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TITLE *Title IX Sexual Harassment Procedure and Grievance Process*

TYPE All Personnel - Procedures for General Policies and Compliance Issues

RATIONALE

APPROVED September 10, 2020

PROCEDURE

I. Overview of Policy and Procedure and the Values of Jefferson College

Jefferson College is committed to fostering an inclusive environment where all individuals are respected and empowered to achieve their goals. In pursuit of the mission, vision, and values of the College, as well as to be in compliance with all applicable local, state, and federal laws, this policy and procedure prohibits any form of discrimination on the basis of sex, inclusive of Sexual Harassment. Jefferson College is committed to providing a learning, working, and living environment where all persons are able to thrive personally, academically, and professionally.

The purpose of this policy and procedure is to clearly articulate to the Jefferson College community the expectations for behavioral standards, explain commonly used terms and concepts, provide examples and descriptions of prohibited conduct, and provide detailed information regarding every part of the process used when someone makes a report or files a formal complaint under this policy and procedure. The policy and the procedure within applies to all community members, including students, faculty, staff, contractors, and visitors. Any person who has been affected by any form of Sexual Harassment, Sexual Assault, Stalking, Dating Violence, or Domestic Violence, is strongly encouraged to make a report or speak to the Title IX Coordinator to learn more about options and resources available to them.

II. Scope of Policy and Procedure

Jefferson College does not discriminate on the basis of sex in its educational, extracurricular, athletic, other programs, or in the context of employment. Sex Discrimination and Sexual Harassment are prohibited by Title IX of the Education Amendments of 1972, stating 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.

The Office for Civil Rights (OCR) within the United States Department of Education (DOE) has promulgated regulations implementing Title IX. Sex Discrimination and Sexual Harassment are also prohibited under Title VII of the Civil Rights Act of 1964 and other applicable statutes.

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Jefferson College’s Sexual Harassment Policy prohibits all forms of Sexual Harassment including Sexual Assault, Stalking, Dating Violence, and Domestic Violence against any Jefferson College community members of any sex, gender, gender identity, gender expression, or sexual orientation. Further, Jefferson College recognizes the many intersecting identities that make up each individual’s lived experiences, and that harassment related to factors outside of gender, gender identity/expression, or sexual orientation can occur that are related to an individual’s race, color, national origin, religion, age, disability, or other statuses. Harassment and discrimination that occurs against a person based on these characteristics violates College policy and community principles, specifically the College’s Non-Discrimination policy. Matters that involve allegations of gender-based discrimination and allegations of identity-based discrimination described above will be handled by the College in accordance with the Non-Discrimination Policy.

Jefferson College will respond promptly, equitably, and thoroughly to all reports of Sexual Harassment in order to eliminate the harassment, prevent its recurrence, and address the effects or impacts on any individual(s) involved. This policy provides Jefferson College community members with information to assist those who have been impacted by Sexual Harassment regardless of their status as a Complainant, Respondent, Witness, or other participant/third-party, and provides for equitable procedures for reporting, investigation, and resolution of reports.

All Jefferson College community members are responsible for their actions and conduct, and are required to follow College policies as well as local, state, and federal laws. The Jefferson College Sexual Harassment Policy applies to conduct occurring on Jefferson College owned or controlled properties, at College-sanctioned events, educational programs or activities that take place off campus, including, but not limited to, study away (that occurs within the United States), internship programs, community-engaged learning, and athletics events. For the purposes of this policy, the conduct must fall within the parameters set forth in Section IV of this policy and procedures that define sexual harassment, occur on College owned or controlled property or within the College’s educational program or activity off campus, and be committed against a person in the United States who is participating in or attempting to participate in the College’s educational programs or activities. Conduct that occurs outside of these parameters may be addressed by other applicable College policies and procedures, including but not limited to, the Board of Trustees Policies and Procedures, Administrative Policies and Procedures, The Faculty Handbook, The Adjunct Faculty Handbook, Employee Handbooks, Academic program-specific Handbooks, the Student-Athlete Handbook, or Student Conduct policies and procedures. Upon receipt of a report that falls outside the scope of this Policy and Grievance Process, the Title IX Coordinator or their designee may refer the report to the appropriate College official or department to address the report.

III. **Explanations of Key Terms and Phrases used throughout Policy and Procedures**

- **Complainant**: This term is used to describe the individual who is alleged to be the victim of conduct that could constitute sexual harassment. To initiate a formal complaint under this policy, a Complainant must be someone who is participating in or attempting to participate in the College's educational programs or activities in the United States.
- **Respondent**: This term is used to describe the person who is accused of violating policies of the College, including the Sexual Harassment Policy.
- **Title IX Coordinator**: An employee of the College who has been designated to oversee the processes contained in this policy and to coordinate the College's compliance with Title IX. Deputy Title IX Coordinators are employees of the College who may also receive reports of sexual harassment and will work with the Title IX Coordinator to implement reporting procedures, supportive measures, and the implementation of the grievance process as needed. Any person may report allegations of sex discrimination or sexual harassment to the Title IX Coordinator or a Deputy Title IX Coordinator.
- **Prohibited Conduct**: Conduct that violates the policy and procedures of the College, specifically in this policy referring to any form of sexual harassment as described in Section IV.
- **Making a Report**: Any person can make a report of alleged sex discrimination or sexual harassment to the Title IX Coordinator or Deputy Title IX Coordinators. This includes the Complainant themselves, third parties, witnesses, or parents (as the law permits). Making a report is not the same thing as filing a formal complaint.
- **Filing a Formal Complaint**: A formal complaint is a statement (written or via electronic message) from the Complainant notifying the Title IX Coordinator that they desire that the school will investigate specific allegations of sexual harassment. The only persons who are able to file a formal complaint are the Complainant themselves (who must be an active participant in the College's programs or activities or attempting to be an active participant in the College's programs or activities, including employment) or the Title IX Coordinator under specific circumstances which are described in this Policy.
- **Supportive Measures**: Supportive Measures are non-disciplinary, non-punitive measures put in place to assist any party impacted by sexual harassment in order to restore or preserve their equal access to their educational program, educational activity, or employment. Supportive measures are provided free of cost and may include such things as counseling services, safety escorts, reciprocal No Contact Orders, schedule changes, or living environment changes (where applicable). A full range of Supportive Measures and resources available at the College and in the community are described within this Policy and procedures. Supportive

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measures can be used by any person involved in a report of Sexual Harassment regardless of whether or not a formal complaint is filed.

- Investigation: After a formal complaint is filed, the College will investigate the allegations promptly, thoroughly, and equitably. An investigation gathers all available information about the allegations through meetings and interviews with the Complainant, Respondent, witnesses, and other parties. More information about the investigation is contained in Sections VII and VIII of this Policy and Procedures.
- Grievance Process: The procedures used to initiate a formal complaint, investigate the complaint, and resolve the complaint using a live hearing process. The appeals process is considered the last step of the Grievance Process. The outcome becomes final when the Grievance Process has been fully concluded.
- Advisor: Any Complainant or Respondent may have one Advisor of their choosing present with them at any meeting or hearing as part of these procedures. Advisors may be a member of the College community, an attorney (hired at the Complainant or Respondent's expense), or any other person that the Complainant or Respondent chooses to support them through these processes. Advisors are expected to conduct cross-examination at the live hearing. Any Complainant or Respondent who does not have an Advisor at the time of the hearing will be assigned an Advisor by the College.
- Standard of Evidence/Information: In resolving matters of Sexual Harassment, the standard used to determine responsibility is the preponderance of the evidence standard, meaning "is it more likely than not" that the conduct occurred or that College policies were violated. No person shall be found Responsible or Not Responsible based solely on the role that they have in the process, and Respondents are presumed to be Not Responsible until such time that there is a finding of Responsibility through the Grievance Process described herein.
- Remedies: Remedies are measures designed to restore or preserve a Complainant's access to education or employment activities under this Policy when a Respondent has been found Responsible through a Grievance Process.
- Retaliation: Retaliation is taking action against a person as a result of their participation in any of the activities described in this policy and procedures including, but not limited to, making a report, filing a formal complaint, participating (or not participating) in an investigation, hearing, or appeals process. Retaliation is prohibited at Jefferson College, and is described more fully in Section IX.

