

JARVIS CHRISTIAN UNIVERSITY
TITLE IX POLICY

Table of Contents

1. Policy

- A. Policy Statement
- B. Purpose of Policy
- C. Scope
- D. Jurisdiction
- E. Definitions
- G. Reporting
 - 1. Title IX Sexual Harassment Reporting Options
 - 2. Time Limits on Reporting
 - 3. Reporting Obligations
 - 4. Promptness
 - 5. Interim/Emergency Removal
 - 6. Retaliation
 - 7. Amnesty for Title IX Sexual Harassment Complaints and Witnesses
 - 8. Free Expression and Academic Freedom
 - 9. Title IX and Violence Against Women Act (VOWA) Statement
- H. Potential Consequences Following a Finding of a Policy Violation
 - 1. Sanctions

II. Resources

- A. Confidential Support, Advocacy, and Counseling Services
- B. Seeking Confidential Medical Assistance
- C. Preserving Physical Evidence

III. Title IX Sexual Harassment Complaint Resolution Process

- A. Introduction
- B. Response to Reports
- C. Supportive Measures
- D. Formal Complaint
- E. Dismissal of Investigation
- F. Investigation
- G. Hearings
- H. Appeals
- I. Advisor of Choice
- J. Privacy, Treatment Records and Other Privileged Information
- K. Standards of Evidence

Effective date: August 14, 2020

I. Policy

(A) Policy Statement:

Jarvis Christian University is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities that are free from sex discrimination, sexual harassment and retaliation. To ensure compliance with federal and state civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the educational program or activity. Title IX of the Education Amendments of 1972 (“Title IX”) is a federal law that prohibits sex discrimination.

The University has developed internal policies and procedures that provide a prompt, fair, and impartial process for those involved in an allegation of sex discrimination, sexual harassment or retaliation. The University values and upholds the equal dignity of all members of its community and strives to balance the rights of the parties in the grievance process during what is often a difficult time for all those involved.

(B) Purpose of Policy:

The University seeks, through this policy, to acknowledge and comply with its duties under federal and state laws and set forth a comprehensive framework for receiving, processing, investigating, and resolving complaints of sex discrimination, sexual harassment and retaliation related to participation in a process covered by this policy. This policy also provides the University community with necessary information regarding how to file complaints, receive assistance and support.

(C) Scope:

The core purpose of this policy is to prohibit sex discrimination, sexual harassment and retaliation. When an alleged violation of this policy is reported, the allegations are subject to resolution under this policy as detailed below.

When the Respondent is a member of the University community, a grievance process may be available regardless of the status of the Complainant, who may or may not be a member of the University community. The University community includes, but is not limited to, students, student groups/organizations, faculty, administrators, staff, and third parties such as guests, visitors, volunteers, and invitees.

The Title IX procedures may be applied to incidents, to patterns, and/or to the campus climate, all of which may be addressed and investigated in accordance with this policy.

(D) Jurisdiction of Title IX Policy:

This policy applies to sex discrimination, sexual harassment and retaliation as those terms are defined in 34 CFR part 106. This also applies to the educational and employment program of the University, related to conduct that takes place on the campus or on property owned or controlled by the University, at University-sponsored events, or in buildings owned or controlled by the University's recognized student groups/organizations. The Respondent must be a member of the University's community in order for its policies to apply.

This policy can also be applicable to the effects of off-campus misconduct that effectively deprives someone of access to the University's educational or employment program. Regardless of where the conduct occurred, the University will evaluate notices and complaints to determine whether the conduct occurred in the context of its employment or educational program or activity and/or has continuing effects on campus or in an off-campus sponsored program or activity.

If the Respondent is unknown or is not a member of the University community, the Title IX Coordinator will assist the Complainant in identifying campus and local resources and support options and/or, when criminal conduct is alleged, in contacting local or campus law enforcement if the individual would like to file a police report.

Further, even when the Respondent is not a member of the University community, supportive measures, remedies, and resources may be accessible to the Complainant by contacting the Title IX Coordinator or Title IX designees.

All vendors serving the University through third-party contracts are subject to the policies and procedures of their employers or to these policies and procedures to which their employer has agreed to be bound by their contracts.

(E) Definitions:

Advisor: A person chosen by a party to accompany the party to some or all meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if applicable. Advisor also includes a person appointed by the University to conduct cross-examination for the party at the hearing if the party does not bring one.

Complainant: An individual who is alleged to be the victim of sex discrimination, sexual harassment or retaliation.

Confidential Resource: An employee who is not a Mandated Reporter of notice of sexual harassment and/or retaliation (irrespective of Clery Act Campus Security Authority status).

Consent: Consent is not present when an individual does not have the capacity to give consent, voluntarily or involuntarily, due to age, physical condition, or disability that impairs the individual's ability to give consent. Consent must be all of the following:

- (1) **Knowing:** All individuals understand, are aware of, and agree as to the who, what, where, when, why and how of the sexual activity.

- (2) Active: Consent must take the form of “clearly understandable words or actions” that reveal one’s expectations and agreement to engage in specific sexual actions.
- (3) Voluntary: Consent must be freely given and cannot be the result of “respondent’s intimidation, coercion, force, threats, or fraud in order to gain permission for sexual or intimate activity”.
- (4) Present and Ongoing: Consent must exist at the time of the sexual activity. Consent can be withdrawn at any time.

