Jacksonville College (JC) is committed to providing a safe and nondiscriminatory learning, living, and working environment for all members of the College community. JC reserves the right to make changes and amendments to this policy and procedure as needed, with appropriate notice to the College community.

Jacksonville College has adopted Title IX grievance procedures that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in its education program or activity, or by the Title IX Coordinator. These grievance procedures address complaints of sex-based harassment that involve a student party.

Jacksonville College does not unlawfully discriminate on the basis of sex or gender in any of its education or employment programs and activities, and it does not tolerate unlawful discrimination or harassment on the basis of sex or gender. Title IX of the Education Amendments of 1972 is an all-encompassing federal law that prohibits discrimination based on the gender of students and employees of educational institutions which receive federal financial assistance. "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance..." (20 U.S.C. § 1681). Under Title IX, discrimination on the basis of sex can include sexual harassment, rape, and sexual assault. This policy prohibits:

1. sexual harassment as defined by Title IX ("Title IX Sexual Harassment"); and
2. certain other forms of sexual and interpersonal misconduct not covered by Title IX (e.g., certain types of sexual and gender-based harassment, sexual assault, sexual exploitation, stalking, intimate partner violence, retaliation, and complicity ("Non-Title IX Misconduct")) (collectively referred to in this policy as Prohibited Conduct).

These forms of Prohibited Conduct are harmful to the well-being of our community and its members, the learning and working environment, and collegial relationships among our students, faculty, and staff.

Findings of violations of Prohibited Conduct under this policy may result in discipline, including potential separation from the College and/or referral to separate procedures that could result in termination of employment. Some forms of Prohibited Conduct may also violate state and federal laws, and criminal prosecution may occur independently of any College process.

The College will comply with:

1. Title IX of the Education Amendments of 1972 (Title IX), which prohibits discrimination on the basis of sex in the College's programs and activities, and Title IX regulations issued in May 2020;
2. the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), as amended by the Violence Against Women Reauthorization Act of 2013 (VAWA);

3. Title VII of the Civil Rights Act of 1964;
4. Chapter 21 of the Texas Labor Code; Chapter 40, Section 819 of the Texas Administrative Code; pertinent provisions of the Texas Education Code, and other applicable law.

As a religiously controlled institution of higher education, JC is also entitled to statutory and constitutional protections for its religious liberty that exempt it from certain provisions of civil rights laws, including but not limited to:

1. The religious organization exemption under Title VII of the Civil Rights Act of 1964, for additional reference click [here](#).
2. The religious exemption to Title IX of the Education Amendments of 1972, and
3. The Free Exercise Clause of the First Amendment to the United States Constitution, among others.

This policy sets forth the procedures that will be used to investigate and respond to reports of Prohibited Conduct. The College will respond to reports about Prohibited Conduct with measures designed to eliminate the conduct, prevent its recurrence, and remedy any adverse effects of the conduct on individuals, members of the campus community, or College-related programs or activities. In addition, the College may implement supportive measures that are designed to restore or preserve equal access to JC programs and activities and protect individual and campus safety.

Within the bounds of applicable law, the College will make reasonable efforts to investigate and address reports of Prohibited Conduct, regardless of how the information was brought to the College's attention or the extent to which the complainant wishes to participate or be involved. See [Balancing Complainant Autonomy with College Responsibility to Investigate](#).

Jacksonville College's Sexuality and Gender Statement is directed by its mission to provide a Christ-centered education that prepares students to lead meaningful lives that transform the world. With the mission of JC as guidance for all institutional goals, it is of utmost importance that JC instills in its students a Christ-centered view of education, life, and human sexuality. Using the premise that human sexuality is a gift from God and applying biblical principles as the foundation for an understanding of human sexuality, JC strives to educate students regarding the purpose of this gift. JC believes that God gifted human sexuality for the purpose of procreation and for creating a strong, unified marital bond between one man and one woman.

Students and employees at JC are expected to conduct themselves at all times in accordance with the highest standards of Christian morality. Toward this end, the College may subject to disciplinary action any student or employee who engages in the following:

- Sexual activity with a person other than his or her spouse
- Sexual activity with a person of the same sex
- Touching, caressing, and other physical conduct of a sexual nature that is inappropriate to the time and place in which it occurs

- Participation in advocacy groups and/or activities that are contrary to JC scriptural beliefs about human sexuality
- The possession or viewing of pornographic material

The actions listed above violate the College's commitment to sexual purity in line with its scriptural beliefs about human sexuality. These types of violations are covered more fully in the Student Code of Conduct section of the [Jacksonville College Student Handbook](#) and [Personnel](#), containing the disciplinary procedures for such violations.

In addition to those violations, there are certain types of violations that are so serious that they require more extensive investigation and hearing procedures.

While Jacksonville College encourages students to abide by the College's [Sexuality and Gender Statement](#), the College recognizes that each student will make independent decisions about their own conduct. The College expects students to reflect Christ-like character, conducting themselves in a manner consistent with biblical principles. The College prioritizes the reporting of sexual assault, and under no circumstances will a complainant, respondent, or witness who provides information about an alleged sexual assault or other Prohibited Conduct be charged with student conduct violations related to the [Sexuality and Gender Statement](#), regardless of the outcome. Similarly, the College will not pursue disciplinary action against a complainant, respondent, or witness for disclosure of personal consumption of alcohol or other drugs (underage or illegal) where the disclosure is made in connection with a good faith report or resolution process and the personal consumption did not place the health or safety of any other person at risk.

All JC students and employees have access to [Confidential Resources](#) that they may use for support and guidance regardless of whether they make a report to the College or participate in a resolution process.

Retaliation against anyone who makes a good faith report or complaint under this policy, who opposes in a reasonable manner an act believed to constitute a violation of this policy, or because they have assisted, or participated or refused to participate in any manner in a resolution process under this policy, is prohibited. Concerns or questions about retaliation should be immediately reported to the College's Title IX Coordinator.

## **2. Pregnancy and Related Conditions**

### **A. Notice**

When a student or someone who has a legal right to act on behalf of the student notifies the Title IX Coordinator of the student's pregnancy or related conditions, the Title IX Coordinator will inform the individual of the College's obligations under Title IX, will provide the College's notice of nondiscrimination, and will provide information about the student's rights and resources for modification and support.

## B. Modifications and Accommodations

For students and employees experiencing their own pregnancy and related conditions (i.e. not partners of those individuals), reasonable modifications or accommodations are available for policies, practices, or procedures as necessary to ensure equal access to educational programs and activities. Students who need to request reasonable modifications should contact the Office of Access and Accommodation. Modifications for students are made on an individualized basis, in consultation with the student or employee. Modifications that would fundamentally alter the nature of an education program or activity will not be approved. Modifications may include, but are not limited to: breaks during class to express breast milk, breastfeed, or attend to health needs associated with pregnancy or related conditions, including eating, drinking, or using the restroom; intermittent absences to attend medical appointments; access to online education; changes in schedule or course sequence; extensions of time for coursework and rescheduling of tests and examinations; allowing a student to sit or stand, or carry or keep water nearby; counseling; changes in physical space or supplies (for example, access to a larger desk or a footrest); elevator access; or other changes to policies, practices or procedures.

Employees should request accommodations through Human Resources. Available accommodations are similar to the modifications available to students, and are consistent with the Pregnant Workers Fairness Act. An employee who is temporarily unable to perform one or more essential functions of their job, and who therefore needs light duty or a change in their work assignments, may be able to get such a change as a reasonable accommodation. Requests for accommodation which would cause the College an undue hardship or are not reasonable or not arrived at through the interactive process may not be approved. Supporting documentation may be required when requested modifications or accommodations go beyond what is obvious or standard for pregnancy and related conditions.

## C. Voluntary Leave of Absence

Students may voluntarily take a leave of absence to cover, at minimum, the period of time deemed medically necessary by the student's licensed healthcare provider. When the student returns to the College, the student will be reinstated to the academic status and, as practicable, to the extracurricular status that the student held when the voluntary leave began. Students should contact the Equity Office to work collaboratively with a Case Coordinator regarding the logistics of taking and returning from a leave of absence. Employees with insufficient accrued leave may take a voluntary leave of absence without pay for a reasonable period of time. Upon return, the qualified employee will be reinstated to the employment status they held when leave began or to a comparable position, without decrease in the rate of compensation, loss of promotional opportunities, or loss of any other right or privilege of employment. For more information related to employee requests for leave please see Baylor's FMLA



policy and process. Additional information for employees is also available through the Pregnant Workers Fairness Act.

#### **D. Lactation Spaces**

Students and employees will receive reasonable break time to express breast milk or breastfeed. Specific Lactation space locations will be shared with the student requesting the accommodation.

#### **E. Temporary Medical Conditions**

With respect to student medical or hospital benefits, services, plans, or policies that the College administers, operates, offers, or participates in, pregnancy and related conditions will be treated in the same manner as, or in a manner that is not less favorable than, other temporary medical conditions, subject to the provisions of available insurance policies. Admissions policies and practices will treat pregnancy or related conditions in the same manner and under the same policies as any other temporary medical conditions. For employees, pregnancy and related conditions will be treated the same as any other temporary medical condition for all job-related purposes.

#### **F. Certification to Participate**

Students will not be required to provide certification from a healthcare provider or any other person to indicate the student is physically able to participate in an education program or activity unless:

- a. The certified level of physical ability or health is necessary for participation in the program or activity; and
- b. all students participating in the program or activity are required to submit certification; and
- c. the information obtained is not used as a basis for discrimination.

### **3. The College's Title IX Coordinator**

The Title IX Coordinator coordinates the College's compliance with Title IX and related provisions of the Clery Act. The Title IX Coordinator oversees the College's centralized response to all reports of Prohibited Conduct to ensure consistent implementation of this policy and compliance with federal and state law. The Title IX Coordinator and designated staff will, among other steps:

- Communicate with all members of the College community regarding applicable law and policy and provide information about how individuals may access reporting and support options.
- Review applicable College policies to ensure institutional compliance with applicable federal and state law.
- Monitor the College's administration of its own applicable policies, including record keeping, adherence to timeframes, and other procedural requirements.
- Conduct or arrange for training regarding Title IX, related provisions of the Clery Act (as amended by VAWA), and Prohibited Conduct defined in this policy.

- Respond as appropriate and within the bounds of the law to any report regarding conduct that may violate this policy. In this capacity, the Title IX Coordinator shall oversee the investigation and resolution of such alleged misconduct, direct the provision of any interim or supportive measures (including oversight of the failure to abide by an interim or supportive measure), and monitor the administration of any request for review of the finding.

The Title IX Coordinator may delegate responsibilities under this policy to designated college staff or external professionals, who will have appropriate training and/or experience. When used in this policy, the term Title IX Coordinator may include an appropriate designee.

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Inquiries about Title IX and the Clery Act may be referred to Jacksonville College's Title IX Coordinator; the United States Department of Education, Clery Act Compliance Division (at [clery@ed.gov](mailto:clery@ed.gov)); the United States Department of Education, Office for Civil Rights (at [OCR@ed.gov](mailto:OCR@ed.gov) or 800-421-3481); and/or the Equal Employment Opportunity Commission (at [info@eeoc.gov](mailto:info@eeoc.gov) or 800-669-4000). Concerns related to employment or housing discrimination may also be addressed to the Texas Workforce Commission (at 888-452-2642 or [www.twc.state.tx.us/programs/civil-rights-program-overview](http://www.twc.state.tx.us/programs/civil-rights-program-overview)).

## **4. Scope of this Policy**

### **A. Students and Employees**

This policy governs the conduct of JC students, regardless of enrollment status, as well as faculty and staff.

### **B. Third Parties**

Third parties (i.e., non-members of the College community, such as vendors, alumni/ae, and visitors) may report potential policy violations committed by a member of the College community, and the College will take appropriate steps to investigate and respond to the conduct consistent with the authority granted by the College's jurisdiction, if any, over the respondent. A third party may be subject to investigation and/or other actions for alleged violations of this policy; a third party who is accused of violating the SIM policy may be permanently barred from areas and/or activities controlled by the College or be subject to other restrictions for failing to comply with this policy. The College may take such action against third parties without providing the full

rights and processes afforded to JC community members through the provisions of this policy.

Complaints by third parties constituting Non-Title IX Misconduct may be investigated at the College's discretion. If an investigation proceeds, the procedures for Non-Title IX Misconduct may apply.

## C. Procedures

Various procedures provided in this policy may be used to address Prohibited Conduct that occurs:

- on campus or College property;
- in the context of any College-related or sponsored education program or activity, regardless of the location (including travel, or internship programs);
- by a JC student, regardless of location, under the Student Conduct Code;
- by a JC employee, regardless of location;
- through the use of College-owned or provided technology resources; or
- when the conduct has a nexus to the College, such as continuing adverse effects or the creation or continuation of a hostile environment on campus.

## D. Determination of jurisdiction

For every report, the Title IX Coordinator will review the circumstances of the reported conduct to determine whether the College will exercise jurisdiction over the allegations or disciplinary authority over the respondent or the conduct. In exercising jurisdiction over an JC affiliated respondent for reported conduct that occurs off campus and that has no nexus to the College or a College-related or sponsored education program or activity, the College's ability to investigate and impose disciplinary action may be limited by the College's authority and/or the amount of information available to the College through the exercise of reasonable diligence.

In instances where the College does not have disciplinary authority over the respondent, the College will still take reasonably available steps to support a complainant through interim or supportive measures and will assist a complainant in identifying external reporting mechanisms.

## E. Definitions

This policy uses the terms complainant, respondent, party, third party, and witness as follows:

- Complaint - an oral or written request to the recipient that objectively can be understood as a request for the recipient to investigate and make a determination about alleged discrimination under Title IX or its regulations.

