

**JESSUP**  
UNIVERSITY

**Sexual Misconduct Policy**

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## I. Introduction

William Jessup University (“Jessup”, “University”) affirms that all members of our community are created in the image of God and therefore should be treated with dignity and respect. Our University nondiscrimination statement states that we do not unlawfully discriminate on the basis of any status or condition protected by applicable federal or state law. Further, we respect the inherent worth of each member of the community and do not engage in any form of harassment. We follow the profound truth found in the Golden Rule, “In everything do to others as you would have them do to you.” (Matthew 7:12). In accordance with this belief, the University prohibits all forms of Sexual Harassment and Sexual Violence (collectively “Sexual Misconduct”) as defined by this Sexual Misconduct Policy (“Policy”).

The University encourages individuals to immediately bring any concerning behavior to the University’s attention even if such behavior does not constitute Sexual Misconduct or Retaliation. Sexual Harassment is defined differently under federal and state law. The applicable definitions and procedures under these laws also depend on your status in the Jessup community as a student, faculty, staff, volunteer, or third party. Non-sexual harassment based on other protected categories is also treated differently under the law and is processed under other policies.

Please do not let the legal complexities deter you from bringing a concern to the attention of our [University Title IX Coordinator](#). Likewise, If you are the subject of a complaint of discrimination, harassment, or retaliation, please do not hesitate to ask questions about the applicable definitions and procedures that will apply to you. Jessup’s Title IX Coordinator can explain which definitions and policies will apply.

Speech that constitutes a protected exercise of a student’s rights under California’s Leonard Law will not be deemed a violation of this Policy. Some speech that may be protected by the Leonard Law is nonetheless inconsistent with the Golden Rule, and students are encouraged to live by this higher standard rooted in our Christian faith and heritage.

## II. Statement of Non-Discrimination

Jessup University does not discriminate on the basis of sex in its educational programs and activities, including employment and admission. Complaints of discrimination based on sex (which includes Sexual Harassment) will be handled under this Policy or other appropriate University policy as deemed appropriate.

## III. Rationale for Policy

Because all people are worthy of human dignity, honor and respect, Sexual Misconduct (and any related Retaliation) is prohibited and will result in disciplinary action, up to and including dismissal from the University.

## IV. Jurisdiction of the Policy

The U.S. Department of Education’s Office for Civil Rights (OCR) enforces, among other laws, Title IX of the Education Amendments of 1972 (Title IX). Title IX protects people from discrimination based on sex in education programs or activities that receive Federal financial assistance. Title IX states that:

*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.*

Because Jessup receives federal funds, the University is required to abide by Title IX and all applicable regulations implementing Title IX, including those published in May 2020. The Title IX regulations published in 2020 clarify the definition of “sexual harassment” prohibited under Title IX and require specific procedures to be followed when addressing such conduct. Conduct prohibited by Title IX under the 2020 Title IX regulations includes Sexual Harassment (creation of a hostile environment that has a specific definition under Title IX), Sexual Harassment (engaging in Quid Pro Quo), Sexual Assault, Dating Violence, Domestic Violence, and Stalking (all terms defined in [Appendix A](#)).

### A. Procedures Required By the 2020 Title IX Regulations

The 2020 Title IX Regulations prohibit specific types of conduct, defined as harassment, on the basis of sex. The procedures mandated by the 2020 Title IX Regulations apply when the conduct prohibited by Title IX occurred in certain locations in the United States:

- In the education programs and activities of Jessup,
- On the campus or on property owned or controlled by Jessup, or
- At University-sponsored events.

If the alleged conduct is prohibited by Title IX and occurs in one of these locations, the specific procedures required by Title IX will apply, as set forth in this Policy. This includes the requirement that the University dismiss a Title IX matter that 1) does not meet the regulation’s definition of “sexual harassment,” or 2) did not occur in the University’s education programs or activities, and/or 3) where the individual was located outside the United States when the conduct allegedly occurred, and/or where a Complainant is not participating in or attempting to participate in a Jessup education program or activity. If a matter is dismissed as a Title IX matter, the facts of the case will be evaluated under California law: CA SB 493.

Regardless of whether allegations of Sexual Misconduct fall under the jurisdiction of Title IX or the broader CA law (SB493), Jessup is committed to a fair, accurate, consistent, transparent, and prompt response to any allegation of Sexual Misconduct.

## **B. Procedures When the Conduct is Not Covered by the 2020 Title IX Regulations**

It is important to note that pursuant to CA state law or this Policy, Jessup may still take action on allegations that fall outside the jurisdiction of Title IX, but violate this broader Sexual Misconduct Policy. Such action may include using the informal resolution process and/or formal grievance process described below or using any other University policy the University deems applicable (e.g., Jessup Employee Handbook, Faculty Manual, Student Handbook).

## **C. Jurisdiction of this Sexual Misconduct Policy**

The jurisdiction of this Sexual Misconduct Policy is broader than the jurisdiction required under the 2020 Title IX regulations. This Policy can also be applicable to conduct prohibited by this Policy, including conduct:

- That falls within the location of Title IX jurisdiction but does not meet the definition of conduct prohibited by Title IX and is therefore dismissed as a Title IX matter;
- That occurs outside the location of Title IX jurisdiction (off-campus misconduct or online misconduct) and that effectively deprives someone of access to Jessup's educational programs or activities.
- Against a student that is prohibited under this Policy as "[SB 493 Sexual Harassment](#)" that occurs in connection with any educational activity or other program of the University, as well as incidents that occurred outside of those educational programs or activities, whether they occurred on or off campus, if, based on the allegations, there is any reason to believe that the incident could contribute to a hostile educational environment or otherwise interfere with a student's access to education

## **D. Jurisdiction of Other Jessup Policies**

In cases where a Jessup faculty or staff member is accused of other forms of misconduct in addition to Sexual Misconduct, Human Resources and/or the VPAA may take immediate action following other policies governing misconduct, thereby making this Policy inapplicable (e.g., in cases where a faculty/staff member is immediately terminated). If the Respondent is a student and an employee, the University Title IX coordinator will determine which University policy should apply based upon the facts and circumstances (including, but not limited to, the context of the prohibited conduct, the roles of the parties at the time of the conduct, and the location of the incident).

- Formal complaints of Sex Discrimination by a student against another student may be resolved through the Student Conduct Office using the procedures in this Policy.
- Formal complaints of Sex Discrimination by a student against a Jessup employee may be resolved using the school's Employee Conduct Policy as outlined in the Jessup Employee Handbook.
- Formal complaints of Sex Discrimination, Sexual Harassment, or Sexual Exploitation by an employee against another employee may be resolved through the HR Department as outlined in the Jessup Employee Handbook.

- Formal complaints of sexual harassment by an employee against a student may be resolved through HR and the Student Conduct Offices using the procedures in this Policy.

## V. University Title IX Coordinator

Jessup has designated a qualified and trained person to serve as the University Title IX coordinator. The University Title IX coordinator is responsible for Jessup’s overall compliance with Title IX and coordinates the University’s efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent discrimination, harassment, and retaliation prohibited under this Policy. Upon receiving reports of Sexual Misconduct, the University Title IX coordinator or a member of the Title IX Team will meet with the Complainant to ensure that supportive measures are in place and that appropriate procedures are followed to address the complaint in a manner that are fair to both the Complainant and the Respondent. The University Title IX coordinator also ensures that proper training is provided to the officials involved in the process and coordinates educational programs for the entire University community. When appropriate, the University Title IX coordinator may appoint a designee to conduct or assist with the stated duties in this Policy.

### Title IX Team Contact Information:

**Title IX Coordinator:**

Jenice Sabra

[titleix@jessup.edu](mailto:titleix@jessup.edu)

916-577-2351

**For Students**

Dr. Mary Ann McMillan  
Director of Student Conduct

[mmcmillan@jessup.edu](mailto:mmcmillan@jessup.edu)

or

**For Students**

Brandon Farmer  
Director of Student Life

[bfarmer@jessup.edu](mailto:bfarmer@jessup.edu)

**For Athletics**

Baiba Celma  
Athletics Compliance  
Administrator

[bcelma@jessup.edu](mailto:bcelma@jessup.edu)

**For Faculty and Staff:**

Linda Giusti  
AVP of HR

[lgiusti@jessup.edu](mailto:lgiusti@jessup.edu)

## VI. Reporting Sexual Misconduct

The University encourages all individuals to report incidents of Sexual Misconduct or suspected Sexual Misconduct, whether they are Complainants or Witnesses. Individuals subjected to Sexual Misconduct have several reporting options. At the University, individuals can anonymously report, [confidentially report](#), or file a formal complaint of Sexual Misconduct, as explained below.

Additionally, individuals can report Sexual Misconduct to community resource centers that specialize

in providing resources to victims of Sexual Misconduct, file a criminal charge with local law enforcement, or file civil litigation against the Respondent. Individuals can also choose to pursue criminal charges (i.e., through the police and criminal courts). Individuals can choose to pursue University disciplinary options if the Respondent is a Jessup student or employee. Individuals may choose a combination of the above options.

Under California law, the University is required to immediately, or as soon as practicably possible, disclose to local law enforcement any report of sexual assault, whether committed on-or-off campus. If the individual communicates to the University that they would like their identity withheld, the University will not disclose the individual's or the alleged Respondent's identity in its report to law enforcement.

## Reporting Within the University

*Note: If there is any immediate danger and you are on the campus, call **911** first and then Campus Safety at **916-577-0776**, if safe to do so. If you are off-campus, call **911**. If you are located at Jessup's San Jose campus or if you are an online student, please reach out to your local law enforcement agency for immediate assistance. Local Support agencies are listed below. You may also email [titleix@jessup.edu](mailto:titleix@jessup.edu) and the Title IX team will assist you in finding support options in your area.*

## Reports to the University Title IX Coordinator

Anyone may report Sexual Misconduct or Retaliation related to Sexual Misconduct (whether or not the person reporting is the person alleged to have been subjected to Sexual Misconduct) to the University by contacting the University Title IX coordinator by using the contact information listed above by using the [Unlawful Sexual Misconduct Reporting Form](#), or by any other means that results in the coordinator receiving the person's verbal or written report. Such a report may be made at any time, including during non-business hours, by using the telephone number or email address, or by mail to the office address.

An individual reporting Sexual Misconduct may do so verbally or in a written report. If a written report is submitted, it is helpful to have a brief written statement citing the type(s) of Sexual Misconduct that occurred (see [Definitions](#)) and supporting facts (e.g., Respondent name, what happened, when and where the incident occurred, Witness(es), etc.).

## Anonymous Reports

Any individual may make an anonymous report concerning Sexual Misconduct. An individual may report the incident without disclosing names, identifying the Respondent, or requesting any action. Depending on the extent of information available about the incident or the individuals involved, however, the University's ability to respond to an anonymous report may be limited. The University may conduct an initial investigation to determine appropriate next steps.