Decision-maker: One who determines the outcome of the complaint. Cannot be the Title IX Coordinator or Investigator.

Education Program or Activity: Locations, events, or circumstances where the University exercises substantial control over both the Respondent and the context in which the sex discrimination, sexual harassment or retaliation occurs and also includes any building owned or controlled by a student organization that is officially recognized by the University.

Employee: An individual holding either a faculty and/or staff appointment at the University.

Final Determination: A conclusion by the preponderance of evidence standard of proof that the alleged conduct did or did not violate this policy.

Finding: A conclusion by the preponderance of evidence standard of proof that the conduct did or did not occur as alleged (as in a “finding of fact”). Decision maker will be the one who states the outcome/finding.

Formal Complaint: A Formal Complaint is a document filed by a Complainant or signed by the Title IX Coordinator alleging Title IX Sexual Harassment against a Respondent and requesting that the University investigate the allegation of Title IX Sexual Harassment. **In order for Jarvis to proceed to an investigation, at the time of the filing a Formal Complaint, a Complainant must be participating in or attempting to participate in Jarvis’s Education Programs or Activities.** A ‘document filed by a Complainant’ means a document or electronic submission (such as an email) that contains the Complainant’s physical or electronic signature or otherwise indicates that the Complainant is the person filing out the Formal Complaint.

Formal Grievance Process: A method of formal resolution designated by the University to address alleged conduct that falls within this policy, and which complies with requirements of Title IX law and regulations (34 CFR §106.45).

Investigator: The person(s) charged by the University with gathering facts about an alleged violation of this policy, assessing relevance and credibility, synthesizing the evidence, and compiling the information into an investigation report and file of directly related evidence.

Notice: An employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of sexual harassment and/or retaliatory conduct.

Parties: The Complainant(s) and Respondent(s), collectively.

Preponderance of the Evidence Standard: Standard of proof for alleged violation(s) of the Title IX Policy. This standard requires that the information utilized shows that it is more likely than not that the alleged violation(s) occurred.

Remedies: Are post-finding actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to the University's educational program.

Resolution: The result of a Formal Grievance Process.

Respondent: An individual who has been reported to have engaged in conduct that could constitute sexual harassment or retaliation under this policy or its procedures.

Retaliation: Limited to retaliation for participation in a process covered by this policy or for participating in a process asserting Title IX through the federal government or courts.

Sanction: A consequence imposed by the University on a Respondent who is found to have violated this policy. For employees, the term sanction as used in this policy means discipline or corrective action.

Sex Discrimination: Negative or adverse treatment based on sex, sexual orientation, gender, gender expression, or gender identity.

Sexual Harassment: Under federal and state law, sexual harassment is an unlawful discriminatory practice.

The University has adopted the following definition of Sexual Harassment for this policy. Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

(1) Quid Pro Quo:

- i. An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct.

(2) Unwelcome conduct:

- i. Than a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity, or

(3) Online Postings/Actions:

- i. Any online posting or other electronic communication by students or employees including cyber-stalking (based on sex), cyber-harassment (based on sex), or occurring outside of the University's control (e.g., not on University networks or websites) will only be subject to this policy when such online conduct can be shown to cause a substantial in-program disruption or infringement on the rights of others.

(4) Sexual Assault (as per 34 U.S. Code § 12291):

- i. Any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.
- ii. Sexual acts include:
 - Forcible Rape: Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the Complainant.
 - Forcible Sodomy: Oral or anal sexual intercourse with another person, forcibly, and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age# or because of temporary or permanent mental or physical incapacity.
 - Sexual Assault with an Object: The use of an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, forcibly, and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
 - Forcible Fondling: The touching of the private body parts of another person (buttocks, groin, breasts), for the purpose of sexual gratification, forcibly, and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity. This would include having another person touch you sexually, forcibly, or without their consent.

(5) Dating Violence, defined as:

- i. Violence, on the basis of sex, committed by a person, who is in or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- ii. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
- iii. Dating violence does not include acts covered under the definition of domestic violence.

(6) Domestic Violence, defined as:

- i. Violence, on the basis of sex, committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, or by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner.

*To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

(7) Stalking, defined as:

- i. Engaging in a course of conduct, on the basis of sex, directed at a specific person, that would cause a reasonable person to:
 - fear for the person’s safety, or
 - fear for safety of others; or
 - suffer substantial emotional distress.

The University reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any offense under this policy.

(8) Force, Coercion, Consent, and Incapacitation, defined as:

- i. Force: Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., “Have sex with me or I’ll hit you,” “Okay, don’t hit me, I’ll do what you want.”). Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.
- ii. Coercion: Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.
- iii. Consent is: knowing, voluntary, clear permission, by word or action, and to engage in sexual activity.
 - Consent requires unambiguous communication and mutual agreement concerning the act in which the participants are engaging throughout the entirety of the interaction. For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct.
 - Reasonable reciprocation can be implied. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain their consent to being kissed back.
 - Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease immediately. Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent. Proof of consent or non-consent is not a burden placed on either party involved in an incident. Instead, the burden remains on the University to determine whether its policy has been

violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

- A person cannot consent if they are unable to understand the fact, nature, or extent of the sexual situation or are disoriented, helpless, asleep, or unconscious, for any reason, including by alcohol or other drugs. A person cannot give consent if force, expressed or implied is used; or if, duress; intimidation; threats; or, deception is used on the Complainant.
- Silence or the absence of resistance does not imply consent.

iv. Incapacitation: Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, or how” of their sexual interaction). Incapacitation is determined through consideration of all relevant indicators of an individual’s state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

In considering whether a Complainant is incapacitated due to the consumption of drugs or alcohol, the University will consider the circumstances, including factors such as whether there is evidence of slurred speech, vomiting, stumbling or the inability to walk, or periods of “blacking out.” The presence of one of these factors, standing alone, may not be sufficient to establish incapacitation; the totality of the circumstances must be examined.

This policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating drugs. The umbrella category including the offenses of sexual harassment, sexual assault, stalking, and dating violence and domestic violence as defined by 34 CFR Part 106.

Student: For the purpose of this policy, Jarvis Christian University defines “student” as all persons who have been notified of their acceptance, expressed intent to, and/or have registered for classes, or otherwise entered into any other contractual relationship with the University to take instruction. This includes but is not limited to all individuals taking classes in person or through distance learning, or who reside in University-owned housing or who live off-campus, who are not enrolled for the current term, but have a continuing relationship with the University. A student status ceases, when they graduate, are not enrolled for two consecutive semesters, or is the student is suspended, dismissed, or expelled for any reason.

Supportive Measures: Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to the University’s Education Programs or Activities without unreasonable burdening the other party, including

measures designed to protect the safety of all parties or the University's educational environment, or deter Title IX Sexual Harassment.

Title IX Coordinator: Is the official designated by the University to ensure compliance with Title IX and the University's Title IX program. References to the Coordinator throughout this policy may also encompass a designee(s) of the Coordinator for specific tasks. The Title IX Coordinator has the primary responsibility for coordinating the University's efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent sex discrimination, sexual harassment, and retaliation prohibited under this policy. Acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this policy.

- (1) The members of the Title IX Team are trained to avoid bias for or against any gender, gender identity, gender expression, or sexual orientation, or other protected characteristic, any party in a specific case, or for or against Complainants and/or Respondents, generally. To raise any concern involving bias or conflict of interest by the Title IX Coordinator, contact the University's Chief of Staff. Concerns of bias or a potential conflict of interest by any other Title IX Team member should be raised with the Title IX Coordinator.

(F) Reporting:

The University encourages reporting of Title IX Sexual Harassment. Members of the University community who believe they have experienced Title IX Sexual Harassment have the right to choose whether or not to report the incident to the University, law enforcement or both, and have the right to choose whether to engage with the University once the University receives the report. The information below is for individuals who wish to report incidents of Title IX Sexual Harassment. Reporting Title IX Sexual Harassment in the manners set forth below is not equivalent to filing a "Formal Complaint of Title IX Sexual Harassment" as defined above.

Information on how to file a Formal Complaint can be found in the Complaint Resolution Process described in Section III below.

- (1) Reporting Options: Information regarding reporting options and procedures for incidents of sexual misconduct that are not covered by this policy can be found in the Administrative Handbook Policy # 5.
 - i. Any individual may report Title IX Sexual Harassment to the Title IX Coordinator. Reports may be made in person, by email, by regular mail, or any other means that results in the Title IX Coordinator receiving the person's verbal or written report. In-person reports must be made during normal business hours, all other reporting processes can be made any time.
 - ii. Individuals impacted by Title IX Sexual Harassment may contact the Title IX Coordinator to receive support, resources, and information even if they do not wish to move forward with the Formal Complaint Resolution described in Section III below. To speak to someone confidentially without making a report, please see the confidential resources listed in Section II(A) below.

- iii. While anonymous reports will be reviewed by the Title IX Coordinator, the University's ability to address Title IX Sexual Harassment reported by anonymous sources is significantly limited.
 - iv. Reporting to Law Enforcement: An individual who has experienced Sexual Assault, Dating Violence, Domestic Violence, and Stalking has the right to choose whether to file a police report. Jarvis encourages individuals to report such incidents to University Security or local law enforcement. Filing a police report can result in an investigation whether sexual violence or related crime occurred and the prosecution of the perpetrator. Timely reporting to the police is an important factor in successful investigation and prosecution of crimes, including sexual violence.
 - v. There is no time limit for reporting an incident of Title IX Sexual Harassment. However, in order for Jarvis to proceed with an investigation, at the time of the filing of a Formal Complaint, a Complainant must be participating in or attempting to participate in Jarvis's Education Programs or Activities. The University encourages reports to be made as soon as possible after the incident.
 - vi. Any complaint received on or after August 14, 2020 will be reviewed and handled in accordance with this policy and the procedures implemented August 14, 2020. With respect to sexual harassment that allegedly occurred prior to August 14, 2020, The University will apply the Title IX statute and the Title IX regulations in place at the time that the alleged sexual harassment occurred.
- (2) Reporting Obligations: Upon receipt of a report, the Title IX Coordinator will contact the person who may have experienced Title IX Sexual Harassment. The outreach will generally include information about: medical and confidential counseling and support resources; options for filing informal/formal; contacting law enforcement; how to request a protective order; how to request Supportive Measures from the University; how to preserve evidence; and where to access more information. The outreach will also include an invitation to meet or provide additional information to the Title IX Coordinator.
- (3) Promptness: All allegations are acted upon promptly by the University once it has received notice or a formal complaint. Formal complaints will be handled in a timely manner. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but the University will seek to avoid undue delays.
- (4) Interim Removal: At any time after receiving a report of Title IX Sexual Harassment, the Title IX Coordinator with coordination with the Vice President of Student Services, may remove a student Respondent from the University's Education Programs and Activities on an emergency basis if an individualized safety and risk analysis determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Title IX Sexual Harassment justifies removal. In the event an

interim removal is approved, the Respondent will be notified and will have an opportunity to challenge the removal decision immediately following the removal.