- Complainant - a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations; or a person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations and who was participating or attempting to participate in the recipient's education program or activity at the time of the alleged sex discrimination.
- Respondent - a person who is alleged to have violated the recipient's prohibition on sex discrimination.
- Party or Parties - a complainant or respondent.
- Disciplinary Sanctions - consequences imposed on a respondent following a determination under Title IX that the respondent violated the recipient's prohibition on sex discrimination.
- Relevant - related to the allegations of sex discrimination under investigation as part of these grievance procedures. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred.
- Remedies - measures provided, as appropriate, to a complainant or any other person the recipient identifies as having had their equal access to the recipient's education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to the recipient's education program or activity after a recipient determines that sex discrimination occurred.
- Retaliation - intimidation, threats, coercion, or discrimination against any person by the recipient, a student, or an employee or other person authorized by the recipient to provide aid, benefit, or service under the recipient's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or its regulations, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Title IX regulations.
- Sex-Based Harassment - form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, that is:
  - Quid Pro Quo Harassment - An employee, agent, or other person authorized by the recipient to provide an aid, benefit, or service under the recipient's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;
  - Hostile Environment Harassment - Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the recipient's education program or activity (i.e., creates a hostile environment). Whether a hostile

environment has been created is a fact-specific inquiry that includes consideration of the following:

- The degree to which the conduct affected the complainant's ability to access the recipient's education program or activity;
- The type, frequency, and duration of the conduct;
- The parties' ages, roles within the recipient's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
- The location of the conduct and the context in which the conduct occurred; and
- Other sex-based harassment in the recipient's education program or activity; or
- Specific Offenses
  - Sexual Assault meaning an offense classified as a forcible or non-forcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;
    - Rape
      - The carnal knowledge of a person (i.e., penile-vaginal penetration, without the consent of that person,
      - Oral or anal sexual intercourse (i.e., penile penetration) with another person, without the consent of that person, and/or
      - To use an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of that person. An "object" or "instrument" is anything other than a penis.
    - Fondling
      - The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of that person (for purposes of this definition, "private body parts" means a person's breast(s), buttocks(s), genitals, or other intimate parts, and prohibited fondling may be over or under clothing).
    - Statutory Rape
      - Sexual intercourse with a person who is under the statutory age of consent. Under Texas law, individuals younger than 17 years of age are legally incapable of giving consent to sexual penetration or contact by an adult (someone 18 years of age or older) who is three or more years older than the individual.
  - Dating Violence meaning violence committed by a person:
    - Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

- Where the existence of such a relationship shall be determined based on a consideration of the following factors:
      - The length of the relationship;
      - The type of relationship; and
      - The frequency of interaction between the persons involved in the relationship;
    - Domestic Violence meaning felony or misdemeanor crimes committed by a person who:
      - Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the recipient, or a person similarly situated to a spouse of the victim;
      - Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
      - Shares a child in common with the victim; or
      - Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction; or
    - Stalking meaning 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.
  - Supportive Measures - Individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to:
    - Restore or preserve that party's access to the recipient's education program or activity, including measures that are designed to protect the safety of the parties or the recipient's educational environment; or
    - Provide support during the recipient's grievance procedures or during an informal resolution process.
  - Third Party - An individual who is not a College student, faculty member, or staff member (e.g., vendors, alumni/ae, volunteers, or visitors).
  - Witness - An individual who may have information relevant to a report of Prohibited Conduct. A witness may be a student, an employee, or a third party.
  - Hate Crimes- A hate crime is a committed criminal offense against a person or property motivated in whole or in part by an offender's bias against a race, religion, disability, sexual orientation, ethnicity, gender, or gender identity. Any of the previous crimes listed and the following additional crimes must be reported as hate crimes if motivated by such a bias:
    - *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-theft*: 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.
  - *Destruction/Damage/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.

## 5. Coordination with Other Policies

This policy addresses discrimination on the basis of sex or gender as it relates to Title IX Sexual Harassment and Non-Title IX Misconduct as defined in more detail below. Sex discrimination (not based on harassment or violence), and discrimination and harassment based on race, color, nationality or ethnic origin, age, disability, or other protected characteristic are governed by the College's [Non-Discrimination Policy](#).

Jacksonville College's Non-Discrimination Policy is committed to providing a safe and nondiscriminatory learning, living, and working environment for all members of the College community. Jacksonville College does not unlawfully discriminate on the basis of race, color, national or ethnic origin, disability, age, religion, genetic information, veteran or military status, sex, gender, or any other basis on which the College is prohibited from discrimination under local, state, or federal law, in its employment or in the provision of its services, including but not limited to its programs and activities, admissions, educational policies, scholarship and loan programs, and athletic and other college-administered programs and it does not tolerate unlawful discrimination or harassment on the basis of sex or gender. No person at Jacksonville College will, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination, sexual harassment, or sexual misconduct under any education program or activity. Jacksonville College does not discriminate based on sex in connection with parental, family, or marital status. (§§ 106.21(c), 106.40, 106.57). Jacksonville College will take actions to prevent sex discrimination and ensure equal access to the recipient's education program or activity, such as by providing reasonable modifications for students, reasonable break time for lactation for employees, and lactation space for students and employees. (§§ 106.40(b)(3) and 106.57(e)). Jacksonville College does not require documentation from students to obtain reasonable modifications or other actions unless such documentation is necessary and reasonable. (§ 106.40(b)(3)(vi)).

The College will comply with:

- Title IX of the Education Amendments of 1972 (Title IX), which prohibits discrimination on the basis of sex in the College's programs and activities, and Title IX regulations issued in May 2020;
- the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), as amended by the Violence Against Women Reauthorization Act of 2013 (VAWA);
- Title VII of the Civil Rights Act of 1964;
- Chapter 21 of the Texas Labor Code; Chapter 40, Section 819 of the Texas Administrative Code; pertinent provisions of the Texas Education Code, and other applicable law.

In order to fulfill its purpose, the College may legally discriminate on the basis of religion in employment. The College has also been granted exemption from certain regulations promulgated under Title IX of the Education Amendments of 1972 which conflict with the College's religious tenets.

As a religiously controlled institution of higher education, JC is also entitled to statutory and constitutional protections for its religious liberty that exempt it from certain provisions of civil rights laws, including but not limited to:

- the religious organization exemption under Title VII of the Civil Rights Act of 1964,
- the religious exemption to Title IX of the Education Amendments of 1972, and
- the Free Exercise Clause of the First Amendment to the United States Constitution, among others.

In addition, the conduct of students, employees, and faculty is governed by the following policies.

- [Student Code of Conduct](#)
  - Applies to all other forms of student misconduct (e.g., alcohol or other drug use, threats or physical abuse, possession of firearms, etc.)
  - Overseen by Dean of Students
- [Sexuality and Gender Statement](#)
  - Sets general expectation for JC students, faculty, and staff that sexual intimacy will be expressed consistently with the biblical understanding of human sexuality
- [JC Personnel Policies](#)
  - Sets the standards of personal conduct for all employees, including faculty and staff
  - Includes the staff disciplinary and grievance policies
- [Policy on Personal and Professional Relationships](#)
  - Prohibits romantic and/or sexual relationships between employees and students, and employees and any individual whom that person supervises or evaluates in any way



Where reported conduct involves the potential violation of both this policy and another College policy, the College may at its discretion choose to investigate other potential misconduct under the procedures set forth in this policy, instead of the procedures ordinarily used to address potential violations of such other College policies, so long as doing so does not or would not unduly delay a prompt, equitable resolution of the report.

## **6. Relationships with Individuals in Authority**

Engaging in romantic relationships and/or sexual conduct is prohibited between:

- Faculty members and students
- College employees and students;
- Employees and any individual whom that person supervises or evaluates in any way.

Because prohibited relationships often involve a power differential, the conduct may also constitute sexual harassment or other forms of prohibited conduct under this policy. If the complaint is against a student, the sanction will be determined by the Dean's Council. If the complaint is against a JC employee, the Vice President for the appropriate division in consultation with Human Relations will determine the sanction.

## **7. Prohibited Conduct**

In determining whether reported conduct violates this policy, the College will consider the totality of the facts and circumstances involved in the incident, including the nature of the reported conduct and the context in which it occurred. Individuals of any sex or gender can commit any of the Prohibited Conduct defined in this policy, and it can occur between individuals of the same sex/gender or different sexes/genders. It can occur between strangers or acquaintances, as well as persons involved in intimate, sexual, dating, domestic, or familial relationships. In broad terms, this policy prohibits the following forms of conduct, collectively referred to throughout this policy as Prohibited Conduct, as well as attempts to commit such misconduct.

### **A. Title IX Sexual Harassment**

"Title IX Sexual Harassment" is a subset of Prohibited Conduct. Under Department of Education regulations (see 34 C.F.R., Part 106) issued in 2020 to implement Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq., the College is required to prohibit certain forms of sexual harassment as defined in those regulations. Title IX Sexual Harassment is Prohibited Conduct of the following types committed by or against Students and/or Employees in an education program or activity of the College, in the United States.

Prohibited Conduct meets the definition of Title IX Sexual Harassment when:

- An Employee conditions the provision of an aid, a benefit, or a service on another Employee's or a Student's participation in unwelcome sexual conduct (i.e., Quid Pro Quo sexual harassment);
- A Student, Employee, or Third Party (to the extent applicable) engages in unwelcome conduct on the basis of sex that would be determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies another person equal access to the College's programs or activities;
- A Student, Employee, or Third Party engages in Sexual Assault, Domestic Violence, Dating Violence, or Sexual and/or Gender-based Stalking as defined below; and
  - The alleged conduct was perpetrated against a person in the United States; and
  - The conduct took place within the College's programs and activities. Conduct takes place within the "College's programs and activities" when that conduct occurs:
    - in a location, at an event, or in a circumstance where the College exercises substantial control over both the respondent and the context in which the conduct occurs; or
    - in any building owned or controlled by a student organization recognized by the College. Events that occur off campus or in locations with no connection to the College are unlikely to be considered a College program or activity.

Conduct that does not meet the parameters above to constitute Title IX Sexual Harassment is still prohibited by this policy if it otherwise constitutes Prohibited Conduct as further defined below.

## A. Non-Title IX Misconduct

Non-Title IX Misconduct is Prohibited Conduct that falls within the scope of this Policy and the definitions below but that does not fall within the definition of Title IX Sexual Harassment, either due to the nature of the conduct or because it did not reportedly occur within a program or activity of the College in the United States. Such conduct is defined for purposes of this policy as:

### 1. Non-Title IX Sexual Assault

Sexual Assault (i.e., rape, fondling, or statutory rape) as defined in the Title IX Sexual Assault definition above that did not reportedly occur in a program or activity of the College in the United States.

### 2. Non-Consensual Sexual Contact

Any intentional touching of a person's breast(s), buttock(s), groin, genitals, or other intimate parts without consent. Touching may be over or under clothing and may include the respondent touching the complainant, the respondent making the complainant touch

the respondent or another person, or the respondent making the complainant touch the complainant's own body.

### 3. Sexual and Gender-Based Harassment

Sexual harassment is any unwelcome sexual advance, request for sexual favors, and/or other unwelcome, verbal, or physical conduct of a sexual nature when one of the conditions outlined in (A), (B), or (C), below, is present. Gender-based harassment includes harassment based on sex, sexual orientation, gender identity, or gender expression, which may include acts of aggression, intimidation, or hostility, whether verbal or non-verbal, graphic, physical, or otherwise, even if the acts do not involve contact of a sexual nature, when one of the conditions outlined in (A), (B), or (C), below, is present.

- A. Submission to, or rejection of, such conduct is made implicitly or explicitly a term or condition of a person's instruction, academic standing, employment, or participation in any College program, activity, or benefit, but which does not fit within the definition of Title IX Sexual Harassment Quid Pro Quo.
- B. Submission to, or rejection of, such conduct by an individual is used as a basis for evaluation in making academic or personnel decisions, in circumstances that do not fit within the definition of Title IX Sexual Harassment Quid Pro Quo.
- C. Such conduct creates a hostile environment. Under Texas Education Code §51.281(4) a hostile environment exists:
  - a. in the employment context, when it unreasonably interferes with a person's work performance or creates an intimidating, hostile, or offensive work environment; or
  - b. in the education context, when it is sufficiently severe, persistent, or pervasive that the conduct interferes with a student's ability to participate in or benefit from the College's educational programs or activities.

A hostile environment can be created by persistent or pervasive conduct or by a single or isolated incident, if sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment. The perceived offensiveness of a single verbal or written expression, standing alone, is typically not sufficient to constitute a hostile environment. In assessing the nature and impact of the alleged harassment, the Title IX Coordinator will consider both subjective (i.e., the complainant's experience of the conduct) and objective (i.e., how a reasonable person in the complainant's circumstances would have experienced the conduct) perspectives.

#### Sexual harassment

- May be blatant and intentional and involve an overt action, a threat, or reprisal, or may be subtle and indirect, with a coercive aspect that is unstated.
- Does NOT have to include intent to harm or involve repeated incidents.

- May be committed by anyone, regardless of sex, gender, age, position, or authority. While there is often a power differential between two persons, perhaps due to differences in age, social, educational, or employment relationships, harassment can occur in any context.
- May be committed by a stranger, an acquaintance, or someone with whom the complainant has an intimate or sexual relationship.
- May be committed by or against an individual, organization, or group.
- May occur by or against an individual of any sex, gender identity, gender expression, or sexual orientation.
- May occur in the classroom, in the workplace, in residential settings, or in any other context.
- May be a one-time event or may be part of a pattern of behavior, if it meets the standard stated above.
- May be committed in the presence of others or when the parties are alone.
- May affect the complainant and/or third parties who witness or observe harassment.

#### 4. Sexual Exploitation

Any act where one person violates the sexual privacy of another or takes unjust or abusive sexual advantage of another, but that does not fall within the definition of Title IX Sexual Harassment. Sexual exploitation may include, but is not limited to:

- surreptitiously observing another individual's nudity or sexual activity or allowing another to observe consensual sexual activity without the knowledge and consent of all parties involved;
- recording, photographing, transmitting, showing, viewing, streaming, or distributing intimate or sexual images, audio recordings, or sexual information without the knowledge and consent of all parties involved;
- providing alcohol or drugs to a complainant with the intent to facilitate Prohibited Conduct; or
- exposing one's genitals or inducing another to expose their own genitals in nonconsensual circumstances.

#### 5. Non-Title IX Domestic Violence

Domestic violence as defined in the Title IX Domestic Violence definition above that did not reportedly occur in a program or activity of the College in the United States.

#### 6. Non-Title IX Dating Violence

Dating violence as defined in the Title IX Dating Violence definition above that did not reportedly occur in a program or activity of the College in the United States.