Anonymous reports may be made on the anonymous complaint hotline: 844-490-0002 or through the website: [www.lighthouse.services.com/jessup](http://www.lighthouse.services.com/jessup) or by emailing: [reports@lighthouse-services.com/jessup](mailto:reports@lighthouse-services.com/jessup). Human Resources (HR) will receive these reports and share them with the University Title IX coordinator who will determine appropriate steps.

## **Responsible Employees**

With the exception of University employees designated as confidential resources (see [Confidential Resources](#)), all other University employees, including faculty and staff, are required to report immediately any information they know about suspected prohibited conduct or potential violations of this Policy. These individuals are referred to as responsible employees. Individuals with authority to act on behalf of Jessup in service to students, including student workers who have supervisory responsibility or responsibility for the welfare of other students are also considered responsible employees when they learn of potential violations of this Policy in the scope of their work.

Responsible employees must report all known information, including the identities of the parties, the date, time and location, and any details about the reported incident to the University Title IX coordinator (see [Reports to the University Title IX Coordinator](#)). The Title IX Coordinator or member of the Title IX Team will promptly contact the Complainant to discuss the availability of supportive measures, and explain to the Complainant the process for filing a formal complaint. Responsible employees may provide support and assistance to a Complainant, Witness, or Respondent; but they cannot promise confidentiality or withhold information about prohibited conduct. Failure by a responsible employee to report suspected prohibited conduct in a timely manner may subject them to appropriate discipline, including removal from a position or termination of employment.

Responsible employees are not required to report information disclosed: 1) at public awareness events (e.g., student chapels, candlelight vigils, or other public forums in which students may disclose prohibited conduct (collectively, public awareness events)); or 2) during an individual's participation as a subject in an Institutional Review Board-approved human subjects research protocol (IRB Research). However, the University may provide information about Title IX rights and about available University and community resources and support at public awareness events and an Institutional Review Board may, in appropriate cases, require researchers to provide such information to all subjects of IRB Research.

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.

## **Reporting Options Outside the University**

### **Stand Up Placer**

24 Hour Hotline

800-575-5352

### **Lighthouse Counseling**

<https://lighthousefrc.org>

### **Rocklin Police Department**

4080 Rocklin Rd.

Rocklin, CA 95677

916-625-5400

<https://www.rocklin.ca.us/police>

### **Placer County Sheriff's Department**

530-886-5375

### **San Jose**

Sexual Assault Response Team

Santa Clara Valley Medical Center

751 Bascom Ave. Building H1, San Jose, CA 95128

Telephone: (408) 885-6466

### **YWCA Rape Crisis Center**

375 S. Third Street, San Jose, CA 95112

24 hour hotline: (800) 572-2782 or (650) 493-7273

***In Emergency situations, please call 911***

For help in reporting the Sexual Misconduct to local law enforcement, contact Campus Safety at **916-577-0776**. It is important to understand that reporting Sexual Misconduct does not obligate the reporting party to press criminal charges. California law provides that individuals who experience sexual assault are encouraged to preserve evidence and to note the identity and location of Witnesses. Contacting law enforcement to make a report allows for forensic evidence to be collected, including an exam if needed, which may be helpful if a decision is made to pursue criminal charges.

### **Civil Court**

[The Superior Court of California, County of Placer](#)

10820 Justice Center Drive

Roseville, CA 95678

916-408-6000

[The Superior Court of California, County of Santa Clara](#)

191 N. First St., San Jose, CA 95113

For help filing a civil lawsuit, please contact [The Superior Court of California, County of Placer](#) or [The Superior Court of California, County of Santa Clara](#) (San Jose Residents)

### **Resources for Students and Employees Located Out of State or Abroad**

Students or employees participating in a program located out of state or abroad should consult with their supervisor for confidential reporting options, available community resources, and law enforcement in their location.

## **VII. Initial Assessment of Reports to the University Title IX Coordinator**

Upon receipt of a complaint or notice to the University Title IX coordinator of an alleged violation of this Policy, the University Title Coordinator and the appropriate members of the Title IX team will initiate a prompt initial assessment to determine the next steps the University needs to take and whether the matter should be handled as a Title IX matter, a complaint that does not meet the definition of a Title IX matter but is still handled under this Policy, or a complaint that falls under another Jessup policy. The Title IX Coordinator will initiate at least one of three responses:

1. Offer supportive measures because the Complainant does not want to file a formal complaint; and/or
2. An informal resolution process (upon submission of a formal complaint) where the matter is appropriate for informal resolution; and/or
3. A formal grievance process including an investigation and a hearing (upon submission of a formal complaint).

The University uses the formal grievance process to determine whether or not the Policy has been violated. If a violation has been found to occur, Jessup will implement remedies designed to restore or preserve equal access to the University's education program or activity to the Complainant, and will impose disciplinary sanctions on the Respondent.

## **VIII. Initial Meeting with the University Title IX Coordinator**

When allegations of Sexual Misconduct are reported, the University Title IX coordinator or member of the Title IX team will promptly contact the Complainant to discuss the availability of supportive measures, consider the Complainant's wishes with respect to supportive measures, inform the Complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the Complainant the process for filing a formal complaint. The University Title IX

coordinator or designee will also explain the options for a formal grievance process and an informal resolution process. At this initial meeting, the coordinator will also explain the Complainant's and Respondent's right to an Advisor. The Complainant may bring a support person to this initial meeting with the coordinator. The support person may also serve as the Complainant's Advisor in future meetings with University officials.

## IX. 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 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 Jessup's education programs or activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the University's educational environment, or deter Sexual Misconduct. Jessup will maintain as confidential any supportive measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the supportive measures.

During the initial meeting with the University Title IX coordinator or member of the Title IX team, Complainants will have the opportunity to express what they would like in the form of supportive measures, and the Title IX team member will take into account the Complainant's wishes in determining which supportive measures to offer. The Title IX Coordinator or team member will facilitate the implementation of the supportive measures they deem appropriate.

### Available Supportive Measures

The members of the University Title IX team, at their discretion, may implement supportive measures which may be applied to the Complainant and/or the Respondent including, but not limited to:

- Access to counseling services and assistance in setting up an initial appointment, on and off campus;
- Imposition of mutual restrictions on contact between the parties (or a one-way no-contact order when appropriate) subject to the following:
  - **Unilateral:** For non-Title IX cases where the Complainant is a student and the Respondent is a member of the University's community, upon the request of the Complainant or where otherwise determined to be appropriate, the University shall issue an interim, unilateral no-contact order prohibiting the Respondent from contacting the Complainant during the pendency of the investigation;
  - **Mutual:** For non-Title IX cases where the Complainant is a student, the University shall not issue a mutual no-contact order automatically but shall consider the specific circumstances of each case to determine whether such a directive is appropriate to:
    - Protect the non-complaining party's safety or well-being; or

- Respond to interference in the grievance process.

Upon issuance of a mutual no-contact order in a non-Title IX matter, the University shall provide the parties with a written justification for the order and an explanation of the terms of the order, including the circumstances, if any, under which a violation could be subject to disciplinary action.

- Rescheduling of exams or assignments;
- Providing alternative course completion options;
- Changing class schedules, including the ability to transfer course sections or withdrawal from a course without penalty;
- Changing work schedules, job assignments, or work environment;
- Changing a student's University-owned housing;
- Assistance from University support staff in completing University housing relocation;
- Limiting an individual's or organization's access to certain University facilities or activities pending resolution of the matter;
- Increased security and monitoring of certain areas of the campus;
- Voluntary leave of absence;
- Providing an escort to ensure safe movement between classes and activities;
- Providing information about local medical services;
- Providing information regarding [pregnancy support](#);
- Providing academic support services, such as tutoring; and/or
- Any other actions deemed appropriate by the University Title IX coordinator.

## **X. Formal Complaint of Sexual Misconduct**

A "formal complaint" is a document filed by a Complainant or signed by the University Title IX coordinator alleging Sexual Misconduct against a Respondent and requesting that the University investigate the allegation for potential adjudication of the matter. The formal complaint must be submitted to the University Title IX coordinator in person, by mail, email, or through an online portal provided for this purpose by the University, with a physical or digital signature or which otherwise indicates that the Complainant is the person filing the formal complaint. At the time of filing a formal complaint, a Complainant must be participating in or attempting to participate in a Jessup education program or activity.

Requiring Complainants to file a formal complaint is required under Title IX and is meant to ensure that Complainants retain more autonomy and control over when the Complainant's reported victimization leads to a formal grievance process (described below). In rare circumstances, the University Title IX coordinator may determine that an investigation is necessary over the wishes of a Complainant out of concerns for the welfare and safety of the Complainant and the community (for example, to pursue a grievance process against a potential serial sexual perpetrator). If so, the

University Title IX coordinator will sign a formal complaint; however, the coordinator is not a Complainant or a party during the grievance process.

When weighing a Complainant's request that their identity remains confidential and/or that no investigation or discipline be pursued, the University Title IX Coordinator will consider a range of factors, including the following:

- the effect that non-participation by the Complainant may have on the availability of evidence and Jessup's ability to pursue the formal grievance process fairly and effectively;
- whether there have been other Sexual Misconduct complaints about the same Respondent;
- whether the Respondent has a history of arrests or records from a prior school indicating a history of violence;
- whether the Sexual Misconduct was perpetrated with a weapon, physical restraints, or engaged in battery;
- whether the Respondent threatened further Sexual Misconduct or other violence against the individual or others;
- whether the Sexual Misconduct was committed by multiple Respondents;
- whether the Respondent is a faculty or staff member with oversight of students;
- whether there is a power imbalance between the Complainant and Respondent;
- whether the Complainant believes that they will be less safe if the Complainant's name is disclosed or an investigation is conducted;
- whether the Complainant is a minor;
- whether the report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.

The presence of one or more of these factors may lead Jessup to initiate its formal grievance process under this Policy. If none of these factors are present, the University Title IX coordinator will typically honor the Complainant's decision not to file a formal complaint.

The decision to initiate a grievance process in situations where the Complainant does not want an investigation, or where the Complainant intends not to participate, will be made thoughtfully and intentionally, taking into account the circumstances of the situation, including the reasons why the Complainant wants or does not want the University to investigate. If the University Title IX coordinator determines that a formal investigation is necessary over the wishes of a Complainant, Jessup will inform the Complainant prior to starting an investigation and will offer supportive measures and informal resolution options when appropriate. When Jessup proceeds with the formal grievance process (including the investigation and hearing), the Complainant (or their Advisor) may have as much or as little involvement in the process as desired. The Complainant retains all rights of a Complainant under this Policy irrespective of their level of participation. Jessup's ability to respond to the report may be limited if the Complainant does not want to proceed with an investigation and/or hearing process or requests that their identity remain confidential. The goal is to provide the Complainant with as much control over the process as possible, while balancing Jessup's obligation to protect the Complainant and the community. Complainants who elect to take no action can change

that decision if they decide to pursue a formal complaint at a later date. After a formal complaint is filed, both parties will be given timely notice of meetings at which the parties (one or all) may be present.

