Rev. September 2024

TITLE IX POLICY & PROCEDURES

I. **Introduction to Title IX Policy & Procedures** 2
II. **General Policy and Contact Information** 3
III. **Definitions** 3
IV. **Basic Requirements of Title IX Grievance Procedures** 7
V. **Complaints** 9
VI. **Dismissal of a Complaint** 10
VII. : U L W W H Q 1 R W L F H R I $ Q Q H J D W L R Q V ..... 3 1 R W L F H 10
VIII. **Advisors** 11
IX. **Investigations** 12
X. **Procedures for Determining Responsibility** 13
XI. **Notification Regarding Determination of Whether Sex Discrimination Occurred** ... 17
XII. **Appeal Process for Complaint Dismissal and the Outcome** 18
XIII. **Informal Resolution** 19
XIV. **Supportive Measures** 20
XV. **Disciplinary Sanctions and Remedies** 21
XVI. **Retaliation** 23
XVII. **Miscellaneous** 24
XVIII. **Education and Sex-Based Harassment Prevention** 24
XIX. **Steps to Follow if Sex-Based Harassment Occurs** 25
XX. **Confidential Resources** 28
XXI. **Pregnancy** 29
XXII. **Records** 32

I. Introduction to Title IX Policy & Procedures

A. Title IX of the Education Amendments of 1972 ("Title IX"), entitled Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, codified at 34 C.F.R. Part 106, provides that "[n]o 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." These Title IX Policy & Procedures ("Title IX Policy") seek to enforce Title IX and the associated regulations, as amended in 2024, and enforced by the Office for Civil Rights ("OCR") of the United States Department of Education ("ED"). This Policy only applies to claims covered under Title IX and will not apply to alleged conduct outside the scope of Title IX.

B. This Policy applies to all Johnson & Wales Univ0 g 612 792 r(W K D W ³ > Q @

K. *Sex discrimination* means

1. Sex-based harassment (defined below)

2. Discrimination

a) On the basis of sex, sex stereotypes, or sex characteristics, pregnancy or related conditions, sexual orientation, gender identity, or current, potential, or past parental, family, or marital status;

b) That results in an individual being excluded from participation in, being denied the benefits of, or otherwise being subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by a recipient that receives federal financial assistance;

c) Unless such exclusion, denial, or discrimination is permitted under applicable law.

L. *Sex-based harassment* is a form of sex discrimination and other harassment on the basis of sex, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, gender identity, that is:

1. *Quid pro quo harassment*. An employee, agent, or other person authorized by JWU to provide an aid, benefit, or service under JWU's education program or activity explicitly or implicitly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;

2. *Hostile environment*. 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 JWU'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:

a) The degree to which the conduct affects the complainant's ability to access JWU's education program or activity;

b) The type, frequency, and duration of the conduct;

c) The parties' ages, roles within JWU's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;

a) *Sexual assault* means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the

1. Restore or preserve that party's access to JWU's education program or activity, including measures that are designed to protect the safety of the parties and/or JWU's educational environment; or

2. Provide support during JWU's grievance procedures or during an informal resolution process.

IV.

H. In its sole discretion, JWU may consolidate complaints of sex discrimination against more than one respondent, 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 set of 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. JWU will not consolidate complaints if consolidation would violate the Family Educational Rights and Privacy Act ("FERPA").

I. In the case of a JWU student or employee, all notices will be sent to such person's JWU email address; the university may also copy any advisor (if any). It is a party's responsibility to check their email reasonably frequently and be familiar with all emails related to Title IX proceedings sent thereto.

J. All JWU students and employees have a duty to cooperate in Title IX proceedings. That includes, but is not limited to, complying with this Policy and identifying relevant witnesses and evidence.

K. All participants, including parties, advisors (if any), and witnesses, must behave in an appropriate, civil, and courteous manner throughout all proceedings, including any hearing, and must abide by the rules established by the university and its agents and employees. Inappropriate, uncivil, or discourteous behavior or a failure to abide by the rules may result in disciplinary action and, for advisors, could lead to preclusion of participation by advisors in the proceeding at issue (in which case the offending advisor would have to be replaced) or future proceedings.

V. Complaints

A. With respect to all complaints of sex discrimination, the following persons have a right to make a complaint, requesting that JWU investigate and make a determination about alleged discrimination under Title IX

1. A complainant
2. An authorized

hearing..0u0 G [nt.

VI. **Dismissal of a Complaint**

A. JWU maydismissa complaintof sexdiscriminationat any timeif any one or more

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 discrimination, and the date(s) and location(s) of the alleged incident(s).

3. Retaliation is prohibited.

4. The respondent is presumed not responsible 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.

5. The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence.

6. JWU prohibits knowingly making false statements or knowingly submitting false information during the grievance procedures.

