



Policy Name:	Title IX Sex Discrimination, Sexual Harassment, and Sexual Violence Policy (8/4/20)					
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### Section 1. Policy Statement

Jones County Junior College (“JC” or “the College”) has (“the Policy”) pursuant to and in compliance with Title IX of the Education Amendments of 1972 and its implementing regulations (collectively referred to as “Title IX”). JC is committed to providing an environment that respects the dignity of its students, faculty, and staff, and is free from all forms of sex discrimination, sexual harassment, and sexual violence, which, among other things identified in Section V to this Policy, includes gender-based assault, harassment, exploitation, dating and domestic violence, and stalking, as well as discrimination based on sex, gender, sexual orientation, gender identity, gender expression, pregnancy, and related retaliation (collectively referred to as “Prohibited Conduct”).

The College expects individuals who live, work, teach, study within, or visit our College community to contribute positively to the environment and refrain from behaviors that threaten the freedom or respect that every member of our community deserves. Individuals who violate this Policy will be subject to corrective action up to and including termination from employment or expulsion from the College. The College will respond promptly and effectively to Reports of Prohibited Conduct and will take appropriate action to prevent its occurrence, correct and address its effects, provide Supportive Measures, and, when warranted, issue discipline for violations of this Policy.

### Section 2. Purpose

It is the responsibility of every member of the College community to foster an environment free of Prohibited Conduct. All members of the College community are encouraged to take reasonable and prudent actions to prevent or stop an act of Prohibited Conduct. The College will support and assist community members who take such actions. Retaliating against an individual for making a claim of Prohibited Conduct or participating in the reporting, investigation, or resolution of a claim of Prohibited Conduct is also a violation of this Policy and constitutes Prohibited Conduct.

So that the College may continue to foster a safe and respectful climate on campus as it relates to preventing and responding to acts of Prohibited Conduct, this Policy and related procedures have been created and serve to demonstrate the College's commitment to:

- 2.1- Prohibiting acts of sex discrimination, sexual harassment, and sexual violence.
- 2.2- Disseminating clear policies and procedures for responding to Prohibited Conduct of which the College has actual knowledge and jurisdiction as defined by Title IX.
- 2.3- Delivering primary prevention and awareness programs and ongoing training and education campaigns to students and employees so they may identify Prohibited Conduct; understand how to report Prohibited Conduct; recognize warning signs of potentially abusive behavior and ways to reduce risks; and learn about safe and positive options for bystander intervention that may be carried out by an individual to prevent harm or intervene when there is a risk of Prohibited Conduct.
- 2.4- Conducting prompt, fair, and equitable investigations of Reports of Prohibited Conduct.
- 2.5- Supporting and providing assistance to both Complainants and Respondents.
  - 2.5.1- Holding individuals who violate this Policy accountable; and
  - 2.5.2- Providing a written explanation of the rights and options available to every JC student or employee that has been the victim of Prohibited Conduct.
- 2.6- It is the intent of this Policy and its related procedures to accomplish the following:
  - 2.6.1- Identify the Title IX Coordinator (TIXC) and/or and describe their roles.
  - 2.6.2- Outline how Reports of Prohibited Conduct can be made to the College and what Supportive Measures and resources are available both on and off campus to aid them, including the right of students and employees to report (or decline to report) Prohibited Conduct that potentially constitutes a crime to local law enforcement authorities.
  - 2.6.3- Provide information about how Reports of Prohibited Conduct are received, assessed, investigated, and resolved; and
  - 2.6.4- Remedy the discriminatory effects of Prohibited Conduct on Complainants and others as appropriate.
- 2.7- Any conduct that does not rise to the level of Prohibited Conduct and/or falls outside the jurisdiction of this policy (as defined below in Section 4) may be investigated and addressed pursuant to other applicable policies, including but not limited to, Discrimination, Harassment and Retaliation Policy, and the Student Code of Conduct.

### **Section 3. Relevant Definitions**

3.1- Actual Knowledge: JC obtains "actual knowledge" of Prohibited Conduct when the TIXC or a TIXDC receives a Report of Prohibited Conduct. For purposes of this Policy

and its related procedures, the TIXC and TIXDC are the only College officials who have authority to institute corrective measures under this Policy.

3.2- Complainant: An individual who is alleged to be the victim of Prohibited Conduct and is participating in or attempting to participate in JC's education programs or activities or is employed by JC.

3.3- Confidential Employee: (1) Any College employee who is a licensed medical, clinical, or mental health professional (e.g., physicians, nurses, nurse practitioners, physician's assistants, psychologists, psychiatrists, professional counselors, and social workers, and those performing services under their supervision), when acting in that professional role in the provision of services to a patient ("health care provider"), and (2) any College employee providing administrative, operational, and/or related support to such health care providers in the performance of such services. Confidential Employees may not report any information about an incident to the TIXC without obtaining written permission to do so by the person who disclosed the information. Confidential Employees may have reporting obligations under state or federal law. For instance, healthcare providers are required to notify law enforcement when a victim seeks treatment for injuries related to a violent crime, including sexual assault. Similarly, all College employees are required to notify law enforcement when they receive a report of sexual abuse of a minor.

3.4- Formal Complaint: An official document filed by a Complainant with the Title IX Coordinator or signed by the Title IX Coordinator alleging Prohibited Conduct against a Respondent and requesting that the College investigate and resolve the alleged Prohibited Conduct. To file a Formal Complaint, a Complainant must be participating in, or attempting to participate in JC's education programs or activities or employed by JC. Formal Complaints cannot be made anonymously except for Formal Complaints filed by the Title IX Coordinator when the Title IX Coordinator believes that with or without the Complainant's willingness to participate in a grievance process, it would be clearly unreasonable in light of known circumstances not to address the Formal Complaint.