IV. Prohibited Conduct and Key Provisions Related to Consent

Prohibited Conduct - Prohibited Conduct under this policy encompasses Sexual Harassment as defined below. These acts can occur between individuals who are known to one another, or have an intimate or sexual relationship, or may involve individuals who

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are not known to one another. These acts can be committed by person(s) of any sex, gender, or other identity, and it can occur between people of the same or different sex or gender identities.

Jefferson College prohibits the following types of conduct under this policy:

1. *Sexual Harassment*: Sexual Harassment is any conduct on the basis of sex that satisfies one or more of the following:
 - a. An employee of the College conditioning the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct;
 - b. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity; or
 - c. Sexual Assault, Dating Violence, Domestic Violence, or Stalking as defined in the Clery Act amended by the Violence Against Women Act (VAWA).
 - i. *Sexual Assault*: Sexual Assault is any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent. Sexual Assault includes, but is not limited to, the following acts when they occur without consent of the victim:
 - Any penetration, however slight, of the genitals or anus of one person with the genitals of another person.
 - Any act involving the genitals of one person and the hand, mouth, tongue, or anus of another person,
 - Any sexual act involving penetration, however slight, of the genitals or anus of one person by a finger, instrument, or object,
 - Touching of another person's genitals or breasts under or over the clothing,
 - Touching of one person with the genitals of another person under or over the clothing.Sexual Assault is also an offense that meets the definition of fondling, incest, or statutory rape as used in the FBI's Uniform Crime Reporting system.
 - (a) Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is unable of giving consent because of their age or because of their temporary or permanent mental capacity.

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- (b) Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - (c) Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent.
- ii. *Dating Violence*: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim (Complainant). The existence of such a relationship shall be based on consideration of the following factors that include the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating Violence does not include acts covered under the definition of Domestic Violence.
- iii. *Domestic Violence*: A felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the victim (Complainant); 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 jurisdiction in which the crime of violence occurred; 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 jurisdiction in which the crime of violence occurred.
- iv. *Stalking*: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress. Course of conduct means two or more acts, including, but not limited to, acts in which the stalker 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. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily require medical or other professional treatment or counseling. Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.

The State of Missouri's Revised Statutes provide information on state laws pertaining to the offenses listed in the above section. More information on the State of Missouri Statutes as it pertains to sexual offenses (including sexual

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assault, rape, and statutory rape) can be found in RSMO.566. More information on the State of Missouri Statutes as it pertains to Incest can be found in RSMO.568; information on Domestic Violence can be found in RSMO.565; and Stalking can be found in RSMO.565. All Revised Statutes for the State of Missouri can be accessed online at: <http://revisor.mo.gov/main/Home.aspx>.

Consent, Force, Coercion, and Incapacitation - As noted in the above definitions of Prohibited Conduct, occurrences of Sexual Harassment involve acts that occur without consent. This section will further define and clarify consent, force, coercion, and incapacitation as it relates to Prohibited Conduct under this policy.

Effective Consent - Consent is an active, conscious, voluntary, and freely-given decision by each participant to engage in mutually agreed-upon sexual activity. Consent must exist from the start to the finish of each form of sexual contact. Consent consists of mutually understandable words and/or actions that indicate a willingness to engage freely in sexual activity. Consent can never be effectively gained by force, threats, coercion, or by taking advantage of the incapacitated state of another individual. A lack of physical resistance or a lack of verbal refusal does not indicate that the person is providing consent. Consent may not be assumed or inferred based upon silence, passivity, lack of resistance, or lack of active response.

Any party may withdraw their consent for the sexual activity at any time during the sexual activity. Withdrawal of consent may be demonstrated in a variety of ways through words or actions that indicate a desire to end the sexual activity. Once consent is withdrawn, sexual activity must cease immediately. Recognizing the dynamic nature of sexual activity, individuals choosing to engage in sexual activity must evaluate consent in an ongoing manner and communicate clearly throughout the states of sexual activity. Consent to one form of sexual contact does not constitute consent to all forms of sexual contact. Consent to sexual activity with one person does not constitute consent to activity with any other person. Each participant in a sexual encounter must consent to each form of sexual contact with each participant. Additionally, individuals with a previous or current intimate relationship to each other do not automatically give initial or continual consent to sexual activity. The mere fact that there has been prior intimacy or sexual activity does not, by itself, imply consent to future acts.

There are times when a person may give consent but the consent may not be considered effective. An individual who is under force, threat of force, coerced, or incapacitated is considered unable to provide effective consent. These situations are outlined in the next sections.

Force and Coercion - Force is the use or threat of physical violence, intimidation, or coercion in order to overcome another individual's freedom to choose whether or not to

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participate in sexual activity. For the use of force to be demonstrated, there is no requirement that an individual resist the sexual advance or request, however, resistance will be viewed as a clear demonstration of non-consent.

Coercion is the use of unreasonable pressure that compels another individual to initiate or continue sexual activity against their will. Coercion can include a range of behaviors, including physical/emotional force, intimidation, manipulation, implied threats, misuse of authority, or blackmail which places a person in fear of immediate harm or physical injury that causes them to engage in undesired sexual activity. Continuing to pressure an individual who has made it clear that they do not want to engage in sexual activity or go beyond a certain point of sexual interaction may be considered coercive. When evaluating coercive behavior, factors such as the frequency, duration, location (in regard to potential isolation of the recipient of the unwanted sexual contact), and intensity of coercive behaviors will be considered.

Incapacitation - Incapacitation is a state where an individual is unable to make an informed decision to engage in sexual activity because they lack conscious knowledge of the nature of the act (an ability to understand the who, what, when, where, why, or how of the sexual interaction). An individual who is incapacitated is unable to provide effective consent. An individual who knows or who should have reasonably known under the circumstances that the individual(s) they are attempting to or have engaged in sexual activity with violates this policy if the behavior falls within the elements found in the Prohibited Conduct section of this policy. Behavior that may occur outside of the elements of Prohibited Conduct may be addressed by other College policies and procedures.

Incapacitation is defined as the inability, temporarily or permanently, to give consent because the individual is mentally and/or physically unable to make informed, reasonable judgements. An individual is incapacitated, and therefore unable to provide effective consent, if they are asleep, unconscious, or otherwise unaware that sexual activity is occurring.

Incapacitation may result from the use of alcohol and/or drugs. Incapacitation is a state beyond drunkenness or intoxication. Consumption of alcohol or other drugs alone is insufficient to establish incapacitation. The impact of alcohol and drugs varies from person to person, however, warning signs that a person may be approaching incapacitation include slurred speech, vomiting, diminished coordination, erratic behavior, combativeness, loss of consciousness, or emotional volatility. Evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs affects an individual's decision-making ability, awareness of consequences, ability to make informed judgments, and/or capacity to appreciate the nature of the act(s).

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Evaluating incapacitation also requires an assessment of whether a person should have been aware of the other individual's (or individuals') incapacitation based on objectively and reasonable apparent indications of impairment when viewed from the perspective of a reasonable sober person. If there is any doubt as to the level or extent of the other individual's intoxication or impairment, the safest course of action is to forgo or cease any sexual contact or activity. Use of alcohol or drugs is never an excuse for a person to commit Sexual Harassment (inclusive of all forms of sexual assault, dating violence, domestic violence, and stalking under this policy) and does not diminish a person's responsibility to obtain informed, freely-given, and effective consent.