#### 7. Non-Title IX Stalking

Stalking as defined in the Title IX Stalking definition above that did not reportedly occur in a program or activity of the College in the United States, or that otherwise fits within

the definition of stalking but does not fall within the Title IX Stalking definition because the reported conduct is not directed at the alleged victim on the basis of sex.

## 8. Retaliation

Retaliation means intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by Title IX or in implementing regulations or the SIM 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 regarding Prohibited Conduct. 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 its implementing regulations, constitutes retaliation, as does any adverse action taken against a person for making a good faith report of Prohibited Conduct or participating in any proceeding under this Policy.

Retaliation may include intimidation, threats, coercion, discrimination, harassment, or adverse employment or educational actions that would discourage a Reasonable Person from engaging in activity protected under this Policy. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance process under this Policy does not constitute prohibited retaliation, provided, however, that a determination regarding responsibility is not alone sufficient to establish that any party made a materially false statement in bad faith. JC will not tolerate intentional false reporting of incidents. Filing a false report is a violation of the policies set forth in the Jacksonville College Student Handbook that governs JC. Also, intentionally making a false report of any policy violation may violate state criminal statutes and civil defamation laws.

Further, under Texas Education Code §51.254, the College will not discipline or otherwise discriminate against an employee or student because they have, in good faith, made a report of Prohibited Conduct to the Title IX Coordinator as provided below, or because they have cooperated with an investigation, or resolution process relating to such a report.

Concerns or questions about retaliation should be immediately reported to the College's Title IX Coordinator.

## 9. Complicity

Any act that knowingly aids, facilitates, promotes, or encourages the commission of Prohibited Conduct by another person.

## 8. Consent and Incapacitation

The following definitions clarify key terminology as used throughout the policy and apply to both Title IX Sexual Harassment and Non-Title IX Sexual Misconduct.

Consent is the voluntary, informed, and freely given agreement, through words and/or actions, to participate in mutually agreed-upon acts. Consensual activity happens when each partner willingly and affirmatively chooses to participate.

In evaluating whether consent has been freely sought and given, the College will consider the presence of any force, threat of force, threats, or coercion; whether the complainant had the capacity to give consent; and, whether the communication (through words and/or actions) between the parties would be interpreted by a reasonable person (under similar circumstances and with similar identities) as a willingness to engage in a particular act.

Coercion is the use of an unreasonable amount of pressure to gain sexual access. Coercion is more than an effort to persuade, entice, or attract another person to engage in sexual contact. When a person makes clear that they do not wish to participate in a particular activity or communicates by words or actions a decision to stop or a decision not to go beyond a certain interaction, continued pressure can be coercive. In evaluating whether coercion was used, the College will consider: (i) the frequency of the application of the pressure, (ii) the intensity of the pressure, (iii) the degree of isolation of the person being pressured, and (iv) the duration of the pressure.

Consent cannot be obtained through physical force or where there is a reasonable belief of the threat of physical force, when one person overcomes the physical limitations of another person.

Important points regarding the totality of the circumstances concerning consent include:

- Consent to one act does not automatically constitute consent to another act.
- Consent on a prior occasion does not automatically constitute consent on a subsequent occasion.
- Consent to an act with one person does not constitute consent to an act with any other person.
- The existence of a prior or current relationship does not, in itself, constitute consent; even in the context of a relationship, there must be mutual consent.
- Consent should not be inferred merely from silence, passivity, or lack of resistance.
- Communication is essential to understanding whether consent is present during the progression and/or regression of an intimate interaction.
- Once consent has been established a person who changes his or her mind should communicate the withdrawal of consent through words or actions.
- Consent can be withdrawn or modified at any time, and the act must cease immediately once consent is withdrawn.

Under Texas law, individuals younger than 17 years of age are legally incapable of giving consent to sexual penetration or contact by an adult (someone 18 years of age or older) who is three or more years older than the individual.

Incapacitation is the inability, temporarily or permanently, to give consent because the individual is mentally and/or physically helpless, either voluntarily or involuntarily, or the individual is unconscious, asleep, or otherwise unaware that the activity is occurring. In addition, an individual is incapacitated if they demonstrate that they are unaware at the time of the incident of where they are, how they got there, or why or how they became engaged in an act.

The use of alcohol or other drugs can lower inhibitions and create an atmosphere of confusion about whether consent is effectively sought and freely given. When alcohol is involved, incapacitation is a state beyond drunkenness or intoxication. When drug use is involved, incapacitation is a state beyond being under the influence or impaired by use of the drug. Alcohol and other drugs impact each individual differently and determining whether an individual is incapacitated requires an individualized assessment.

The College does not expect community members to be medical experts in assessing incapacitation. Individuals should look for the common and obvious warning signs that show that a person may be incapacitated or approaching incapacitation. A person's level of intoxication is not always demonstrated by objective signs; however, some signs of intoxication may include clumsiness, difficulty walking, poor judgment, difficulty concentrating, slurred speech, vomiting, combativeness, or emotional volatility. A person who is incapacitated may not be able to understand some or all of the following questions: "Do you know where you are?" "Do you know how you got here?" "Do you know what is happening?" "Do you know whom you are with?"

An individual's level of intoxication may change over a period of time based on a variety of subjective factors, including the amount of substance intake, speed of intake, body mass, and metabolism. Because the impact of alcohol and other drugs varies from person to person, the amount of alcohol and/or drugs a person consumes may not be sufficient, without other evidence, to prove that they were incapacitated under this Policy.

Another effect of alcohol consumption can be memory impairment or forgetting entire or partial events (sometimes referred to as "black-out" or "brown-out"). A person may experience this symptom while appearing to be functioning "normally," including communicating through actions or words that seem to express an interest in engaging in sexual conduct. Whether sexual conduct with a person who is "blacked-out" constitutes Prohibited Conduct depends on the presence or absence of the observable factors indicating that a person is also incapacitated, as described above. Total or partial loss of memory alone, may not

be sufficient, without other evidence, to prove that a person was incapacitated under this policy.

In evaluating consent in cases of reported incapacitation, where the information is sufficient to raise the possibility that the complainant was incapacitated, the College asks two questions:

1. Did the respondent know that the complainant was incapacitated? and if not,
2. Should a sober, reasonable person in a similar set of circumstances as the respondent have known that the complainant was incapacitated?

If the answer to either of these questions is “yes,” the complainant could not consent; and the conduct is likely a violation of this policy.

A respondent’s voluntary intoxication is never an excuse for or a defense to Prohibited Conduct, and it does not diminish the responsibility to determine that the other person has given consent and has the capacity to do so.

## **9. Confidentiality, Qualified Confidentiality, Privacy, and Reporting Responsibilities**

Issues of privacy and confidentiality play important roles in this policy and may affect individuals differently. While they are closely related, the concepts of privacy and confidentiality are distinct terms that are defined below.

### **A. Confidentiality**

Confidentiality refers to the protections provided to information disclosed in legally protected or privileged relationships under Texas state law, including licensed professional mental health counselors, licensed medical professionals, and ordained clergy. These confidential resources can engage in confidential communications under Texas law when the information is disclosed within the scope of the provision of professional services. When an individual shares information with a confidential resource (on campus or in the community) as a confidential communication in the course of a protected relationship, the confidential resource cannot disclose the information (including information about whether an individual has received services) to 18 any third party without the individual's written permission or unless required by ethical or legal obligations that compel the professional to reveal such information. For example, information may be disclosed when the individual gives written consent for its disclosure, there is an imminent concern that the individual will likely cause serious physical harm to self or others, or the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18. A person’s medical and counseling records are privileged and confidential documents.



In accordance with May 2020 Title IX regulations, the College will not access, consider, disclose, or otherwise use a party's privileged records or require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

Under Texas law, the identity of the following individuals is deemed confidential:

1. alleged victims of sexual harassment, sexual assault, dating violence, or stalking reported to a College;
2. a person who reports such conduct to a College, who sought guidance from the institution concerning such an incident, or who participated in the institution's investigation of such an incident; and
3. a person who is alleged in such a report to have committed or assisted in the commission of sexual harassment, sexual assault, dating violence, or stalking if, after completing an investigation, the institution determines the report to be unsubstantiated or without merit.

This means that unless waived in writing by the person, their identity may be disclosed only to:

1. the employees or contracted individuals as necessary to conduct an investigation of the report or other related hearings;
2. a law enforcement officer as necessary to conduct a criminal investigation of such report;
3. a health care provider in an emergency situation, as determined to be necessary by the College;
4. the respondent as necessary to conduct a resolution process; and/or
5. potential witnesses as necessary to conduct an investigation of the report.

As noted above, information regarding an incident of sexual harassment, sexual assault, dating violence, or stalking disclosed to a health care provider or other medical provider employed by a College is confidential and may be shared by the provider only with the alleged victim's consent except, as also noted above, that the provider must provide aggregate data or other non-identifying information regarding those incidents to the College's Title IX Coordinator.

## B. Qualified Confidentiality and Privacy

May 2020 Title IX regulations contemplate that certain information will generally be treated confidentially, except as qualified by statements in those regulations. For example, the regulations provide that JC must maintain as confidential any supportive measures provided to a complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the supportive measures. The regulations also provide that JC must keep confidential 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, 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 Family Educational Rights and Privacy (“FERPA”) statute referenced below, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of the Title IX regulations, including the conduct of any investigation, hearing, or judicial proceeding arising under those regulations.

This means that discretion will be exercised by the College in the course of any investigation or other processes under this policy. Information related to a report of Prohibited Conduct will be shared with a limited circle of College employees who need to know in order to assist in the assessment, investigation, and resolution of the report and related issues. College employees receive training on how to safeguard private information. The College will make reasonable efforts to investigate and address reports of Prohibited Conduct under this policy, and information may be disclosed to participants in an investigation as necessary to facilitate the thoroughness and integrity of the investigation.

The privacy of student education records is governed by the Family Educational Rights and Privacy Act (FERPA). The privacy of an individual’s medical and related records generally is governed by the Health Insurance Portability and Accountability Act (HIPAA) and Title 2, Chapter 81 and Title 4, Chapter 241, Subchapter G, of the Texas Health & Safety Code, and Chapter 144 of the Texas Civil Practice and Remedies Code, excepting health records protected by FERPA. Access to an employee’s personnel records in Texas is governed by Chapter 103 of the Texas Labor Code.

## C. Reporting Responsibilities

It is important to understand the different responsibilities of JC employees under federal and state law and College policy. Every employee is designated as either a Confidential Resource or a Responsible Employee.

### 1. Responsible Employees

Except for Confidential Resources, all College Employees are designated Responsible Employees and thereby mandatory reporters of potential Title IX violations. Responsible Employees include all staff (hourly and salary), faculty, instructors, teaching assistants, and student workers who have supervisory responsibility or responsibility for the welfare of other students and learn of potential violations of this policy in the scope of their employment. Student workers who are Responsible Employees include but are not limited to Resident Assistants. Responsible Employees *must report immediately* any information about suspected sexual or gender-based harassment, sexual assault, sexual exploitation, stalking, intimate partner violence, or retaliation for reporting regardless of when (both prior to or during their time at JC) or where (both on

and off campus) the alleged misconduct occurred. Responsible employees must report retaliation when they are aware of acts consistent with the policy definition of retaliation, and they have reason to believe it is occurring because of a party's participation in a Title IX process, or in order to prevent either making a report to Title IX or participation in a Title IX process. Reports must include any known details such as the identities of the parties and the date, time, and location of the incident.

Texas law requires any employee of a college or college in Texas to report to the Title IX Coordinator any information regarding an alleged incident of sexual harassment, sexual assault, dating violence, or stalking, committed by or against a person enrolled at or employed by the institution at the time of the incident. *The law requires colleges to terminate employment for employees who fail to report such matters and imposes criminal penalties of up to a year in jail.*

The obligation to report applies whenever an employee receives, in the course and scope of employment, information about an alleged incident that reasonably constitutes sexual harassment, sexual assault, dating violence, or stalking committed by or against a person who was a student or employee at the time of the incident. The report must include all information known to the employee which would be relevant to an investigation or redress of the incident, including whether the alleged victim has expressed a desire for confidentiality. A party's desire for confidentiality does not relieve the employee's obligation to report.

The law encourages but does not require student employees to report. JC policy, however, requires student employees to report such instances.

Employees do not need to, and furthermore should not, investigate matters or make unnecessary judgments about the information they receive in order to determine whether the reported information meets the definitions of misconduct. All instances of alleged misconduct that could reasonably constitute sexual harassment, sexual assault, dating violence, or stalking must be reported to the Title IX Coordinator.

The Title IX Coordinator will share details of all reports alleging Clery-reportable crimes in compliance with Clery Act reporting requirements. Responsible Employees may provide support and assistance to a complainant, witness, or respondent; but they cannot promise confidentiality or withhold information about Prohibited Conduct.

Responsible Employees are not required to report information disclosed at public awareness events (e.g., candlelight vigils, protests, "survivor speak-outs,") or other public forums in which students may disclose Prohibited Conduct. The College may however provide information about Title IX rights and available College and community resources and support at public awareness events.

A complainant may choose not to make a complaint or report in their own case, even if the complainant would otherwise have reporting obligations by virtue of being a faculty member, staff member, or student worker.

## 2. Students

With the exception of student workers who are designated as Responsible Employees, all other students are *encouraged* to report any suspected violation of this policy.

### D. Clery Act Reporting

Pursuant to the Clery Act, the College includes statistics about certain offenses in its annual security report and provides those statistics to the United States Department of Education in a manner that does not include any personally identifying information about individuals involved in an incident. The Clery Act also requires the College to issue timely warnings to the College community about certain crimes that have been reported and may continue to pose a serious or continuing threat to campus safety. Consistent with the Clery Act, the College withholds the names and other personally identifying information of complainants when issuing timely warnings to the College community.

### E. DFPS Reporting

Texas law requires that any person who suspects that a child – 17 years of age or younger, or a person 65 years of age or older, or an adult with disabilities is or was being abused, neglected, or exploited must report immediately all known information to the Department of Family and Protective Services (DFPS). Moreover, a report will be made if it is determined that the alleged perpetrator continues to have access to minors, even if the complainant has turned 18.

## 10. Resources and Reporting Options

All involved parties have many options, including seeking counseling or assistance from a Confidential Resource, making a report under this policy, and/or making a report to law enforcement. The College recognizes that deciding among these options can be difficult and is an intensely personal decision. Individuals are encouraged to seek assistance and explore all potential reporting and support options.