## **XI. Informal Resolution Process**

Informal resolution is a voluntary process that a student Complainant and a student Respondent can mutually agree to participate in as an alternative to a formal grievance process. An informal resolution process will not generally be offered to resolve allegations of Sexual Misconduct against a student by a Jessup employee. However, as determined by the University Title IX Coordinator in consultation with other departments as necessary, informal resolution may be appropriate to resolve allegations of Sexual Misconduct against an employee by another Jessup employee. In instances of non-Title IX sexual harassment complaints involving student Complainants against Jessup employees, mediation will not be mandated by the University and mediation, even on a voluntary basis, will not be used to resolve allegations of Sexual Violence as defined under state law and this Policy. The University will make a good faith effort to complete the informal resolution process as promptly as circumstances permit and will update the parties on the timing and reason for any delay.

Before initiating an informal resolution process, a Complainant first needs to submit a formal complaint. If a Complainant or Respondent wishes to initiate an informal resolution, they should contact the University Title IX Team to make this request.

All parties must consent to the use of informal resolution. However, the University Title IX Coordinator, in their sole discretion, determines whether the informal resolution process will be used in a matter. The coordinator may appoint a facilitator with appropriate training in Title IX and informal resolution processes to work with both parties toward a resolution.

It is not necessary to pursue informal resolution first in order to pursue a formal grievance process, and any party participating in informal resolution can stop the process at any time prior to reaching resolution and begin or resume the formal grievance process.

Prior to implementing an informal resolution, the University Title IX coordinator will provide the parties with written notice of the reported misconduct and any sanctions or measures that may result from participating in an informal resolution process, including information regarding any records that will be maintained or shared by the University. Jessup will obtain voluntary, written confirmation that all parties wish to resolve the matter through informal resolution before proceeding and will not pressure the parties to participate in an informal resolution.

The informal resolution agreement is not subject to appeal once all parties indicate their written agreement to all terms of the informal resolution. After the written agreement is signed by both parties, the formal grievance process is no longer available concerning the allegations raised in the formal complaint.

When the parties cannot agree on all terms of resolution, the formal grievance process will resume at the same point where it was paused. Information disclosed during the informal resolution process that is not already in the record (e.g., in the formal complaint or from any investigation or hearing conducted before the information resolution process starts) is confidential and cannot be used in the formal grievance process that resumes after the informal resolution process is terminated.

When an informal resolution is accomplished, the appropriate responsive actions and/or mutually agreed upon sanctions are promptly implemented in order to effectively stop the harassment or discrimination, prevent its recurrence, and remedy the effects of the misconduct, both on the Complainant and the community. The University Title IX Coordinator maintains records of any resolution that is reached, and failure to abide by the resolution agreement may result in appropriate responsive and/or disciplinary actions.

## **XII. Formal Grievance Process**

### **Overview**

After a Complainant (or the University Title IX coordinator ) files a formal complaint against a Respondent, the University Title IX coordinator will initiate a formal grievance process that includes an investigation and a hearing. The investigation and adjudication of conduct prohibited by this Policy under this formal grievance process is not an adversarial process between the Complainant, the Respondent, and the Witnesses, but rather a process for institutions to comply with their obligations under existing law. The Complainant does not have the burden to prove, nor does the Respondent have the burden to disprove, the underlying allegation or allegations of behavior prohibited by this Policy.

Before the investigation begins, both parties will receive a written statement of the allegations with sufficient time to prepare before meeting with a trained internal investigator or external investigator as designated by the Title IX Coordinator. The purpose of the investigation is to collect the relevant evidence with the equitable participation of both parties.

After the investigation is complete, a final investigation report is sent to both parties, as set forth below. The investigation report makes no conclusions about the allegations. Both parties have the opportunity to respond in writing to the evidence related to the allegations collected by the investigator(s), and then again to the final investigation report.

The next step is to schedule a video conference hearing with both parties and their Advisors and any relevant Witnesses. The purpose of the hearing is to give both parties and Witnesses the opportunity to provide testimony and respond to the evidence at the hearing with the decision maker(s). The hearing can include one decision maker (an administrative hearing) or a panel of three decision makers (a hearing panel), which may be trained internal or external representatives, hired for this process.

After the hearing the decision maker(s) will make factual findings, a determination of responsibility regarding the Sexual Misconduct allegation(s) and whether that violates this Policy and send that determination in writing to both parties. Either party may appeal the decision to a designated University Appeal Officer who was not involved in the investigation or hearing process. The Appeal Officer's decision is final. The University Title IX coordinator will continue to work with both parties throughout this process, providing supportive measures and, if the Respondent is found responsible, coordinating with the Student Conduct Officer regarding the implementation of sanctions and offering remedies to the Complainant to help restore access to Jessup's educational programs and activities.

## **Initial Assessment**

After receiving notice of conduct that may potentially violate this Policy or when a formal complaint has been filed by a Complainant, the University Title IX Team will conduct an initial assessment. The initial assessment, may include determining whether the Sexual Misconduct alleged falls within the scope of Title IX. As set forth above in the Section, *Procedures Required By the 2020 Title IX Regulations*, under the Title IX regulations, Jessup must dismiss a formal complaint (or any allegations therein) as a Title IX matter if, at any time during the investigation or hearing, it is determined that:

- The conduct alleged in the formal complaint would not constitute Title IX Sexual Harassment as defined in this Policy (see [Definitions](#)) even if proved; and/or
- The alleged conduct prohibited under Title IX did not occur in Jessup's educational programs or activities (includes locations, events, or circumstances over which Jessup exercises substantial control over both the Respondent and the context in which the "sexual harassment" occurs, and also includes buildings or property; and/or
- The alleged conduct prohibited by Title IX did not occur against a person in the United States; and/or
- At the time of filing a formal complaint as a Title IX matter, a Complainant is not participating in or attempting to participate in the education programs or activities of the University

If a formal complaint is being dismissed as a Title IX matter, it may be still processed under this Policy or referred to another policy, as required by state law.

Under the 2020 Title IX regulations, Jessup may dismiss a formal complaint (or any allegations therein) as a Title IX matter if, at any time during the investigation or hearing:

- A Complainant notifies the University Title IX coordinator in writing that the Complainant would like to withdraw the formal complaint as a Title IX matter or any allegations therein (a Complainant who decides to withdraw a complaint may later request to reinstate it or refile it); or
- The Respondent is no longer enrolled in or employed by the University; or

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

If a formal complaint is being dismissed because it is not being handled as a Title IX matter, it may be still processed under this Policy as Non-Title IX sexual harassment or referred to another policy, as required by state law. (It may also be dismissed completely if it is not being handled as a Title IX matter and, even if true, would not meet any other definitions of prohibited conduct under this Policy.) Upon any dismissal of the formal complaint as a Title IX matter or modification to the jurisdictional determination (Title IX or non-Title IX), the University Title IX coordinator will promptly send written notice of the dismissal or modification and the rationale for doing so simultaneously to the parties. In some cases, the dismissal may only be a procedural requirement under the Title IX regulations, because the 2020 Title IX regulations also allow and state law requires the University to still address the allegations using this Policy's formal grievance process or the informal resolution process.

Therefore, the University Title IX Coordinator will indicate in the written notice if Jessup will continue with the informal resolution process or the formal grievance process (including the investigation and hearing) under this Policy as a non-Title IX matter, even though it has been dismissed as a Title IX matter. If Jessup proceeds using the formal grievance process under this Policy for non-Title IX matters or another Jessup policy, the parties will be notified of any procedural modification in the written notice of the allegations and/or the written notice of the hearing before the procedure begins (e.g., to time frames and cross examination requirements).

The formal complaint dismissal or modification decision is appealable within seven calendar days of the issuance date of the written notice of the dismissal to the Associate Vice President, Student Success or designee on any of the following bases:

1. Procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the dismissal was made which could affect the outcome of the matter; or
3. The University Title IX coordinator had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

Jessup will notify the other party in writing when an appeal is filed and will provide a copy of the appeal to the non-appealing party within three business days of the receipt of the appeal.

Appeals procedures will be implemented equally for both parties, which includes the opportunity to submit a written statement in support of, or challenging, the dismissal decision. Any submissions from a party will be shared with the other party. The non-appealing party may provide a response to the

appeal, but is not required to do so. The University will issue a written decision describing the result of the appeal and the rationale for the result, which will be provided simultaneously to both parties. The appeal process normally takes 15 business days from the time the appeal is submitted by either party. The Associate Vice President, Student Success will make a good faith effort to complete the appeal process as promptly as circumstances permit and will update the parties on the timing of any delay and the reasons for the delay.

## **Written Notice of the Allegations**

Upon receipt or issuance of a formal complaint, the University Title IX coordinator will provide the Complainant and Respondent (or the parties who are known at the time) a written notice that includes:

- Notice of Jessup's formal grievance process and informal resolution process.
- Notice of the allegations of Sexual Misconduct (see [Definitions](#)), including sufficient details known at the time and with sufficient time (normally two calendar days) to prepare for the initial investigatory interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting Sexual Misconduct, and the date and location of the alleged incident, if known.
- A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.
- A statement that the parties may have an Advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence as described in the Formal Investigation section below.
- A reference to the provision in this Policy that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.
- A statement about the University's policy on Retaliation.
- Information on how parties may request disability accommodations during the formal grievance (including investigation and hearing) and informal resolution processes.

If, in the course of an investigation, Jessup decides to investigate allegations regarding the Respondent that are not included in the original written notice, the University will provide notice of the additional allegations to the parties whose identities are known.

The written notice will be delivered by one or more of the following methods: emailed to the parties' Jessup email or designated accounts, in person, or mailed to the local or permanent address(es) of the parties as indicated in official University records.

## **Formal Investigation**

### **Authority and Responsibility**

Investigations are conducted by trained investigators. In some cases, the University may choose to utilize the services of an outside investigator to conduct the investigation, which will follow the procedures below and be overseen by the University Title IX coordinator.

### **Investigation Timeline**

Investigations are completed expeditiously, normally within 90 business days, though some investigations may take longer, depending on the nature, extent, and complexity of the allegations, availability and number of Witnesses, law enforcement involvement, etc. If there is a delay, the University will communicate in writing the anticipated duration of the delay and reason to the parties. Investigations are typically not delayed, altered, or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced. Jessup will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation, including the reason for any delay. The University will not unreasonably deny a student party's request for an extension of a deadline related to a complaint during periods of examinations or school closures.

### **Participation of Witnesses in the Investigation**

Normally interviews for parties and all Witnesses are conducted in person; however, circumstances (e.g., study abroad, summer break) may require individuals to be interviewed remotely. In exceptional circumstances Witnesses may also provide written statements in lieu of interviews, if deemed appropriate by the investigator(s).