V. **Reporting Prohibited Conduct**

Jefferson College strongly encourages the prompt reporting of any incident of sexual or gender-based discrimination or harassment to the College. Because behavior that violates this policy may also be a violation of law, any individual who has been subjected to sexual assault or harassment is also encouraged to consider criminal or civil legal options. An individual may also file a complaint with the U.S. Department of Education's Office for Civil Rights, the Equal Employment Opportunity Commission and/or the Missouri Human Rights Commission.

Upon receipt of information alleging a violation of this Policy, the Jefferson College Title IX Coordinator (or Deputy Title IX Coordinator) will respond promptly to the Complainant to present options for filing a formal complaint, to discuss the availability of and implementation of supportive measures designed to preserve educational and/or program access (including safety options and options for reporting to law enforcement), as well as to discuss the investigation and grievance process. The Title IX Coordinator will take the victim/Complainant's wishes into account when presenting information and evaluating whether or not to file a formal complaint against the responding party (Respondent).

Jefferson College is committed to providing an educational, working, and living environment free of any form of sex discrimination and harassment. The College is unable to take actions to address sex discrimination and harassment if the actions are not reported to the appropriate parties. Therefore, all employees of the College, unless specifically designated as a Confidential Reporting Source for Title IX, are required to report matters that fall under this Policy to the Title IX Coordinator or to a Deputy Title IX Coordinator.

Jefferson College's Confidential Reporting Source is any licensed mental health therapist contracted to provide counseling services for the student body. Additionally, although not confidential to the extent of a counselor, the On-Campus Victim Advocate is another resource a student may speak to about what options and resources are available to them. The On-Campus Victim Advocate is exempt from reporting to the Title IX Coordinator;

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however, they may report non-identifying information to the Clery Officer for crime statistic purposes. Both individuals are located on the second floor of the Student Center. Students can make an appointment with the licensed mental health therapist by calling 636-481-3215 and with the victim advocate by calling 636-481-3267. Students and employees may also contact a medical provider(s) at the Mercy Health virtual clinic by calling 636-543-2290. All other Jefferson College employees are instructed to report matters of sex or gender-based discrimination, harassment, and/or assault to the Title IX Coordinator as soon as they become aware of an incident.

Any person who is aware of or who has experienced any form of Sexual Harassment may make a report at any time, within or outside College business hours, to the Title IX Coordinator. Reports may be made by the person who experienced the unwanted contact but may be made by any person including third parties, students, staff, faculty, parents, or community members. These reports may be made in person, verbally, by phone, in writing through mail or electronic mail, through the College's Maxient reporting portal (found in MyJeffco or at Jeffco.edu/titleix), or any other manner that delivers the information to the Title IX Coordinator at any time.

Jefferson College's Title IX Coordinator and Deputy Title IX Coordinators are listed below:

Title IX Coordinator

Dr. Kimberly Harvey-Manus

Vice President of Student Services

Physical mailing address: 1000 Viking Drive, Student Center, Hillsboro, MO 63050

Office location: Student Center, 2nd floor, Room 205

Phone/Email: 636-481-3200/kharvey@jeffco.edu

Deputy Title IX Coordinators

Ms. Tasha Welsh

Director of Human Resources

Office location: Administration Building

Phone/Email: 636-481-3157/twelsh@jeffco.edu

Ms. Kristine Bogue

Director of Student Compliance

Office location: Student Center, 2nd floor, Room 209

Phone/Email: 636-481-3258/kbogue1@jeffco.edu

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Dr. Michael Booker
Associate Dean, Humanities
Office Location: ASI, Room 110
Phone/Email: 636-481-3312/mbooker@jeffco.edu

Privacy and Confidentiality in Reporting Prohibited Conduct

Jefferson College will keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individuals who have made a report or filed a formal complaint of Sexual Harassment, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness, except as may be permitted by:

- the FERPA (Family Educational Rights and Privacy Act) statute or FERPA regulations;
- requirements of law; or
- to carry out the purposes of the regulations of Title IX, including the investigation, hearing, or judicial proceeding arising as a result of allegations of sex discrimination or Sexual Harassment.
- In cases where a formal complaint has been filed, disclosures of identities are necessary in order to provide the proper notice as required under federal regulations. However, in all cases the disclosure of personally identifiable information will be conducted with the utmost attention to the privacy of the individuals involved.

The Intersection of Title IX and The Clery Act

In order to comply with the federal law known as the Clery Act, the College is required to collect and report specific statistical information related to incidents of sexual assault, domestic violence, dating violence, and stalking that take place on College-owned or controlled properties or at College-sponsored programs or events. This information is provided to the College's Clery Compliance Coordinator for assessment for inclusion in daily crime statistics, timely warning reports, and for potential inclusion in the College's Annual Safety and Security Report.

Jefferson College's Clery Compliance Coordinator is Officer Darrel Hulvey at the Campus Police Department. The information contained in Clery reports tracks the number of Clery-reportable offenses and does not include the names or identifying information about the person(s) involved in the report. The College may share non-identifying information about reports received in aggregate form.

- *Timely Warnings:* If a report of Sexual Harassment discloses a serious, immediate, or continuing threat to the Jefferson College community, the College may issue a campus-wide timely warning notification (which may be in the form of a text message, email message, or other electronic communication to the

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campus community members) to protect the health or safety of the community and to heighten safety awareness. The timely warning will not include any identifying information about the Complainant. The College reserves the right to send campus-wide notifications on a report of Sexual Harassment in compliance with timely warning regulations.

The Grievance Process at Jefferson College is conducted in compliance with the requirements of FERPA, Title IX, the Clery Act, the Violence Against Women Act, state law, federal law, and College policy. No information shall be released from these proceedings except as required or permitted by law and College policy.

Emergency Removals - Where a report of Sexual Harassment (inclusive of sexual assault, domestic violence, dating violence, or stalking as defined in this policy) poses a substantial and immediate threat of harm to the physical health or safety of an individual or members of the College community, the College may place a student, employee, or student organization on an Emergency Removal. If an Emergency Removal is imposed, the individual(s) or organization may be denied access to any or all campus properties, campus facilities, and/or all other College activities or privileges for which the individual(s) or organization might otherwise be eligible. Where possible and academically feasible, the College will assist the Respondent in making alternative arrangements to continue and/or complete coursework. Specific guidelines for the restrictions will be communicated to the Respondent in writing when they are notified of the Emergency Removal. When an Emergency Removal is imposed, the College will make reasonable efforts to complete the investigation and full grievance process within an expedited time frame, barring any other circumstances that may lengthen any part of the grievance process.

The following steps will be taken with regard to Emergency Removals for Respondents under this Policy:

1. Prior to an Emergency Removal taking place, the College will undertake an individualized safety and risk analysis to determine whether or not there is an immediate threat to the physical health or safety of any student, employee, or other individual arising from the allegations of Sexual Harassment that justifies a removal.
2. The individualized safety and risk analysis may be performed by the Jefferson College Care Team, a licensed mental health counselor, or other third-party designated by the College with experience to conduct such assessments.
3. Should the Emergency Removal or Administrative Leave be implemented following an individualized safety and risk analysis, the Respondent(s) shall be provided with Notice of the Emergency Removal Order/Administrative Leave Order and an opportunity to challenge the decision following the removal.