### A. Emergency Resources and Law Enforcement

Emergency medical assistance and campus safety/law enforcement assistance are available both on and off campus. Individuals are encouraged to contact law enforcement and seek medical treatment as soon as possible following an incident that may pose a threat to safety or physical well-being or following a

potential criminal offense. Texas Education Code § 51.282 requires that JC inform you that it is very important for victims of sexual harassment, sexual assault, dating violence, or stalking to go to a hospital for help with treatment and preservation of evidence, if applicable, as soon as practicable after an incident.

To contact law enforcement call the JC Security Department at 903-721-1832 and/or Jacksonville Police Department at 903-586-2546. In an emergency, call 911.

Local hospitals can be contacted at:

UT Health- Jacksonville  
501 S Ragsdale St. Jacksonville, TX 75766  
903-541-5000

CHRISTUS Mother Frances Hospital-Jacksonville  
2026 S Jackson St. Jacksonville, TX 75766  
903-541-4500

To access crisis counseling and other community resources:

June Shepherd, Ph.D.  
Licensed Counseling Psychologist  
514 E. Commerce St.  
Jacksonville, Tx. 75766  
903-284-6244

Crisis Center of Anderson and Cherokee Counties  
700 East Cherokee  
Jacksonville, Tx. 75766  
903-586-9118  
Hotline-1800-232-8519 24 Hr.

East Texas Crisis Center  
24 Hour Hotline: 903-595-5591 | 1-800-333-0358  
2401 Old Noonday Rd Tyler, TX 75701  
903-509-2526

## B. Confidential Resources

If a reporting party would like the details of an incident to be kept confidential, he or she may speak with:

1. Licensed professional counselors
2. Local rape crisis counselors
3. Local or state assistance agencies

#### 4. Clergy/chaplains

### C. Reporting Options

The College encourages all individuals to report Prohibited Conduct or a potential violation of this policy to the Title IX Coordinator and/or to local law enforcement. A complainant has the right to report, or decline to report, potential criminal conduct to law enforcement, and/or to be assisted by the College in reporting potential criminal conduct to law enforcement at any time. Under limited circumstances deemed by the College to pose a threat to the health or safety of any College community member, the College may independently notify law enforcement.

An individual may make a report to the College, to law enforcement, to neither, or to both. Campus investigations of Prohibited Conduct and law enforcement investigations operate independently of one another, although the College will coordinate as appropriate. Anyone can make a report as follows:

- Make a report to the Title IX Coordinator in person, by telephone at (903) 586-2518 by email at [title9@jacksonville-college.edu](mailto:title9@jacksonville-college.edu), or online at <https://jacksonvillecollege.edu/title-ix-policy-procedures-and-resources/>.
- If on campus, contact the Jacksonville College Security Department for assistance in filing a criminal complaint and preserving physical evidence at 903-721-1832.
- If off campus, contact local law enforcement to file a criminal complaint by calling 911.

An individual may pursue some or all of these steps at the same time (e.g., one may simultaneously pursue a Title IX report and a criminal complaint). When initiating any of the above options, an individual does not need to know whether they wish to request any particular course of action or how to label what happened. As part of a report to the Title IX Coordinator, an individual can also request interim measures and support.

#### 1. Anonymous Reporting

Anyone can make an anonymous report by submitting information on the Jacksonville College Title IX website:

<https://jacksonvillecollege.edu/title-ix-policy-procedures-and-resources/>

Depending on the nature of the information submitted, the College's ability to respond to an anonymous report will likely be limited.

#### 2. Requests for Anonymity

Once a report has been shared with the Title IX Coordinator, a complainant may also directly request that their identity remain private (request for anonymity), that

no investigation occur, or that no disciplinary action be taken. The College will carefully balance this request with the College's commitment to provide a non-discriminatory environment, and the respondent's right to have specific notice of the allegation(s) if the College were to take action that affects the respondent. In such circumstances, the Title IX Coordinator may arrange for a preliminary fact-finding by an investigator to gain a better understanding of the context of the complaint or take other appropriate steps, including consulting with the College's threat assessment group. See [Balancing Complainant Autonomy with College Responsibility to Investigate](#).

### 3. Amnesty

Jacksonville College wishes to encourage good faith reports of conduct prohibited under this policy. Therefore, the College will not pursue disciplinary action against a student enrolled at the College who makes a good faith report to the College as a complainant or a witness to an incident of Prohibited Conduct for a violation by the student of the College's Student Conduct Code. Similarly, the College will not pursue disciplinary action against a complainant, respondent, or witness for disclosure of personal consumption of alcohol or other drugs (underage or illegal) where the disclosure is made in connection with a good faith report or resolution process and the personal consumption did not place the health or safety of any other person at risk, regardless of the outcome of the College's resolution process.

Similarly, the College will not pursue disciplinary action against students (complainants, respondents, or witnesses) for conduct in violation of the [Sexuality and Gender Statement](#). Under no circumstances will a complainant or witness who makes a report of sexual assault or other Prohibited Conduct, or a respondent who participates in a resolution process be charged with violating the [Sexuality and Gender Policy](#), regardless of the outcome.

Jacksonville College will not pursue disciplinary action against pregnant students for conduct violations against [Student Code of Conduct](#). Under no circumstances will a pregnant or parenting student be cited for violating the Code of Conduct.

The College may investigate to determine whether a report of Prohibited Conduct was made in good faith. A student will not receive amnesty for reporting an incident involving their own commission or assistance in the commission of Prohibited Conduct. A student who makes a report but is later found responsible for Prohibited Conduct at or near the time of the incident, may not be entitled to a determination that the report was made in good faith. Granting of amnesty is final and may not be revoked. Even when amnesty is extended, the College may initiate an assessment or educational discussion or pursue other non-disciplinary options regarding alcohol or other drug use.

#### 4. Timeframe for Reporting

Complainants and other reporting individuals are encouraged to report any violation of this policy as soon as possible in order to maximize the College's ability to respond promptly and effectively. There is no time limit for reporting. Reports under this policy may be made at any time without regard to how much time has elapsed since the incident(s) in question.

If the respondent is no longer a student at the time of a report, the College may not be able to take disciplinary action against the respondent. The College's ability to take action would also be limited if a report involves alleged conduct by a former employee. However, in such circumstances, the College may still provide support for the complainant and take steps to restore or preserve the complainant's equal access to College education programs or activities. The College may also assist the complainant in identifying and contacting law enforcement and other external enforcement agencies.

## 11. Supportive Measures

Upon receipt of a report of Prohibited Conduct, the College will consult initially with the complainant and provide reasonable and appropriate supportive measures designed to:

1. preserve the parties' educational experiences;
2. protect the parties during an investigation;
3. address safety concerns for the broader College community;
4. maintain the integrity of the resolution process; and/or
5. deter retaliation.

At the appropriate time, the College will also consult with the Respondent regarding supportive measures. 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.

Such measures are designed to:

1. restore or preserve equal access to the College's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the recipient's educational environment, or
2. deter sexual harassment.

Supportive measures may include:

- access to counseling;
- access to medical services;
- academic accommodations, such as extensions of deadlines or other course-related adjustments, course schedule changes, late drops, and the ability



to transfer course sections (this would include the College's allowing either party to drop a course in which both are enrolled in the same class section without academic penalty);

- modifications of work schedules; change in work locations; changing working arrangements; or providing other employment accommodations as appropriate;
- mutual restrictions on contact between the parties (i.e., "no contact directives");
- residential accommodations, including but not limited to arranging for new housing, or providing temporary housing options, as appropriate;
- leaves of absence;
- increased security and monitoring of certain areas of the campus;
- changing transportation arrangements;
- Assistance in accessing support services, including, as available, victim advocacy, academic support, counseling, disability, health or mental health services, visa and immigration assistance, and student financial aid services both on and off campus, as applicable;
- Assistance in obtaining a sexual assault forensic examination;
- Assistance in communications with faculty to request academic modifications;
- Assistance in requesting long-term academic accommodations, if the party qualifies as an individual with a disability;
- Assistance navigating off-campus housing concerns;
- Escort and other safety planning steps;
- Referral to resources that can assist in obtaining a protective order under Texas law; and/or
- Any other measure that can be used to achieve the goals of this policy.

The availability of supportive measures will be determined by factors such as the specific circumstances of each report, the party's wishes regarding supportive measures, and an individualized assessment of the circumstances of each case. Making every effort to avoid depriving all parties of their education, the College will consider a number of factors in determining which measures to take, including the needs of the student or employee seeking supportive measures; whether the complainant and the respondent share the same residence hall, academic course(s), or job location(s); and whether judicial measures have been imposed (e.g., protective orders). The College will work in good faith to implement the requirements of judicially issued protective orders and similar orders, to the extent that doing so is within its authority.

The College will provide reasonable supportive measures to third parties as appropriate and available, considering the role of the third party and the nature of any contractual relationship with the College.

Requests for supportive measures may be made by either party to the Title IX Coordinator. The Title IX Coordinator is responsible for ensuring the implementation of supportive measures and coordinating the College's response with the appropriate offices on campus. The Title IX Coordinator has the discretion to impose and/or modify any supportive measure based on all

available information and is available to meet with a complainant or respondent to address any concerns about the provision of supportive measures. The College 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 College to provide the supportive measures and will promptly address any violation of supportive measures.

All individuals are encouraged to report to the Title IX Coordinator any concerns about the failure of another to abide by any restrictions imposed through a supportive measure. In the event of an immediate health or safety concern, individuals should contact 911 or 903-721-1832 (on campus security) immediately. The College will take action to enforce a previously implemented measure, which may include additional supportive measures and/or disciplinary penalties under this SIM policy or other College policies.

In evaluating whether a party has violated the conditions of a supportive measure, the Title IX Coordinator has the authority to conduct expedited fact-gathering (with appropriate notice and the opportunity to be heard), to impose separate disciplinary action for the violation based on the facts as gathered, to incorporate the failure to comply with the supportive measure into the underlying investigation and charges of Prohibited Conduct, and/or refer the matter to the appropriate Vice President.

## **12. Overview of Resolution Options**

The College is committed to providing a prompt, thorough, equitable, and impartial resolution of all reported violations of this policy. The College uses two processes to resolve reports of Prohibited Conduct under this policy when a formal complaint has been filed by a complainant or signed by the Title IX Coordinator, as described below:

1. Disciplinary Resolution, which involves an investigation and adjudication; and
2. Adaptable Resolution, which includes informal or restorative options for resolving reports.

Also, in cases in which an investigation and adjudication occur under this policy, the Title IX Coordinator may itself or in collaboration with or referral to other College offices, undertake efforts such as educational conversations with individuals, educational programs for departments or groups, or other efforts designed to improve the campus environment and/or address concerns about behavior that may implicate this policy. An example of such a case would include a situation where a complainant does not wish to participate in a formal investigation and resolution process and the College can respect that wish due to the nature and level of the reported conduct, but where some action is nonetheless deemed appropriate by the Title IX Coordinator.

The processes under this policy are separate and distinct from Texas' criminal process. Proceedings under this policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus. Neither a decision by law enforcement regarding prosecution nor the outcome of any criminal proceeding will be considered determinative of whether a violation of this policy has occurred.

## **13. Initial Steps and Determination of Appropriate Procedures**

### **A. Initial Contact with Complainant by Title IX Coordinator**

After receiving a report of Prohibited Conduct, the Title IX Coordinator will:

1. promptly contact or attempt to contact the complainant to discuss the availability of supportive measures (unless deemed unnecessary because contact has already been made with the complainant regarding the conduct alleged in the report);
2. inform the complainant of the availability of supportive measures with or without the filing of a formal complaint;
3. consider the complainant's wishes with respect to supportive measures; and
4. explain to the complainant the process for filing a formal complaint.

### **B. Initial Assessment**

As part of or in addition to the initial contact with the complainant, the Title IX Coordinator will also gather information about the reported conduct and any immediate health or safety concerns raised by the report or the complainant. The Title IX Coordinator will assess the complainant's safety and well-being, offer the College's immediate support and assistance, and assess the nature and circumstances of the report to determine whether the reported conduct raises a potential policy violation and whether the reported conduct is within the scope of this policy. The Title IX Coordinator may consult with other College administrators as part of the initial assessment.

As part of the initial assessment, the Title IX Coordinator will:

- assess the nature and circumstances of the report, including whether it provides the names and/or any other information that identifies the complainant, the respondent, any witness, and/or any other individual with knowledge of the reported incident;
- address immediate physical safety and emotional well-being;
- notify the complainant of their right to contact (or decline to contact) law enforcement or seek a civil protection order ;
- notify the complainant of the right to seek medical treatment;

- notify the complainant of the importance of the preservation of evidence and of visiting a hospital as necessary for help with doing so;
- communicate necessary details via the College's Incident/Information Report if and as required by the Clery Act;
- provide the complainant with written information about on- and off-campus resources; notify the complainant of the range of interim measures available, including the right to reasonable interim or supportive measures regardless of whether they choose to file a formal complaint or participate in a College or law enforcement investigation;
- provide the complainant with an explanation of their procedural options;
- discuss the complainant's expressed preference for the manner of resolution and any barriers to the proceeding (e.g., confidentiality concerns);
- notify the complainant of the right to be accompanied at any meeting by an advisor of choice;
- assess for any alleged pattern of conduct by the respondent;
- explain the College's policy prohibiting retaliation, that the College will take prompt action when retaliation is reported, and how to report acts of retaliation; and
- determine the age of the complainant; and if the complainant is a minor, or was a minor at the time of the alleged Prohibited Conduct, make the appropriate notifications under the [Child Abuse Prevention and Treatment Act](#) (CAPTA).

In cases in which the Title IX Coordinator initiates an investigation or takes any other action that impacts a respondent, the Title IX Coordinator will also ensure that the respondent is notified and receives written information on available resources and options, consistent with the list outlined above, as applicable.