7. **Only when a claim of sex-based harassment involving a student party is involved:** The parties may have an advisor, advisor

will be a conclusively deemed waiver to make any objection to the alleged bias or conflict of interest of the investigator on grounds that were known or reasonably should have been known to the party at issue at the time the objection should have been made.

3. JWU will have sole discretion to determine whether the investigator should be recused for reasons of alleged bias or conflict of interest.

D. The Investigation Process

1. As part of the investigation, one or more investigators (who may or may not be the decision-maker) will seek to conduct interviews with the complainant, the respondent, and appropriate witnesses, as determined in the investigator's reasonable discretion, and gather other evidence, including but not limited to documents, related to the complaint.

2. JWU 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, as determined by the university.

3. At the interview, one or more investigators shall ask the parties and witnesses to identify relevant and not otherwise impermissible witnesses and documents and will451.9 Tm 0 g 0ume-20(t up on -20(bj))-20(e)7(s)-6(s)-6(e)7(s)-6( )-24

1.

C. Procedure (when a student party is either a complainant or respondent and a claim of sex-based harassment has been made)

1. Informational Meeting

a) Each party will have an individual conference with the Title IX Coordinator who will explain what will occur at the live hearing. The parties are encouraged to ask questions and raise any concerns during this conference to prepare them for the hearing.

2. Logistics

a) JWU will conduct a hearing with the parties physically present in

absence from the hearing.

e) The decisionmaker, and only the decisionmaker, may ask follow-up questions after asking any party's questions (or, in the decisionmaker's discretion, the decisionmaker may pose questions at any time during the hearing).

f) The parties have the right to hear and see all witnesses who testify at the hearing. However, each party may request that the hearing occur with the parties separated by physical barriers or located in separate rooms with technology that allows the decisionmaker and the parties to simultaneously see and hear responses from a party or witness.

g) Under no circumstances will either party or any advisor directly question any party or any witnesses during the live hearing.

8. Decision

a) The decisionmaker will use the preponderance of the evidence standard of proof to determine whether sex-based harassment occurred. The standard of proof requires the decisionmaker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the decisionmaker is not persuaded under the applicable standard by the evidence that sex-based harassment occurred, whatever the quantity of the evidence is, the decisionmaker will not determine that sex-based harassment occurred.

b) The decisionmaker shall prepare a written decision that complies with Title IX, and all other applicable law (including but not limited to the

he

the rationale for same;

4. When the decisionmaker finds that sex discrimination occurred, any disciplinary sanctions to be imposed or remedies to be provided; and

5. JWU's procedures and permissible bases for the complainant and respondent to appeal, as applicable.

B. JWU will not impose discipline on a respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the grievance procedures that the respondent engaged in prohibited sex discrimination.

C. If there is a determination that sex discrimination occurred, the Title IX Coordinator will, as appropriate:

1. Coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions

2. Coordinate the provision and implementation of remedies to a complainant and other people JWU identifies whose equal access to JWU's education program or activity was limited or denied by sex discrimination

3. Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within JWU's education program or activity.

D. JWU will not discipline a party, witness, or others participating in the grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred. Notwithstanding anything herein, JWU may discipline parties, witnesses, or others participating in the grievance procedures for making a false statement if there is evidence of same independent of the determination whether sex discrimination occurred.

E. The determination regarding

C. The other party will be notified in writing when an appeal is filed and provided a copy of the appeal, and will have five days from being provided the appeal to submit a statement responding to the appeal or in support of the Outcome. The appealing party will be provided a copy of the non-appealing party's submission, if any.

D. Neither party shall be entitled to make any live or oral presentation to the appellate officer. Neither the decisionmaker who made the determination of responsibility nor the Title IX Coordinator shall serve as the appellate officer. The appellate officer, who shall be trained consistent with the Title IX regulations as required by 34 CFR § 106.8(d), shall be the designee of the applicable campus president (the Providence campus president for Providence or online students and the Charlotte campus president for Charlotte students), but if no student party is involved in an appeal from the dismissal of a complaint, the appellate officer shall be the vice president of human resources. The decision of the appellate officer will be final.

E. The sanction(s) outlined in the notification of the Outcome will not go into effect until the conclusion of the appeal process for any appeal of the Outcome.

F. The appellate officer, on a materially simultaneous basis, will provide to both parties a written decision of the appeal and the rationale.