### **Recording of Interviews**

No unauthorized audio or video recording or transcription of any kind is permitted during investigation meetings. The investigator(s) will audio and/or video record interviews of the Parties and, at their discretion, the Witnesses, and all involved interviewees will be made aware of audio and/or video recording. Recordings or transcriptions of investigation meetings will not be shared with any involved party (Complainant, Respondent, Advisor, or Witnesses); however, a summary of any relevant evidence obtained in an investigation interview that is directly related to the allegations raised in the formal complaint will be shared in writing with the Complainant and Respondent and their Advisors as described below in the investigation process.

### **Investigation Process**

When investigating a formal complaint, Jessup will:

1. Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the University and not on the parties. The University cannot access, consider, disclose, or otherwise use a party's records that are made

or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the University obtains that party's voluntary, written consent to do so for the grievance process under this Policy.

2. Provide an equal opportunity for the parties to present Witnesses and other inculpatory and exculpatory evidence. Inculpatory evidence tends to incriminate or place responsibility on someone, and exculpatory evidence tends to show a person's innocence.
3. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.
4. Provide the parties with the same opportunities to have others present during any investigation meeting, including the opportunity to be accompanied to any related meeting or proceeding by the Advisor of their choice. However, the Advisor cannot speak for the parties. The role of the Advisor is to accompany the parties and advise them privately. See [Role of Advisors](#) for additional information.
5. Provide, to a party, written notice of the date, time, location, participants, and purpose of all investigative interviews with sufficient time (normally two calendar days) for the party to prepare to participate.
6. Provide a review process as follows:
  1. **Evidence Review:** Jessup 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 a formal complaint, including the evidence upon which the University does not intend to rely on in reaching a determination regarding responsibility 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 conclusion of the investigation. Jessup will send to each party and the party's Advisor, if any, the evidence subject to inspection and review in an electronic format. In order to protect confidential information, the investigator will redact or remove information that is not directly related to the allegations (or that is otherwise barred from use under Title IX, such as information protected by a legally recognized privilege, or a party's treatment records if the party has not given written consent) before sending the evidence to the parties for inspection and review. The evidence will be emailed to the parties' Jessup email account and the Advisors' (if any) email account provided to the University by the parties.

2. **Evidence Response:** The evidence review and response period begins on the date that the University emails the parties with the evidence. The parties will have eleven calendar days to submit a written response to the evidence, which the investigator will consider prior to completion of the final investigative report. The parties may elect to waive the full review period days. Both parties may provide additional evidence in their response.
3. **Sharing of Response:** Each party's written response to the evidence, if submitted, will be shared with the other party within two business days of the deadline for submission. No rebuttal is permitted unless approved by the investigator(s).
4. **Use of Response in Final Investigation Report:** Upon receipt of the parties' written responses, the investigator(s) will incorporate relevant elements of the parties' written responses into the final investigation report, include any additional relevant evidence, and make any necessary revisions.
5. **Review of Final Investigation Report:** The investigator(s) shall create a final investigation report that includes a description of the procedural steps taken during the investigation and that fairly summarizes relevant evidence. (For non-Title IX matters, the University reserves the right to have the report contain just the factual findings.) The report will be sent to each party and the party's Advisor, if any, in an electronic format for their review, no less than ten days prior to a hearing. Any notice of hearing shall account for this review period.
6. **Response to Final Investigation Report:** The parties will have ten calendar days to submit a written response to the Final Investigation Report. The parties may elect to waive the full ten calendar days. Both parties may provide additional evidence in their response. Each party's written response, if submitted, will be shared with the other party prior to the hearing. Parties will have the opportunity to respond to any new evidence at the hearing, for cases involving hearings.
7. **Evidence at Hearing:** Jessup will make all evidence subject to the parties' inspection and review, including any written responses, available at a hearing (if any) following the investigation to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

### **Evidentiary Considerations in the Investigation**

The investigation does not consider: 1) incidents not directly related to the possible violation, unless they are considered relevant because, for example, they evidence a pattern; or 2) evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such 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 3) the existence of a dating relationship or prior or subsequent consensual sexual relations between the Complainant and the Respondent

unless the evidence is relevant to how the parties communicated consent in prior or subsequent consensual sexual relations.

## **Sexual Misconduct Claims that are not Title IX "Sexual Harassment"**

For allegations of Sexual Misconduct that fall outside the jurisdiction of Title IX, the University Title IX coordinator in collaboration with the investigator(s) reserves the right to modify the investigation procedures, including but not limited to timelines. For example, the University may reduce the number of days provided to the parties to review the related evidence and the final investigation report if it is determined that this may help provide a prompt resolution without compromising a thorough, reliable, impartial, and fair process for both parties. The parties will be notified of any modifications in the written notice of the allegations that is sent by the University Title IX coordinator before the investigation begins.

## **Hearing Procedures**

### **Title IX Matters**

For allegations of Sexual Misconduct that fall outside the jurisdiction of Title IX (see [Jurisdiction of the Policy](#)), the Hearing Officer reserves the right to modify the hearing procedures. For example, in allegations of Sexual Assault occurring outside of Title IX's jurisdiction the University may rely upon indirect cross-examination to conduct a thorough, reliable, impartial, and fair hearing process. Parties will submit cross-examination questions to the Hearing Officer who, after determining relevance, will ask the questions directly to the parties rather than having an Advisor ask the cross-examination questions. The parties will be notified of any hearing procedure modifications in the written notice of the hearing that is sent by the Hearing Officer before the hearing. For cases that are not being handled as a Title IX matter, direct cross examination by a party or a party's Advisor are prohibited.

After the final investigation report is shared with the parties, the University Title IX Coordinator will (1) refer the matter for a live hearing; or (2) dismiss the matter if all of the allegations, even if true, would not constitute a violation of this Policy. The University Title IX Coordinator may also refer all or part of the matter to another policy if another University policy addresses the alleged behavior.

At the discretion of the Hearing Officer, in consultation with the Title IX Coordinator, the hearing can be with one decision maker (an administrative hearing) or with three decision makers (a hearing panel). The hearing panel may include two Jessup faculty and/or staff members in addition to a designated chair, with a mix of both male and female members, and will not include students. In some cases, the University may choose to utilize the services of an outside Hearing Officer to conduct the hearing, which will follow the procedures below and will be overseen by the University Title IX coordinator.

All hearings will be conducted via video conferencing that will allow all parties, Witnesses, and other participants simultaneously to see and hear the party or Witness that is answering questions or addressing the Hearing Officer.

Other than as outlined below, hearings need not adhere to formal rules of procedure or evidence followed by courts of law.

### **Authority and Responsibility**

The term “Hearing Officer” is used throughout these hearing procedures to refer to either: 1) the chair of the hearing panel (three decision makers); or 2) the person who is the single decision maker of the administrative hearing.

When the Respondent is a student, the Student Conduct Office is responsible for the hearing, which is normally conducted by the Director of Student Conduct or designee. When a hearing panel of three decision makers is convened, the Director of Student Conduct serves as the chair and is one of the three decision makers. If the Director of Student Conduct conducts an administrative hearing, the Director of Student Conduct serves as the sole decision maker. In this Policy, the Director of Student Conduct or designee is referenced as the Hearing Officer for both administrative hearings and hearing panels.

When the Respondent is a Jessup employee, Human Resources (HR) is responsible for conducting the hearing with a trained decision maker(s). When an administrative hearing is conducted, HR will appoint one decision maker who serves as the Hearing Officer. When a hearing panel is used, HR will appoint three decision maker(s) including one designated chair, who is referenced in this Policy as the Hearing Officer.

At the hearing, the decision maker(s) has the authority to hear and make determinations on all allegations of Sexual Misconduct, and/or Retaliation and may also hear and make determinations on any additional alleged policy violations by the Respondent that have occurred in connection with the Sexual Misconduct allegations (e.g., violations by the Respondent of the Alcohol and Other Drug Use Policy, violations of the No Contact Directive, etc.). The Hearing Officer may designate a staff member to serve as the hearing facilitator, which includes, for example, scheduling the hearing, distributing materials to participants, ensuring that the virtual conferencing and recording technology is working as intended, and coordinating the flow of Witnesses and other participants in and out of the video conferencing as appropriate. Jessup will provide a transcript of the hearing to the parties for inspection and review upon request.

### **Hearing Timeline**

The hearing cannot be less than ten calendar days from the date that the final investigation report is transmitted to the parties. Normally, the hearing will be scheduled at least ten days after the deadline for responding to the Final Investigation Report. However, all parties (the Complainant and the Respondent) and the decision maker may agree to an expedited timeline. Hearings may be conducted prior to, simultaneously with, or following criminal or civil proceedings.

After the hearing is concluded, a written letter of determination is normally sent to both parties within five business days. When employee Respondents are involved and sanctions are recommended by the decision maker(s), additional time may be necessary for a sanction review by the appropriate supervisor or faculty body. The sanctions are included in the written letter of determination, which concludes the hearing process.

The Hearing Officer will make a good faith effort to complete the hearing process as promptly as circumstances permit and will update the parties on the reason and timing of any delay of the hearing or the written letter of determination. The Hearing Officer will not unreasonably deny a student party's request for an extension of a deadline related to a complaint during periods of examinations or school closures.

### **Notice of Hearing (For Cases Involving Hearings)**

No less than ten calendar days prior to a hearing, the Hearing Officer will simultaneously send notice of the hearing to the parties' Jessup email account. The notice will contain:

1. A description of the alleged violation(s) and a list of all policies allegedly violated.
2. The time and date of the hearing and a reminder that attendance is mandatory, superseding all other University activities.
3. A description of the video conferencing technology that will be used to facilitate the hearing with the parties in separate locations and enables the decision maker(s) and parties to see and hear a party or Witness answering questions or addressing the Hearing Officer.
4. A list of all those who will attend the hearing, along with an invitation to object to any decision maker on the basis of demonstrated bias. This must be raised with the Hearing Officer (regarding hearing panel members) or the University Title IX coordinator (regarding the Hearing Officer) in writing at least seven calendar days prior to the hearing.
5. A copy of all the materials provided to the decision maker(s) about the matter, unless they have been provided already. This includes, for example, the final investigation report, the parties' written responses to the report (if submitted), and any relevant materials the Hearing Officer has approved to be reviewed at the hearing.
6. An invitation to each party to identify any relevant Witnesses in the final investigation report whose:
  1. Testimony is requested at the hearing; and

2. Testimony is sufficient in the report and does not need to present live testimony or submit to cross-examination questions by the party's Advisor at the hearing. If there is agreement by both parties, and the credibility or live testimony of the Witness is not critical to the adjudication of the allegations, the Hearing Officer may determine that it is not necessary to require the Witness to attend the hearing, and the decision maker(s) will rely upon the Witness' testimony in the final investigation report in making its determination of responsibility.
  
7. An invitation to each party to submit the questions they intend their Advisor to ask the other party or Witnesses at the hearing, so that the Hearing Officer can rule on their relevance ahead of time to avoid any delays in the hearing or to provide recommendations for more appropriate phrasing. Parties will also be given the opportunity to submit questions during the live hearing. Only hearings conducted under the Title IX regulations will use direct cross examination by an Advisor. All other hearings may use indirect cross examination through the Hearing Officer.
  
