



Administrative Policy

Policy Type:	Sexual Discrimination/Harassment
Policy Number:	1717
Date Adopted:	11/18/2004
Version:	6.0
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Date Last Reviewed:	8/12/2020
Office Responsible:	Human Resources
Related Policies:	Equal Opportunity and Non-Discrimination
Related Laws:	Michigan Public Act 453 of 1976 Title VII of the Civil Rights Act of 1964; Title IX of the Educational Amendments of 1972

Policy Statement:

Jackson College is committed to maintaining a working and learning environment for all students, faculty, and staff that is free of sex discrimination and sexual harassment which are contrary to the mission and beliefs of the College and are not tolerated. As such all employees are required to complete sexual harassment training annually and proof of training is kept on file in HR.

Sexual Harassment, a form of gender (sex) discrimination, may involve harassment of women by men, harassment of men by women, and harassment between persons of the same sex. Title IX of the Education Amendments of 1972, Title VII of the Civil Rights Act of 1963, and Michigan's Elliot-Larsen Civil Rights Act make sexual harassment unlawful.

Any Jackson College employee who witnesses any conduct that may be sexual discrimination or who receives any complaint or report that sex discrimination may have occurred or may be occurring, must promptly report the incident to the College's Title IX Coordinator.

Prohibition

Members of the College community (employees, students and third parties) shall not engage in sex discrimination or sexual harassment.

No recipient or other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege under Title IX, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner

Definitions

Complainant: an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

Respondent: an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Formal Complaint: a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the school investigate the allegation of sexual harassment

Supportive Measures: individualized services, provided to the complainant and/or respondent, reasonably available that are nonpunitive, non-disciplinary, and not unreasonably burdensome to the other party while designed to ensure equal educational access, protect safety, or deter sexual harassment. Examples of supportive measures include but are not limited to: modifications to class schedules, changes in housing, provision of escorts, increased security, changes to work assignments and change of office location.

Sexual harassment: conduct on the basis of sex that satisfies one or more of the following:

1. 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;
2. 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 College's education program or activity; or
3. Sexual assault, dating violence, domestic violence or stalking as defined in the Jeanne Cleary Act (20 U.S.C. § 1092 (f)).

Remedies: Actions designed to restore or preserve the complainant's equal access to the College's education program or activity when the respondent is found responsible for sex discrimination or sexual harassment. Examples include but are not limited to: required professional development, suspension or expulsion from school, removal from student housing, suspension or termination of employment.

Reporting Sexual Discrimination/Harassment

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment, in person, by mail, by telephone, or by electronic mail, using the contact information for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address listed for the Title IX Coordinator.

Processing Complaints of Sex Discrimination or Sexual Harassment

All complaints of alleged sexual discrimination/harassment are investigated under the oversight of the College's Title IX Coordinator. The Title IX Coordinator will promptly contact the complainant to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint; and explain to the complainant the process for filing a formal complaint.

Jackson College's Title IX Grievance Process treats complainants and respondents equitably by providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent, and by following a grievance process that complies with Title IX regulations before the imposition of any disciplinary sanctions or other actions that are not supportive measures against the respondent. Remedies are designed to restore or preserve equal access to the College's educational program or activity.

An objective evaluation of all relevant evidence, including both inculpatory and exculpatory evidence, is required. Credibility determinations may not be based on a person's status as a complainant, respondent or witness.

The College's Title IX Coordinator, investigators, and decision makers have been trained on the definition of sexual harassment, the scope of the College's educational program or activity, how to conduct an investigation and grievance process including hearings, appeals and formal resolution processes, as applicable and how to serve impartially, including by avoiding prejudice of the facts at issue, conflicts of interest, and bias. Decision-makers are also trained on the use of any technology used during live hearings 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. The Title IX Coordinator, Investigator or Decision Maker must recuse him or herself if a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

A respondent shall be presumed to be not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

For all complaints against employees, including faculty, the preponderance of the evidence standard shall be used for all formal Title IX complaints of sexual harassment. Decision makers shall not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under legally recognized privilege, unless the person holding such privilege has waived the privilege.

Both the complainant and respondent may be accompanied to any meeting or proceeding by an advisor of their choice however the representative may not participate in the meeting or proceeding with the exception of the cross-examination of witnesses during the live hearing. If a party does not have an advisor present at the live hearing, the College will provide an advisor.

If a party or witness does not submit to cross-examination at the live hearing, the decision maker(s) must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the decision-maker(s) cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

Title IX Grievance Procedure

1. Upon receipt of a formal complaint the Title IX Coordinator shall assign the complaint to an investigator.
2. Investigator shall meet with the Complainant and determine if the College has jurisdiction.
3. Upon confirmation of jurisdiction the investigator shall issue a Notice of Investigation to both the complainant and respondent simultaneously.
4. Investigator shall interview the complainant, respondent and witnesses identified by either party and review evidence provided by either party.
5. As appropriate supportive measures may be provided to either party.
6. The investigator shall create an investigative report that fairly summarizes relevant evidence and provide the opportunity for both parties to review the evidence at least 10 days prior to the live hearing.
7. The Decision Maker shall conduct a live hearing that includes the opportunity for the advisors to both parties to cross examine witnesses.
8. The Decision Maker shall issue a written final report indicating a determination of responsible or not responsible and identify sanctions if respondent is found responsible. The report will be issued to both parties simultaneously.

Timeline

Every effort will be made to conclude the investigation of a Title IX investigation within 45 days of a formal complaint being filed. Temporary delays for limited extension of the timeline shall be permitted for good cause with written notice to the complainant and the respondent of the delay or extension and reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

Appeal

The final determination of responsibility may be appealed by either the complainant or respondent by submitting a written appeal to the Title IX Coordinator within 14 business days of receipt of the final report. The basis for an appeal is limited to the following:

- (A) Procedural irregularity that affected the outcome of the manner;
- (B) 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; and
- (C) The 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.

Investigations under State Law and/or College Policy:

Jackson College reserves the right to investigate complaints of sex discrimination or sexual harassment that fall outside of the Jurisdiction of Title IX or when the complainant elects not to pursue a Title IX complaint when it believes that a violation of State law or College policy may have occurred. Such investigations may be referred to the Student Judicial process or conducted using an investigation process that does not require a live hearing or cross examination of witnesses.

Jackson College has jurisdiction over all Jackson College educational programs or activities this includes Locations, events, or circumstances where the college exercises substantial control over both: the Respondent, the context in which the alleged sexual harassment or discrimination occurs and includes any building owned or controlled by the college or by a student organization that is officially recognized by the school.

Jackson College Title IX Coordinator:

The responsibilities of the Compliance Office include those of the Title IX Coordinator, Civil Rights Coordinator, and Compliance Officer for the Americans with Disabilities Act. Contact information:

Cynthia Allen
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Change Log:

<u>Date Of Change</u>	<u>Version</u>	<u>Description of Change</u>	<u>Responsible Party</u>
3/19/2012	2.0	Update	W. Hendry
8/29/2012	3.0	Annual Review and LC approval	W. Hendry
11/9/2016	4.0	Edits Reviewed and approved	C. Allen
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