At the conclusion of the initial assessment, the College will proceed with one of the following options:

1. Proceed with an investigation under the Disciplinary Resolution process.
  - a. This will occur when a complainant requests an investigation and the Title IX Coordinator determines it is appropriate; when the Title IX Coordinator determines that an investigation must be pursued even when a complainant requests that no investigation be pursued; or when Adaptable Resolution is not appropriate or available.
2. Proceed with Adaptable Resolution.
  - a. This will always require the consent of the complainant. The consent of the respondent is also required when the form of resolution involves the respondent.
3. If outside the scope of this policy, refer the matter to another appropriate office or department for resolution under the relevant policy.
4. If the complainant requests that the College does not pursue a resolution process and the College determines that it can respect that request, the College will close the report.

- a. This option could include notifying the respondent of the alleged misconduct. The level of detail shared with the respondent will be at the discretion of the Title IX Coordinator.
- b. The College may re-open the matter if the complainant subsequently requests resolution or if the College subsequently determines there is a need to re-open the matter.

## C. Formal Complaints, Dismissals, and Appeals of Dismissals

A formal complaint for purposes of this SIM policy is a document filed by a complainant or signed by the Title IX Coordinator alleging Prohibited Conduct committed by a respondent and requesting that the College investigate the allegation.

When a complainant submits a formal complaint, the Title IX Coordinator will first promptly determine whether:

1. the conduct alleged would, if proven, constitute Title IX Sexual Harassment (i.e., Quid Pro Quo Sexual Harassment, Severe, Pervasive, and Objectively Offensive Sexual Harassment, Sexual Assault, or sex-based Domestic Violence, Dating Violence, or Stalking) as defined in the SIM Policy
2. the conduct allegedly occurred in the College's education program or activity;
3. the conduct allegedly occurred in the United States; and
4. the complainant is participating in or attempting to participate in the College's education program or activity at the time the complaint is filed.

If the formal complaint satisfies all 4 of these elements, it will be investigated and resolved as a Title IX Sexual Harassment matter through the procedures outlined below.

If it appears based upon initial review or upon information gathered during an investigation that a formal complaint does not satisfy and/or no longer satisfies all 4 of these elements, the College will, as required by the May 2020 Title IX Sexual Harassment regulations, dismiss the formal complaint for purposes of the Title IX process. The Title IX Coordinator may upon such dismissal transfer the matter for handling under the Non-Title IX Misconduct process outlined below or other College procedures, as deemed appropriate by the College.

Even if the allegations of a formal complaint fall within the definition of Title IX, the Title IX Coordinator may (but is not required to) dismiss a formal complaint or any allegations therein at any time during the investigation or resolution process:

- 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 College (unless the College is required by Texas law to finalize an investigation involving a student

respondent who was enrolled at the College at the time the investigation was initiated); or

- Specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

If a formal complaint is dismissed by the College under the circumstances described above, the College will simultaneously provide to the parties written notice (by electronic or other means) of the dismissal and the reasons for the dismissal, and notice of the parties' opportunity to appeal such dismissal through the appeal procedures outlined below.

## D. Formal Complaints Signed by Title IX Coordinator

In cases where it appears based on an initial report that the 4 elements stated above would be satisfied, but the complainant does not wish to file a formal complaint, the Title IX Coordinator may, in their discretion (see "Balancing Complainant Autonomy With College Decision to Investigate" immediately below), decide to sign a Title IX Sexual Harassment complaint and initiate an investigation and resolution process under the Title IX Sexual Harassment formal resolution process outlined below. If this occurs, the Title IX Coordinator will not be a complainant or otherwise a party to the matter.

Further, if a formal complaint is dismissed as described above because it does not fit within the Title IX Sexual Harassment definition, but the Title IX Coordinator determines that the allegations of the complaint may constitute Non-Title IX Misconduct, the Title IX Coordinator may (upon the resolution of, and to the extent consistent with the result of, any appeal of such dismissal), address the alleged Non-Title IX Misconduct through the resolution procedures provided below.

## E. Balancing Complainant Autonomy with College Decision to Respond

In order to protect the safety of the campus community, the Title IX Coordinator may decide to proceed with an investigation of Prohibited Conduct (that is, either Title IX Sexual Harassment or Non-Title IX Sexual Harassment Misconduct) even if a complainant specifically requests that the matter not be pursued. The Title IX Coordinator may also initiate an investigation of potential violations of this policy even absent a formal complaint or identified complainant or respondent and even if a report has been withdrawn. If a complainant requests that the College not investigate the alleged incident, the College may gather facts about the alleged incident in a manner that complies with the confidentiality requirements described below. The Title IX Coordinator may also look into potential violations of this policy absent a formal complaint or identified complainant or respondent. This process need not follow the Disciplinary Resolution or Adaptable Resolution procedures outlined in this policy, and may instead proceed as deemed

appropriate in the discretion of the Title IX Coordinator. In determining whether to investigate the alleged incident(s), the College will consider factors such as, for example:

1. the seriousness of the alleged incident;
2. whether the institution has received other reports of Prohibited Conduct committed by the respondent or respondents;
3. whether the alleged incident poses a risk of harm to others; and
4. any other factors the College determines are relevant.

A complainant may request that their name or other personally identifiable information not be shared with a respondent, that no investigation be pursued, or that no disciplinary action be taken. In these instances, before taking any further investigative steps, a member of the Title IX Coordinator will discuss any concerns with the complainant and seek to address and remedy barriers to reporting and/or participation based upon concerns about retaliation or other lack of clarity in understanding procedural options and potential outcomes.

The Title IX Coordinator will consider what steps may be possible or appropriate when a respondent is unknown or the complainant requests anonymity, and what other measures or remedies might be considered to address any effects of the reported behavior on the campus community. The Title IX Coordinator will make a determination regarding the appropriate manner of resolution under the policy. The College will seek a resolution consistent with the complainant's request, if it is possible to do so, based upon the facts and circumstances, while also promoting the health and safety of the complainant and the College community.

The Title IX Coordinator may request that a report be re-opened and pursued under this policy if any new or additional information becomes available, and/or if the complainant decides that they would like Disciplinary Resolution to occur.

In those instances when the Title IX Coordinator determines that the College will proceed with an investigation despite the complainant's request that it not occur, the Title IX Coordinator will notify the complainant of the College's decision whether to investigate the matter. The College is required by the May 2020 Title IX regulations to send certain notices to the complainant whether they wish to receive them or not, but the complainant will not be required to participate in the investigation or in any of the actions taken by the College if they choose not to do so.

The College's ability to investigate and respond fully to a report may be limited if the complainant requests anonymity or declines to participate in an investigation. The College will, however, pursue other steps to limit the effects of the potential Prohibited Conduct and prevent its recurrence. In all cases, the final decision on whether, how, and to what extent the College will conduct an investigation and

whether other supportive or other measures will be taken in connection with a report of Prohibited Conduct will be made in a manner consistent with this policy.

## F. Student/Employee Cases

If the respondent is both a student and an employee, the Title IX Coordinator will determine which procedures outlined below will apply based on the facts and circumstances, such as whether the respondent's status as a student or an employee predominates in the context of the Prohibited Conduct. If a student-employee /employee-student is found to have engaged in Prohibited Conduct, the student-employee/employee-student may be subject to sanctions both in connection with their employment and connection with their student status, as appropriate under these and other applicable procedures.

## G. Consolidation of Investigation

The Title IX Coordinator has the discretion to consolidate matters involving allegations of Prohibited Conduct against more than one respondent, by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of such Prohibited Conduct arise out of the same facts or circumstances. Where a grievance process involves more than one complainant or more than one respondent, references in this section to the singular "party," "complainant," or "respondent" include the plural, as applicable.

As noted in [Coordination with Other Policies](#), investigations initiated under this SIM policy may also include investigation of other forms of conduct that would be a potential violation of other College policies and those forms of conduct may be resolved under this policy, instead of the procedures ordinarily used to address potential violations of such other College policies.

## H. Safeguarding the Privacy of Complainants and Respondents

The College will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence, but all individuals involved in proceedings under this policy are encouraged to exercise discretion in sharing information about such allegations in order to safeguard the integrity of the process and to avoid potential retaliation-related concerns. More information about how the College will handle information about complainants and respondents is provided in the [Confidentiality, Qualified Confidentiality, Privacy, and Related Reporting Responsibilities](#) section of this policy above.

## I. Advisors

Throughout any investigation or resolution, each party has the right to consult with an advisor of their choosing. The advisor may be any person, including an attorney. The parties may be accompanied by their respective advisor at any



meeting or proceeding related to the resolution of a report under this policy. While the advisor may provide support and advice to the party at any meeting and/or proceeding, the College has established restrictions regarding the extent to which the advisor may participate in the proceedings. An advisor may not speak on behalf of the party or otherwise participate in, or in any manner delay, disrupt, or interfere with meetings and/or proceedings, except as specifically permitted by the hearing procedures outlined below. Generally, the Title IX Coordinator and investigator will communicate directly with the complainant or respondent, and any communications with an advisor may only occur after a FERPA waiver has been executed. An advisor should plan to make themselves reasonably available, in order to not unduly delay the scheduling of meetings or proceedings.

## **14. Emergency Removal and Administrative Leave**

### **A. Emergency Removal**

Where there is an immediate threat to the physical health or safety of any student or other individual arising from the alleged Prohibited Conduct, the College can remove a student or employee respondent from its education program or activity (which may include removing an employee respondent from their employment at the College) and issue any necessary related no-trespass and no-contact orders. The Title IX Coordinator may consult with other College personnel, departments, or teams to assist in the individualized assessment and risk analysis. The Title IX Coordinator or designee will make the decision to remove a respondent from its education program or activity based on an individualized assessment and risk analysis and follow JC's Administrative Withdrawal Procedure.

If the College makes such a decision, the respondent will be provided with notice and an opportunity to challenge the decision immediately following the removal.

### **B. Employee Administrative Leave**

The College always maintains the discretion to place an employee respondent on paid or unpaid administrative leave during the pendency of an investigation and resolution process.

## **15. Adaptable Resolution**

Adaptable Resolution is a voluntary and remedies-based resolution option. Adaptable Resolution may be pursued instead of Disciplinary Resolution at the request and agreement of both parties and as deemed appropriate by the College. The Title IX Coordinator will assess the request for Adaptable Resolution in light of factors such as, but not limited to, the stated goals of the

requesting party, the severity of the alleged violation, and the potential risks to campus community members posed by the reported misconduct. Parties engaged in Disciplinary Resolution may also request to end Disciplinary Resolution and begin Adaptable Resolution at any time prior to reaching a determination regarding responsibility being shared with the parties. The College will only proceed with Adaptable Resolution if both parties provide their voluntary, written consent.

Participation in Adaptable Resolution is voluntary and either (or any) party can request to end Adaptable Resolution at any time prior to signing a written Adaptable Resolution Agreement. Additionally, the Title IX Coordinator can end Adaptable Resolution if the Coordinator determines it is no longer the appropriate avenue for the resolution of a given report. If Adaptable Resolution is stopped prior to completion, information that is shared with or documented by the facilitator of the Adaptable Resolution will not be shared with the investigator, in the event that Disciplinary Resolution is initiated or resumed. A party's willingness to participate in Adaptable Resolution will not be considered as evidence in Disciplinary Resolution. The College will not compel a party to engage in any particular form of Adaptable Resolution.

Adaptable Resolution does not include an investigation or adjudication by the College under the Disciplinary Resolution process outlined in this policy but may involve the respondent's agreement to appropriate and reasonable remedies, including supported direct conversation or interaction with the complainant, education, training, and/or other remedies agreed to by the parties.

The Title IX Coordinator will maintain records of all reports and conduct referred for Adaptable Resolution, which will typically be completed within 60 calendar days of the agreement to begin Adaptable Resolution. While the College will seek to honor the confidentiality of the parties' communications with the facilitator during the Adaptable Resolution process to the extent necessary to facilitate the resolution, the College may share information discussed or created during this process, for example, without limitation to a judicial subpoena or a FERPA educational record request. However, if the respondent is found responsible for any violations of this policy in the future, information regarding the prior report processed through Adaptable Resolution may be used in the sanctioning phase for the subsequent report, provided that the respondent is granted the opportunity to address the prior report as well. If Adaptable Resolution is stopped prior to completion, statements made by a party in Adaptable Resolution may not be used in a Disciplinary Resolution process related to that matter.

If a party requests the initiation of an Adaptable Resolution process and the Title IX Coordinator agrees that the matter is appropriate for Adaptable Resolution, the Title IX Coordinator will provide to each party a written notice that discloses:

- the allegations;

- the requirements of the Adaptable Resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations;
- the parties' right to withdraw from Adaptable Resolution and resume or initiate Disciplinary Resolution with respect to the formal complaint; and
- information about the maintenance of records or how records could be shared.

The matter will be deemed resolved if and when the parties expressly agree in writing to an outcome that is acceptable to them and which is approved by the Title IX Coordinator (in consultation with other appropriate College administrators as deemed necessary). A party may withdraw from the Adaptable Resolution process at any time prior to their signing of a written Adaptable Resolution agreement. Upon signing a resolution agreement, neither party may initiate a Disciplinary Resolution process regarding the same factual allegations, and the parties agree to comply with the terms of the resolution agreement. Failure to comply with a resolution agreement once signed and approved, may result in disciplinary consequences, which may include the College placing an appropriate hold on the student's account until the terms of the agreement are met, or employment discipline up to and including termination.

The College will not offer or facilitate an Adaptable Resolution process to resolve allegations that an employee engaged in Prohibited Conduct against a student.

## **16. Timeframe for Investigation and Resolution**

The College will seek to complete the fact-gathering portion of the investigation in approximately 90 calendar days following the issuance of the notice of the investigation. In some instances, the notice of investigation may be issued on the same date as the date of the report of the incident; in other instances, based on information gathered in the initial assessment, the notice of investigation may be issued at a later date. This policy designates reasonably prompt timeframes for the major stages of the investigation and resolution process (typically set forth in business days), but the College may extend any timeframe in this policy for good cause. An extension may be required for good cause to ensure, for example, the integrity and thoroughness of the investigation; to comply with a request by law enforcement; on account of the unavailability of the parties or witnesses; or for other legitimate reasons, such as intervening breaks in the College calendar, College finals periods, the complexity of the investigation, the volume of information or length of the written record, and/or the severity and extent of the alleged misconduct. While requests for delays by the parties may be considered, the College cannot unduly or unreasonably delay the prompt resolution of a report under this policy.

