



What is Title IX?

Federal law

Governs certain areas of gender equity, sex discrimination, and sexual harassment

Requires universities to have a certain set of policies and processes to resolve complaints

What does our policy cover?

Sexual harassment

Sexual violence

Dating violence

Domestic violence

Stalking

Non-consensual sexual contact

Sexual exploitation

Gender based hazing or bullying

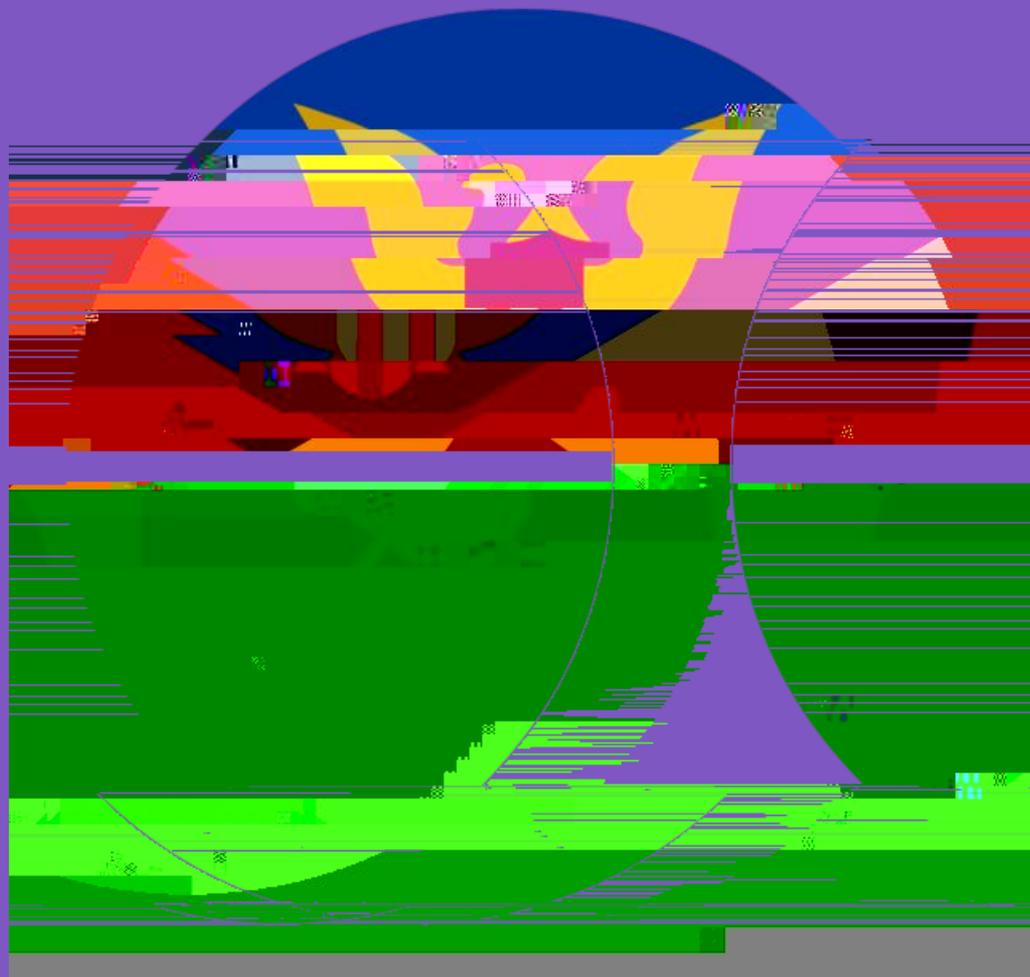
Pregnancy

JCU's Sexual Harassment & Interpersonal Violence

Policy covers more than the law requires

No person in the United States shall, on the basis of sex, be denied equal educational opportunities; or 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.

What do you notice?



Applies to the following community members:

Enrolled students

Employees

Vendors

Contractors

Visitors/Guests

Third party field experience partners

Volunteers

On campus conduct

On campus conduct that affects a substantial university interest

Does not apply to complaints regarding employment matters not involving sexual harassment or interpersonal violence, governed by Title VII of the Civil Rights Act, and resolved through other University policies



An individual who is alleged to be the victim of conduct that could constitute Sexual Harassment and Interpersonal Violence.

An individual who has been reported to be the perpetrator of conduct that could constitute Sexual Harassment and Interpersonal Violence.

The Advisor may be a friend, mentor, advocate, family member, attorney or any other person a party chooses.

The role of the Advisor is to ; 1>3A5D- : /1 -: 0 - 0B5/1 to the advisee throughout the process.

Advisor may be present at interviews and any other proceedings, but, with the exception of a Title IX Sexual Harassment hearing, may : ; @ speak on behalf of the advisee.