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4. The opportunity to present a challenge to the removal shall be completed as soon as possible in light of the circumstances.
5. For student Respondents, the challenge to an Emergency Leave Removal will be heard by the President or their designee.
6. For employee Respondents, the challenge to an Emergency Leave Removal will be heard by the Director of Human Resources, the Vice President of Instruction, or their designee.
7. The challenge or appeal of the Emergency Removal process shall be the same for students, staff, and faculty. A Respondent may respond to the Removal by presenting information, evidence, written information, and/or facts that support their challenge. The challenge will be heard face to face (meaning it may be done remotely provided the participants are able to see and/or hear each other in real time). The Respondent will have an opportunity to present their information and answer questions from the person who is hearing their challenge.
8. The person who is hearing the Respondent's challenge will then consider the information that has been provided to them in making their decision. The decision-maker has the discretion to speak to other parties who were involved in the Emergency Removal in making their decision. The decision-maker will provide a decision to the Respondent, in writing, as soon as possible within the existing circumstances. This decision is final.

VI. Supportive Measures

Supportive Measures are non-disciplinary, non-punitive measures put in place to assist any party impacted by Sexual Harassment in order to restore or preserve their equal access to their educational program, educational activity, or employment. Supportive measures are provided free of cost and may include such things as counseling services, safety escorts, reciprocal No Contact Orders, schedule changes, or living environment changes (where applicable). A full range of supportive measures and resources at the College and in the community are described within this Policy and procedures. Supportive measures can be used by any person involved in a report of Sexual Harassment regardless of whether or not a formal complaint is filed. Supportive Measures can remain in place regardless of the outcome of a Grievance Process and are available to students and employees throughout their time at the College. Students or employees who have questions about supportive measures that are available to them in the aftermath of sexual assault, domestic violence, dating violence, stalking, or any form of Sexual Harassment are strongly encouraged to contact the Title IX Coordinator to discuss their options.

JEFFERSON COLLEGE SUPPORTIVE MEASURES
<u>COMTREA on campus mental health services for students:</u> Contact 636-481-3209 to schedule an appointment.
<u>On-Campus Victim Advocate for students:</u> Contact 636-481-3267 to schedule an appointment and/or email alowery3@jeffco.edu .
<u>Central Methodist University Clinical Counseling Services for students (virtual appointments):</u> Email cccjeffco@centralmethodist.edu to schedule an appointment.
<u>Personal Assistance Services for full-time employees:</u> https://www.jeffco.edu/employee-resources/pas-employee-assistance-program
<u>Jefferson College Police Department:</u> Safety escorts may be provided as well as support for overall safety concerns. Contact 636-481-3500 or 911 in an emergency.
<u>Academic Success Center:</u> Located on the first floor of the Technology Center on the Hillsboro campus, staff in the ASC can assist students with tutoring, test preparation, and writing skills. ASC also has resources at the Arnold/Imperial locations, and via online services.
<u>Student Financial Services:</u> Located on the first floor of the Student Center, Student Financial Services staff can assist a student with questions or concerns related to their financial aid packages.
<u>Disability Support Services:</u> Located on the first floor of the Technology Center, staff in DSS can assist students who may wish to learn more about disability accommodations on campus.
<u>Residential Life accommodations (when applicable):</u> This may include a room or apartment change, space permitting.
<u>Reciprocal No Contact Orders:</u> Either party may request a No Contact Order at any point in the process or in the absence of a formal complaint. No Contact Orders are reciprocal, non-punitive administrative orders from the school designed to preserve all parties' access to educational and employment opportunities.
<u>Change of Class Schedule or other academic arrangements:</u> Either party may request or be assigned a class schedule change as available. Other academic accommodations may be implemented in conjunction with the Title IX Coordinator and Instructional staff/faculty.
<u>Change of Working environment:</u> In conjunction with Human Resources and the Title IX Coordinator, employees (including student workers) may receive supportive measures within the working environment in order to maximize safety and minimize disruption.
<u>Mercy Clinic to address health needs (virtual appointments):</u> Contact 636-543-2290
Supportive Measures on campus can be implemented in conjunction with or in the absence of a formal complaint, and are available to any impacted party, including Complainants, Respondents, Witnesses, or other third-parties. For more information on support at Jefferson College, please visit: https://www.jeffco.edu/current-students/resources/r-u-ok or www.jeffco.edu/titleix

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<p>COMMUNITY RESOURCES – the Title IX Coordinator may refer a person to any of these community resources in order to provide additional support as needed.</p>
<p><u>Behavioral Health Response Hotline:</u> BHR provides confidential telephone counseling to people in mental health crises as well as mobile outreach services, community referral services and critical incident stress management (CISM). BHR’s crisis hotline and mobile outreach services are provided free of charge to the public by paid professional staff who have master’s degrees in their respective behavioral science disciplines. 1-800-811-4760 http://bhrstl.org/</p>
<p><u>The Trevor Project:</u> National organization providing crisis intervention, resources and suicide prevention services to LGBTQ young people ages 13-24. 866-488-7386 (24/7) www.thetrevorproject.org</p>
<p><u>Trans Lifeline Hotline:</u> 877-565-8860 A grassroots hotline and micro grants non-profit organization offering direct emotional and financial support to trans people in crisis - for the trans community, by the trans community.</p>
<p><u>Domestic Violence Shelter and support in Jefferson County:</u> A Safe Place, COMTREA 636-232-2301, https://www.comtrea.org/services/community-services/domestic-violence</p>
<p><u>Sexual Assault and Interpersonal Violence Supportive Services:</u> Safe Connections Hotline at 314-531-2003, https://safeconnections.org/</p>
<p><u>Child Abuse Hotline</u> online reporting and other resource options for victims and families related to child abuse: dss.mo.gov/cd/keeping-kids-safe/can.htm</p>
<p><u>Jefferson County Health Department</u> at 636-797-3737, http://www.jeffcohealth.org/</p>
<p>To obtain a forensic sexual assault examination (often referred to as a "rape kit") go to the emergency room of local hospitals such as Mercy South, Mercy Jefferson, Missouri Baptist, BJC, or Saint Louis University Hospital.</p>
<p><u>Legal Services of Eastern Missouri:</u> LSEM provides high-quality civil legal assistance for low-income people. Legal services are most frequently provided in areas relating to domestic violence and other family law issues, children, education, health, housing and homelessness, public benefits, elder law, immigration, and consumer matters. 4232 Forest Park Avenue St. Louis, MO 63108; 314-534-4200 1-800-444-0514.</p>
<p><u>Obtaining Orders of Protection in Jefferson County:</u> Any victim of stalking or an adult abused by a present or former spouse, adult family or household member, or adult who is or has been in a continuing social, romantic or intimate relationship, or a person with whom the victim has a child may file for an ex parte order of protection. No filing fee, court costs or bond is required to file, nor do you need a lawyer to file. The petition must be filed in the county where the Petitioner resides, where the alleged abuse occurred or where the Respondent may be served. Jefferson County Courthouse, 300 Main Street Hillsboro, MO 63050; 636-797-5443.</p>
<p><u>Jefferson County Sheriff's Office:</u> The Sheriff’s Office will apprehend criminals and investigate crimes in Jefferson County. The Sheriff’s Office has also designated a Victim Services Coordinator, who can be reached at 636-797-5017 or pshort@jeffcomo.org. The Sheriff's Office is located at 400 First Street, Hillsboro, MO 63050. 636-797-5000.</p>

For questions or concerns related to Immigration: United States Citizenship and Immigration Services Department offers assistance for those seeking citizenship, green cards, and authorization to work in the United States. www.uscis.gov

Any person desiring more information on College or community resources in the aftermath of any form of sexual assault or sexual harassment is strongly encouraged to contact the Title IX Coordinator at 636.481.3258 and/or make a report to local law enforcement.