8. An invitation to contact the Disability Support Services Office (students) or Human Resources (employees) to arrange any disability accommodations or interpretation services that may be needed at the hearing, at least seven calendar days prior to the hearing.

## **Witnesses**

The Hearing Officer will schedule critical Witnesses to appear at a portion of the live hearing in order to present testimony and to respond to questions from the decision maker(s) and the parties, after which they will be excused.

## **Evidentiary Considerations in the Hearing**

Generally, the parties may not introduce evidence, including witness testimony, at the hearing that the party did not identify during the investigation and that was available at the time of the investigation. However, the Hearing Officer has discretion to accept for good cause, or exclude, such new evidence offered at the hearing. If the Hearing Officer does not allow the admission of the new evidence, the Hearing Officer may delay the hearing and instruct that the investigation needs to be re-opened to consider that evidence.

Any evidence the decision maker(s) determines relevant and credible may be considered. The decision maker(s) does not consider Incidents not directly related to the possible violation, unless they are considered relevant because, for example, they evidence a pattern.

In matters that have been designated as Title IX matters, as required by the 2020 Title IX regulations, the decision maker(s) does not consider:

- Questions and evidence about the Complainant’s sexual predisposition or prior sexual behavior, 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
- The past sexual history of a Complainant unless the questions and evidence concerns specific incidents of the Complainant’s prior sexual behavior with respect to the Respondent and are offered to prove consent.

In non-Title IX matters, the decision maker(s) does not consider the past sexual history of a Complainant or Respondent, subject to certain exceptions. As required by state law, the decision maker(s) does not consider:

- Prior or subsequent sexual history between the Complainant and anyone other than the Respondent for any reason unless directly relevant to prove that physical injuries alleged to have been inflicted by the Respondent were inflicted by another individual.
- The existence of a dating relationship or prior or subsequent consensual sexual relations between the Complainant and the Respondent unless the evidence is relevant to how the parties communicated consent in prior or subsequent consensual sexual relations.

Where the the decision maker(s) allows consideration of evidence about a dating relationship or prior or subsequent consensual sexual relations between the Complainant and the Respondent, the mere fact that the Complainant and Respondent engaged in other consensual sexual relations with one another is never sufficient, by itself, to establish that the conduct in question was consensual.

Before allowing the consideration of any evidence of past sexual history, the decision maker(s) shall provide a written explanation to the parties as to why consideration of the evidence is consistent with this Policy.

Previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility. This information is only considered at the sanction stage of the process during deliberation by the decision maker(s) following the live hearing with the parties.

### **Other Hearing Procedures**

1. The Hearing Officer will answer all questions of procedure raised before or during a hearing.
2. When using a hearing panel, the Hearing Officer will give the panelists a list of the names of all parties, Witnesses, and Advisors in advance of the hearing. Any panelist who cannot make an objective determination must recuse themselves from the hearing proceedings.

3. In hearings involving more than one Respondent or in which two or more Complainants have accused the same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly. However, the University Title IX coordinator, in consultation with the appropriate office(s) (e.g., Campus Safety, Human Resources, or the Student Conduct Office), may permit the investigation and/or hearings pertinent to each Respondent to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent with respect to each alleged Policy violation.
4. The decision maker(s) may not draw any inference solely from a party's or Witness's absence from the hearing or refusal to answer cross-examination or other questions.
5. Jessup will make all evidence subject to the parties' inspection and review, including any written responses, available at the hearing (generally via the same prehearing electronic format or tool used to provide access for review) to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.
6. Parties may confer with their Advisor during the hearing, but if a party repeatedly confers with the Advisor every time a question is asked, the Hearing Officer may inform the party that such conduct will be considered when weighing the party's credibility. Also, the Hearing Officer reserves the right to limit the timing and length of breaks requested by parties to confer with Advisors, and any conferring must be in private so that it does not disturb the hearing and is not overheard by other participants.
7. If, during the course of the hearing, additional policy violations are discovered, the Respondent will be notified of the new alleged violation(s) and will be granted additional time, if needed, for an investigation to be conducted and/or to prepare a defense of the new alleged violation(s). The Respondent may waive an investigation related to the new alleged violation(s) and/or the additional time to prepare a defense, and the hearing can proceed with the new alleged violation(s) taken under consideration by the decision maker(s). A record will be made of the additional alleged violation(s) and whether or not the Respondent waived or requested an investigation to be conducted and/or additional preparation time.
8. The University will provide a transcript of the hearing to both parties upon request for purposes of review in the event of an appeal. The parties may not record the hearing and no other unauthorized recordings are permitted.

### **Procedures for Questioning in All Matters**

All questioning must follow the hearing procedures and [Jessup's Rules of Decorum](#), which prohibit questioning in an abusive, badgering, intimidating, or disrespectful manner. If a party or a party's Advisor of choice refuses to comply with these rules of decorum for the hearing, the Hearing Officer may require the party to use a different Advisor. For Title IX matters, if a University-provided Advisor

refuses to comply with these rules of decorum, the Hearing Officer may provide that party with a different Advisor to conduct cross-examination on behalf of that party.

The parties may submit questions in advance or during the hearing. The procedures for conducting questioning are set forth below. Before a Complainant, Respondent, or Witness answers a question, the Hearing Officer must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. This applies to questions submitted prior to or during the hearing. All questions will be heard by the parties. After the question is heard, the Hearing Officer will pause the hearing to ensure that the question is relevant before instructing a party or Witness to answer the question. The parties or Advisors may immediately challenge any decision regarding relevance by the Hearing Officer, who may pause the hearing and consult with others before making a final ruling on the challenge. Duplicative questions are irrelevant and will not be permitted by either party. The Hearing Officer shall have the authority to discard or rephrase any question that the Hearing Officer deems to be repetitive, irrelevant, or harassing.

### **Procedures for Questioning in Title IX Matters**

The Title IX regulations grant the right of cross-examination through an Advisor equally to Complainants and Respondents in Title IX matters. At a hearing on a Title IX matter, the Title IX regulations require that the decision maker(s) must permit each party's Advisor to cross examine the other party and any Witnesses. This means that a party's Advisor may ask the other party and any Witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's Advisor of choice and never by a party personally.

If a party does not have an Advisor for a hearing, Jessup will appoint an Advisor for the limited purpose of conducting any direct cross-examination in a Title IX matter. A party may reject this appointment and choose their own Advisor, but a party may not proceed with the hearing without an Advisor. If the party's Advisor will not conduct direct cross-examination in a Title IX matter, the party must notify the Hearing Officer no less than five days before the hearing and Jessup will appoint an Advisor who will do so, regardless of the participation or non-participation of the advised party in the hearing itself. If a Jessup-appointed Advisor is used by a party to conduct cross-examination, the role of that Advisor is to relay any questions the party wishes to ask the other party or Witnesses. The Jessup-appointed Advisor will not develop questions independently on behalf of the party.

### **Procedures for Questioning in Non-Title IX Matters**

For cases that have not been designated as Title IX matters, the Hearing Officer shall ask all questions of the parties and Witnesses. The parties may submit questions to the Hearing Officer in advance or during the hearing.

## **Hearing Order**

1. The Hearing Officer confirms that all the participants, including the Complainant, Respondent, Advisors, decision maker(s), and hearing facilitator, are present at the video conference, and invites the participants to introduce themselves. The introductions will also allow the hearing facilitator to confirm that all participants can see and hear each other.
2. The Hearing Officer provides an overview of the hearing agenda and a list of the Witnesses (if any) in the order they are scheduled to participate in the hearing.
3. The Hearing Officer asks the parties and Witnesses to provide any relevant information beginning with the Complainant and then in the order determined by the Hearing Officer. The decision maker(s) ask questions directly to the parties and Witnesses about their testimony or relevant evidence in the materials provided to the participants in advance of the hearing. The parties and Witnesses will submit to questioning by the decision maker(s) and then by the parties through their Advisors (“cross-examination”) in Title IX matters or through the Hearing Officer or decision-maker(s) in all other matters after the Hearing Officer reviews each question for relevance before it is asked by the Advisor. Witnesses are excused from the hearing following the cross-examination.
4. The Hearing Officer offers both parties the opportunity to make a brief closing statement (maximum of five minutes) to the decision maker(s). Advisors are not allowed to make closing statements.

## **Determination of Responsibility**

The decision maker(s) will deliberate in closed session to determine whether the Respondent is responsible for the Policy violation(s). If a hearing panel is used, a simple majority vote is required to determine the finding. The preponderance of the evidence standard of proof is used (whether it is more likely than not that the Respondent violated the Sexual Misconduct Policy).

When there is a finding of responsibility on one or more of the allegations, the decision maker(s) may then consider the previously submitted party impact statements in recommending appropriate sanction(s). The Hearing Officer will ensure that each of the parties has an opportunity to review any impact statement submitted by the other party. The decision maker(s) will review previous disciplinary history as well.

## **Student Respondents**

If a hearing panel is used, the panelists will recommend the appropriate sanction(s) to the Hearing Officer, who will make the final determination on sanctions. The Hearing Officer may consult with the University Title IX coordinator on any appropriate remedies for the Complainant.

## **Employee Respondents**

If the decision maker(s) decides that there was a policy violation, they will recommend sanctions against the faculty or staff member. The decision and any sanction recommendations against a staff member will be forwarded to Human Resources for a decision on the recommended sanction(s). The decision and any sanction recommendations against a faculty member will be forwarded to the Vice President of Academic Affairs for a decision on the recommended sanctions(s), and any other applicable procedures (e.g., Faculty Manual) will be followed prior to the sanction becoming final. After receiving the decision on the recommended sanction(s) from HR or the VPAA, the Hearing Officer will include the final sanctions in the written letter of determination. The Hearing Officer may consult with the University Title IX coordinator on any appropriate remedies for the Complainant.

## **Written Letter of Determination**

The Hearing Officer will then prepare a written letter of determination. The letter of determination will identify the specific policy(ies) reported to have been violated, and will contain a description of the procedural steps taken by the University from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and Witnesses, site visits, methods used to gather other evidence, and hearings held.

The letter will also specify the finding on each alleged policy violation; the findings of fact that support the determination; conclusions regarding the application of the relevant policy to the facts; a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the University imposes on the Respondent, and whether remedies designed to restore or preserve equal access to the Jessup's education programs or activities will be provided by the University to the Complainant. The remedies are not typically shared with the Respondent unless the remedy directly relates to the Respondent. The University Title IX coordinator is responsible for the implementation of any remedies.

Finally, the letter of determination will include Jessup's procedures and permissible bases for the Complainant and Respondent to appeal. Any sanctions imposed as a result of the hearing are stayed during the appeal process. To best provide support, parties are encouraged to let the Hearing Officer know immediately if they are appealing so that the sanctions (if any) may be stayed and the appropriate offices may be notified.

This letter of determination will be shared with the parties simultaneously by one or more of the following methods: emailed to the parties' Jessup email or designated accounts, delivered in person, or mailed to the local or permanent address(es) of the parties as indicated in official University records.