3.5- Preponderance of the Evidence Standard: The standard of proof used to investigate and adjudicate Formal Complaints of Prohibited Conduct. This standard requires that "it is more likely than not" that the Prohibited Conduct occurred.

3.6- Report of Prohibited Conduct: An allegation made verbally or in writing by any person alleging Prohibited Conduct against a Respondent. The person making a Report of Prohibited Conduct need not be the alleged victim of the Prohibited Conduct. Reports may be made anonymously as outlined in Section VI of this Policy.

3.7- Respondent: An individual who has been reported to be the perpetrator of Prohibited Conduct.

3.8- Responsible Reporting Officials: All employees are encouraged to report prohibited conduct to a responsible reporting official. Certain designated employees are required to notify the Title IX Coordinator if, in the course of their employment, they receive a Report of Prohibited Conduct. Responsible Reporting Officials include the following:

3.8.1.- Executive Vice Presidents

3.8.2.- VPs, AVPs, Deans, Directors, Assistant Deans, Center Directors and Resident Managers

3.8.3.- JC Police

3.8.4.- JC Human Resources personnel

3.8.5.- Department of Athletics

3.8.5.1.- Director of Athletics

3.8.5.2.- Assistant Athletic Directors

3.8.5.3.- Head Coaches

3.8.5.4.- Assistant Coaches

3.8.6.- (Responsible Reporting Officials **do not have official authority** to receive Formal Complaints of Prohibited Conduct or official authority to take corrective action on behalf of the College under this policy.)

3.9. - Student: Any person who has applied for admission to, been admitted to, or is enrolled at the College, and is pursuing undergraduate studies, whether in a full-time or part-time status, as well as any person attending classes on campus or for college credit online.

3.10.- Student organization: Any group of students that has complied with the College's requirements for registration as a student organization.

3.11.- Supportive Measures: Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint of Prohibited Conduct or where a Report has been made but no Formal Complaint has been filed. Supportive Measures are designed to restore or preserve equal access to JC's educational programs or activities for a Complainant or a Respondent without unreasonably burdening the other party, including measures designed to protect the safety of all parties or JC's educational or employment environment or deter Prohibited Conduct. Supportive Measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class scheduled, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus and other similar measures.

3.12.- Title IX Coordinator: The College has a designated Title IX Coordinator who oversees the implementation and enforcement of this Policy, including the implementation of Supportive Measures, compliance with applicable rules and regulations, and coordination of communications between campus and community partners. The Title IX Coordinator will meet with any person, including a Complainant, Respondent, or third party, to discuss Supportive Measures, available resources, and procedural options for on-campus and off-campus reporting. Any student, faculty, or staff member who has concerns about Prohibited Conduct is encouraged to seek the assistance of the Title IX Coordinator.

3.13.- Title IX Investigator: A Title IX investigator is the Title IX Coordinator, a TIXDC, or other individual designated by the Title IX Coordinator who conducts the investigation of a Formal Complaint involving a potential violation of this Policy. One or more investigators may be assigned to conduct the investigation. Investigations involving students may include assistance from the Office of Student Affairs. Investigations involving employees may include assistance from JC Human Resources.

#### **Section 4. Jurisdiction (To Whom & Where This Policy Applies)**

4.1- The College has jurisdiction to address, investigate and adjudicate Reports and Formal Complaints of Prohibited Conduct when the College has control over the Respondent and the conduct occurs in the course of a JC educational program or activity. This Policy applies to all JC students, residents, employees, and to others, as appropriate, with respect to education programs and activities occurring on College premises or property and/or in College-related activities occurring off-campus (but does not apply to College programs or conduct occurring outside the United States). This Policy also applies to the activities of College-recognized student organizations. It also applies to persons conducting business with or visiting the College, even though such persons are not directly affiliated with the College.

4.2- This Policy applies to acts of Prohibited Conduct committed by or against students, employees, and third parties of which the College has Actual Knowledge and when:

4.2.1- The conduct occurs on campus or property owned or controlled by the College;

4.2.2- The conduct occurs in the context of the College's employment or education programs or activities, including, but not limited to, research, on-line, academic or professional conferences, or internship programs; or

4.2.3- The conduct occurs outside the context of the College's employment or education programs or activities, but the Complainant has to interact with the Respondent while on campus or property owned or controlled by the College or in any employment or education program or activity or where the effects of the underlying Prohibited Conduct create a hostile environment in the Complainant's workplace or educational environment.

## **Section 5. Prohibited Conduct**

5.1- Under this Policy, Prohibited Conduct is defined as conduct that is deemed, by a preponderance of the evidence standard (a.k.a. more likely than not), to meet the definitions of Sex Discrimination, Sexual Harassment, or Sexual Violence as described below and in College Policy, or by state or federal laws.) Additionally, to the extent that federal or state laws addressing gender-based conduct that could be deemed Prohibited Conduct are created or amended, engaging in such conduct (as proven by a preponderance of the evidence) shall be considered a violation of this Policy even if the definitions below have not been updated to reflect the most recent additions to or changes in the law.

5.2- Sex Discrimination

Sex discrimination prohibited by this Policy is defined as the exclusion from participation in, denial of benefits from, or subjection to unfavorable treatment in any College educational or employment-related program or activity on the basis of gender, sexual orientation, gender identity, or gender expression.