VII. Filing a Formal Complaint and Initiating the Grievance Process

- a. Filing a Formal Complaint - Any person may make a report of behavior that they believe to fall under this Policy and Procedures. This includes any student, faculty member, staff member, parents or legal guardians of a student, or a third-party not directly affiliated with the College. Upon receiving a report, the Title IX Coordinator will communicate with the Complainant to discuss all options, resources, and supportive measures available to them (supportive measures are available regardless of whether or not a formal complaint is filed) as the person who is reported to have experienced the Sexual Harassment. The Complainant's wishes with regard to filing a formal complaint will be taken into account, and the Title IX Coordinator will work with College resources to implement supportive measures as requested or needed.

In cases where the identity of the Complainant is either not known or has not been disclosed, the Title IX Coordinator or their designee will make reasonable efforts to ascertain the identity of the Complainant. The College is unable to act on a formal complaint for anonymous parties or in the absence of the knowledge of the identity of the Complainant. A formal complaint may be filed in one of two ways:

1. The Complainant can choose to initiate the formal complaint and grievance process by, in writing or via electronic message, indicating to the Title IX Coordinator their desire to have the College investigate their report. The complaint must be signed (either physically or digitally, or in some other way that makes it clear that the Complainant is the person filing the complaint) and sent to the Title IX Coordinator. The Complainant must be the person who experienced the Sexual Harassment and who is participating in or attempting to participate in the College's education activity or programs. A person who is not affiliated with the College is unable to initiate a formal complaint under these procedures.
2. Where a Complainant may decline to file a formal complaint, the Title IX Coordinator will assess the known circumstances of the situation and determine whether or not a formal complaint will be filed by the Title IX Coordinator themselves. In this situation, the Title IX Coordinator will contact the Complainant to discuss supportive measures, the filing of a

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formal complaint, and the grievance process. The Title IX Coordinator will take the Complainant's wishes into account as well as the need for campus safety when evaluating whether or not to file a complaint. In the event that the Title IX Coordinator initiates the formal complaint and grievance process, the Title IX Coordinator does not become the Complainant but is still responsible for the coordination of an equitable and thorough grievance process.

Jefferson College seeks to remove barriers to individuals reporting Sexual Harassment. An individual who reports or who is involved in a report of Sexual Harassment will not be subject to disciplinary action for their own personal consumption of alcohol or drugs at or near the time of the incident, provided that such violations did not and do not place the physical health or safety of another person at risk. Jefferson College may initiate an educational discussion or pursue other educational or therapeutic methods regarding alcohol or other drugs for those individuals.

Except in the cases outlined in the next two subsections, if a formal complaint is filed, the College will investigate and resolve the allegations of Sexual Harassment through the grievance process described within this policy and procedures.

Jefferson College reserves the right to consolidate formal complaints of allegations of Sexual Harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of Sexual Harassment arise out of the same facts or circumstances.

- b. Mandatory Dismissal of Formal Complaints - Jefferson College will investigate allegations in a formal complaint, unless the College is prohibited from doing so by Title IX regulations or other laws. The school is obligated to dismiss a formal complaint (in part or in whole) in these circumstances:
1. If the reported conduct in a formal complaint would not constitute Sexual Harassment as defined in this policy and procedures even if proved.
 2. The formal complaint is signed by someone who does not meet the definition of a Complainant or who is not the Title IX Coordinator in cases where the Title IX Coordinator initiates the formal complaint.
 3. The formal complaint is filed against someone who is not a part of Jefferson College's education program or activity (i.e. the Respondent was not affiliated with the College).
 4. If the reported conduct in a formal complaint did not occur within Jefferson College's education program or activity, or did not occur against

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- a person in the United States, then the school must dismiss the formal complaint with regard to that conduct for the purposes of this policy.
5. In cases of mandatory or discretionary dismissals of formal complaints (whether in whole or part), Jefferson College reserves the right to address the conduct under other applicable policies and procedures, including but not limited to Board of Trustee Policies and Procedures, Human Resources procedures, and Student Conduct procedures.
 6. Upon receipt of a formal complaint, the Title IX Coordinator will review the allegations set forth and determine whether the complaint may proceed. After an initial review of the formal complaint, the Title IX Coordinator will continue to monitor the investigation and evaluate the formal complaint to determine if the above criteria for dismissal apply.
- c. Discretionary Dismissal of Formal Complaints - Jefferson College may dismiss a formal complaint, or the allegations contained within a formal complaint under these three circumstances:
1. A formal complaint may be dismissed if, at any time during the investigation or hearing, a Complainant notifies the Title IX Coordinator in writing that they would like to withdraw the formal complaint or any allegations within the complaint.
 2. A formal complaint may be dismissed if the Respondent (student or employee) is no longer enrolled or employed by the school.
 3. A formal complaint may be dismissed if specific circumstances prevent the school from gathering information sufficient to reach a determination as to the formal complaint or the allegations contained within the formal complaint.
- d. Notification of Complaint Dismissal - In any case where a formal complaint is dismissed, whether it be due to mandatory or discretionary reasons, the Title IX Coordinator will notify the party (or parties) in writing (via electronic communication) as to the dismissal and the reason(s)/rationale for the dismissal. In cases of mandatory or discretionary dismissal, both parties will have an equal opportunity to submit an appeal of that decision (whole or in part). The next section provides information on the process for appealing the decision to dismiss all or part of a formal complaint.
- e. Appealing the Decision to Dismiss all or part of Formal Complaint - Either party may submit an appeal of the decision to dismiss all or part of a formal complaint, in writing, on any of the following bases, within five (5) College business days of the issuance of the Notification of Formal Complaint Dismissal:

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1. Procedural Irregularity: There was a procedural irregularity that affected the decision to dismiss the formal complaint.
2. New Information/Evidence: There is new information that was not reasonably available at the time the determination regarding dismissal was made, and the information is such that it could affect the outcome of the matter.
3. Conflict of Interest or Bias on the part of persons involved in the process: The Title IX Coordinator, Investigator(s), and/or other Decision-Maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent and it affected the outcome of the matter.

Once an appeal is filed by either party, the Title IX Coordinator will notify the other party in writing that an appeal has been filed and implement appeal procedures equally for both parties. Appeal procedures are as follows:

1. Appeals are to be submitted in writing to the Title IX Coordinator by the deadline specified in Notification of a Dismissal of Formal Complaint, which will be set at five (5) College business days from the date of issuance of the notification.
2. Either party may submit an appeal on the bases listed above. More than one appeal base may be used in an appeal.
3. The Title IX Coordinator will notify the other party of the presence of an appeal, if applicable.
4. The party or parties will have an equal opportunity to submit, in writing, a statement of support of the outcome or a challenge of the decision.
5. The Title IX Coordinator will ensure that the person(s) hearing the appeal were not involved in the Complaint Dismissal decision. Persons who hear an appeal under this policy may be persons within the College community or third parties external to the College community, selected by the Title IX Coordinator or their designee. In all cases, person(s) hearing an appeal will have the required training to implement fair and effective appeal processes.
6. The person(s) assigned to hear the appeal (the “appeal body”) may review the information and statements submitted by the parties, as well as be provided access to discuss the information with the parties at their discretion.
7. The appeal body will issue a written decision describing the result of the appeal and the rationale for the result of the appeal generally within ten (10) College business days of the receipt of the appeal(s). If the appeal process requires additional time to render a written result and rationale, the

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Title IX Coordinator will notify both parties of any delay or extension of time within this process.

8. The appeal body's written outcome letter will be delivered to both parties via electronic message simultaneously.
9. The decision of the appeal body is final.

VIII. Grievance Process

Once the procedures outlined in Section VII above have been implemented in order to file a formal complaint, the Grievance Process has been initiated and the following actions will take place.