- i. Any emergency removal will involve consultation with the University Counselor and the Division of Student Affairs. In the case of a Respondent who is a non-student employee, and in the University's discretion, the University may place the Respondents on administrative leave at any time after receiving a report of the Title IX Sexual Harassment, including during the pendency of the investigation and hearing process. The decision to place a non-student employee on administrative leave will be made the President.
 - ii. For all other Respondents, including contractors and guests, the University retains broad discretion to prohibit such person from entering onto its campus and other properties at any time, and for any reason, whether after receiving a report of Title IX Sexual Harassment or otherwise.
- (5) **Retaliation:** Neither Jarvis nor any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX and its implementing regulations or this policy, or because the individual has, in good faith, made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy.

Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violating 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 Title IX Sexual Harassment for the purpose of interfering with any right or privilege secured by Title IX of this policy, constitutes Title IX Retaliation under this Policy.

Complaints of Title IX Retaliation may be made by contacting the Title IX Coordinator. Individuals who are found to have engaged in Title IX Retaliation as defined by this policy are subject to disciplinary action that may include, but is not limited to, sanctions imposed by the University.

- (6) **Amnesty for Title IX Sexual Harassment Complainants and Witnesses:** Jarvis encourages reporting of Title IX Sexual Harassment and seeks to remove any barriers to making a report. The University recognizes that an individual who has been consuming alcohol (including underage consumption) or using drugs at the time of an incident may be hesitant to make a report because of potential consequences for that conduct. To encourage reporting, an individual who makes a good faith report of the Title IX Sexual Harassment that was directed at them or another person, or participates in an investigation, unless the University determines that the violation was serious and/or placed the health or safety of others at risk. Amnesty does not preclude or prevent action by police or other legal authorities. This amnesty provision may also apply to student groups making a report of Title IX Sexual Harassment.

- (7) Free Expression and Academic Freedom: Jarvis is firmly committed to free expression and academic freedom. The University is equally committed to creating and maintaining a safe, healthy, and harassment-free environment for all members of its community, and firmly believes that these two legitimate interests can coexist.

Discrimination, harassment, and retaliation against members of the University community are not protected expression or the proper exercise of academic freedom. The University will consider academic freedom in the investigation of reports of Title IX Sexual Harassment or retaliation that involve an individual's statement or speech.

- (8) Title IX and Violence Against Women Act (VOWA) Statement: It is the policy of Jarvis to comply with Title IX of the Education Amendments of 1972 and its implementing regulations (and all other applicable laws regarding unlawful discrimination and harassment including, but not limited to, Title VII of the Civil Rights Act of 1964, which prohibits discrimination (including sexual harassment and sexual violence) based on sex in the University's educational programs and activities. It is also Jarvis's policy to comply with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crimes Statistics Act, as amended by the VOWA. Title IX prohibits retaliation for asserting or otherwise participating in claims of sex discrimination. VAWA imposes additional duties on universities and college's to investigate and respond to reports of sexual assault, stalking, and dating or domestic violence, and to publish policies and procedures related to the way these reports are handled.

(G) Potential Consequences Following a Finding of a Policy Violation:

- (1) Sanctions: When a final determination is made that an individual has violated this policy, as determined by the Complaint Resolution Process in Section III, the appropriate sanctions are determined based on several factors, including the severity of the conduct and any other prior violations. Sanction and corrective action can include, but are not limited to:
- i. Verbal warning
 - ii. Written warning
 - iii. Advisory letter
 - iv. Conduct review
 - v. Disciplinary hold on academic and/or financial records
 - vi. Performance Improvement/management process
 - vii. Required counseling/coaching
 - viii. Required training or education
 - ix. Campus access restrictions
 - x. No trespass order issued
 - xi. No-contact directive
 - xii. Loss of privileges
 - xiii. Loss of title/honors

- xiv. Loss of oversight, teaching, or supervisory responsibility
- xv. Probation
- xvi. Demotion
- xvii. Loss of pay increase
- xviii. Decrease in pay
- xix. Transfer
- xx. Revocation of offer
- xxi. Disciplinary suspension
- xxii. Suspension without pay
- xxiii. Suspension with pay
- xxiv. Expulsion
- xxv. Termination of employment
- xxvi. Revocation of tenure

The University may assign other sanctions as appropriate in each particular situation. Sanctions and corrective actions will be imposed in accordance with relevant policies and/or procedures and other requirements as set for in the applicable faculty, staff or student handbook.