Conduct on the basis of sex that satisfies one or more of the following:

A50" > ; # A; - An employee conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct

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° 8 >E ° >59 1? - Sexual assault, dating violence, domestic violence, or stalking

Any felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the Complainant under the family or domestic violence laws of the State of Ohio,

OR

The use or attempted use of physical abuse or sexual abuse,

OR

Any pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a Complainant, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior by:

A person who is a current or former spouse or intimate partner of the victim or similarly situated to a spouse of the Complainant;

A person who is cohabitating with, or has cohabitated with the Complainant as a spouse or intimate partner;

A person who shares a child in common with the Complainant; or

A person who commits acts against a youth or adult Complainant who is protected from those acts under the domestic or family violence laws of the State of Ohio.

%1D! 1: ?1? ~ ; >/5 8 - Any sexual act, or attempted sexual act, directed against another person, without the consent of the Complainant including instances where the Complainant is incapable of giving consent

Forcible Rape

Forcible Sodomy

Sexual Assault with an Object

Forcible Fondling

%1D! 1: ?1? ž ; : 2 >/5 8 - Nonforcible sexual intercourse

Incest

Statutory Rape

~ >11E - /@B1E -: 0 7: ; C 5 3E agrees at the time to participate in a particular sexual act with a particular person

Requires 9 A@- 8E A: 01>?@: 0- . 8 words and/or actions that demonstrate a willingness to participate in mutually agreed-upon activity at every stage of that sexual activity

Mutually understandable when an objective, reasonable person would consider the words and/or actions of the parties to have reached agreement to engage in the particular sexual activity

In the absence of mutually understandable affirmative words or actions, it becomes the responsibility of the initiator

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When a person is unaware, blacked out, asleep, unconscious, unable to make rational/reasonable decisions and/or otherwise physically or mentally helpless to give effective consent.

Indicators of incapacitation include, but are not limited to:

Inability or diminished ability to accurately discern one's environment (who, what, where, when and/or how)

Slurred speech; vomiting; severe intoxication

Loss of voluntary/involuntary motor skills

Disjointed speech patterns (unable to follow a conversation or verbalize complete thoughts)

Sleepiness that demonstrates an inability to control one's ability to stay awake; and/or outrageous or unusual behavior

A person engages in threats, sexual pressuring or oppressive behavior to force another person to engage in unwanted sexual activity.

Real or perceived power differentials between the individuals involved may create an atmosphere conducive to coercion

Differentiated from seduction by a repetition of the coercive activity in the face of resistance, the degree of pressure applied, or the initiator's knowledge that the pressure is unwanted

When one party has any professional responsibility for another's academic or job performance or professional future (i.e. faculty member and student, supervisors and employees etc.), consent may be difficult to assess, may be deemed not possible, and may be construed as coercive



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Intake meeting with the Title IX Coordinator

Do not need to say what happened in order to receive support
Complainant determines if they want to pursue a formal process
in most cases

Title IX Coordinator may decide to engage in a formal process in
rare circumstances that involve a larger safety concern/threat to
the campus community

Complainant may elect to file a formal complaint

Investigation and hearing
Resolution by agreement

Primary goal is to 1: ?A>1 @11 /; 9 9 A: 5E 9 19 . 1>4- ?
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Complaints may be dismissed by the TIX Coordinator if no violation of the Interim Sexual Harassment and Interpersonal Violence Policy is alleged

- May be referred to another office

- Usually DoS, Human Resources, or an Academic Dean

Complainant may withdraw their formal complaint

May dismiss if the Respondent is no longer enrolled at the university

Specific circumstances prevent the University from gathering evidence sufficient to reach a



Only covers conduct that occurs within an educational program or activity (traditionally on-campus conduct)
Specific legal definitions of violations
Requires live hearing and cross examination



Covers conduct that occurs on-campus or outside of the United States
Broader definitions of violations
Live hearing and cross examination not required



May be used in an any situation where Process A or Process B may be utilized
Both parties need to opt into the process
Respondent cannot be an employee
May continue an investigation at any time

Intake meeting with the Complainant

Complainant may elect to not meet, take no action, just receive supportive measures, or file a formal complaint

Formal Complaint is filed

Notice of Investigation is sent

Investigation begins

Amount of time varies

Usually takes several weeks

Preliminary report is sent to the parties

10calendar days to review report

May respond or request further investigation

Final report is sent to the parties

10calendar days to review

Hearing is held

Of en takes several hours

Ask those involved to hold most of the day

Notice of Outcome is issued to both parties

Must be issued within five business days of the hearing



*Policy provides goal of completion of resolution process = 120days

Investigators will reach out to both parties for interviews
Interview witnesses and collect other evidence as needed

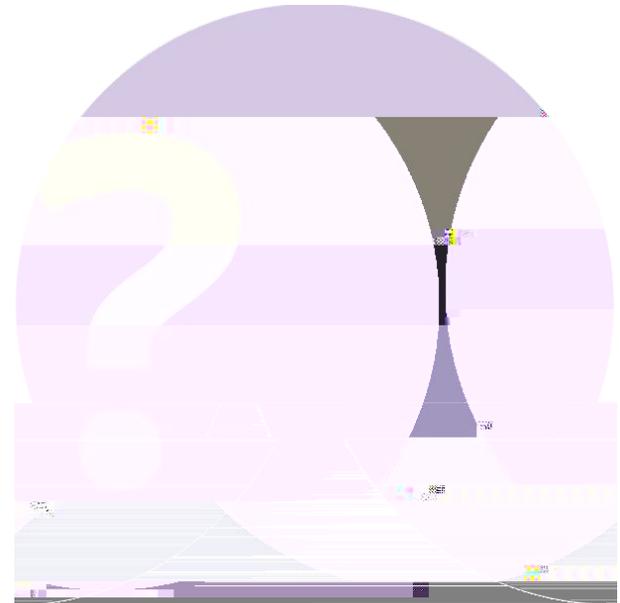
Amnesty

- Will provide amnesty for minor violations
- Want to encourage parties and witnesses to be honest