- a. Notification of Formal Complaint and Investigation - The Title IX Coordinator or their designee will select a trained Investigator (or Investigators) from within or external to the Jefferson College community. The Title IX Coordinator or designee will assess any Investigator(s) chosen to make sure that they are free of bias or conflict of interest.

The Investigator will review the formal complaint and provide a Notice of Formal Complaint and Investigation to both the Complainant and Respondent. This Notice will contain, but is not limited to, the following elements:

1. Information about the grievance process;
2. Notice of the allegations of Sexual Harassment that potentially align with the definition(s) found in this Policy and Procedures;
3. Sufficient details, including the identities of the parties involved in the incident (if known), the conduct reportedly constituting Sexual Harassment, and the date and location of the reported incident (if known);
4. A statement that the Respondent is presumed not responsible for the reported conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
5. Information regarding the rights of both parties to have any one (1) Advisor of their choosing, who may be but is not required to be an attorney (at their own expense), present with them at any meeting, hearing, or other proceeding under this policy and procedures;
6. Information regarding both parties' (and their Advisor's) rights to review and inspect information gathered during the investigation as well as prior to any hearing; and
7. Notice that if, during the course of the investigation, the Investigator(s) choose to investigate allegations about the Complainant or the Respondent that were not included in the initial Notice, that they will provide notice of the additional allegations to the parties whose identities are known.

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- b. Investigation Procedures - The investigation is designed to provide a fair, thorough, and impartial gathering of facts. All individuals participating in an investigation will be treated with respect. The College will seek to complete an investigation within sixty (60) College business days of providing Notice of the Investigation, but this time frame may be extended depending on the individual circumstances of each report.

At the request of local law enforcement, the College may agree to defer for a short time its fact gathering until after the initial stages of a criminal investigation. The College will promptly resume its fact gathering as soon as it is informed that local law enforcement has completed its initial investigation.

At all times the burden of proof and gathering evidence or information sufficient to reach a determination of responsibility (based on the preponderance of the evidence standard) is upon the College and not on the parties themselves. However, parties shall have equal opportunity to provide information in the form of participating in investigative interviews and meetings, providing written or electronic statements, and providing other evidence and documents such as texts, videos, social media postings, or other materials. Both parties will be given opportunity to recommend witnesses, including expert witnesses (services provided by expert witnesses requested by the parties shall be paid for by the parties themselves), to the Investigator(s).

The College will not, in gathering facts during an investigation, seek to access or disclose any party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in their professional or paraprofessional capacity to provide treatment or legally privileged counsel to that party. A participant who wishes to have their own records provided for the purposes of an investigation may choose to do so at their own discretion and by providing a voluntary, written consent to do so. Parties who choose to waive any privilege of confidentiality afforded to them do so with the knowledge that the other party (or parties) involved in the grievance process will be provided with access to inspect, review, and respond to that information during the course of the grievance process.

Neither the Complainant nor the Respondent shall be placed under any restriction that prohibits their ability to discuss the allegations under investigation or to gather and present relevant information or evidence to the Investigator. All parties involved in any part of the grievance process are expected to provide truthful information. Any person found to have provided knowingly false information in bad faith may be subject to disciplinary processes under student or employee procedures at the College.

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During the Investigation, the Investigator will seek to complete meetings, interviews, or other methods of communication with the Complainant, the Respondent, witnesses provided by either the Complainant/Respondent, as well as any witnesses that the Investigator identifies. Witnesses must be persons who may have observed the acts in question, may have relevant information to share, or who offer information related to a party's individual character. The Investigator will gather all information, including supplemental information, which may take the form of electronic communication records, text messages, written statements, photographs, videos, social media postings, or other information pertaining to the allegations. All participants that the Investigator seeks to gather information from will be notified of any investigative meetings or interviews in writing with the proposed date, time, location, participants, and purpose of the meeting identified. Every participant shall be given sufficient time to prepare for any investigative meeting or interview.

The Complainant and Respondent shall have equal rights to have any one (1) Advisor of their choosing present with them at any meeting for the investigation or hearing. An Advisor may be, but is not required to be, an attorney. Any attorney hired by a party to serve as their Advisor shall be done so at the individual party's expense. A Complainant or Respondent who does not have an Advisor may request that the Title IX Coordinator assign an Advisor to them. The Advisor may be a trained employee of Jefferson College or a third-party that the Title IX Coordinator designates. During an investigative meeting or interview, the party may consult with their Advisor as needed, however, the Advisor is not permitted to speak on behalf of the party. Information provided during investigations shall be provided by the Complainant or Respondent themselves and will apply equally to both parties.

The Investigator (or Title IX Coordinator, as applicable) will provide regular updates to both the Complainant and Respondent on the status of the investigation throughout all stages of the investigation and notify each party as to any delays or issues that may lengthen the investigation timeline.

- c. Investigation Procedures Continued: Right to Review and Respond to the Investigative Report - Prior to the finalization of the investigative report, the Investigator will compile all information that has been gathered and is directly related to the allegations. The Investigator will compile this information into a written report format, including any supplemental information, and notify both parties and their respective advisor simultaneously through electronic communication (through the use of the Jefferson College email system) of the availability of this information for their review and response.

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The Investigator will provide the parties with an electronic copy of the report and associated materials accessible through the Jefferson College Google Drive system. Each party's Advisor will also receive the materials through the Google Drive system. These materials will be available to the parties and each party's advisor for their review and response within ten (10) College business days. During or by the conclusion of the initial review period, either party may submit written responses to any of the information contained in the report materials. Parties may also submit additional information they wish to have included at this stage.

- d. Conclusion of Investigative Process - At the conclusion of the review period the Investigator will compile, add, and review information submitted by the parties. Should the Investigator identify additional interviews or information gathering that may need to take place, they have the discretion to do so at this stage. This may extend the approximate investigation timeline. The Investigator will provide written updates to the parties informing them of any reasons that the investigation timeline will be lengthened.

Upon the conclusion of the initial review and response by the parties as well as any additional information gathering determined by the Investigator, the Investigator will finalize the report and prepare the report materials to be sent to the Hearing Officer(s) in preparation for a live hearing. Both the Complainant and the Respondent (and their Advisors) will be notified when the report materials have been finalized and be provided with a minimum of ten (10) College business days prior to any hearing where they are given an electronic copy viewable through the Google Drive system in order to review and respond to (written response) any report materials in preparation for the hearing.

- e. Hearing Process Overview - Upon the conclusion of an investigation, the Investigator(s) will ensure all report materials are available for the Title IX Coordinator and any individual(s) designated to render a determination of responsibility in order to facilitate the scheduling of a hearing. Both the Complainant and Respondent shall have a minimum of ten (10) College business days prior to any hearing where they will have electronic access to view all report materials in order to prepare for the hearing. Both the Complainant and Respondent have the opportunity to submit a written response to any of the finalized report materials in advance of a hearing. The Investigator will receive any additional written responses and ensure that they are provided to the Title IX Coordinator and any individual(s) designated as a Hearing Officer prior to the hearing. The Title IX Coordinator, in conjunction with other partners at the College such as Deputy Title IX Coordinators or other College leadership, will

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assist in the scheduling, coordination, and implementation of a live hearing, as set forth below and in subsequent sections:

1. Hearings shall be conducted live. A hearing may be conducted with parties in remote locations or virtually, provided that the parties are able to see and hear each other simultaneously. The Complainant and Respondent are not required to be in the same room during a hearing provided the conditions for viewing and hearing simultaneously are met as stated above.
 2. The College will provide an individual (or individuals, at their discretion) to serve as a Hearing Officer, who will make the determination as to whether this policy was violated. The Hearing Officer will have the appropriate training and experience to serve in this role and may be someone who works at the College or who is hired/contracted externally by the College to fulfill this role. The parties and their Advisors will receive a notification advising them of the date, time, location, Hearing Officer(s) identity, and listing of other requested participants no less than ten (10) College business days in advance of the hearing. A hearing may be delayed or rescheduled at a party's request provided the party submits information showing good cause for the delay to the Title IX Coordinator within three (3) College business days of the hearing. The Title IX Coordinator will notify each party of any delays or rescheduled hearings. Both the Complainant and Respondent (along with their Advisors) may meet with or speak to the Title IX Coordinator to ask questions about the hearing process prior to the hearing.
 3. Any witness whose presence is requested at a hearing shall receive a written notification advising them of the date, time, purpose, and location of the hearing. Any party (including witnesses) that wishes to ask questions about the hearing process may meet with or speak to the Title IX Coordinator prior to the hearing.
 4. The Title IX Coordinator or their designee will assist in providing technical and logistical support for the hearing, including the scheduling, preparation, and notifications of parties to be present at a hearing. Person(s) involved in making a decision at the hearing will also have received training or information prior to the hearing regarding the type of technology that will be used.
- f. Hearing Process Continued - Questioning and Cross-Examination Procedures
During the live hearing, the Hearing Officer(s) as well as each party's Advisors will be provided with an opportunity to ask the parties as well as witnesses relevant questions and follow up questions, including questions that challenge credibility. The Hearing Officer(s) will ask their questions and follow up

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questions first, followed by each party’s Advisor. Federal regulations stipulate that each party’s Advisor be provided with the opportunity to “cross examine” the other party as well as witnesses during the hearing.

Questioning and cross-examination of the parties and witnesses must be conducted directly, orally, and in real time by the party’s Advisor. At no time are the parties themselves permitted to engage in the questioning and cross-examination process. If a party does not have an Advisor of their choice present at the hearing, the Advisor does not agree to adhere to the standards of conduct for participants in a live hearing, or the Advisor refuses to engage in asking questions or conducting cross-examination, the College will provide to the party an Advisor of the College’s choice, at no cost to any party, in order to perform questioning and cross-examination during the hearing proceedings. In some circumstances, this may mean the live hearing is delayed or rescheduled.

- g. Standards of Conduct during a Hearing and Prohibited Questions or Topics - All participants in a live hearing are expected to conduct themselves in accordance with the “Rules of Decorum and Order for Hearings” which will be provided to participants prior to the hearing. These rules are put in place to maintain order within the hearing and to ensure that all participants are treated with respect and dignity. Accordingly, it is up to the Hearing Officer(s) discretion to address violations of the orders of decorum during the hearing. An individual who repeatedly refuses to adhere to the rules governing conduct during a hearing may be subject to ejection from the hearing or additional actions under other College policies.

Cross-examination questions or other questions that may be asked of a party or witness must be relevant to the incident(s). Questions, evidence, or other information about the Complainant’s sexual predisposition are not permitted. Questions, evidence, or other information about prior sexual behavior are not permitted, unless such questions or information are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant’s prior sexual behavior with respect to the Respondent and are offered to prove consent. Before a Complainant, Respondent, or witness answers a question or cross-examination question, the Hearing Officer(s) must determine whether the question is relevant. If the Hearing Officer(s) determines that the question is not relevant and therefore is to be excluded, they must provide an explanation as to why the question will be excluded. The Hearing Officer will provide that explanation during the hearing, and may, at their discretion choose to provide additional information during the hearing or after the hearing.

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The Hearing Officer(s) may evaluate and consider all relevant evidence, including but not limited to, statements by parties or witnesses during the investigation, information presented by parties or witnesses at the hearing, information contained in the investigation report, and information gathered during the investigation. This could also include police reports, Sexual Assault Nurse Examiner documents, medical reports, text messages, social media posts or messages, or other documents. When making the determination on responsibility, the Hearing Officer(s) may determine the weight to give statements and evidence based on the reliability and/or credibility of the statements and evidence.

The Hearing Officer, when formulating their determination regarding responsibility, is not permitted to make a finding or draw an inference regarding responsibility based solely on a party or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

- h. Record of Hearing - Jefferson College will create an audio recording of a live hearing and may choose to additionally create a transcript of a live hearing. In either case, the audio recording and/or transcript of a live hearing will be available to either party for inspection or review following the conclusion of a hearing as well as during any appeal process. This record will be kept for a period of seven years in accordance with the record-keeping procedures found in Section X of this policy and procedures.

- i. Determination of Responsibility and Standard of Evidence/Information - The Hearing Officer will issue a written determination regarding responsibility generally within fifteen (15) College business days after the conclusion of the hearing. There may be circumstances where additional time to reach and communicate a determination of responsibility, and in that event the Hearing Officer or Title IX Coordinator will notify both parties of any delays.

The Hearing Officer will apply the preponderance of the evidence standard (i.e. "is it more likely than not") to determine if it is more likely than not that the Respondent is or is not responsible for a violation (or violations) of this Policy. The Hearing Officer will not make a decision solely based on the party's role in the process, meaning that no individual will be found responsible solely because they are accused of misconduct. A Hearing Officer, once they have reached their decision, will communicate their written determination to the parties simultaneously via electronic communication.

The Notification of Determination Regarding Responsibility from the Hearing Officer will include the following elements:

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1. Identification of the allegations potentially constituting Sexual Harassment under this Policy and Procedures.
2. Description of the procedural steps taken from the receipt of the formal complaint through the determination. This description will also include information about the notifications that were sent to the parties, interviews and meetings that took place with the parties and witnesses, site visits, other methods that may have been used to gather information or evidence, and hearings held.
3. Findings of fact supporting the determination.
4. Conclusions regarding the application of Jefferson College's policies to the facts.
5. Statement of and rationale for the result as to each allegation, including a determination of responsibility, any disciplinary sanctions to be imposed on a Respondent, and whether remedies designed to restore or preserve equal access to the school's education program or activity will be provided to the Complainant. The Title IX Coordinator is the staff member responsible for implementing any remedies that are put in place as the result of a concluded grievance process.
6. Description of the procedures and bases for an appeal that are available to both the Complainant and Respondent.

The determination regarding responsibility becomes final either on the date that the parties are provided with the written determination on the result of an appeal, if an appeal is filed, or if an appeal is not filed the determination becomes final on the date on which an appeal would no longer be considered timely. Deadlines for appeal submissions follow the procedures found in section VIII, subsection "K" below.

- j. Sanctions, Remedies, and Continuations of Supportive Measures following a Determination of Responsibility
- *Sanctions:* A Hearing Officer has the discretion to assign sanctions and remedies following a determination of responsibility where the Respondent has been found to be in violation of this policy. Sanctions are disciplinary actions consisting of one or more of the following: formal/final/written warnings, disciplinary probation, employment probation, loss of privileges, loss of access to all or parts of campus, restitution/community service, educational sanctions, counseling, mandated counseling or assessments, classes, fines, suspension, expulsion, temporary or permanent removal from employment, or other disciplinary actions or sanctions either found in College publications or assigned at the discretion of the Hearing Officer(s).

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- *Remedies:* Remedies are measures designed to restore or preserve a Complainant's equal access to Jefferson College's education program or activity following the conclusion of a grievance process where the Respondent has been found responsible for a violation (or violations) of this policy. Remedies may include a continuation of supportive measures for a Complainant that were put in place prior to or during the grievance process. Remedies may also be disciplinary actions or sanctions that are punitive in nature, and differ from Supportive Measures. Please refer to Section VI for a description of Supportive Measures.