II. Resources

(A) Confidential Support, Advocacy, and Counseling Resources:

- (1) Confidential Resources are not obligated to disclose reports of Title IX Sexual Harassment to the Title IX Coordinator under any circumstances, or law enforcement (except in situations if not disclosing would result in imminent danger to the individual or to others).
- (2) Confidential Resources can provide information and University and off campus resources, support services and other options. Disclosing information or seeking advice from a Confidential Resource does not constitute making a report or complaint to the University and will not result in a response intervention by the University.
- (3) The following is a listing of resources available:
 - i. Campus Counselor, (903) 730-4890 X2259
 - ii. East Texas Crisis Center, (800) 333-0358
 - iii. Wood County Sheriff (903) 763-1236
 - iv. Texas Suicide Hotline (214) 828-1000

(B) Seeking Confidential Medical Assistance:

Experiencing any form of Title IX Sexual Harassment can be difficult and overwhelming. Individuals often experience a range of emotions, including fear, anxiety, and confusion, and may be unsure of what they want to, or should, do next. Regardless of whether individual chooses to report the incident to the University and/or to law enforcement, the University strongly encourages individuals who believe they are victims of Sexual Assault, Dating Violence, or Domestic Violence to seek medical attention as soon as possible, even if they feel no injury was sustained. Medical assistance providers can treat visible physical injuries and identify injuries that may not be visible, and where appropriate, also address concerns regarding

sexually transmitted infections and pregnancy. In addition, a hospital can test for the presence of alcohol or drugs (e.g., date rape drug) and perform a rape evidence collection procedure.

As noted above, the Medical Resources are also confidential Resources and are not obligated to disclose reports of Title IX Sexual Harassment to the Title IX Coordinator or law enforcement.

(C) Preserving Physical Evidence:

Many Title IX Sexual Harassment offenses also are crimes in the state or locality in which the incident occurred. For that reason, individuals who believe they are victims of Sexual Assault, Dating Violence, Domestic Violence, or Stalking often have legal options that they can pursue. For example, an individual may seek a protective order from a court against the perpetrator(s); pursue a civil action against the perpetrator(s) and/or participate in a law enforcement investigation and criminal prosecution of the perpetrator(s). Regardless of whether an incident of Sexual Assault, Dating Violence, Domestic Violence, or Stalking is reported to the police or the University, Jarvis strongly encourages individuals who have experienced such conduct to preserve evidence that may be considered in a University investigation or proceeding, providing they are available at the time of the investigation or proceeding.

III. Title IX Sexual Harassment Complaint Resolution Process

(A) Introduction:

The procedure below outlines the process the University follows when it receives a report alleging a violation of the Title IX Sexual Harassment Policy committed by a member of the University community. For the purposes of this Policy, “by a member of the Jarvis community” means current students, current faculty, current staff member, and current third-party affiliates who have a formal relationship with the University. Misconduct occurring outside of the jurisdiction of this policy may be addressed by other University policies.

The Title IX Coordinator is responsible for handling reports alleging violations to this policy. All reports will be handled in a prompt, fair, and impartial manner in accordance with Title IX, the Violence Against Women Act, and other relevant laws and regulations applicable University policies, and this process.

(B) Response to Report:

- (1) The Title IX Coordinator will contact the person who may have been impacted by the concern. The outreach will generally include information about: medical and confidential counseling and support resources; options for filing a Formal Complaint and/or reporting the incident to law enforcement; how to request a protective order/no-contact directive; how to request Supportive Measures from the University without filing a Formal Complaint; how to preserve evidence; and where to access more information. The outreach will include an invitation to meet with the Complainant and/or provide additional information.

(C) Supportive Measures:

- (1) Refers to measures provided to a Complainant where a determination of responsibility for Title IX Sexual Harassment has been made against the Respondent. After a final decision is made that an individual has violated this policy as determined by the Complaint Resolution Process in Section III, the University may offer additional measures, and/or take other action, to eliminate any hostile environment caused by the Title IX Sexual Harassment, prevent the reoccurrence of any Title IX Sexual Harassment, and remedy the effects of the Title IX Sexual Harassment on the Complainant and the University Community
- (2) Remedies will be provided to persons who have experienced Title IX Sexual Harassment as reasonably necessary to restore or preserve access to the University's Education Programs or Activities.
- (3) Supportive Measures may include counseling, extensions of deadlines or other course-related adjustments, modification of work or class schedules, campus escorts services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, other changes to academic, living, dining, transportation, and working situations, honoring an order of protection or no contact order entered by a State civil or criminal court, and other similar measures.
- (4) The University will maintain the confidentiality of Supportive Measures provided to either party, to the extent that maintaining such confidentiality does not impair the University's ability to provide the Supportive Measures in question.

(D) Formal Complaint:

- (1) A Complainant may file a Formal Complaint with the Title IX Coordinator requesting that the University investigate and adjudicate a report of Title IX Sexual Harassment in accordance with the provisions of this section. At the time the Complainant submits a Formal Complaint, the Complainant must be participating in or attempting to participate in, one or more of the University's Education Programs or Activities.
- (2) A Complainant may file a Formal Complaint with the Title IX Coordinator, as per guidance stated in Section I (G) of this policy. No person may submit a Formal Complaint on the Complainant's behalf.
- (3) The Title IX Coordinator may sign the Formal Complaint under the following circumstances:
 - i. When there is an important institutional interest in adjudicating a report irrespective the of the alleged victim's wishes.
 - ii. Typically involves serious misconduct, repeated misconduct, or misconduct by employees
 - iii. If the alleged victim does not wish the file a formal complaint, Title IX Coordinator's decision to do so must not be clearly unreasonable.