### 5.3- Sexual Harassment

Sexual harassment prohibited by this Policy is defined as conduct based on gender, sexual orientation, gender identity or gender expression, which may include acts of aggression, intimidation, or hostility, whether verbal or non-verbal, graphic, physical, or otherwise, even if the acts do not involve conduct of a sexual nature, that satisfy one or more of the following:

5.3.1- A College employee makes submission to or rejection of unwelcome sexual conduct, either explicitly or implicitly, a term or condition of a person's employment, academic standing, or participation in any College programs and/or activities or is used as the basis for College decisions affecting the individual (often referred to as "quid pro quo" harassment); or

5.3.2.- Unwelcome conduct based on sex, gender, sexual orientation, gender identity or gender expression that is 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 educational programs or activities or creates a hostile working environment. In evaluating whether a hostile environment exists, the College will consider the totality of known circumstances, including, but not limited to:

5.3.2.1.- The frequency, nature, and severity of the conduct;

5.3.2.2.- Whether the conduct was physically threatening;

5.3.2.3.- The effect of the conduct on the Complainant's mental or emotional state;

5.3.2.4.- Whether the conduct was directed at more than one person;

5.3.2.5.- Whether the conduct arose in the context of other discriminatory conduct;

5.3.2.6.- Whether the conduct unreasonably interfered with the Complainant's educational or work performance and/or College programs or activities; and

5.3.2.7.- Whether the conduct implicates concerns related to academic freedom or protected speech.

5.3.2.8.- Sexual assault, dating violence, domestic violence, or stalking as those terms are defined in this policy.

### 5.4- Sexual Violence

Sexual Violence (which also constitutes sexual harassment under this Policy) is defined to include sexual assault, non-consensual sexual intercourse, non-consensual sexual contact, sexual exploitation, intimate partner violence (composed of dating violence and domestic violence), and stalking.

5.4.1.- Non-consensual sexual intercourse: Any sexual intercourse whether anal, oral, or vaginal (or an attempt to commit the same), no matter how slight the

penetration, with anything, by a person upon another person, and, without that person's consent or by physical force.

5.4.2.- Non-consensual sexual contact: Any intentional sexual touching (or an attempt to commit the same), however slight, with any object, by person upon another person, and, without consent or by physical force. Sexual touching is any intentional contact in a sexual manner with the breasts, buttocks, groin, or genitals; or touching another with any of these body parts; or making another touch you or themselves with or on any of these body parts; or any intentional bodily contact in a sexual manner not involving these body parts.

5.4.3.- Sexual exploitation: Taking non-consensual or abusive sexual advantage of another for one's own advantage or benefit or to benefit a person other than the one being exploited. Examples of sexual exploitation include, but are not limited to:

- 5.4.3.1.- Exposing one's genitals in non-consensual circumstances;
- 5.4.3.2.- Exceeding the boundaries of explicit consent, such as allowing others to hide in a closet to surveil one's consensual sexual activity;
- 5.4.3.3.- Engaging in voyeurism ("Peeping Tom") or facilitating voyeurism by others;
- 5.4.3.4.- Non-consensual video or audio recording of sexual activity;
- 5.4.3.5.- Prostituting another student or employee; and/or
- 5.4.3.6.- Knowingly transmitting a sexually transmitted disease/infection to another individual.

5.4.4.- Intimate partner violence – Dating violence: Violence committed by a person who is or has been in a social or "dating" relationship of a romantic, intimate, and/or sexual nature with the victim. The existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

5.4.5.- Intimate partner violence – Domestic violence: Violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of Mississippi, 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 Mississippi.

5.4.6.- Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to (a) fear for his or her safety or the safety of others; or (b) suffer substantial emotional distress. Stalking includes, but is not limited to, "cyber-stalking," a particular form of stalking in which a person uses

electronic media, such as the internet, social networks, blogs, phones, emails, texts, or other similar devices or forms of contact.

#### 5.4.7.- Pertinent Definitions

5.4.7.1.- The term “course of conduct” means two or more acts, including, but not limited to, acts 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. Examples of such acts include but are not limited to: following another person; lying in wait; engaging in excess communications, including any attempt to intentionally and repeatedly make contact with a person over their stated objections for the purpose of harassing or alarming them; or threatening a person or a person’s family, friends, or property.

5.4.7.2.- The term “reasonable person” means a person under similar circumstances and with similar identities to the Complainant.

5.4.7.3.- The term “substantial emotional distress” means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

5.4.7.4.- The term “consent” when describing different types of Prohibited Conduct (such as sexual assault) means a clear willingness to participate in the sexual act (e.g., clear communication through words or actions). While consent may be expressed by words or by actions, it is highly recommended that consent be expressed and obtained verbally. Non-verbal consent expressed through actions may lead to confusion and potential for misunderstandings, which may lead to a violation of this Policy. It is the responsibility of the initiator of any sexual activity to obtain consent.

5.4.7.5.- Consent to any sexual activity must be freely given. Consent to a sexual act is not freely given if an individual is not capable of consenting, or if consent is obtained by force, threats, deception, or coercion. A lack of verbal or physical resistance does not grant consent. Previous consent does not grant consent to future sexual acts. Consent can be withdrawn at any time during a sexual act. Inability to give consent includes situations where an individual is:

5.4.7.5.1.- Incapacitated due to alcohol, drugs, or other substances including, but not limited to, prescription medication.

5.4.7.5.2.- Unconscious, asleep, or in a state of shock.

5.4.7.5.3.- Under the age of consent as defined by the jurisdiction in which the act occurred.

5.4.7.5.4.- Mentally or physically impaired and not reasonably able to give consent.

5.4.7.5.5.- The terms “coercion” means the use of expressed or implied threats or intimidation that would place a reasonable

person in fear of immediate harm for the purpose of obtaining sexual favors. Threatening or intimidating behavior may include emotional abuse, threats to reputation, public humiliation, threats to others and possessions (including pets), or financial harm, among others.