- k. Appealing the Determination of Responsibility from a Hearing - Following the issuance of a Hearing Outcome Letter (Determination of Responsibility and/or Non-Responsibility for violation(s) of this Policy), both the Complainant and the Respondent shall have equal rights to appeal the outcome. The Hearing Outcome Letter that is issued to both parties will outline the appeal process, bases for appeal, and appeal deadlines. The Title IX Coordinator will contact both parties to discuss the appeal process and answer questions about the appeal process that either party may have.

Either (or both) parties may submit an appeal of the determination, in writing, on any of the following bases, within ten (10) College business days of the issuance of the Hearing Outcome letter:

1. *Procedural Irregularity:* There was a procedural irregularity that affected the outcome of the matter.
2. *New Information/Evidence:* There is new information that was not reasonably available at the time the determination regarding responsibility was made, and the information is such that it could affect the outcome of the matter.
3. *Conflict of Interest or Bias on the part of persons involved in the process:* The Title IX Coordinator, Investigator(s), and/or Decision-Maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent and it affected the outcome of the matter.

Once an appeal is filed by either party, the Title IX Coordinator will notify the other party in writing that an appeal has been filed and implement appeal procedures equally for both parties. Appeal procedures are as follows:

1. Appeals are to be submitted in writing to the Title IX Coordinator by the deadline specified in the Hearing Outcome Letter, which will be set at ten

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- (10) College business days from the date of issuance of the Hearing Outcome Letter.
 2. Either party may submit an appeal on the bases listed above. More than one appeal base may be used in an appeal.
 3. The Title IX Coordinator will notify the other party of the presence of an appeal.
 4. Both parties will have an equal opportunity to submit, in writing, a statement of support of the outcome or a challenge of the outcome.
 5. The Title IX Coordinator will ensure that the person(s) hearing the appeal were not involved in the investigation, hearing, or determination of responsibility process. Persons who hear an appeal under this policy may be persons within the College community or third parties external to the College community, selected by the Title IX Coordinator or their designee. In all cases, person(s) hearing an appeal will have the required training to implement fair and effective appeal processes.
 6. The person(s) assigned to hear the appeal will review the information and statements submitted by the parties, as well as be provided access to review the investigative report and record of the hearing.
 7. The appeal body will issue a written decision describing the result of the appeal and the rationale for the result of the appeal generally within fifteen (15) College business days of the receipt of the appeal(s). The appeal body may alter the hearing decision with regard to responsibility, and/or assign/modify remedies and/or sanctions. If the appeal process requires additional time to render a written result and rationale, the Title IX Coordinator will notify both parties of any delay or extension of time within this process.
 8. The appeal body's written outcome letter will be delivered to both parties via electronic message simultaneously.
 9. The decision of the appeal body is final and concludes the grievance process. Once the grievance process is concluded, any sanctions or remedies will be considered final and implemented by the Title IX Coordinator or designee(s).
1. Grievance Process Timeframes - The entire grievance process may take approximately 120 College business days to complete. This timeframe includes the following approximations for each part of the process. This timeframe may be shorter or longer, depending on the factors and circumstances of each individual situation. Any delays for any part of the processes listed below will be communicated to both parties, in writing, and delivered simultaneously through electronic message.

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1. Investigation Process: 60 College business days.
2. First required review and response period following investigation: 10 College business days. The Investigator may choose to follow up on information provided during this review and response period (including additional witness interviews if needed), which may lengthen this timeframe.
3. Second required review and response period following finalization of report in advance of the live hearing: 10 College business days
4. Hearing Determination: the Hearing Officer has 15 College business days following the conclusion of the live hearing to provide their written decision.
5. Appeal period: the parties have 10 College business days to submit a written appeal following the issuance of a determination letter.
6. Appeal body evaluation of appeal and issuance of written decision: The appeal body has 15 College business days to review materials and issue a written decision letter.

IX. Retaliation Prohibited at Jefferson College

No person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege under Title IX or this policy. Retaliation includes, but is not limited to, words or actions that intimidate, threaten, coerce, or discriminate against someone whole or in part because an individual has:

- Made a report or filed a complaint alleging misconduct under this policy;
- Provided information, statements, or other information for an investigation;
- Assisted in or participated in any part of the grievance or hearing process;
- Refused to participate in any part of an investigation, grievance, or hearing process; or who has
- Exercised other rights under this policy.

Note: The exercise of First Amendment/free speech rights is not considered Retaliation under this policy. Additionally, a determination of responsibility (whether that be for a finding of responsible or not responsible) does not indicate on its own that the other party (or parties) made materially false or bad faith statements.

Jefferson College will not assign policy violations that do not involve sex discrimination or Sexual Harassment but arise out of the same set of facts and circumstances as a report or complaint of sex discrimination or Sexual Harassment, for the purpose of interfering with any right or privilege secured by Title IX or this policy. Examples of this include charging a Complainant, Respondent, or Witness with underage alcohol use that may

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have occurred at the same time or in close proximity to the time of the reported incident of Sexual Harassment for the purpose of dissuading the individual from filing a formal complaint.

Jefferson College expects all members of our community to participate in the process of creating a safe, welcoming, and respectful environment on campus and in campus programs and activities. In particular, the College expects that Jefferson College community members will be active bystanders and will take reasonable and safe actions to prevent or stop an act of Sexual Harassment should they witness one. Taking action could include, but is not limited to, direct intervention when it is safe for one to do so, enlisting the assistance of friends or other persons to assist, and/or contacting or seeking support from person(s) in authority. Community members who choose to take these actions will be supported by the College and protected from retaliation as well as from policy violations that may have been present during the situation, such as underage alcohol use or drug use.

Complaints alleging Retaliation may be filed and will be addressed using the College's Non-Discrimination policy and procedures.

X. Record-Keeping Procedures

Jefferson College will maintain for a period of at least seven years records of the following type related to the information found in this policy and procedures:

- Every Sexual Harassment investigation including any determination regarding responsibility, as well as any audio recording or transcript in accordance with federal regulations.
- Records related to disciplinary sanctions assigned to Respondents, and remedies that have been provided to a Complainant that are designed to restore or preserve equal access to educational programs or activities.
- Records related to any appeals filed and the outcome(s) of any appeals related to the processes used to resolve Sexual Harassment complaints.
- Materials used to train Title IX Coordinators, Investigators, Hearing Decision-Maker(s), and Person(s) involved in an Appeal Process at any stage of the Grievance Process (including persons involved in the decision-making or appeal process related to mandatory/discretionary complaint dismissal, emergency removal procedures, and appeals of a determination of responsibility). These training materials will be available for public inspection upon the school's website.
 - Title IX Coordinators, Deputy Title IX Coordinators, Investigators, Hearing Officers, and Appeal body members will receive training on the definition of Sexual Harassment, the scope of Jefferson College's education program or activity, how to conduct an investigation and

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process including hearings and appeals. Training will also encompass how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

- Hearing Officers will receive training on any technology to be used at a live hearing and 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.
- Investigators will receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.
- Any materials used to train Title IX Coordinators, Deputy Title IX Coordinators, Investigators, Hearing Officers, and Appeal body members must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of Sexual Harassment.
- Records related to reports of sex discrimination or Sexual Harassment along with records of any actions, including supportive measures, that were taken in response to the report or formal complaint (if a formal complaint was filed). Records must include a basis for the conclusion that the College's response was not deliberately indifferent. If no supportive measures were provided, documentation will reflect the rationale for this in light of the known circumstances.

XI. Confidentiality of Records

Jefferson College will keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of Sexual Harassment, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination or Sexual Harassment, any Respondent, and any witness, except as may be permitted by the Family Educational Rights and Privacy Act (FERPA) or as required by law, or in order to carry out the purposes of this policy and procedures such as conducting any investigation, hearing, or other part of the grievance process.

BOARD MONITORING

Deans, Vice Presidents, and Human Resources