Reasonable requests for delays by the parties will serve to extend the 90-calendar day time period for investigation of the report. The Title IX Coordinator, in consultation with the investigator, has the authority to determine

whether an extension is required or warranted by the circumstances. The College will notify the parties in writing of any extension of the timeframes for good cause and the reason for the extension.

Although cooperation with law enforcement may require the College to suspend the fact-finding portion of a Title IX investigation temporarily, the College will promptly resume its Title IX investigation as soon as it is notified by the law enforcement agency that doing so is not likely to interfere with the law enforcement process. The College will not, however, wait for the conclusion of a criminal proceeding or otherwise be unduly delayed in proceeding with its own investigation and, if needed, will take immediate steps to provide appropriate supportive measures.

Investigations will proceed according to the timeframes in this policy to the extent possible during the summer and at other times when classes at the College are not in session. The Title IX Coordinator will work with the parties to balance the need for promptness and the preference for in-person meetings regarding the investigation. Meetings and interviews may be conducted by the use of remote video conferencing technology as deemed appropriate by the Title IX Coordinator and/or the investigator.

Timeframes for all phases of the disciplinary process, including the investigation, any related disciplinary proceedings, and any related review of the finding apply equally to both the complainant and the respondent.

## **17. Expectations Regarding Participation in Investigations and Formal Resolutions**

All College community members are expected to provide truthful information in any report or proceeding under this policy. Consistent with the College's Student Code of Conduct, submitting or providing false or misleading information in bad faith or with a view to personal gain or intentional harm to another in connection with an incident of Prohibited Conduct is prohibited and subject to disciplinary sanctions. This provision does not apply to reports made or information provided in good faith, even if the facts alleged in the report are not later substantiated or no policy violation is found to have occurred.

JC expects all members of the College community to cooperate fully with the investigation and resolution procedures. It is understood that there may be circumstances in which a complainant or respondent wishes to limit their participation, and the College will respect the choice of the complainant or respondent as to how to engage in proceedings under this policy. The College may, however, move forward with an investigation and disciplinary action without the participation of a party or parties. If a complainant or respondent chooses not to answer any or all questions, or otherwise participate in an investigation for any

reason, the College will evaluate whether to continue the disciplinary process. The College will not draw any adverse inference from a complainant's or respondent's decision not to participate in the investigation or any form of resolution under this policy; however, the complainant or respondent should be aware that declining to participate in the investigation may impact the timing and outcome of the case.

The College also recognizes that witnesses may be reluctant to participate in the process, but they are strongly encouraged to participate as requested by the College.

The College will not retaliate against an individual because they refuse to participate in an investigation or hearing under this policy.

## **18. Administrative Holds and Continuation of Disciplinary Resolution**

The College will place a temporary administrative hold on a respondent's transcript pending the completion of the Disciplinary Resolution process. If a respondent withdraws while the investigation is pending, Texas law requires that the College proceed with the investigation and resolution process.

## **19. Grievance Procedures for Students**

Jacksonville College does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX, including in admission and employment.

During the Disciplinary Resolution process, both parties have equal rights, including the opportunity to receive a written notice of investigation; to participate in the investigation; to review and present information and evidence; to be accompanied by an advisor of their choice to any meeting; to timely and equal access to information as provided below; to timely notice of meetings at which their presence will be requested or required; to simultaneous written notice of the determination, rationale, and, as appropriate, any sanction; and to an appeal of the finding.

Determinations regarding responsibility by the hearing sanctioning panel, as described below, will be made by a preponderance of the evidence. A preponderance of the evidence means that based on all relevant evidence and reasonable inferences from the evidence, the greater weight of information indicates that it was more likely than not the alleged policy violation occurred. Evidence is relevant if it has a tendency to make a fact more or less likely than it would be without the evidence, and the fact is of consequence in the hearing sanctioning panel's determination.

To the extent required by applicable law, the College's application of the procedures outlined below will be designed to ensure equal access for individuals with disabilities.

The following procedures will apply to Title IX Sexual Harassment matters and Non-Title IX Misconduct matters.

## A. Basic Requirements of Title IX Grievance Procedures

Jacksonville College will treat complainants and respondents equitably.

Jacksonville College requires that any Title IX Coordinator, Human Resources, Investigator, or Decisionmaker(s) not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. As long as there is no conflict of interest or bias, a decisionmaker(s) may be the same person as the Title IX Coordinator or investigator.

Jacksonville College presumes that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its grievance procedures.

Jacksonville College will seek to complete the fact-finding portion of an investigation in approximately 90 days following the notice of the investigation. Additional timeframes will be determined on a situational basis but will be reasonably prompt (typically within 90 days) for major stages, including but not limited to the evaluation; investigation; determination; and appeals stages.

Jacksonville College has also established the following process that allows for the reasonable extension of time frames on a case-by-case basis for good cause with written notice of any extension to the parties that includes the reason for the delay.

For a party to request an extension of an applicable timeframe he or she should email the Title IX Coordinator with the nature of and reason for the request. The Title IX Coordinator, who consults with various levels of College leadership has the authority to determine whether an extension is warranted and will notify the parties in writing via JC email.

Jacksonville College will take reasonable steps to protect the privacy of the parties and witnesses during its grievance procedures. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures. The parties cannot engage in retaliation, including against witnesses.

Jacksonville College will objectively evaluate all evidence that is relevant and not otherwise impermissible—including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person’s status as a complainant, respondent, or witness.

The following types of evidence, and questions seeking that evidence, are impermissible (i.e., will not be accessed or considered, except by Jacksonville College to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:

1. Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
2. A party’s or witness’s records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless Jacksonville College obtains that party’s or witness’s voluntary, written consent for use in its grievance procedures; and
3. Evidence that relates to the complainant’s sexual interests or prior sexual conduct, unless evidence about the complainant’s prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant’s prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant’s consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

## B. Complaints

The following people have a right to make a complaint of sex-based harassment, requesting that Jacksonville College investigate and make a determination about alleged sex-based harassment under Title IX:

1. A “complainant,” which includes:
  - i. a student or employee of Jacksonville College who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or
  - ii. a person other than a student or employee of Jacksonville College who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that

individual was participating or attempting to participate in Jacksonville College's education program or activity;

2. A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant; or
3. Jacksonville College's Title IX Coordinator.

Note that a person is entitled to make a complaint of sex-based harassment only if they themselves are alleged to have been subjected to the sex-based harassment, if they have a legal right to act on behalf of such person, or if the Title IX Coordinator initiates a complaint consistent with the requirements of 34 C.F.R. § 106.44(f)(1)(v).

Jacksonville College may consolidate complaints of sex discrimination against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of sex discrimination arise out of the same facts or circumstances. When more than one complainant or more than one respondent is involved, references below to a party, complainant, or respondent include the plural, as applicable.

## C. Informal Resolution

In lieu of resolving a complaint through Jacksonville College's Title IX grievance procedures, the parties may instead elect to participate in an informal resolution process. Jacksonville College will inform the parties in writing of any informal resolution process it offers and determines is appropriate, if any. Jacksonville College will designate an appropriate Informal Resolution Facilitator to facilitate the Informal Resolution process. Jacksonville College will not offer informal resolution to resolve a complaint when such a process would conflict with Federal, State, or local law. Before the initiation of an informal resolution process, Jacksonville College will explain in writing to the parties:

1. The allegations;
2. The requirements of the informal resolution process;
3. That any party has the right to withdraw from the informal resolution process and initiate or resume grievance procedures at any time before agreeing to a resolution;
4. That if the parties agree to a resolution at the end of the informal resolution process, they cannot initiate or resume grievance procedures arising from the same allegations;



5. The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and
6. What information Jacksonville College will maintain and whether and how Jacksonville College could disclose such information for use in Title IX grievance procedures if such procedures are initiated or resumed.

At any time during the Informal Resolution either party or Jacksonville College can end the process and begin the Formal Title IX grievance procedures.

## D. Dismissal of a Complaint

Jacksonville College may dismiss a complaint if:

1. Jacksonville College is unable to identify the respondent after taking reasonable steps to do so;
2. The respondent is not participating in Jacksonville College's education program or activity and is not employed by Jacksonville College;
3. Jacksonville College obtains the complainant's voluntary withdrawal in writing of any or all of the allegations, the Title IX Coordinator declines to initiate a complaint, and Jacksonville College determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under Title IX even if proven; or
4. Jacksonville College determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX. Before dismissing the complaint, Jacksonville College will make reasonable efforts to clarify the allegations with the complainant.

Upon dismissal, Jacksonville College will promptly notify the complainant in writing of the basis for the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, then Jacksonville College will notify the parties simultaneously in writing.

Jacksonville College will notify the complainant that a dismissal may be appealed on the bases outlined in the Appeals section. If dismissal occurs after the respondent has been notified of the allegations, then Jacksonville College will also notify the respondent that the dismissal may be appealed on the same bases. If a dismissal is appealed, Jacksonville College will follow the procedures outlined in the Appeals section.

When a complaint is dismissed, Jacksonville College will, at a minimum:

1. Offer supportive measures to the complainant as appropriate;

2. If the respondent has been notified of the allegations, offer supportive measures to the respondent as appropriate; and
3. Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex discrimination does not continue or recur within Jacksonville College's education program or activity.

## E. Written Notice of Allegations

Upon initiation of these Title IX grievance procedures, Jacksonville College will notify the parties in writing of the following with sufficient time for the parties to prepare a response before any initial interview:

1. Jacksonville College's Title IX grievance procedures and any informal resolution process;
2. Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute sex-based harassment, and the date(s) and location(s) of the alleged incident(s);
3. Retaliation is prohibited;
4. The respondent is presumed not responsible for the alleged sex-based harassment until a determination is made at the conclusion of the grievance procedures. Prior to such a determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decisionmaker(s);
5. The parties may have an advisor of their choice who may be, but is not required to be, an attorney;
6. The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an investigative report that accurately summarizes this evidence. The parties are entitled to an equal opportunity to access the relevant and not impermissible evidence upon the request of any party; and
7. The section marked: Dishonesty of the Jacksonville College Student Handbook prohibits knowingly making false statements or knowingly submitting false information during the grievance procedures.

If, in the course of an investigation, Jacksonville College decides to investigate additional allegations of sex-based harassment by the respondent toward the complainant that are not included in the written notice or that are included in a consolidated complaint, it will provide written notice of the additional allegations to the parties.

## F. Investigation

Jacksonville College will provide for adequate, reliable, and impartial investigation of complaints.

The burden is on Jacksonville College—not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

Jacksonville College will provide to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time for the party to prepare to participate.

Jacksonville College will provide the parties with the same opportunities to be accompanied to any meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney.

1. Jacksonville College will not limit the choice or presence of the advisor for the complainant or respondent in any meeting or proceeding.
2. Jacksonville College may establish restrictions regarding the extent to which the advisor may participate in these grievance procedures, as long as the restrictions apply equally to the parties.

Jacksonville College will provide the parties with the same opportunities, if any, to have people other than the advisor of the parties' choice present during any meeting or proceeding.

Jacksonville College will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible. Parties may not present expert witnesses consistent with the requirements of §106.46(e)(4).

Jacksonville College will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.

Jacksonville College will provide each party and the party's advisor, if any, with an equal opportunity to access the evidence that is relevant to the allegations of sex-based harassment and not otherwise impermissible, in the following manner:

1. Jacksonville College will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or the same written investigative report that accurately summarizes this evidence.
2. Jacksonville College will provide a reasonable opportunity to review and respond to the evidence or the investigative report. Jacksonville College

3. If Jacksonville College conducts a live hearing as part of its grievance procedures, it may decide whether to provide this opportunity to respond prior to the live hearing, during the live hearing, or both prior to and during the live hearing; and
4. Jacksonville College will take reasonable steps to prevent and address the parties' and their advisors' unauthorized disclosure of information and evidence obtained solely through the sex-based harassment grievance procedures.

In cases that will be investigated, the Title IX Coordinator will appoint one or more investigators (referred to in this policy as "the investigator") to conduct a prompt, thorough, fair, and impartial investigation. The investigator may be the Title IX Coordinator, a College employee, and/or an experienced external investigator. Any investigator used by the College will receive annual training on the issues related to sexual and gender based harassment, sexual assault, dating violence, domestic violence, and stalking, and on how to conduct an investigation that is fair and impartial, provides parties with notice and a meaningful opportunity to be heard, and protects the safety of complainants while promoting accountability. In selecting the investigator for a particular matter, the Title IX Coordinator will take care to select an individual who does not have a conflict of interest or bias against complainants or respondents generally or an individual complainant or respondent. The Title IX Coordinator will notify the parties of the identity of the investigator and parties may, within three business days of such notice, object to the service of the investigator by providing a written statement (which may be transmitted electronically) as to why the party believes that the investigator has a conflict of interest or bias. Objections after this three-day period must be based on newly acquired information. The Title IX Coordinator will make decisions regarding such objections and the appointment of an alternate investigator, as necessary.

## G. Conduct Investigations and Relevant Evidence

During an investigation, the investigator will seek to meet separately with the complainant, respondent, and relevant witnesses. Witnesses are individuals who may have information relevant to the incident, including individuals who may have observed the acts in question, may be able to provide contextual information, or may have other information related to the incident, the disclosure, or related matters. The respondent is presumed not responsible for the alleged policy violation(s), and the investigator will not make a determination regarding responsibility.

The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the College and not on the parties. Parties will have an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence. Parties are not restricted in their ability to discuss the allegations under investigation or to

gather and present relevant evidence. Parties whose participation is invited or expected will receive written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.

Witnesses may not participate solely to speak about an individual's character. Where witnesses are interviewed as part of the investigation, the name of the witness and a summary of relevant information gathered in the interviews will be shared with the parties in the investigative report described below. The investigator will also gather other relevant information or evidence, including documents, photographs, and communications between the parties and witnesses, and other information, including electronic records, as appropriate.

All interviews may be audio recorded at the investigator's discretion.

While the investigator, not the parties, is responsible for gathering relevant evidence to the extent reasonably possible, both the complainant and the respondent are encouraged to submit any information they believe may be relevant, and both the complainant and respondent will be asked to identify witnesses and provide other relevant information, such as documents, communications, photographs, and other evidence. Both parties are encouraged to provide all relevant information as promptly as possible to facilitate prompt resolution. In the event that a party declines to provide material information, the College's ability to gather and consider all facts may be impacted.