## 5.5 Retaliation

Retaliation is any action that has the effect of punishing a person for engaging in a legally protected activity under Title IX, such as alleging Prohibited Conduct, filing a Formal Complaint, assisting or participating in an investigation, proceeding or hearing of such a Formal Complaint, refusing to participate in any manner in an investigation, proceeding or hearing under this policy or advocating for others' Title IX rights. Examples of retaliatory actions include suspension, demotion, or termination in the employment context; lowering a grade or dismissing a student from a program; or maliciously and purposefully interfering with, threatening, or damaging the academic or professional career of another individual before, during, or after the investigation and resolution of a Report or Formal Complaint of Prohibited Conduct. This Policy prohibits retaliation in the form of harassment, intimidation, threats, or coercion, or in the form of any materially adverse harm that would dissuade a reasonable student, employee, or third party from filing a complaint or participating in a Prohibited Conduct related investigation or hearing.

5.1-Intimidation, threats, coercion, or discrimination, including bringing charges against an individual for violating other JC policies that do not involve sex discrimination or sexual harassment but arise out of the same facts or circumstances as a Report or Formal Complaint of sexual harassment, for the purposes of interfering with any right or privilege secured by Title IX constitutes retaliation.

## **Section 6. Reporting Incidents of Prohibited Conduct**

This section provides instructions on how, when, and to whom to make a Report or File a Formal Complaint of Prohibited Conduct, as well as matters related to such reports. Properly reporting the incident allows the college to take steps to ensure the safety of the complainant and others and to provide support services. There are alternatives to reporting sexual misconduct to the college. For example, a person may choose to speak confidentially to a counselor, a health care professional, or certain others on campus. Confidential employees will not disclose the report unless there is an imminent threat of serious harm to the individual or others.

### 6.1- Timeliness of Report or Formal Complaint of Prohibited Conduct

All individuals, including a Complainant or witness, are encouraged to report Prohibited Conduct regardless of when or where it occurred, as soon as possible to maximize the College's ability to respond promptly and effectively. The College may also initiate a Formal Complaint of Prohibited Conduct under certain circumstances. The College does not, however, limit the time frame for making a Report or filing a Formal Complaint. If the Respondent is no longer a student or employee at the time of the Report or Formal Complaint, or the alleged Prohibited Conduct occurred outside the United States, or if the alleged Prohibited Conduct did not occur on campus, in the context of a College education program or activity, or have continuing adverse effects on campus or in an off-campus education program or activity, the College may not be able to fully investigate nor take disciplinary action against the Respondent. In each instance, the College will still provide Supportive Measures to a Complainant designed to end the Prohibited Conduct, prevent its recurrence, and address its effects.

## 6.2.- How to Make a Report or File a formal Complaint or Contact a Confidential Employee

6.2.1.- Any person (whether the person reporting is the person alleged to be the victim of Prohibited Conduct) may make a Report, including anonymously, of Prohibited Conduct to the persons below in person (during business hours) or by mail, by telephone, or by email using the contact information below at any time, including during non-business hours:

1. Title IX Coordinator  
Administration Building  
900 S. Court Street, Ellisville, MS 39437  
601-477-4030
2. Human Resources  
HR Employee Relations  
Administration Building, 2<sup>nd</sup> Floor  
900 S. Court Street, Ellisville, MS 39437  
(601) 477- 4058  
[luke.hammonds@jcc.edu](mailto:luke.hammonds@jcc.edu)
3. Instructional Affairs  
Executive Vice President of Instructional Affairs  
Administration Building, 2<sup>nd</sup> Floor  
900 S. Court Street, Ellisville, MS 39437  
(601) 477-xxxx  
[rick.youngblood@jcc.edu](mailto:rick.youngblood@jcc.edu)
4. Athletics  
Executive Vice President of Foundation, Alumni and Athletics  
Director/Dean of Students  
Administration Building, Student Affairs, First Floor

900 S. Court Street, Ellisville, MS 39437  
(601) 477-4249  
[joel.cain@jcc.edu](mailto:joel.cain@jcc.edu)

6.3.- Confidential Employees are available for consultation concerning filing a report and assisting a person with the decision-making process regarding reporting. A person may reach a confidential employee by contacting the persons below:

Counselor  
Administration Building, Room 122A  
900 S Court Street, Ellisville, MS 39437  
601-477-4070  
[sarah.jones@jcc.edu](mailto:sarah.jones@jcc.edu)

Campus Clinic  
Home & Health Building  
900 S Court Street, Ellisville, MS 39437  
601-477-4104  
[campusclinic@jcc.edu](mailto:campusclinic@jcc.edu)

6.3.1.- Reports can also be made to any Responsible Reporting Official listed in Section 6: Responsible Reporting Officials who shall forward them to the Title IX Coordinator. If the person to whom a Report normally would be made is the Respondent, the Report may be made to another Responsible Reporting Official.

6.3.2.- Anonymous Reports may be submitted online at: <https://www.jcc.edu/studentpolicies/complaint/> In cases where the Report was made anonymously or by a third party (such as a family member, friend, roommate, advisor, or faculty member), the Title IX Policy will apply in the same manner as if the Complainant had made the initial report. The College's ability to respond to an anonymous Report may be limited and may only include the ability to provide Supportive Measures. The Title IX Coordinator or designee will make every effort to meet with the Complainant to discuss available options and on-campus and off-campus resources.

6.3.3.- All Formal Complaints must be filed with the Title IX Coordinator. A Complainant can submit a Formal Complaint by mail or by email using the contact information above at any time, including during non-business hours. A Formal Complaint cannot be anonymous except for Formal Complaints filed by the Title IX Coordinator.