Compile the investigation report

Resource Folder

- Formal complaint
- Initial report
- Notice of Investigation
- Script for interviews
- Emails templates
- Example investigation report



Complaint Review Panel (CRP) will consist of three (3) members

Led by a non-voting hearing chair

Decision-makers will ask questions of the parties (and witnesses in some cases)

Resource Folder

- ATIXA Sanctioning Guide

- Policy

- Alleged violations

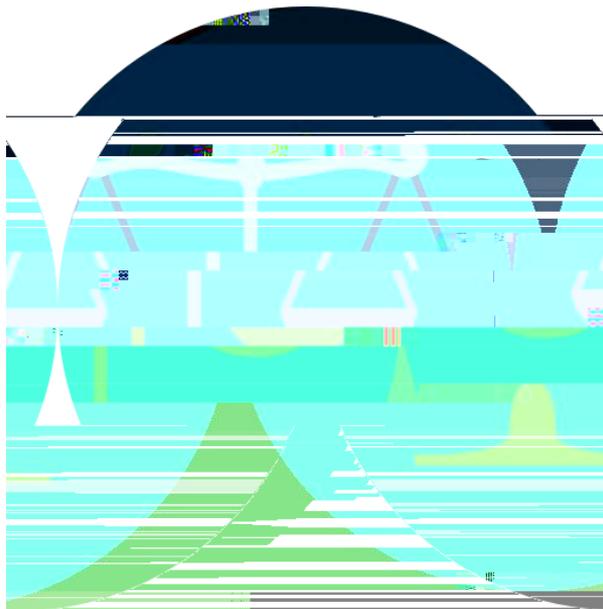
- Investigation report

- Hearing script

- Guide for asking questions

Live hearing	Parties appear separately
Witnesses may be questioned by parties and decision-makers	Witnesses do not appear at the hearing
Cross examination by parties advisors	No cross examination
Audio recording	No recording

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Sent to both parties within five
business days of the hearing

Notice of Outcome includes:

- Finding on each alleged policy violation

- Any sanctions (if applicable)

- Rationale supporting each essential
finding

Important for the rationale to be
disoufinding

The grounds for appeal are:

A procedural irregularity that affected the outcome of the matter

New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter

Title IX Coordinator, Investigator(s), or decision-maker(s) 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; and/or.

Disciplinary sanction(s) imposed are substantially outside the parameters or guidelines set by the University for this

Must be received within five (5) business days of receiving the Notice of Outcome

Will be heard by a Appeal Review Panel (APR)

- Led by a non-voting chair

- APR will consist of three (3) members

Chair will determine if appeal is timely and satisfies the grounds for appeal

Not a full re-hearing of the case but just deciding if appeal should be granted

May take several actions:

- Affirm original findings

- Remand the case

- Alter the sanctions



Cooperative way for the parties to resolve the concern

- Shuttle mediation between the two parties conducted by a facilitator

- Both parties must opt into the process

- Agreement is enforced by JCU

Parties may decide to pursue an investigation at any point before an agreement is reached

Not available to student Complainant and a faculty/staff Respondent





Avoiding pre-judgment

TIX Coordinator or Hearing Chair will
make relevance determinations

TIX Coordinator Investigation

Hearing Chair Hearing

Questions to consider...

Does this help me decide if it is more likely
than not that a violation occurred?

Does this question help me create a
complete account of this particular
incident or set of circumstances?

Does this question reflect a bias or
pre-judgement?



Character evidence

Prior sexual history/Sexual predisposition

Generally not relevant

May be relevant to determine how consent was granted previously in the relationship between the parties if consent is at issue

Remember that consent to one sexual act does not constitute consent to another

Prior conduct history

May be utilized in sanctioning

Decision-makers will not be made aware of prior history unless Respondent is held responsible

Information protected by a legal privilege

A party's treatment records

A party declining to participate

Both parties have the right not to participate

Make decision based on the information available

Consistency

Determine where narratives diverge between the parties

Consider how witness narratives and other evidence aligns with those narratives

Plausibility

What narrative seems more likely than not to be the most plausible?

Keep in mind how bias may play a role in making plausibility determinations

Detail

Level of detail may differ between accounts

May need to ask question to draw out some of the details

Corroborative evidence

Texts/Snapchats/Etc.

Witness statements

Post-incident behavior of the parties

Conversations with friends or others after the incident

Performance in classes or other activities

Interactions between the parties

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Avoid talking about the case with others

Can speak to other
decision-makers/investigators on the case
and the TIX Coordinator

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