The investigator may also consider information publicly available from social media or other online sources that comes to the attention of the investigator. The Title IX Coordinator does not actively monitor social media or online sources, however, and as with all potentially relevant information, the complainant, respondent, or witness should bring online information to the attention of the investigator.

Similarly, the parties should bring any new or evolving evidence, such as harassing or retaliatory conduct, to the attention of the investigator. The investigator may consider such information in the investigation and will also share any information about alleged retaliation or violation of the terms of a supportive measure with the Title IX Coordinator for further action.

The investigator may visit relevant sites or locations and record observations through written, photographic, or other means. In some cases, the investigator may consult medical, forensic, technological, or other experts when expertise on a topic is needed in order to achieve a fuller understanding of the issues under investigation.

If there is a concurrent criminal investigation, the College may contact the law enforcement agency that is conducting any investigation to inform that agency that a College investigation is also in progress, to attempt to ascertain the status

of the criminal investigation, and to determine the extent to which any evidence collected by law enforcement may be available to the College in its investigation.

In general, a person's medical and counseling records are confidential and are not accessible to the investigator unless the person voluntarily chooses to share those records with the investigator. The investigator will not access, consider, disclose, or otherwise use a party's privileged records without the party's voluntary, written consent to do so, and such information will not be deemed relevant to an investigation or adjudication absent the voluntary, written consent of the party. In those instances, the relevant information from the records must be shared with the other party; it should be noted, however, that irrelevant information may be redacted by the investigator from such records, as appropriate.

The investigator will review all information identified or provided by the parties and will determine the appropriateness, relevance, and probative value of the information developed or received during the investigation. In general, the investigator will not consider relevant statements of personal opinion or statements as to any party's general reputation for any character trait. The amount and type of evidence that may be relevant, including witnesses, may vary. The investigator has the discretion to determine which witnesses to interview and will carefully consider requests or recommendations for witnesses made by the complainant and respondent. Not every complainant- or respondent-suggested witness may be interviewed, for example, if their knowledge is not relevant, is duplicative, or only pertains to facts that are not contested, or if the witness is uncooperative or cannot reasonably be reached.

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.

The investigator will provide periodic updates to the parties about the status of the investigation.

## H. Review of Directly Related Information and Parties' Written Response

In conjunction with the provision of a preliminary investigative report prepared by the investigator, the investigator or designee will provide each party with an equal opportunity to review any evidence obtained as part of the investigation that is directly related to the allegations raised, including the evidence upon which the College may not rely in reaching a determination regarding responsibility and/or which the investigator does not deem relevant, and inculpatory or exculpatory

evidence whether obtained from a party or other source so that each party can meaningfully respond to the evidence prior to the conclusion of the investigation. Such evidence will include any statements made by the parties and witnesses, written or electronic communications, social media posts, videos, photographs, and any other relevant documentary evidence gathered by the investigator, redacted as necessary to comply with any applicable federal or state law regarding confidentiality. Such evidence will not include privileged records or information that may have been gathered or received during the investigation, without written consent from the party holding the privilege (provided however that appropriately redacted otherwise-privileged records may be shared with consent).

The College will provide to each party and the party's advisor, if any, the evidence subject to review in an electronic format. Parties and advisors are not permitted to download, print or copy such evidence subject to inspection and review, and are not permitted to re-disclose such evidence without the College's permission. Violations of these prohibitions may subject parties to College discipline under applicable conduct codes.

The complainant and the respondent will have an opportunity to concurrently review such information and may, within 10 calendar days, submit a written response to the investigator. The parties' written responses will be considered by the investigator prior to the completion of the investigative report, and some or all of the responses may be attached or otherwise incorporated into the investigative report. In the event that new, relevant information is provided or identified at this stage, the information will be incorporated into the investigative report as deemed appropriate by the investigator.

## I. Final Investigative Report

When deemed appropriate by the investigator, the investigator will prepare a final investigative report, which will fairly summarize relevant evidence and include as exhibits evidentiary materials as deemed appropriate by the investigator. The parties may provide a written response to the investigative report within ten calendar days of the issuance of the final investigative report.

The investigative report and the parties' written responses, if any, will be provided to the decisionmaker(s) in advance of the hearing.

## J. Procedures for a Non-Live Hearing

### 1. Non-Live Hearing

When Jacksonville College chooses not to conduct a live hearing the designated decisionmaker(s) will determine the outcome of the investigation. The decision of

the decisionmaker(s) is final and if either the respondent or complainant disagree with the finding(s) of the decisionmaker(s) then they would go through the Appeal Process.

## 2. Questioning the Parties and Witnesses

Jacksonville College will provide a process that enables the decisionmaker(s) to question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex-based harassment.

When Jacksonville College chooses not to conduct a live hearing: Jacksonville College's process for proposing and asking relevant and not otherwise impermissible questions and follow-up questions of parties and witnesses, including questions challenging credibility, will:

- a. Allow the investigator or decisionmaker(s) to ask such questions during individual meetings with a party or witness;
- b. Allow each party to propose such questions that the party wants asked of any party or witness and have those questions asked by the investigator or decisionmaker(s) during one or more individual meetings, including follow-up meetings, with a party or witness, subject to the procedures for evaluating and limiting questions discussed below; and
- c. Provide each party with an audio or audiovisual recording or transcript with enough time for the party to have a reasonable opportunity to propose follow-up questions.

## K. Procedures for a Live Hearing

Jacksonville College's process for proposing and asking relevant and not otherwise impermissible questions and follow-up questions of parties and witnesses, including questions challenging credibility, will allow the sanctioning panel to ask such questions, and either:

- a. Allow each party to propose such questions that the party wants asked of any party or witness and have those questions asked by the sanctioning panel,

Procedures for the sanctioning panel to evaluate the questions and limitations on questions:

- The sanctioning panel will determine whether a proposed question is relevant and not otherwise impermissible before the question is posed and will explain any decision to exclude a question as not relevant or otherwise impermissible.



Questions that are unclear or harassing of the party or witness being questioned will not be permitted. The sanctioning panel will give a party an opportunity to clarify or revise a question that the sanctioning panel determines is unclear or harassing. If the party sufficiently clarifies or revises the question, the question will be asked.

Refusal to respond to questions and inferences based on refusal to respond to questions:

- The sanctioning panel may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed relevant and not impermissible. The sanctioning panel will not draw an inference about whether sex-based harassment occurred based solely on a party's or witness's refusal to respond to such questions.

Jacksonville College will conduct the live hearing with the parties physically present in the same geographic location or, at Jacksonville College's discretion or upon the request of either party, will conduct the live hearing with the parties physically present in separate locations with technology enabling the sanctioning panel and parties to simultaneously see and hear the party or witness while that person is speaking.

Jacksonville College will create an audio or audiovisual recording or transcript of any live hearing and make it available to the parties for inspection and review.

Hearing sanctioning panels will be conducted pursuant to the procedures listed below for either Title IX Sexual Harassment Hearings, or Non-Title IX Sexual Misconduct Hearings.

The Sanctioning Panel will act as the decisionmaker(s) to determine the outcome of the investigation. The decision of the Sanctioning Panel is final and if either the respondent or complainant disagree with the finding(s) of the Sanctioning Panel then they would go through the Appeal Process.

## E. Hearing Sanctioning Panels Procedures

### 1. Scheduling of Hearings

Hearings will be scheduled no earlier than ten days after the issuance of the final investigative report.

### 2. Hearing Sanctioning Panel

Hearings will be held by a hearing sanctioning panel, which will make the decision using a preponderance standard as to whether or not the respondent violated the policy provisions at issue. The hearing sanctioning panel has broad authority to determine the process, timing, and conduct of a hearing. For example, the hearing sanctioning panel will determine the order of presentation, timing, and overall duration of the hearing, what information and evidence will be

heard, what information and questions are relevant to the determination of the matter, and what questions will or will not be permitted.

The hearing sanctioning panel will be appointed by the Title IX Coordinator or designee. In selecting a hearing sanctioning panel for a particular matter, the Title IX Coordinator will take care to select individuals who do not have a conflict of interest or bias against complainants or respondents generally or an individual complainant or respondent. The panel will be composed of three and may include Deans, Human Resources, Vice Presidents, and/or proxies as appropriate to the hearing. The College will notify the parties of the identity of the hearing sanctioning panel in advance of the hearing, and parties may, within 3 business days of such notice, object to the service of the panel by providing a written statement (which may be transmitted electronically) as to why the party believes that a member of the panel has a conflict of interest or bias. The Title IX Coordinator or designee will make decisions regarding such objections and the appointment of an alternate panel member as necessary. Parties and their advisors are prohibited from contacting the hearing sanctioning panel for any reason prior to the full conclusion of the resolution process. In addition, parties and their advisors are prohibited from contacting the hearing sanctioning panel about the resolution process after its completion.

### 3. Advisors

Throughout the entire proceeding, including any investigation or hearing, each party has the right to consult with an advisor of their choosing and may be accompanied by their respective advisor at any stage, including interviews and the misconduct hearing. The advisor may be any person, including an attorney.

Scheduling accommodations generally will not be made for advisors if they unduly delay the process. The College reserves the right to take appropriate action regarding any advisor who disrupts the process, or who does not abide by the restrictions on their participation as determined in the sole discretion of the hearing sanctioning panel, which may include exclusion of the advisor from the hearing.

While the advisor may provide support or advice to the party at any interview, meeting, and/or hearing, the advisor may not participate in the proceedings or speak on behalf of the party. Parties should inform the Title IX Coordinator of the identity of the advisor, if any, they have chosen to accompany them to the hearing no later than five calendar days before the hearing.

### 4. Requests for Appearance of Witnesses

Witnesses present at the hearing are restricted to individuals already interviewed in the fact-gathering process. The Title IX Coordinator or designee will inform the witness that their presence at the hearing is required (to the extent that the College has jurisdiction to require the presence of the witness) or requested. The

College may compel College faculty, staff, and/or students to participate in the hearing process.

## 5. Conduct of Hearings and Relevance

Before the hearing, the hearing sanctioning panel will receive a copy of the investigative report, any attachments thereto, and copies of the parties' written responses to the investigative report, if any, which will be part of the information of record to be considered at the hearing. Regarding the evidence subject to inspection and review that was provided to the parties and their advisors as described above, a copy of such evidence will be made available at the hearing, and each party and/or their advisor (as applicable) will have an equal opportunity to refer to such evidence during the hearing.

The hearing sanctioning panel has the discretion to determine the hearing format. A broad overview will be provided to both parties prior to the hearing. Both the complainant and the respondent have a right to be present at the hearing, but neither party is required to participate in the hearing in order for the hearing to proceed. Either party may request alternative methods for participating in the hearing that do not require physical proximity to the other party, including participating through electronic means. The College has the discretion as well to choose whether the hearing occurs with all parties physically present in the same geographic location or, whether any or all parties or witnesses may appear at the live hearing virtually.

Although as a general rule, the College expects that the parties will participate in the hearing, the hearing may proceed without either party after considering the party's stated reason for not participating. The hearing sanctioning panel maintains discretion to require any witness to appear and give testimony.

Subject to the discretion of the hearing sanctioning panel, hearings will ordinarily begin with introductory remarks, followed by opening statements from any party who wishes to provide one, followed by the hearing sanctioning panel asking relevant initial questions of the parties. During this portion of the hearing, advisors may confer privately and in a non-disruptive manner with their advisee, but they are not allowed to make opening statements or otherwise address the hearing sanctioning panel or anyone else present at the hearing.

Jacksonville College will provide a process that enables the sanctioning panel to question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex-based harassment.

As noted above, this policy prohibits attempts to commit Prohibited Conduct. In assessing whether an individual attempted to commit Prohibited Conduct, the hearing sanctioning panel will consider elements such as circumstances and

context of the encounter, statements made by a party or the parties, and the actions of a party or the parties.

Information protected under a legally recognized privilege (such as, for example, privileged communications between a party and their physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in a treatment capacity or privileged communications between a party and their attorney), will not be admitted unless the person holding the privilege has waived the privilege.

Only relevant questions may be asked of a party or witness. 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.

At the request of either party, the College will provide for the hearing to occur with the parties located in separate rooms with technology enabling the hearing sanctioning panel and parties to simultaneously see and hear the party or the witness answering questions. Live hearings may be conducted with all parties physically present in the same geographic location or, at the College's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.

Formal rules of evidence do not apply to hearings conducted by the College. The hearing sanctioning panel may at their discretion consider statements of a party or witness made before or at a hearing and/or other information, regardless of whether the party or witness appears at or answers some or all questions at a hearing. The hearing sanctioning panel will determine the appropriate weight for such information based on the totality of available relevant evidence. The hearing sanctioning panel will not draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

At the discretion of the hearing sanctioning panel, parties (but not their advisors) will usually be given an opportunity to make a closing statement at the conclusion of the hearing.

At the request of either party, access to the recording of the Sanctioning Hearing can be made available.

## F. Determination Whether Sex-Based Harassment Occurred

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, Jacksonville College will:

1. Use the preponderance standard of proof to determine whether sex discrimination occurred. The standard of proof requires the decisionmaker(s) to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the decisionmaker(s) is not persuaded under the applicable standard by the evidence that sex discrimination occurred, whatever the quantity of the evidence is, the decisionmaker(s) will not determine that sex discrimination occurred.
2. Notify the parties simultaneously in writing of the determination whether sex-based harassment occurred under Title IX including:
  - a. A description of the alleged sex-based harassment;
  - b. Information about the policies and procedures that Jacksonville College used to evaluate the allegations;
  - c. The decisionmaker(s)'s evaluation of the relevant and not otherwise impermissible evidence and determination whether sex-based harassment occurred;
  - d. When the decisionmaker(s) finds that sex-based harassment occurred, any disciplinary sanctions Jacksonville College will impose on the respondent, whether remedies other than the imposition of disciplinary sanctions will be provided by Jacksonville College to the complainant, and, to the extent appropriate, other students identified by Jacksonville College to be experiencing the effects of the sex-based harassment; and
  - e. Jacksonville College's procedures and permissible bases for the complainant and respondent to appeal.
3. Jacksonville College will not impose discipline on a respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the Title IX grievance procedures that the respondent engaged in prohibited sex discrimination.
4. If there is a determination that sex discrimination occurred, as appropriate, the Title IX Coordinator will:
  - a. Coordinate the provision and implementation of remedies to a complainant and other people Jacksonville College identifies as having had equal access to Jacksonville College's education program or activity limited or denied by sex discrimination;

- b. Coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions; and
  - c. Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within Jacksonville College's education program or activity.
- 5. Comply with the Title IX grievance procedures before the imposition of any disciplinary sanctions against a respondent; and
  - 6. Not discipline a party, witness, or others participating in the Title IX grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.