6.4.- Emergency/Immediate Assistance

The College encourages all community members affected by Prohibited Conduct to seek immediate assistance. Doing so promptly may be important to ensure physical safety or obtain medical care or other support. It may also be necessary to preserve evidence, which can assist the College or law enforcement in responding effectively. Assistance is available from the JC Police 24 hours a day, seven days a week at (601) 477-4006. The JCPD will investigate every incident reported to them to determine if a crime has been committed. The JCPD will also inform the Title IX Coordinator of the incident. Any criminal investigation by JCPD or other law enforcement agency is independent from any investigation undertaken by the Title IX Coordinator under the Title IX Policy. Victims of Prohibited Conduct are not required to report to law enforcement in order to receive assistance from or pursue any options provided by JC under this or other applicable policies.

#### 6.5.- Amnesty for Students

The College community views the safety of our students as a top priority. A student who is under the influence of alcohol or drugs at the time of an incident should not be reluctant to seek assistance for that reason. The College will not pursue disciplinary violations against a student or against a witness for being under the influence of alcohol or drugs (e.g., underage drinking) if the student is making a good faith Report of Prohibited Conduct or participating in an investigation of Prohibited Conduct. The Title IX Coordinator (or designee) may, however, refer a student to substance use assessment and counseling depending on the circumstances of the individual situation. Thus, for purposes of this Policy, students who report potential Prohibited Conduct or participate in an investigation of Prohibited Conduct and reveal a potential violation of JC policy relating to drug or alcohol use may not be sanctioned for such drug or alcohol violations.

#### 6.6.- False Allegations or False Statements

6.6.1.- A Report or Formal Complaint of alleged Prohibited Conduct may not be substantiated, but a lack of corroborating evidence should not discourage a person from reporting an alleged incident and seeking relief under this Policy. All Reports and Formal Complaints should be made in good faith, meaning the individual making the Report or Formal Complaint has a reasonable belief that the allegations are true and relate to a potential violation of College policy.

6.6.2.- A Report or Formal Complaint made in bad faith is one that is intentionally dishonest, frivolous, or malicious. When a Report or Formal Complaint is made in bad faith, it may deter other individuals from filing good faith Reports, unnecessarily expend College and law enforcement resources, distract College and law enforcement officials from investigating good faith Reports, and cause harm to the alleged Respondent and the community. It is a

violation of this Policy to report intentionally dishonest, frivolous, or malicious allegations of Prohibited Conduct or make a materially false statement in bad faith in the course of an investigation or adjudication of a Formal Complaint. If a Report or Formal Complaint is brought in bad faith as demonstrated by a preponderance of the evidence, disciplinary action may be taken against the person making the Report or Formal Complaint. In addition to violating this Policy, a person filing a bad faith Report or Formal Complaint may be in violation of other College policies or federal or state law.

#### 6.7.- Preservation of Information and Tangible Material

Preservation of information and tangible materials related to Prohibited Conduct is important for both law enforcement investigators, and campus investigations. Therefore, Complainants, Respondents, witnesses, or others reporting possible violations of this Policy are encouraged to preserve all information and tangible material relating to the incident. Examples include electronic information (e.g., emails, text messages, etc.), photographs, clothing, bedding, and medical information. In the case of medical information, prompt examination can be critical.

#### 6.8.- Public Awareness Events and Academic Endeavors

Responsible Reporting Officials are not required to report information disclosed (1) at public awareness events (e.g., Take Back the Night, protests, survivor speak outs) or (2) if the information is disclosed as part of a routine academic experience (e.g., classroom discussion, writing assignment, research project, etc.) unless the reporting party clearly states that they want a report to be made or are seeking assistance.

#### 6.9.- Reporting of Crimes and Disciplinary Statistics

The College has certain reporting obligations under the Jeanne Clery Disclosure of Campus Security Policy and Campus Statistics Act (Clery Act), with regard to incidences of sexual misconduct and violence, including issuing timely warnings as necessary. A copy of the College's annual Clery report can be found at [https://www.jcjc.edu/campussafety/assets/docs/clery\\_disclosure.pdf](https://www.jcjc.edu/campussafety/assets/docs/clery_disclosure.pdf) Reports of Prohibited Conduct made to the Title IX Coordinator may also prompt a limited disclosure to JCPD. Such disclosures will not contain the identity of the reporting party except in situations where the reporting party has consented to release their name and/or where there is an imminent threat to health or safety.

#### 7.0.- Mandatory Reporting of Child Abuse

Mississippi law and College policy imposes a mandatory duty on all College employees to report all incidences of known or suspected child abuse. Such

reports must be made to the JCPD. College Policy implementing the law also encourages students, volunteers, and representatives (as well as third-party vendors and their employees, representatives, or volunteers that contract for use of College facilities with responsibilities that involve interaction with children) to report (verbally and in writing) known or suspected child abuse to JCPD. Sexual abuse is one element of the more comprehensive term “abuse” under Mississippi law as defined below in the Appendix. For child protection purposes, a child is any person under 18 years of age. A freshman student, a “dual enrolled” high school student, or a summer camp participant, among others, may fall into the category of a “child.” A more complete statement of the Protection of Minors Policy may be found at: [jcc.edu/policies/](http://jcc.edu/policies/)

#### 7.1.- Responsible Reporting Officials

All Responsible Reporting Officials as defined in Section III are required to notify the Title IX Coordinator if, in the course of their employment, they receive a Report of Prohibited Conduct. The Responsible Reporting Official must report all relevant available details about the alleged policy violation, including the name of the Complainant, the Respondent, any witnesses, and any other relevant facts, including the date, time, and specific location of the incident forming the basis of the alleged violation.