The determination regarding responsibility becomes final after the time period to file an appeal has expired, or if a party does file an appeal, after the appeal decision has been sent to the parties.

## Appeal Process

Both parties may appeal a determination of responsibility by the decision maker(s) to an Appeal Officer. For cases involving student Respondents, either party may file an appeal. For cases involving employee Respondents, either party may appeal to an Appeal Officer, who is either: 1) appointed by Human Resources (when the employee Respondent is a staff member); or 2) the VPAA (or designee) when the employee Respondent is a faculty member.

The appeal must be submitted in writing via email or an online appeal form within three calendar days of the issuance date of the written letter of determination. Any sanctions imposed as a result of the hearing are stayed during the appeal process. In the written appeal, the party must specifically address at least one of the following criteria:

1. New evidence that was not reasonably available at the time the determination regarding responsibility was made that could affect the outcome of the matter. The appealing party must provide a summary of this new evidence and its impact.
2. Procedural irregularity that affected the outcome of the matter. The appealing party must identify the specific investigative or hearing procedure that was not followed, along with a summary of how it affected the outcome of the matter.
3. Bias or conflict of interest by the University Title IX coordinator, investigator(s) or decision maker(s) for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter. The appealing party must state the basis for this belief and provide any supporting information.
4. Inappropriateness of the sanction for the violation of the Policy.

The written appeal will be shared with the other party, who may submit a written response within seven calendar days from the time the appeal is emailed to the student's or employee's Jessup.edu account. This written response will be shared with the other party.

The appeal process normally takes a minimum of 20 business days from the time the appeal is submitted by either party. The Appeal Officer will make a good faith effort to complete the appeal process as promptly as circumstances permit and will update the parties on the timing of any delay and the reasons for the delay.

The Appeal Officer may, but is not required to, convene an advisory committee to assist in making a recommendation regarding the appeal. The Appeal Officer will not be bound by the committee's recommendation.

If the Appeal Officer convenes an advisory committee to meet with a party, the party may be assisted at the meeting by an Advisor. The Advisor cannot speak for the party. The role of the Advisor is to accompany the party and advise them privately during the meeting.

The Appeal Officer may affirm, reverse, or modify the sanction. The Appeal Officer may also return the case to the decision maker(s) for further consideration. The Appeal Officer's decision will be final and effective immediately. A letter describing the result of the appeal and the rationale for the decision will be emailed simultaneously to both parties' Jessup.edu account.

### **Appeals In Non-Title IX Matters**

For allegations of Sexual Misconduct that fall outside the jurisdiction of Title IX (see [Title IX](#) and [Jurisdiction of the Policy](#)), the Appeal Officer reserves the right to modify the appeal process (e.g., timeframes), as long as both parties are allowed to appeal the outcome and that any modifications apply equally to all parties. The parties will be notified of any appeal process modifications by the Appeal Officer before the appeal review.

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## **Appendix A: Sexual Misconduct Definitions**

Sexual Misconduct is an umbrella term that includes all of the conduct prohibited below, except where noted. A matter will be designated as a Title IX matter if the conduct is alleged to meet one or more of the following definitions below and satisfies the Title IX jurisdictional location requirement:

- Title IX Sexual Harassment (Hostile Environment)
- Title IX Sexual Harassment (Quid Pro Quo)
- Sexual Assault
- Dating Violence
- Domestic Violence
- Stalking

A matter will be designated as a non-Title IX matter if the conduct is alleged to meet one or more of the following definitions or if it meets a definition of prohibited conduct under Title IX but does not satisfy the Title IX jurisdictional location requirement:

- Non-Title IX (California SB 493) Sexual Harassment
- Sexual Violence
- Rape
- Sexual Battery

- Sexual Exploitation

### **Title IX Sexual Harassment (Hostile Environment)**

Sexual Harassment (Hostile Environment) prohibited by Title IX is defined as unwelcome conduct based on sex determined by a reasonable person to be so severe, pervasive (more than once), and objectively offensive that it effectively denies a person equal access the University's education program or activity.

### **Title IX Sexual Harassment (Quid Pro Quo)**

Quid Pro Quo Sexual Harassment prohibited by Title IX occurs when a Jessup employee conditions the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct.

### **Non-Title IX (SB 493) Sexual Harassment**

Under California law, Non-Title IX Sexual Harassment is broader than Sexual Harassment prohibited by Title IX and is defined as conduct against a student that includes unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the work or educational setting, under any of the following conditions:

- Submission to the conduct is explicitly or implicitly made a term or a condition of an individual's employment, academic status, or progress.
- Submission to, or rejection of, the conduct by the individual is used as the basis of employment or academic decisions affecting the individual.
- The conduct has the purpose or effect of having a negative impact upon the individual's work or academic performance, or of creating an intimidating, hostile, or offensive work or educational environment.
- Submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the educational institution.

### **Sexual Assault**

(Can be Title IX matter or Non-Title IX matter, depending on location and type of conduct.)

An offense classified as a forcible or non forcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. This category of prohibited conduct includes the following:

1. Rape: The actual or attempted penetration, however slightly, of a person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of their temporary or permanent mental or physical incapacity. For non-Title IX matters, (a subset of sexual violence) California law

defines rape as “penetration, no matter how slight, of the vagina or anus with any part or object, or oral copulation of a sex organ by another person, without the consent of the victim.”

2. Sodomy: Oral or anal sexual intercourse with another person, forcibly and/or against that person’s will or not forcibly or against the person’s will in instances where the victim is incapable of giving consent because of their youth or because of their temporary or permanent mental or physical incapacity.
3. Sexual Assault With An Object: To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person’s will or not forcibly or against the person’s will in instances where the victim is incapable of giving consent because of their youth or because of their temporary or permanent mental or physical incapacity.
4. Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person’s will or not forcibly or against the person’s will in instances where the victim is incapable of giving consent because of their youth or because of their temporary or permanent mental or physical incapacity. For non-Title IX matters, California law defines Sexual Battery (fondling) as “the intentional touching of another person’s intimate parts without consent, intentionally causing a person to touch the intimate parts of another without consent, or using a person’s own intimate part to intentionally touch another person’s body without consent.”
5. Incest: Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
6. Statutory Rape: Nonforcible sexual intercourse with a person who is under the statutory age of consent of 18 years old.

## **Dating Violence**

(Can be Title IX matter or Non-Title IX matter, depending on location)

Dating Violence is defined as violence committed by a person: (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship. (ii) The type of relationship. (iii) The frequency of interaction between the persons involved in the relationship.

## **Domestic Violence**

(Can be Title IX matter or Non-Title IX matter, depending on location)

Domestic Violence is defined as a felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in

common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of California or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of California.

## **Stalking**

(Can be Title IX matter or Non-Title IX matter, depending on location)

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

## **Sexual Exploitation (Non-Title IX)**

Sexual Exploitation is taking non-consensual or abusive sexual advantage of another for their own benefit or for the benefit of anyone other than the person being exploited. Examples of Sexual Exploitation include, but are not limited to:

1. Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts) or the viewing of another person's sexual activity or intimate parts, in a place where that other person would have a reasonable expectation of privacy, without that person's consent, for the purpose of arousing or gratifying sexual desire.
2. The recording of or the taking of pictures, video, or audio recording of another in a sexual act, or in any other sexually-related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity), including the making or posting of revenge pornography.
3. The distribution of images, including video or photograph, or audio of another person's sexual activity or intimate parts, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not consent to the disclosure.
4. Prostituting another person.

5. Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually-transmitted disease (STD) or infection (STI), without informing the other person of the infection.
6. Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity.
7. Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections.
8. Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity.
9. The trafficking of another person, defined as the inducement of a person to perform a commercial sex act, or labor or services, through force, fraud, or coercion.

## **Other Forms of Prohibited Sexual Misconduct**

### **Sex Discrimination (Not Included in Sexual Misconduct)**

Sex Discrimination occurs when an individual is subject to an adverse action based upon that individual's sex. An adverse action means an action that has a substantial and material adverse effect on the individual's ability to participate in a University program or activity. Minor or trivial actions or conduct not reasonably likely to do more than anger or upset an individual does not constitute an adverse action. Allegations of sex discrimination may not be processed under this Policy, but may be processed under another policy.

### **Sexual Harassment (Not Included in Sexual Misconduct)**

Jessup prohibits sexual harassment of employees by employees or third parties with whom Jessup's employees have contact through their employment, including applicants, students, student-employees, interns, volunteers, and independent contractors. This definition is broader than Title IX Sexual Harassment and Non-Title IX Sexual Harassment.

The definition of sexual harassment includes unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when submission to such conduct:

- Is made a condition of employment or employment decision (Quid Pro Quo); or
- Creates a Hostile Work Environment.

Sexual Harassment (Hostile Work Environment) is defined as any unwelcome behavior based on sex that is reasonably regarded as offensive that:

1. Sufficiently offends, humiliates, distresses, or intrudes upon its victim, so as to disrupt the victim's emotional tranquility in the workplace, or
2. Affects the victim's ability to perform the job as usual, or
3. Otherwise interferes with and undermines the victim's personal sense of well-being.

Examples of conduct that may constitute prohibited Sexual Harassment may include but are not limited to:

- Unwanted physical touching;
- Telling sexually explicit jokes or stories;
- Making comments or gestures reasonably regarded as lewd or offensive;
- Displaying sexually suggestive objects, cartoons, or pictures;
- Sending sexually explicit messages by letter, notes, electronic mail, social media posting, or telephone;
- Making unwelcome comments reasonably regarded as offensive about a person's body, physical appearance, or clothing;
- Frequent use of unwelcome terms of endearment; or
- Repeatedly asking an individual for a date or meetings outside of working hours after they have indicated an unwillingness to go.

A single incident of harassing conduct may create a hostile work environment if the harassing conduct has unreasonably interfered with the victim's work performance or created an intimidating, hostile, or offensive work environment.

Whether or not the person meant to give offense or believed their comments or conduct were welcome is not significant. Rather, the policy is violated when other individuals, whether recipients or mere observers, are actually offended by comments or conduct based on any protected category and the conduct is considered offensive by a reasonable person.

An employee may file a formal complaint of Sexual Harassment (not included in Sexual Misconduct) as outlined in the Jessup Employee Handbook.

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## **Appendix B: Other Policy Definitions**

### **Advisor**

Advisor refers to a person chosen by a party or appointed by the University to accompany the party to meetings related to the resolution process, to advise the party on that process, and, in Title IX cases, to conduct cross-examination when required for the party at the hearing, if any.

### **Affirmative Consent**

Consent as used in the definition of Sexual Assault above means “Affirmative Consent.” Affirmative Consent means informed, conscious, voluntary, and mutual agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that they have the Affirmative Consent of the other or others to engage in sexual activity. Lack of protest or resistance does not mean Affirmative Consent, nor does silence mean Affirmative Consent. Affirmative Consent must be ongoing throughout a sexual activity and can be revoked at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of Affirmative Consent.