The determination regarding responsibility becomes final either on the date that Jacksonville College provides the parties with the written determination of the result of any appeal, or, if no party appeals, the date on which an appeal would no longer be considered timely.

## 19. Imposition of Sanctions

### A. Supportive Measures

Jacksonville College will offer and coordinate supportive measures as appropriate for the complainant and/or respondent to restore or preserve that person's access to Jacksonville College's education program or activity or provide support during Jacksonville College's Title IX grievance procedures or during the informal resolution process.

For more information refer to [10. Supportive Measures](#).

### B. Imposition of Sanctions

If the decisionmaker(s) under either hearing process finds that the respondent engaged in behavior that violates this SIM policy (or other College policies under investigation, as applicable), the decisionmaker(s) will subsequently determine an appropriate sanction or sanctions, and other actions as appropriate. The decisionmaker(s) will issue a written determination that will include a statement and rationale regarding responsibility as described in more detail above, a statement of and rationale for any sanction(s) the College is imposing on the respondent, and whether remedies designed to restore or preserve equal access to the educational program or activity of the College will be provided by the College to the complainant.

Sanctions may include any of the sanctions that are listed below or set forth for violations of the College's Student Code of Conduct.

This policy prohibits a broad range of conduct, all of which is serious in nature. In keeping with the College's commitment to foster an environment that is safe, inclusive, and free from discrimination and harassment, the decisionmaker(s) has great latitude in the imposition of sanctions tailored to the facts and circumstances of each report, the impact of the conduct on the complainant and surrounding community, and accountability for the respondent. The imposition of sanctions is designed to eliminate Prohibited Conduct, prevent its recurrence, remedy its effects, and restore or preserve the complainant's equal access to College education programs or activities while supporting the College's educational mission. Sanctions may include educational, restorative, rehabilitative, and punitive components. Some conduct, however, is so egregious in nature, harmful to the individuals involved, and/or so deleterious to the educational process that it requires severe sanctions, including suspension or expulsion. In determining the appropriate sanction, the decisionmaker(s) may consider factors including, but not limited to, the following:

- the nature and violence of the conduct at issue;
- the impact of the conduct on the complainant;
- the impact or implications of the conduct on the community or the College;
- prior misconduct by the respondent, including the respondent's relevant prior discipline or criminal history (if available);
- maintenance of a safe and respectful environment conducive to learning;
- protection of the College community; and
- any other mitigating, aggravating, or compelling circumstances in order to reach a just and appropriate resolution in each case.

Sanctions may be imposed individually or in combination. For violations of this policy, the following sanctions, listed in ascending order of severity, may be imposed.

- Warning - A formal admonition, which appears in an individual's disciplinary record at the College.
- Disciplinary Probation - A more serious admonition may be assigned for a definite period of time. Findings of misconduct that resulted in disciplinary probation may be considered in determining subsequent sanctions, even if the probation period has ended. Any future violation may be grounds for more severe sanctions, including suspension, suspension with conditions, or, in especially serious cases, expulsion from the College.

- Restitution - Requirement to reimburse or otherwise compensate another and/or the College for damage or loss of property resulting from a student's misconduct. Common assessment or group billing may be made to students in a residence hall for damages occurring in common areas shared by groups of residents (determinations about whether and to what extent that will occur are made by the College's residence life administrators, not through the procedures provided in the Student Code of Conduct).
- Residential or Other Facilities Restrictions or Removal - Restriction or removal from residence halls or other campus facilities as designated in the written notification.
- Withholding of Degree - In cases involving students in their final semester, the College may withhold a student's JC degree for a specified period of time. This penalty is imposed instead of suspension at the end of the final year of study when all other degree requirements have been met. Degrees may also be withheld indefinitely when all other degree requirements have been met. The sanction of withholding a degree may also occur if an expulsion-level offense occurs after all other degree requirements have been met but before the degree is conferred.
- Suspension - Student status at the College may be terminated for a specified period of time.
- Suspension with Conditions - Student status at the College may be terminated for at least the period of time specified by the suspension, with the suspension to continue until certain conditions, stipulated by the panel applying this penalty, have been fulfilled. These conditions may include, but are not limited to, restitution of damages and a formal apology.
- Expulsion - This is the permanent termination of student status at the College, without any opportunity for readmission. Relevant information remains in the student's disciplinary record at the College and may be disclosed by the College when the student consents in writing or as otherwise required or permitted by law.

The following outcomes may accompany the preceding sanctions, as appropriate.

- Community Service - Community service up to 10 hours per week may be added to disciplinary probation for a portion or duration of the probationary period or following a warning.
- Restriction of Access to Space, Resources, and Activities - When appropriate, restrictions may be placed on access to space and/or resources or on participation in activities so as to limit opportunities for contact between the parties.



- Educational Programs - In addition to any of the sanctions listed above, a student may be required to participate in educational programs.
- No Contact Directives - No contact directives may be imposed as an administrative matter (but not necessarily a sanction) when the College determines that doing so is in the best interests of an affected individual or individuals, and/or the best interests of the College.

The fact that these additional outcomes are listed here as examples does not limit the College's ability to issue interim or administrative measures such as restriction of access to space, resources, and activities, and/or no contact directives at its discretion even where no policy violation has been investigated or charged, and/or where no policy violation has been found.

## C. Other Information about Sanctions

Sanctions will be suspended during the period of any appeal, in a manner that preserves both the respondent's rights and the College's ability to carry out the sanctions as determined by the hearing sanctioning panel. In cases adjudicated prior to the last day of classes, if the final sanction is separation from the College (i.e., suspension, suspension with conditions, or expulsion), the granting of credit for the semester and/or the awarding of a degree will be at the discretion of the hearing sanctioning panel.

A student who is suspended or expelled for a violation of this policy will have the notation "Ineligible to Reenroll" placed on his or her academic transcript. On request by the student, the College may remove the notation from the academic transcript if (1) the student is eligible to reenroll, or (2) the College determines that good cause exists to remove the notation. Such requests should be directed to the Title IX Coordinator in writing. The removal of the notation from the academic transcript shall not require the College to make any modification to the student's disciplinary records at the College.

## D. Additional Remedies

Regardless of the outcome, the decisionmaker(s) may recommend additional remedies for the complainant to address the effects of the conduct on the complainant, restore or preserve the complainant's equal access to College programs and activities, and restore to the complainant, to the extent possible, benefits and opportunities lost as a result of the alleged Prohibited Conduct. The decisionmaker(s) may also identify remedies to address the effects of the conduct on the College community.

The Title IX Coordinator will review the remedies recommended by the decisionmaker(s) and will consider the appropriateness of continuing supportive

measures on an ongoing basis. Extended supportive or other measures may be included in the sanctions.

## E. Administrative Measures

Regardless of whether a policy violation is found to have occurred in a particular case, the College may implement non-punitive, non-disciplinary administrative measure such as, for example, no contact directives and/or reasonable restrictions from certain College premises, at any time after a matter is reported, if the College determines that doing so is in the best interests of a party, both parties and/or the College.

## 20. Disciplinary Resolution When the Respondent is an Employee

When Jacksonville College receives a report that a member of the faculty or staff violated this policy, the Human Resources Office will act as the Title IX Coordinator. The Human Resources Office or the person(s) designated by the Human Resources Office will investigate in a manner consistent with the SIM policy, JC personnel policies, and all applicable laws.

The resolution process will follow the procedures for student respondent cases outlined above based on the type of Prohibited Conduct (Title IX Sexual Harassment or Non-Title IX Misconduct).

The Human Resources Office will have the authority to exercise oversight of the resolution process.

For employees of the institution, the sanction will be determined by the appropriate Vice President or designee. The Sanction may include (in accordance with the employment policies governing the employee in question) counseling or training, written warning, financial penalty, unpaid leave of absence, suspension, demotion, reassignment of duties, referral to other staff or faculty procedure (for the determination of sanction only), or termination. Complainants will only receive information about such disciplinary action when appropriate and/or required by law.

Sanctions will be determined based on the seriousness of the misconduct and on the individual's prior disciplinary history, if any. Sanctions will be communicated to the parties, as appropriate, in writing by the decisionmaker(s) and the appropriate Vice President or designee, through the joint written determination preparation process described above. The notification will include the parties' rights of appeal within the bounds of this process. In all cases involving sexual harassment or sexual misconduct, the file will be archived by the Title IX Coordinator as provided below.

## 21. Appeals

An appeal must be submitted in writing to the Title IX Coordinator for students and must be submitted in writing to the Human Resource Department acting as the Title IX Coordinator for a member of the faculty or staff.

Either party to a matter covered by this SIM policy may file an appeal from a determination regarding responsibility; and/or the Title IX Coordinator's dismissal of a formal complaint or any allegations therein from the Title IX Grievance process, on the following grounds:

- A. Procedural irregularity that would change the outcome;
- B. New evidence that would change the outcome and that was not reasonably available when the determination or dismissal was made; and
- C. The Title IX Coordinator, investigator, or decisionmaker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

If a party appeals a dismissal or determination whether sex-based harassment occurred, Jacksonville College will:

- A. Notify the parties in writing of any appeal, including notice of the allegations, if notice was not previously provided to the respondent;
  - B. Implement appeal procedures equally for the parties;
  - C. Ensure that the decisionmaker(s) for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
  - D. Ensure that the decisionmaker(s) for the appeal has been trained consistent with the Title IX regulations;
  - E. Communicate to the parties in writing that Jacksonville College will provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
  - F. Notify the parties in writing of the result of the appeal and the rationale for the result.
2. Appeals must be filed no later than seven calendar days after the date on which the College transmitted the hearing sanctioning panel's written determination to the parties or the Title IX Coordinators decision to dismiss the matter for purposes of Title IX. The Title IX Coordinator may extend this deadline if warranted by the circumstances.

The appellate panel will be appointed by the Title IX Coordinator, Human Resource Department, or designee. In selecting an appellate panel for a particular matter, the Title IX Coordinator or designee will take care to select individuals who do not have a conflict of interest or bias against complainants or respondents generally or an individual complainant or respondent. The panel will be composed of three and may include Deans, Human Resources, and/or Vice Presidents as appropriate to the hearing. The Title IX Coordinator or designee will notify the parties of the identity of the appellate panel and parties may, within three calendar days of such notice, object to the service of the appellate panel by providing a written statement (which may be transmitted electronically) as to why the party believes that the appellate panel has a conflict of interest or bias. The Title IX Coordinator or designee will make decisions regarding such objections and the appointment of an alternate appellate panel, as necessary.

The appellate panel members will not be members of the hearing sanctioning panel, the investigator, the Title IX Coordinator, or a person who made a decision to dismiss a formal complaint.

Jacksonville College will notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties. The other party may then have a period of five business days to submit a statement in support of the written determination and/or in opposition to the appeal. Any such statement will be shared with the party who filed the appeal and their advisor.

The appellate panel will issue a written decision describing the result of the appeal and the rationale for the result, and the College will provide the written decision simultaneously to both parties. The appellate panel's decision on any appeal is the final step in the adjudication process, except as provided in such decision.

The appellate panel may deny the appeal, or if one or more of the appeal grounds have been met, may:

- return the case to the original decisionmaker(s) for reconsideration; or
- appoint an alternate decision maker to review the case; or
- change or modify the decision.

It is the responsibility of the appellate panel to determine which if any aspects of the case merit a new review, and to direct the Title IX Coordinator accordingly.

Absent extenuating circumstances, the appellate panel or Title IX Coordinator will notify the complainant and respondent of the appeal decision simultaneously in writing within 20 business days of the appeal receipt deadline and will notify the Title IX Coordinator in writing of any instructions for further action. This deadline may be extended if warranted by the circumstances. If this deadline is extended, the parties will be notified in writing at the time the extension is determined.

The decision made by the appellate panel to grant or deny the appeal is final. If an appeal is granted, the subsequent determination and/or sanction is/are final.

## **22. Record Retention**

In accordance with the record retention practice, the Title IX Coordinator will maintain, for example, records of all reports, Disciplinary Resolution, Adaptable Resolution, a recording of the Sanctioning Hearing, and steps taken to eliminate prohibited conduct, prevent its recurrence, and address its effects. Findings of responsibility will also be included in a student's disciplinary record maintained by the Title IX Coordinator and/or an employee's personnel records.

These records will be kept either electronically and/or physically for at least 7 years.

## **23. Violations of Law**

Conduct that violates this policy also may violate the laws of the local jurisdiction in which the incident occurred and subject a respondent to criminal prosecution by the presiding authority. Conduct that violates this policy also may subject a respondent to civil liability.

Students and employees studying, working, or engaging in other activities at locations outside of Texas are governed by the applicable laws regarding sexual assault and other criminal offenses implicated by this policy. Where the College has jurisdiction to investigate and address reported conduct that would constitute conduct prohibited by this policy, the definitions and standards in this policy will apply for purposes of College discipline, regardless of the definitions of various crimes used in the laws of the locality where the conduct reportedly occurred.

## **24. Prevention and Awareness Programs**

The College is committed to the prevention of Prohibited Conduct through regular and ongoing education and awareness programs. Incoming students and new employees receive primary prevention and awareness programming and returning students and current employees receive ongoing training and related programs. The College provides coordinated programming and training through multiple areas, including the Title IX Coordinator, Dean of Students, Human Resources, and other College departments.

## **25. Annual Review**

This policy is maintained by the Title IX Coordinator. The College will review this policy on at least an annual basis. The review will capture evolving legal requirements, evaluate the support and resources available to the parties, and

assess the effectiveness of the resolution processes (including the fairness of the processes, the time needed to complete the processes, and the sanctions and remedies imposed). The review may incorporate feedback from parties and an aggregate view of reports, resolution, and climate.