- iv. Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or otherwise a party for purposes of the investigation and adjudication processes. In such cases, the University will not compel an individual to participate, but will proceed with the available information.

(E) Dismissal of Complaint or Investigation:

The University must dismiss a formal complaint when:

- (1) If filed by the alleged victim, and the alleged victim is not a current or attempted participant in education programs and activities.
- (2) Complaint does not allege sexual harassment in the institution's education programs or activities.
- (3) Complaint alleges sexual harassment abroad.
- (4) Conduct alleged would not amount to sexual harassment event if it occurred as reported.

The University may dismiss a formal complaint when:

- (1) Alleged victim indicates in writing a desire to withdraw the complaint (or particular allegations).
- (2) Respondent is no longer enrolled in or employed by the institution.
- (3) Specific circumstances prevent the institution from gathering evidence sufficient to reach a determination.
- (4) In the event the Title IX Coordinator determines that a Formal Complaint should be dismissed
 - i. pursuant to this section, the Title IX Coordinator will provide written notice of dismissal, including the reasons for the dismissal, to the parties and advise them of their right to appeal as specified in Section III. A dismissal pursuant to this Section is presumptively a final determination as it pertains to this policy, unless otherwise specified in writing by the Title IX Coordinator in the written notice of dismissal.

(F) Investigation:

- (1) The President assigns an investigator(s) to begin the inquiry into the allegation. Depending upon the circumstances, the President may assign one or more investigators. All investigators are trained on Title IX and the University's policies and procedures. Any alleged violations of this policy will be investigated and resolved pursuant to the process articulated by this policy.

- i. During the investigation, the investigator(s) will identify, elicit, and gather evidence related to the alleged misconduct, including inculpatory and exculpatory evidence. The burden of gathering evidence sufficient to reach a determination in the adjudication of whether or not a policy determination has occurred lies with the University and not with the parties. However, it is important for all individuals involved in an investigation to identify relevant evidence it would like the University to consider.
- ii. During the investigation, the Complainant will have the opportunity to describe their allegations and present supporting evidence to the investigator(s). The Respondent will have the opportunity to hear the allegations, respond to them, and present supporting evidence to the investigator(s).
- iii. Investigations are not video recorded or voice recorded. Parties and witnesses may take notes during the investigation meetings. The Complainant and the Respondent will have an equal opportunity to present names of potential witnesses and to propose questions the investigator(s) may ask the other party or witness. Complainant and Respondent may identify potential factual and/or expert witnesses but may not present character witness. The investigator(s) will take the witness lists provided by the parties into consideration when identifying the witnesses that they will interview and what questions they might ask each witness, but these decisions are solely within the investigator's discretion.
- iv. Generally, the investigator(s) will meet with each party and each witness separately and may hold multiple meetings with a party to obtain all necessary information. The parties may submit additional materials or information to the investigator(s) at any time before the conclusion of the investigation. In all cases, both the Complainant and Respondent will have equal opportunities to share information and have their information considered. The Complainant, Respondent, and witnesses should be advised that for their statements to be considered, they must participate in the live hearing. All parties, witnesses whose participation is expected at any interview or other meetings, will receive notice of time, date, and location, and purpose with sufficient time for the party to prepare to participate.
- v. It is the policy of the University to strive and resolve all cases in a prompt and timely manner. The timeline and length of each investigation is based on the circumstances surrounding the case, breaks in the academic calendar, availability of the parties and witnesses, scope of the investigation, needs for supportive measures, and unforeseen circumstances. The University will strive to complete the investigation portion of the resolution process within ninety (90) calendar days of receiving complaint.
- vi. At the conclusion of the evidence gathering phase of the investigation, but prior to completion of the investigative report, the investigator(s) will provide both parties an equal opportunity to inspect and review any evidence obtained as part

of the investigation that is directly related to the allegations raised in the formal complaint. The investigator(s) will send this evidence, in either electronic or hard copy form, to each party and each party's advisor. The parties may each submit to the investigator(s) a written response including comments, feedback, or any other information they deem relevant, comprising up to twenty (20) pages, within ten (10) calendar days after the evidence is made available for their review. The Investigator(s) will consider the written responses prior to completing the investigation report.

- vii. The parties and their advisors are permitted to review the evidence solely for the purposes of this grievance process and may not photograph or disseminate the evidence.
- viii. Investigative Report: After the period for the parties to provide their responses has expired, the investigator(s) will create a written investigative report that fairly summarizes the relevant evidence collected (both inculpatory and exculpatory). The investigator(s) will only summarize the relevant evidence collected during the investigation, the factual finding and determinations of policy violations are made by a decision maker at a subsequent hearing. The investigator(s) do not make the recommendation nor decisions. They are solely to gather the facts. The Title IX Coordinator will provide a copy of the investigative report to each party and each party's advisor.