### **Section 8. Procedures for Reporting and Responding to Prohibited Conduct**

This section provides an overview of the procedures the College uses to respond to Reports and Formal Complaints of Prohibited Conduct. While the Title IX Coordinator has general responsibility for oversight of the investigation and resolution of all Reports and Formal Complaints, TIXDCs and other departments (Student Affairs, Instructional Affairs, Human Resources, etc.) may be involved and consulted as necessary.

#### 8.1.- Which Procedures Apply?

The specific set of procedures used to respond to Reports and Formal Complaints of Prohibited Conduct is determined by the status of the Respondent’s relationship with the College, as well as the nature of the alleged Prohibited Conduct.

8.1.1.- These Complaint Resolution Procedures apply to the resolution of all Formal Complaints of Sex Discrimination, Sexual Harassment, and Sexual Violence and apply to all members of the College Community based on their status as a student, faculty, or non-faculty/third party.

8.1.1.2.- These procedures provide for a prompt and equitable response to Reports and Formal Complaints of Prohibited Conduct, including allegations of Retaliation. Resources are available for both students and employees, whether as Complainants or Respondents, to provide guidance throughout the

investigation, any adjudication hearing, and ultimate resolution of Reports and/or a Formal Complaint of Prohibited Conduct.

8.1.1.3.- In Instances where the Respondent is both a student and an employee, the Title IX Coordinator will determine which of the procedures will apply based on facts and circumstances of a particular incident, such as which role predominates and the role most applicable in the incident and the context in which the alleged conduct occurred.

8.1.1.4.- The College's ability to take appropriate action against a Third-Party will be determined by the nature of the relationship of the Third-Party to the College. The Title IX Coordinator will determine the appropriate manner of resolution consistent with the College's commitment to a prompt and equitable process consistent with federal law, federal guidance, and this Policy.

## 8.2.- Advisors

Complainants and Respondents are entitled to be accompanied and assisted by an advisor of their choice in all interactions involving the Title IX Office, including the investigation interviews, and, if applicable, a subsequent Title IX hearing. Advisors may not actively participate in the process or speak on behalf of the Complainant or Respondent except as set forth in the applicable resolution procedures. Complainants and Respondents may choose but are not required to have an attorney serve as their advisor. Each party must notify the Title IX Coordinator (or Designee) at least ten (10) business days prior to the hearing if they will be accompanied by an advisor. If a party does not have an advisor, the college will assign the party an advisor of the college's choice provided without fee or charge.

## 8.3.- Conflict of Interest

8.3.1.- The Title IX Coordinators, TIXDCs, Title IX Investigators, and Hearing Officers must not have a conflict of interest or bias for or against Complainants or Respondents generally or against an individual Complainant or Respondent. Whether bias exists requires examination of the particular facts of a situation. A determination of bias must be based on an objective evaluation of the available facts (i.e., whether a reasonable person would believe bias exists).

8.3.2. -Any person exercising investigative or decision-making authority under this Policy who believes they may have a conflict of interest or bias that would prevent them from impartially exercising their authority, shall disclose the potential conflict/bias to the Title IX Coordinator (or designee) as soon as practicable after it is discovered. Arrangements will then be made to designate a conflict/bias-free alternative decision-maker in the case at issue. Furthermore, if the Complainant or the Respondent believes a person exercising investigative or decision-making authority under this Policy has a conflict of interest or bias relating to the Complainant or Respondent that would prevent the person from exercising their authority impartially, the Complainant or Respondent may

make a prompt objection to the Title IX Coordinator (or designee) within five (5) business days of becoming aware of the potential conflict or bias.

8.3.3.- If the Complainant or the Respondent believes the Title IX Coordinator has a conflict of interest or bias, such objection should be made and the Title IX Coordinator should designate a person to act in their place. Regardless of the time period, such objection must occur before the Title IX Coordinator (or designee) makes a final determination as to responsibility under the Policy.

8.3.4.- If the objection as to a conflict or bias is made with respect to a Hearing Officer, or the chairperson or a member of a hearing panel, such objection must occur before the scheduled hearing. If the Title IX Coordinator (or designee) determines that the objection is reasonable, the challenged person will be replaced. The decision of the Title IX Coordinator, or designee regarding a challenge will be final.

8.3.5.- Knowledge of or acquaintance with the Complainant, Respondent, or witnesses in a matter; awareness of a matter; participation as a consequence of one's official role in events surrounding a matter; and/or participation in the investigation process prior to the formal disciplinary process does not automatically result in the finding of a disqualifying conflict; however, such factors may be considered in determining whether a conflict exists.

8.3.6.- When a Title IX Coordinator signs a Formal Complaint, that action does not place the Title IX Coordinator in a position adverse to the Respondent. In that instance, the Title IX Coordinator is initiating an investigation based on allegations of which the Title IX Coordinator has been made aware. Likewise, deciding that allegations warrant an investigation does not necessarily show bias or prejudgment of the facts for or against the Complainant or Respondent.

8.3.7.- The mere fact that a certain number of findings under this Policy result in determinations of responsibility, or non-responsibility, does not necessarily indicate or imply bias on the part of Title IX personnel.

#### 8.4.- Filing a Criminal Complaint and Coordination with Law Enforcement

8.4.1.- The College encourages Complainants to pursue criminal action for incidents of Prohibited Conduct that may also be crimes under applicable federal or state laws. The College will assist a Complainant in making a criminal report and will cooperate with law enforcement agencies if a Complainant decides to pursue the criminal process to the extent permitted by law.