In evaluating whether Affirmative Consent has been freely sought and given, the University will consider the presence of any force, threat of force, or coercion; whether the Complainant had the capacity to give Affirmative 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 sexual act. Affirmative 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, or by taking advantage of another person’s incapacitation.

An individual is also unable to provide consent to engage in sexual activity when the individual: 1) is a minor (age 17 or under); 2) has a mental disorder or developmental or physical disability that renders her or him incapable of giving knowing consent; 3) is asleep or unconscious; or 4) is incapacitated from alcohol or other drugs, and this condition was known, or reasonably should have been known or recognized by the Respondent.

### **Appeal Officer**

Appeal Officer refers to the person designated by the University to review appeals of a dismissal of the formal complaint or any allegations therein, or the determination of responsibility.

### **Complainant**

Complainant refers to an individual who is reported to have experienced Sexual Misconduct, regardless of whether the individual makes a formal complaint.

### **Employee**

Employee refers to a University faculty or staff member, including full-time, academic year, part-time, regular, tenured, seasonal, student and temporary positions.

## Hearing Officer

Hearing Officer refers to the person designated by the University to conduct a hearing with both parties before making a determination of responsibility on the allegations of sexual misconduct.

## Incapacitation

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 sexual 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 a sexual interaction.

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 determination.

Some of the factors used to determine incapacitation include:

- Stumbling or otherwise exhibited loss of equilibrium
- Bloodshot, glassy or unfocused eyes
- Slurred speech or word confusion
- Vomiting, especially repeatedly
- Outrageous or unusual behavior
- Being disoriented, or confused as to time, place, etc.
- Loss of consciousness

None of these factors, except for the last, may constitute—in and of themselves—incapacitation. But, the process of finding someone responsible for a violation of the Policy related to incapacity involves careful examination of all evidence, amounting to a sufficient or insufficient meeting of the preponderance of the evidence standard. This standard may be met with some combination of factors.

Some counter-indicators of incapacity may include:

- Stops to do things to prepare for sexual activity
- Stops to use or request birth control
- Brushes teeth after vomiting
- Goes to restroom
- Carefully removes clothes
- Carries on relatively normal conversations

- Motor abilities are not impaired

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. If there is any doubt as to the level or extent of one's own or the other individual's intoxication or Incapacitation, the safest course of action is to forgo or cease any sexual activity. 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.

In evaluating consent in cases of reported Incapacitation due to alcohol or other drugs, the University considers all of the above factors in determining two issues:

1. Is there a preponderance of evidence that the Complainant was incapacitated?
2. Did the Respondent know that the Complainant was incapacitated? And if not, 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 both of these questions is "yes," there was no consent; and the conduct is a violation of this Policy.

## **Parties**

Parties include the Complainant(s) and Respondent(s), collectively.

## **Respondent**

Respondent refers to an individual who is reported to have engaged in Sexual Misconduct.

## **Retaliation**

Retaliation is taking an adverse action (as described in the definition of Sex Discrimination above), which may include intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or by this Policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy. Retaliation may be committed by the Respondent, the Complainant, or any other individual or group of individuals. Acts of alleged Retaliation should be reported immediately to the University Title IX Coordinator; the report will be promptly investigated. The University reserves the right to handle retaliation under this Policy or another University policy.

## **Standard of Evidence**

Determinations on whether the Sexual Misconduct Policy was violated will be made based on the preponderance of the evidence standard (whether it is more likely than not that the Respondent violated the Sexual Misconduct Policy).

## **Student**

Student refers to a University student, including an applicant for admission; any matriculated undergraduate or graduate student who is enrolled in course work; has completed the immediately preceding term, is not presently enrolled, and is eligible for re-enrollment; is on an approved educational leave or other approved leave status; is currently serving a suspension, expulsion, or interim restriction; or is awaiting a degree. This includes the period before classes begin, while the student is attending classes, between academic sessions or on leave. This Policy applies even if the student withdraws from school while a disciplinary matter is pending.

## **Third Party**

Third Party refers to an individual who is not a University student or employee (e.g., independent contractors, vendors, volunteers, alumni/ae, or visitors).

## **Witness**

Witness refers to an individual who may have information relevant to a report of Sexual Misconduct. A Witness may be a student, an employee, or a third party.

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# **Appendix C: Emergency Removal and Timely Warning Obligations**

## **Emergency Removal**

Jessup can remove a student Respondent on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. This risk analysis is performed by the Associate Vice President, Student Success or designee, who may consult as necessary with other University officials to conduct an objective threat assessment. The emergency removal may be a full restriction from all Jessup property, programs and activities or a limited removal (e.g., from certain locations, classes, teams, organizations, or activities). The Associate Vice President, Student Success in consultation with the VPAA has sole discretion under this Policy to implement or stay an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this Policy will be grounds for discipline, which may include permanent dismissal.

When it is determined that an emergency removal is justified, the student Respondent will be given written notice, which will include the basis for the removal decision and the specific restrictions, conditions, and duration. Immediately after the emergency removal, the student Respondent will be given the opportunity to challenge the decision by submitting in writing why the removal should not be implemented or should be modified to the VPAA by emailing [vpaaofficet@jessup.edu](mailto:vpaaofficet@jessup.edu) within 72 hours

of the emergency removal. The emergency removal does not replace the regular investigation and hearing process, which will proceed as set forth in this Policy, up to and through the conclusion of any appeal, if required.

Employee Respondents may be placed on paid administrative leave by Human Resources while the formal grievance process described below is pending. Human Resources' decision to do so is final and is not subject to review.

### **Timely Warning Obligations**

Parties reporting Sexual Assault, Domestic Violence, Dating Violence, and/or Stalking should be aware that under the Clery Act, Jessup must issue timely warnings for incidents reported to the University that pose a serious or continuing threat of bodily harm or danger to members of the campus community. Jessup will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

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## **Appendix D: Promptness, Time Frames, and Time Limits**

### **Promptness and Time Frames**

All allegations of Sexual Misconduct are acted upon promptly by Jessup after it has received notice or a formal complaint. There are exceptions and extenuating circumstances that can cause a resolution to take longer, but Jessup will avoid all undue delays within its control. If the time frames for resolution will be delayed, the University Title IX coordinator will provide written notice to the parties of the delay, the cause of the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

### **Time Limits on Reporting**

There is no time limitation on reporting Sexual Misconduct or making a formal complaint to the University Title IX coordinator. However, if the Respondent is no longer subject to the University's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible. Acting on reports/formal complaints significantly impacted by the passage of time (including, but not limited to, the revision of policy) is at the discretion of the University Title IX coordinator, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate. When the report or formal complaint is affected by a significant time delay, the University will typically apply the policy (e.g., definitions) in place at the time of the alleged misconduct and the procedures (e.g., grievance process) in place at the time of the report or formal complaint.

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## Appendix E: Third Party Respondents and Reporters

If the Respondent is a Third Party (an individual who is not a University student or employee such as visitors, volunteers, vendors, independent contractors, or alumni/ae), the University's ability to take action may be limited and is determined by the context of the prohibited conduct and the nature of the relationship of the Third Party to the University. All vendors serving Jessup through third-party contracts are subject to the policies and procedures of their employers.

Supportive measures, remedies, and resources may be accessible to the Complainant by contacting the University Title IX coordinator. The coordinator will determine the appropriate manner of resolution that may include, but is not limited to, conducting an internal investigation that could result in restriction of the Third Party from Jessup campuses or University activities, referral to area law enforcement, and outreach and coordination with the school or affiliation of the Third Party. The University will offer resources and assistance to all community members who experience and/or are affected by the prohibited conduct.

When the Respondent is enrolled in or employed by another institution, the University Title IX coordinator can assist the Complainant in liaising with the appropriate individual at that institution, as it may be possible to allege violations through that institution's policies. Similarly, the coordinator may be able to advocate for a student or employee Complainant who experiences discrimination in an externship, study abroad program, or other environment external to Jessup where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization may give recourse to the Complainant.

Any person, including a Third Party, may report allegations of Sexual Misconduct by a Jessup student or employee to the University Title IX coordinator, and the University will take appropriate action. However, a Third Party is not permitted to file a formal complaint unless they are attempting to participate in a Jessup education program or activity (e.g., where the Complainant has graduated from one Jessup program but intends to apply to a different program, or where the graduated Complainant intends to remain involved with Jessup's alumni programs and activities).

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## Appendix F: Formal Grievance Process Against a University Policy or Practice

A student may file a formal complaint against the University alleging that a Jessup policy or practice constitutes Sex Discrimination using the school's [Non-Academic Student Grievance Procedure](#). An employee may file a formal complaint of Sex Discrimination against the University as outlined in the Employee Discrimination and Harassment policy in the University Policy Manual.

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## **Appendix G: Confidential Resources and Privacy**

Jessup has a designated confidential resource who is not obligated to report information that is provided to them. This allows individuals to explore their options in a supportive environment while they make informed decisions. The confidential resource at Jessup is the Director of Campus Ministries. This resource will not share these communications or that these communications occurred without consent from the Complainant. There are rare exceptions where confidentiality cannot be honored; for example, in cases of court subpoena, child or elder abuse, or where harm to self or others is probable. Employees who have been subjected to Sexual Misconduct may seek confidential support from the Employee Assistance Program. An individual who is not prepared to make a report or formal complaint, or who may be unsure how to label what happened, but still seeks information and support, is strongly encouraged to contact our confidential resource.

When a report or formal complaint is made to the University Title IX coordinator, Jessup will keep confidential the identity of any individual who has made a report or formal complaint, including any Complainant, Respondent, or Witness, except as may be permitted by the Family Educational Rights and Privacy Act (FERPA), or as required by law, or to carry out the procedures in this Policy. This means that Jessup will protect the individual's privacy but may disclose information to those who have a legitimate need to know.

In accordance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, Jessup will conduct record-keeping on reports of dating violence, domestic violence, stalking, and sexual assault, which excludes personally-identifiable information. Confidential resources will not report Clery crimes they learn about through confidential communications for purposes of Jessup's compilation of campus crime statistics.

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## **Appendix H: Role of Advisors**

Involved parties may be assisted by an Advisor of their choice at pre-hearing meetings (e.g., meetings with the University Title IX coordinator or the investigator), at hearing and appeal meetings, and at informal resolution meetings. The Advisor cannot speak for the parties. The role of the Advisor is to accompany the parties and advise them privately during the pre-hearing, hearing, and informal resolution processes. Unless otherwise indicated in this Policy, the University will only communicate with the parties. The parties are responsible for communicating with their own Advisors.

The only exception is at Title IX hearings where the Advisor of each party is required by the Title IX regulations to relay the party's cross-examination questions to the other party and Witnesses (after each cross-examination question has been screened for relevance by the hearing chair) so that a

party never personally conducts cross-examination. See [Hearing Procedures](#) for additional information.

Choosing an Advisor who is also a Witness in the hearing process creates potential for bias and conflict-of-interest. A party who chooses an Advisor who is also a Witness can anticipate that issues of potential bias will be explored by the hearing decision maker(s).