(G) Hearings

- (1) Purpose: The purpose of the hearing is for the University's decision maker to resolve any outstanding or contested facts, assess the credibility of parties and witnesses, and using a preponderance of the evidence standard, determine whether it is more likely than not that a policy violation or violations occurred. Hearings must be audio or video recorded. Hearing may be held using virtual aids.
- (2) Appointment of Decision Maker: Upon completion of the investigation, the Title IX Coordinator, in communication with the President, will appoint a trained decision maker. The decision maker cannot be the Title IX Coordinator or the investigator(s) who conducted the investigation. The decision maker will oversee the hearing process and render a determination of responsibility for the allegation in the Formal Complaint, as the conclusion of the hearing process. The decision maker will receive a copy of the report prior to hearing.
- (3) Hearing Notice: After the decision maker is appointed, the Title IX Coordinator will notify the parties of the decision maker's appointment; setting a deadline for the parties to submit any written response to the investigative report; setting a date for the pre-hearing conference; and setting a date and time for the hearing. Neither the pre-hearing conference, nor the hearing itself, may be held any earlier than ten (10) calendar days from the date of notifying all parties.
- (4) If a party wishes to write a written response to the investigative report must include:

- i. To the extent the party disagrees with the investigative report, any argument or commentary regarding such disagreement;
- ii. Any argument that evidence should be categorically excluded from consideration at the hearing based on privilege, relevancy, the prohibition on the use of sexual history specified in Section III, or for any other reasons;
- iii. A list of any witnesses that the party contends should be requested to attend the hearing pursuant to an attendance notice issued by the hearing officer;
- iv. A list of any witnesses that the party intends to bring to the hearing without an attendance notice issued by the hearing officer;
- v. Any objection that the party has to the University's Hearing Procedures;
- vi. Any request that the parties be separated physically during the pre-hearing conference and/or hearing;
- vii. Any other accommodations that the party seeks with respect to the pre-hearing conference and/or hearing;
- viii. The name and contact information of the advisor who will accompany the party at the pre-hearing conference and hearing;
- ix. If the party does not have an advisor who will accompany the party at the hearing, a request that the University provide an advisor for purposes of conducting questioning as specified in Section III.

(5) A party's written response to the investigation report may also include:

- i. Argument regarding whether any of the allegations in the Formal Complaint are supported by a preponderance of evidence; and
- ii. Argument regarding whether any of the allegations in the Formal Complaint constitute Title IX Sexual Harassment.

(6) Pre-Hearing Conference: Prior to the hearing, the decision maker will conduct a pre-hearing conference with the parties and their advisors. The pre-hearing conference will be conducted live and will be conducted with the decision maker, the parties, the advisors, and other necessary University personnel together in the same physical location. However, upon request of either party, the party will be separated into different rooms with technology enabling the parties to participate simultaneously and contemporaneously by video and audio.

During the pre-hearing conference, the decision maker will discuss the hearing procedures with the parties; address matters raised in the parties' written responses to the investigation report, as the hearing officer deems appropriate; discuss whether any stipulations may be made to expedite the hearing; discuss the witnesses the parties have requested be served with notices of attendance; and resolve any other matters

that the decision maker determines, in the decision maker's discretion, should be resolved before the hearing.

- (7) Issuance of Notices of Attendance: After the pre-hearing conference, the decision maker will transmit notices of attendance to any University employee or student whose attendance is requested at the hearing as a witness, at least ten (10) calendar days prior to the hearing. The notice will advise the subject of the specified date and time of the hearing and advise the subject to contact the decision maker immediately if there is a material and unavoidable conflict.

All managers, faculty, coaches, and supervisors are required to excuse the subject of the obligation, or provide some other accommodation, so that the subject may attend the hearing as specified.

- (8) Participation: Parties and witnesses will be asked to attend the hearing where they may be questioned by the decision maker and cross-examined by a party's advisor. If a party or witness does not submit to cross-examination at the live hearing, the decision maker will rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the decision maker cannot 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.

The decision maker will facilitate the hearing process. The hearing will be conducted live. The hearing will proceed as follows:

- (1) The decision maker will begin by asking questions of each witness.
- (2) After the decision maker's questioning of a witness, the advisors may then cross-examine the witness asking all relevant questions and follow-up questions, including those challenging credibility. The advisors will have the opportunity to conduct this questioning directly, orally, and in real time.
- (3) The decision maker will then ask questions of the Complainant.
- (4) The Respondent's advisor may then cross-exam the Complainant, asking all relevant questions and follow-up questions, including those challenging credibility.
- (5) The decision maker will then ask questions of the Respondent.
- (6) The Complainant's advisor may then cross-exam the Respondent, asking all relevant questions and follow-up questions, including those challenging credibility.

If a party does not have an advisor present at the hearing, the University will provide an advisor of the University's choice to ask questions prepared by the party on the party's behalf. The parties will not be Permitted to question the other party directly.

The hearing will be closed to all persons, except the parties, advisors, the investigator(s), decision maker, and the Title IX Coordinator. Witnesses will be only present during their testimony.

If the party, advisor, and witness violate the rules of the hearing in such a way to be disruptive, may be barred from further participation.

The decision maker will have the sole discretion to determine the manner and particulars of any given hearing, including with respect to the length of the hearing, order of the hearing, and questions of admissibility.