G. Appeals are only permitted on the following bases:

1. Procedural irregularity that would change the outcome;

2. New evidence that would change the outcome and that was not reasonably available when the determination or dismissal was made; and

3. The Title IX Coordinator, investigator, or decisionmaker 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.

XIII. Informal Resolution

A. In lieu of resolving a complaint through JWU's Title IX grievance procedures, the parties may instead elect to participate in an informal resolution process consistent with 34 CFR § 106.44(k). JWU does not offer informal resolution to resolve a complaint that includes any party who is not a student party or when such a process would conflict with federal, state, or local law. In cases involving alleged serious threats, serial pred00000912 0 6

The

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

individual reports an incident of sex-based harassment. The Title IX Coordinator will work with individuals and may consult with other JWU employees, if appropriate, to determine which supportive measures should be implemented.

3. Supportive measures are offered at no cost to the parties and are available to both complaining and responding parties. The university will maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair JWU's ability to provide the supportive measures and to the extent disclosure is not otherwise mandated by law.

4. Supportive measures may include the following measures consistent with 34 CFR § 106.44(g), and as applicable and reasonably possible, as determined by the university in its sole discretion: counseling, extensions of deadlines or other [illegible] escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

B. Appeals (for Supportive Measures)

1. The parties will have an equal opportunity to appeal a decision to provide, deny, modify, or terminate supportive measures only on one or more of the following grounds:

a) The supportive measure at issue is inconsistent with the definition of supportive measures under 34 C.F.R. § 106.2.

b) If circumstances change materially justifying a different decision regarding supportive measures.

2. To request an appeal, the appealing party must [illegible]

1. University Dismissal: Permanent dismissal from the university (noted in the student's education records), which prohibits the student from attending the university (at any campus or learning site) or any university events and from entering or being present without permission on any property of the university. A student who is dismissed from the university will still be responsible for certain tuition and room/board charges and other fees, subject to any applicable refund policy.

2. University Suspension: A temporary suspension from the university, which prohibits the student from attending the university (at any campus or learning site) or any university events and from entering or being present without permission on any property of the university. During a university suspension, a hold is placed on the student's academic record, which prevents the student from registering for classes and/or graduating. Requests for reinstatement after a university suspension will not be granted until all conditions of the suspension have been met and all other sanctions have been completed. Students who receive a university suspension will be provided information regarding the appropriate steps for requesting reinstatement to the university. As with dismissal, a student who is suspended from the university will still be responsible for certain tuition and room/board charges and other fees, subject to any applicable refund policy. When a student returns from suspension, the student will be placed on probation for a minimum of one semester. In certain instances, a student may be suspended until the complainant graduates.

3. Permanent Removal from Housing: Permanent removal from university housing, which prohibits the student from living or being a guest in any university or campus housing. In the case of permanent removal from housing, the student is required to pay room/board charges and other fees for the remainder of the semester during which the removal takes effect.

4. Temporary Removal m

6. Probation: Conduct probation is a designated period of time in which the student must demonstrate that they will not engage in further violations of the Student Code of Conduct. A student who receives a sanction of conduct probation and has subsequent policy violations during their probationary period, may face more severe sanctions, up to and including university suspension or dismissal.

7. No-Contact Order: A no contact order is a requirement to avoid other person(s) and not have any direct or indirect contact with such person(s), including email, text messages, mail, telephone, instant messaging, or face-to-face contact,

XVII. **Miscellaneous**

A. The Title IX Coordinator, investigators, decisionmakers, or appellate officers (or any other personnel involved in the process) may, at any time, consult the Office of General Counsel or outside counsel retained by the Office of General Counsel in connection with such person's discharge of duties hereunder or any other university personnel as such person deems appropriate. As to consultation among university personnel, only by way of example, the Title IX Coordinator may assist or coordinate with investigators at any time and in any fashion (and, as noted above, may serve as an investigator) insofar as consistent with applicable law.

B. If the university determines this Policy does not address a particular aspect of any procedure needed to carry out its Title IX obligations, the university shall identify an appropriate procedure to address such aspect consistent with the Title IX Regulations and otherwise in its discretion as it deems appropriate.

XVIII. **Education and Sex-Based Harassment Prevention**

A. JWU takes a proactive stance to educate its community regarding sex-based harassment and methods of prevention, including addressing societal or environmental causes, alcohol use, awareness-raising, bystander behavior, definition of consent, healthy sexuality and relationships, risk reduction, and self-defense.

1. JWU's programs may be in-person or online. Programs may include a mix of guest speakers, university staff, faculty members, externally-created programs, and university-created programs, in JWU's sole discretion.

2. For students, education about sex-based harassment begins at new student orientation, where incoming students are invited to participate in educational sessions addressing the university's stance against sex-based harassment.