8.4.2.- The filing and processing of a Formal Complaint of Prohibited Conduct is separate from and independent of any criminal investigation or proceeding. The College will not wait for the conclusion of any criminal investigation or proceedings to begin its own investigation although the College may delay temporarily the fact-finding component of the investigation while the police are gathering evidence. Neither law enforcement's determination as to whether or not to prosecute a Respondent nor the outcome of any criminal prosecution is

determinative of whether Prohibited Conduct occurred under the College's Policy.

#### 8.5.- Request that Prohibited Conduct Not Be Investigated

8.5.1.- If a Complainant makes a Report makes a Report of Prohibited Conduct, but requests anonymity and/or that no investigative or disciplinary measures be taken, the Title IX Coordinator will advise the Complainant that the College will consider but cannot guarantee to honor such request if the Title IX Coordinator determines it would be clearly unreasonable in light of known circumstances not to investigate the allegations. The College will conduct an intentional and thoughtful assessment and will weigh such request(s) against the College's obligation to provide a safe, non-discriminatory environment. In determining whether it can honor a request for anonymity, the Title IX Coordinator will evaluate several factors, including but not limited to the following:

- 8.5.1.1.- The nature and scope of the alleged Prohibited Conduct, including whether it involved the use of a weapon;
- 8.5.1.2.- The actual or perceived difference in authority between parties (for example, a Complainant's status as a student or employee);
- 8.5.1.3.- The risk posed to any individual or to the campus community by not proceeding with an investigation, including the risk of additional Prohibited Conduct;
- 8.5.1.4.- Whether there have been other Reports of Prohibited Conduct against the Respondent;
- 8.5.1.5.- Whether the Report reveals a pattern of Prohibited Conduct (e.g., via illicit use of alcohol or drugs) at a given location or by a particular group;
- 8.5.1.6.- The Complainant's desire to pursue investigation of the Report;
- 8.5.1.7.- The Complainant's willingness to participate in a hearing;
- 8.5.1.8.- Whether the College possesses other means to obtain relevant evidence;
- 8.5.1.9.- Considerations of fundamental fairness and due process with respect to the Respondent should the course of action include disciplinary action against the Respondent; and
- 8.5.1.10.- The College's obligation to investigate and to provide a safe and non-discriminatory environment.

8.5.2.- The presence of one or more of these factors may lead the College to investigate and, if appropriate, pursue corrective action, including issuance of a Formal Complaint. The ultimate decision as to whether the request for anonymity will be honored will be made by the Title IX Coordinator. If the College determines that it cannot maintain the anonymity of the Complainant, the College will inform the Complainant prior to taking any action that would result in a disclosure of the Complainant's identity. Any such disclosures will be

made on a need-to-know basis, and the Complainant will be informed as to which offices and individuals will receive the information.

8.5.3.- If the College honors a request for anonymity, or the Complainant chooses not to respond to communications from the Title IX office, the College's ability to meaningfully investigate a Report of Prohibited Conduct or take corrective action may be limited.

## **Section 9. Supportive Measures**

9.1.- The term "Supportive Measures" refers to non-disciplinary, non-punitive individualized services offered by the College as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to the education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment, or deter Prohibited Conduct. Supportive measures cannot punish or discipline the Respondent.

9.2.- Supportive Measures are available to involved parties including Complainant(s), Respondent(s), and witnesses while the College is addressing, investigating, adjudicating, and responding to an allegation of Prohibited Conduct. Requests for Supportive Measures should be made to the Title IX Coordinator, who serves as the point of contact for Supportive Measures and will work with the appropriate office(s) to provide Supportive Measures.

9.3.- When a Complainant makes a Report of Prohibited Conduct, the Title IX Coordinator will contact the Complainant, if the Complainant's identity is known, 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.

9.4.- The Title IX Coordinator will discuss with the Complainant which Supportive Measures may restore or preserve equal access to JC's educational program or activity or employment without unreasonably burdening the Respondent, including measures designed to protect the safety of all parties or JC's educational and employment environment or deter Prohibited Conduct.

9.5.- If a Complainant desires Supportive Measures, JC will make reasonable efforts to protect the Complainant's identity (including from the Respondent) unless disclosing the Complainant's identity is necessary to provide Supportive Measures for the Complainant. The range of potential Supportive Measures includes:

9.5.1.- Imposition of a "No-Contact Order";

- 9.5.2.- Extensions of deadlines;
- 9.5.3.- Rescheduling of exams and assignments;
- 9.5.4.- Providing alternative course competition options;
- 9.5.5.- Modification or change in class schedule, including the ability to drop a course without penalty or to transfer;
- 9.5.6.- Change in work schedule or job assignment;
- 9.5.7.- Change in student's campus housing;
- 9.5.8.- Leaves of absence;
- 9.5.9.- Assistance from College support staff in completing housing relocation;
- 9.5.10.- Limiting access to certain College facilities or activities pending resolution of the matter;
- 9.5.11.- Providing academic support services, such as tutoring;
- 9.5.12.- Escort Services;
- 9.5.13.- Increased security and monitoring of certain areas of the campus or similar measures;
- 9.5.14.- College-imposed leave, emergency removal, or separation for the Respondent; and
- 9.5.15.- Any other measure that can be tailored to the involved individuals to achieve the goals of this Policy.

9.6.- Additional resources the College may offer include:

- 9.6.1.- Referral to counseling services both on and off campus;
- 9.6.2.- Resources on and off campus for trained advocates who can provide crisis response;
- 9.6.3.- Assistance in identifying advocacy support to obtain orders of protections within the criminal justice system;
- 9.6.4.- Emergency numbers for on and off campus law enforcement, and , if desired, assistance with notifying law enforcement;
- 9.6.5.- Seeking care for injuries;
- 9.6.6.- Importance of and explanation of how to preserve evidence in case the alleged Prohibited Conduct is also a potential criminal act;
- 9.6.7.- Information about where to get a rape kit/SANE exam; and
- 9.6.8.- Encouragement of prompt reporting of all crimes to the appropriate law enforcement agency, paired with a commitment from JC that appropriate support will be offered in every case.