- (7) Relevancy of Questions: Only relevant cross-examination and other questions may be asked of a party or witness. The decision maker will determine the relevancy of all questions asked during the hearing. If the decision maker excludes the question, they must state why it was excluded. Parties and advisors may not challenge these determinations during the hearing. Questions that are duplicative or repetitive of those already asked may be deemed non relevant and thus excluded.
- (8) Deliberation and Determination Regarding Responsibility: After the hearing is complete, the decision maker will objectively evaluate all relevant evidence collected during the investigation, including inculpatory and exculpatory evidence, together with testimony and non-testimony evidence received at the hearing, and ensure that any credibility determinations made are not based on a person's status as a Complainant, Respondent, or witness. The decision maker will resolve disputed facts using a preponderance of the evidence standard and reach a determination regarding the facts that are supported by a preponderance of the evidence constitute one or more violations of the policy as alleged in the Formal Complaint.
- (9) Sanctions and Remedies: In the event the decision maker determines the Respondent is responsible for violating this policy, the decision maker will, prior to issuing a written decision, consult with the appropriate University personnel with disciplinary authority over the Respondent and such personnel will determine sanctions to be imposed.

The decision maker will also, prior to issuing a written decision, consult with the Title IX Coordinator who will determine whether and to what extent ongoing Supportive Measures or other remedies will be provided to the Complainant. All consultation should occur within seven (7) calendar days of the hearing.

- (10) Written Decision: After reaching a determination and consulting with the appropriate University personnel and the Title IX Coordinator, the decision maker will issue a written determination regarding responsibility applying the preponderance of the evidence standard within seven (7) calendar days of a decision. The written determination will be provided to the parties simultaneously and will include:
 - i. identification of the allegations potentially constituting the Title IX Sexual Harassment and, if applicable, other University Policy Violations;

- ii. a description of the procedural steps taken from the receipts of the Formal Complaint through the determination, including, including any notifications to the parties, interviews with the parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- iii. findings of fact support the determination;
- iv. conclusions regarding the application of Jarvis's policy to the facts; a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility for each separate potential incident;
- v. any disciplinary sanctions imposed on the Respondent;
- vi. whether remedies designed to restore or preserve equal access to the recipient's Education Program or Activity will be provided to the Complainant; and
- vii. the procedures and permissible bases for the Complainant and Respondent to appeal.

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

The Title IX Coordinator is responsible for effective implementation of any remedies.

(H) Appeals:

(1) Either party may appeal the dismissal of a Formal Complaint or any allegations therein or the determination regarding responsibility. The only basis for appeal are as follows:

- i. procedural irregularity that affected the outcome of the matter;
- ii. new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
- iii. the Title IX Coordinator, investigator(s), or decision-maker(s) has a conflict of interest or bias for or against Complainant or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter; or
- iv. the Procedures and permissible bases for the Complainant and Respondent to appeal.

- (2) A party must file an appeal within ten (10) calendar days of the date of dismissal or hearing determination is issued. The appeal must be submitted in writing to Director of Human Resources, who in turn will provide it to the appeal reviewer.

The appeal is not a rehearing of the case; it is a written statement specifically stating the grounds for the appeal and any supporting information. If either party submits an appeal, the other party will be notified in writing that the appeal has been filed, provided a copy of the appeal, and given ten (10) calendar days to submit a written response. A written response is limited to fifteen (15) pages. Neither the Respondent nor the Complainant will be allowed to request an in-person meeting with the appeal reviewer.

In the event sanctions were imposed, the sanctions will be stayed pending results of an appeal. In the event the appeal includes the appeal of a sanction, the appeal reviewer will, prior to issuing a written decision, consult with the appropriate University personnel with disciplinary authority over the Respondent and such officials will evaluate any sanctions to be imposed.

The written decision of an appeal will be issued simultaneously to the parties expeditiously as possible, usually within seven (7) calendar days of making a decision. The reviewer may review the full case, and if the reviewer does not find that any of the three grounds for appeal are present, the outcome will be upheld. If the reviewer finds that any of the grounds for appeal are present, they may amend the outcome, may issue a new outcome, or may refer the matter back to the decision maker for further consideration. No further review beyond the appeal is permitted.

(I) Advisor of Choice:

From the point a Formal Complaint is made, and until an investigation, adjudication, and appeal are complete, the Complainant and Respondent will have the right to be accompanied by an advisor of their choice to all meetings, interviews, etc. In the event one is not able to secure an advisor, one will be appointed as the University's discretion. The advisor will play a passive role, except when questioning witnesses during the hearing.

(J) Privacy, Treatment Records and other Privileged Information:

The University considers reports and investigations to be private matters for all parties involved. All participants in the investigation will be informed that their privacy will be protected, to include any documentation, evidence and reports, to the extent possible. However, the Complainant and Respondent and their advisors will be given access to the investigation materials.

Note that certain types of Title IX Sexual Harassment are considered crimes for which the University must disclose crime statistics in its Annual Security Report that is provided to the Campus Community and available to the public. These disclosures will be made without including personally identifying information.

The investigator may only collect and rely on privileged records if a party waives the privilege. The University is prohibited from accessing its own counseling and health files for investigation purposes.

Evidence of a Complainant's prior sexual behavior is relevant only if offered to prove that someone other than the Respondent committed the conduct, or if evidence of specific incidents of the Complainant's prior sexual behavior with the Respondent are offered to prove consent.

At a minimum, all parties must be given access to all inculpatory and exculpatory evidence directly related to the allegations at least ten (10) days before the investigative report is finalized.

(K) Standard of Evidence:

The University uses the preponderance of the evidence standard. This means that the hearing process determines whether it is more likely than not that a violation of the policy occurred.