Jessup expects Advisors to adjust their schedules to allow them to attend University meetings when planned, but may change scheduled meetings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay. A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. The parties are expected to inform the investigator(s) of the identity of their Advisor at least two (2) business days before the date of their first meeting with investigators (or as soon as possible if a more expeditious meeting is necessary or desired). The parties are expected to provide timely notice to the University Title IX coordinator if they change Advisors at any time. Parties are expected to inform the University Title IX coordinator of the identity of their hearing Advisor at least two (2) business days before the hearing.

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## Appendix I: Sanctions and Disciplinary Actions

### Student Sanctions

Violation of the Sexual Misconduct Policy may result in the imposition of one or more of the sanctions listed below. Sanctions that may be imposed are not limited to those listed. Failure to comply with the sanction(s) imposed in the letter of determination may result in further disciplinary action, including but not limited to, a registration hold, placement on, or extension of, University probation, suspension, or permanent dismissal.

Sanctions are based on general principles of fair treatment. While attempting to be consistent in its disciplinary decisions, the University also seeks to be fair and sensitive to the facts and circumstances of each individual case.

- **Formal apology.** A written and/or verbal apology to the offended party/parties.
- **Restitution.** Compensation for loss, damages or injury. This may take the form of completing appropriate service and/or monetary or material replacement.
- **Parental Notification.** Parental notification may occur if a student is claimed as a dependent and is either found responsible for sexual assault, placed on deferred suspension, suspended or expelled.
- **Loss of privileges.** Denial of specified privileges for a designated period of time. Loss of privileges includes, but is not limited to, open hours, vehicle permit, living in residence halls,

entering the caf or Shack, and attending or participating in university programs or activities (such as athletic events, intramurals, music performances, drama productions, intercollegiate athletics, graduation exercises, student leadership positions, club activities, off-campus study programs, summer travel programs, etc.).

- **Student Life probation.** A period of review during which the student must demonstrate the ability to comply with the [Student Standards of Conduct](#), the [Jessup Community Covenant](#), and other university policies or requirements. Probation status takes away the privilege of holding certain student leadership positions. Probation may, but does not always, restrict a student's ability to participate in activities such as study abroad programs, or other activities in which the student is representing the university. Students are typically placed on Student Life probation for 15 or 30 weeks of the academic calendar. Violations that occur during the probation period may lead to further restrictions such as, but not limited to, extension of the probationary period, deferred suspension, suspension, or expulsion from the university.
- **Interim Suspension** In certain circumstances, the University may impose an interim separation of the student or employee from Jessup University or Jessup student housing. Interim suspension may be imposed:
  - to ensure the safety and well-being of members of the University community or preservation of University property;
  - to ensure the student or employee's own physical or emotional safety and well-being; or
  - if the student or employee poses a credible threat of disruption of or interference with the normal operations of the University.

During the interim suspension, access to the campus (including classes) and/or all other University activities or privileges are revoked. The interim suspension shall extend only until such time as an adjudication can be completed and other sanctions (if any) imposed.

- **Respectable Distance** Student is advised to limit contact with party and maintain a respectable distance. This may be escalated to a no-contact order if further unwelcomed contact continues. "Respectable distance" includes, but is not limited to, in-person contact, telephone calls, email, texts and other forms of electronic communication, social media-based messages or postings, and third-party communications including through proxies.
- **No Contact Order** Under appropriate circumstances, the Director of Student Conduct or the Title IX Coordinator may issue temporary no contact orders to ensure there is no contact between the respondent and the complainant. This is a supportive measure and is not appropriate in all circumstances.
- **University suspension.** Separation of the student from the campus for a specified period of time, after which the student is eligible to return. While suspended, students may not be on campus or participate in any university related event. Length of suspensions may vary from one or more days to one or more semesters. The timing of the suspension will not occur at the convenience of the student. The Academic Policies and Procedures state, "Faculty are not permitted to provide make-up opportunities or alter established class schedules for suspended students. Where this creates a hardship for students, they are to be referred to the Director of Student Life." Conditions for the student's return to campus will be specified at

the time of suspension. If a student is suspended for the remainder of a semester or the entire semester, they must complete all conditions of the suspension and receive approval from the Director of Student Life or the Associate Vice President for Student Success prior to engaging Admissions for re-entry to the university .

- **University Dismissal.** Permanent separation of the student from the university. Permanent separation of the student or employee from the University. A student who is dismissed from the University is permanently ineligible to re-enroll at the University at any time in the future. When students are dismissed, expelled, or suspended for disciplinary reasons, there will be no refund of tuition or room charges for the semester and all financial assistance for subsequent semesters will be reviewed and is subject to cancellation. This sanction will be noted permanently as a “Disciplinary Dismissal” on the student’s official transcript. University dismissal will be made part of the permanent disciplinary record.

### **Other Remedial Efforts**

In addition to the imposition of sanctions, the university may develop and/or distribute additional education and training for students and other members of the university community on prevention and awareness of sexual assault, stalking, dating and domestic violence; provide increased supervision, monitoring and/or campus safety presence in locations where violations under this policy are found to have occurred; revise and publicize procedures; or conduct climate surveys

### **Employee Disciplinary Actions**

If the University determines that harassment, discrimination, retaliation or other prohibited conduct has occurred; appropriate and effective corrective and remedial action will be taken in accordance with the circumstances involved. The University also will take appropriate action to deter future misconduct.

Any employee determined by the University to be responsible for harassment, discrimination, retaliation or other prohibited conduct will be subject to appropriate disciplinary action, up to, and including termination.

## **Appendix J: Good Faith, Witness Truthfulness and No Retaliation**

### **Good Faith and Immunity Complainants and Witnesses**

In order to encourage student Complainants and Witnesses to make reports of conduct prohibited under this Policy, the University will not pursue disciplinary action against a student who makes a good faith report to the University as a Complainant, Respondent, or a Witness of conduct prohibited under this Policy for a violation of the Student Handbook by the student occurring at or near the time of the incident, regardless of the location at which the incident occurred or the outcome of the investigation. This includes immunity for disclosure of personal consumption of alcohol or other drugs (underage or illegal) which would otherwise be a violation of the Student Handbook, unless the university determines that the violation was egregious, or amounts to an action that places the health

or safety of any other person at risk. The university's sole focus is learning everything possible about what happened during the incident so that a finding and resolution regarding the unlawful sexual misconduct can be reached.

### **Truthfulness/False Allegations and Evidence**

Deliberately false and/or malicious accusations under this Policy, as opposed to allegations which, even if erroneous, are made in good faith, are a serious offense and will be subject to appropriate disciplinary action. Additionally, Witnesses and parties knowingly providing false evidence, tampering with or destroying evidence after being directed to preserve such evidence, or deliberately misleading an official conducting an investigation can be subject to disciplinary action.

### **No Retaliation/Counterclaims**

Neither the university 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 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.

Jessup is obligated to ensure that the grievance process is not abused for retaliatory purposes. Jessup permits the filing of counterclaims but will assess whether the allegations in the counterclaim are made in good faith. Counterclaims by the Respondent may be made in good faith, but are, on occasion, also made for purposes of retaliation. Counterclaims made with retaliatory intent will not be permitted.

Counterclaims determined to have been reported in good faith will be processed using the formal grievance procedures. Investigation of such claims may take place after resolution of the underlying initial allegation, in which case a delay may occur. Counterclaims may also be resolved through the same investigation as the underlying allegation, at the discretion of the University Title IX Coordinator.

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## **Appendix K: Withdrawal or Resignation While Allegations Are Pending**

### **Students**

If a student has an allegation pending for violation of this Policy, Jessup may place a hold on a student's ability to graduate and/or to receive an official transcript/diploma.

If a student decides not to participate in the resolution process, the process proceeds absent their participation to a reasonable resolution. The University will continue to address and remedy any systemic issues, variables that may have contributed to the alleged violation(s), and any ongoing

effects of the alleged Sexual Misconduct and/or Retaliation. The student who withdraws or leaves while the process is pending may not return to the University. Such exclusion applies to all schools and campuses of Jessup. A hold will be placed on their ability to be readmitted. They may also be barred from University property and/or events.

If the student Respondent only withdraws or takes a leave for a specified period of time (e.g., one semester or term), the resolution process may continue remotely and that student is not permitted to return to University until the process is completed and all sanctions (if any) have been satisfied.

During the resolution process, the University may put a hold on a responding student's transcript or place a notation on a responding student's transcript or disciplinary record that a disciplinary matter is pending.

## **Employees**

Should an employee Respondent resign with unresolved allegations pending, the resolution process ends, as the University no longer has disciplinary jurisdiction over the resigned employee. However, the University will continue to address and remedy any systemic issues, variables that contributed to the alleged violation(s), and any ongoing effects of the alleged harassment or discrimination.

Depending on the circumstances, the former employee may also be barred from University property and/or events.

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## **Appendix L: Retention of Records**

Jessup will maintain for a period of seven years records of:

- Each Sexual Misconduct investigation including any determination regarding responsibility and any transcript required under federal regulation;
- Any remedies provided to the Complainant designed to restore or preserve equal access to the University's education program or activity;
- Any appeal and the result;
- Any informal resolution and the result;
- All materials used to train Title IX coordinators, investigators, decision makers, and any person who facilitates an informal resolution process;
- Any actions, including any supportive measures, taken in response to a report or formal complaint of Sexual Misconduct, including:
  - The basis for all conclusions that the response was not deliberately indifferent;
  - Any measures designed to restore or preserve equal access to the University's education programs or activities; and

- If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

Jessup will maintain for a period of seven years records of any disciplinary sanctions imposed on the Respondent except for University dismissal or a permanent withholding of a degree, which will be made part of the permanent disciplinary record.

Jessup will also maintain any and all records in accordance with state and federal laws.

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## **Appendix M: Required Trainings**

Section 106.45(b) of the 2020 Final Title IX Rules require the sharing of “[a]ll materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. A recipient must make these training materials publicly available on its website, or if the recipient does not maintain a website the recipient must make these materials available upon request for inspection by members of the public.”

Jessup Title IX coordinator, investigators, decision-makers, and any person who facilitates an informal resolution process will receive training on the definitions of Sexual Misconduct under this policy, the scope of Jessup’s education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. These individuals will receive annual training on the issues related to domestic violence, dating violence, sexual assault, and stalking and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.

Investigators will receive training on issues of relevance to create an investigation report that fairly summarizes relevant evidence. Decision-makers will receive training on issues of relevance of questions and evidence, including when questions and evidence about the Complainant’s sexual predisposition or prior sexual behavior are not relevant.

Any materials used to train the University Title IX coordinator, investigators, decision-makers, and any person who facilitates an informal resolution process, will not rely on sex stereotypes and will promote impartial investigations and adjudications of Formal Complaints of Sexual Misconduct.

Jessup will make these training materials publicly available on the University's website at

[www.jessup.edu/titleix](http://www.jessup.edu/titleix)