3. Appropriate staff members are trained to handle issues of sex-based harassment and participate in programming designed to help students understand university expectations and policy (including where to obtain resources and where to report violations); the intersection between alcohol and sex-based harassment

supported by multiple departments, such as Student Engagement (including student clubs and organizations and fraternities and sororities), Residential Life, Counseling Services, and Athletics. This programming targets some combination of the following: addressing societal or environmental causes, alcohol use, awareness-raising, bystander behavior, definition of consent, healthy sexuality and relationships, risk reduction, and self-defense. The university provides education through its "Consent Initiative," which informs students about the university's

complainant, to the extent that maintaining such confidentiality would not impair the ability of the university to provide the accommodations or protective measures and except as otherwise provided under applicable law.

3. Reporting to the Title IX Coordinator

a) Individuals may report to the Title IX Coordinator. Individuals who would like to pursue the procedures outlined in this Policy or who would like to seek additional information about the university's procedures should contact the Title IX Coordinator.

4. Reporting to CS&S

a) Individuals may also report to JWU's CS&S. CS&S is available 24 hours a day, 7 days a week, and 365 days a year, and works closely with the university's Title IX Coordinator to appropriately address reports of sex-based harassment.

(1) Providence Campus Safety & Security, 264 Weybosset Street, Providence, RI 02903, 401-598-1103 (24 hours a day, 7 days a week).

(2) Charlotte Campus Safety & Security, Cedar Hall South, Suite 113, Charlotte, NC 28262, 980-598-1900 (24 hours a day, 7 days a week).

5. Reporting Anonymously

a) Individuals may make a report about conduct covered by this Policy without disclosing their name by using the online form located at: https://www.jwu.edu/about-jwu/equity-and-compliance-services.html.

b) Individuals may also call 833-JWU-LINE to report. If you want to leave an anonymous message on the JWU Reporting Hotline, please dial *67 plus the hotline telephone number (*67 401-383-7026) to block your caller ID before leaving your message.

c) Individuals should note that an anonymous report might limit the university's ability to respond to the allegations.

XX. **Confidential Resources**

A. JWU has employees designated as confidential resources who are not required to share any information provided to them by an individual unless the individual gives them express permission, or as otherwise permitted or required by law. Individuals should direct any questions about the confidentiality status of an individual to the Title IX Coordinator.

B. Resources for Students

1. On campus, students may seek out JWU employees in Counseling Services and Health Services for support. These employees serve in a professional capacity that provides them confidential status under the law. Students and employees in both Providence and Charlotte may also contact Michael Waugh and Korina

absence from JWU's education program or activity to cover, at minimum, the period of time deemed medically necessary by the student's licensed healthcare provider. To the extent that a student qualifies for leave under a leave policy maintained by JWU that allows a greater period of time than the medically necessary period, now or in the future, JWU shall permit the student to take voluntary leave under that policy instead if the student so chooses. When the student returns to JWU's education program or activity, the student shall be reinstated to the academic status and, as practicable, to the extracurricular status that the student held when the voluntary leave began.

7. *Lactation space*. On request by a student to the Title IX Coordinator, JWU shall ensure that the student who has informed JWU of such student's pregnancy or related condition can access a lactation space, which shall be a space other than a bathroom, that is clean, shielded from view, free from intrusion from others, and may be used by a student for expressing breast milk or breastfeeding as needed.

8. *Limitation on supporting documentation*. JWU shall not require supporting documentation regarding a student's pregnancy or related condition unless the documentation is necessary and reasonable for JWU to determine the reasonable modifications to make or whether to take additional specific actions required by law.

9. *Comparable treatment to other temporary medical conditions*. To the extent consistent with paragraph 34 C.F.R. § 106.40(b)(3), JWU shall treat pregnancy or related conditions in the same manner and under the same policies as any other temporary medical conditions with respect to any medical or hospital benefit, service, plan, or policy JWU administers, operates, offers, or participates in with respect to students admitted to JWU's education program or activity.

10. *Certification to participate*. JWU shall not require a student who is pregnant or has related conditions to provide certification from a healthcare provider or any other person that the student is physically able to participate in JWU's class, program, or extracurricular activity unless permitted by law.

11. *Concerns*. Students who have any concerns about these matters should contact the Title IX Coordinator.

B. Employees

1. *Pregnancy or related conditions*. JWU shall not discriminate against any employee or applicant for employment on the basis of current, potential, or past pregnancy or related conditions.

2. *Comparable treatment to other temporary medical conditions*. JWU shall treat pregnancy or related conditions as any other temporary medical conditions for all job-related purposes.

3. *Voluntary leaves of absence*. In the case of an employee with insufficient leave or accrued employment time to qualify for leave, JWU shall treat pregnancy or related conditions as a justification for a voluntary leave of absence without pay for a reasonable period of time, at the conclusion of which the employee shall be

reinstated to the status held when the leave began or to a comparable position, without decrease in rate of compensation or loss of promotional opportunities, or any other right or privilege of employment.

4.