9.7.- Upon the receipt of a Report of Prohibited Conduct, the College may provide reasonable Supportive Measures as appropriate to provide a safe educational and work environment and to prevent additional acts of Prohibited Conduct, even when there is no specific request for such Supportive Measures. The College may impose any measure that can be tailored to the individuals involved to achieve the goals of this Policy.

9.8.- An individual's failure to comply with restrictions imposed by Supportive Measures is a violation of this Policy and basis for disciplinary action.

The Title IX Coordinator will document the basis for the decision that the College's response to a Report of Prohibited Conduct was not unreasonable in light of known circumstances and document that the College has taken measures to restore or preserve equal access to JC's educational program or activity or employment. If Supportive Measures are not provided, the Title IX Coordinator will document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

## **Section 10. Confidentiality and Privacy**

The College is committed to protecting the privacy of all individuals involved in the investigation and resolution of a Report or Formal Complaint of Prohibited Conduct under this Policy. The College is also committed to providing assistance to help students, employees, third parties, and visitors make informed choices. With respect to any Report or Formal Complaint of Prohibited Conduct under this Policy, the College will make reasonable efforts to protect the privacy of participants, in accordance with applicable state and federal law, while balancing the need to gather information to assess the Report and Formal Complaint and take steps to eliminate Prohibited Conduct, prevent its recurrence, and remedy its effects.

### 10.1.- Privacy

10.1.1.- To protect individual privacy, except when required to do otherwise by state and federal laws or court order, the College will only share information related to a Report or Formal Complaint of Prohibited Conduct with a limited circle of College employees who "need to know" to assist in the assessment, investigation, and resolution of the Report or Formal Complaint, as well as the implementation of Supportive Measures.

10.1.2.- The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act ("FERPA"), as outlined in the College's FERPA Policy. The privacy of an individual's medical and related records generally is protected by the Health Insurance Portability and Accountability Act ("HIPAA"), excepting health records protected by FERPA.

### 10.2.- Confidentiality

10.2.1.- Confidentiality exists in the context of laws that protect certain relationships, including those with medical and clinical care providers (and those who provide administrative services related to the provision of medical and clinical care), mental health providers, counselors, and ordained clergy, all of whom may engage in confidential communications under Mississippi law. The College has designated individuals who have the ability to have privileged communications as "Confidential Employees." When information is shared by an individual with a Confidential Employee or a community professional with the same legal protections, the Confidential Employee (and/or such community professional) cannot reveal the information to any third party except when an

applicable law or a court order requires or permits disclosure of such information.

10.2.2.- For example, information may be disclosed when: (1) the individual gives written consent for its disclosure; (2) there is a concern that the individual will likely cause serious physical harm to self or others; or (3) the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18.

## **Section 11. Emergency Removal of Respondents**

11.1.- In rare cases where the college has reason to believe a party to a sexual misconduct investigation poses an imminent threat to another person's physical health or safety, the college may remove that party from campus, or from any program, activity, or facility, on an emergency basis.

11.2.- Removal of a student will occur only where the Dean of Students determines that the student poses an imminent threat to the physical health or safety of another person following an individualized safety and risk analysis. The Dean of Students may consult with other College personnel, including Jones' Behavioral Intervention Team (BIT), as necessary, in deciding whether to implement an Emergency Removal. Nothing in this policy restricts the ability of the college to place an employee on leave pending the outcome of an investigation of sexual misconduct or other issues.

## **Section 12. Consequences for conduct found in violation of this Policy**

12.1.- Complainants and Respondents shall be treated equitably, which for a Respondent means following a grievance process before the imposition of any disciplinary sanctions or other actions that are not Supportive Measures.

12.2.- A student, employee, or faculty determined to have engaged in Prohibited Conduct shall be in violation of this Policy. The specific procedures for imposing discipline depend upon the nature of the Respondent's relationship to the College. A student, staff, or faculty member determined by the College to have committed an act of Prohibited Conduct is subject to disciplinary action, up to and including separation from the College.

12.3.- Third Parties or Guests who violate this Policy may have their relationship with the College terminated and/or their privileges and access to the College's premises revoked.

## **Section 13. Remedies**

13.1.- After a final determination of a finding of responsibility the Title IX Coordinator will determine what remedies may need to be implemented to restore or preserve equal access to the College's education program or activity or employment. The Title IX

Coordinator will also identify any appropriate remedies/measures to address any effects of substantiated Prohibited Conduct on the College community.

13.2.- The remedies provided may be additional or the continuation of the Supportive Measures. The Title IX Coordinator may impose or extend a No-Contact Directive and impose or extend academic modifications, College housing and/or College employment modifications, as may be appropriate; impose or extend increased monitoring, supervision, and/or security at locations or in connection with activities where the Prohibited Conduct occurred or is likely to reoccur; arrange for conducting targeted or broad-based educational programming or training for relevant persons or groups; impose one or more restorative remedies to encourage a Respondent to develop insight about the Prohibited Conduct, learn about the impact of that Prohibited Conduct on the Complainant and the College community, and identify how to prevent that Prohibited Conduct in the future (including community service and mandatory participation in training, education and/or prevention programs related to the Prohibited Conduct); and/or impose any other remedial or protective measures that are tailored to achieve the goals of the Title IX Policy. Remedies that do not impact the Respondent will not be disclosed to the Respondent unless implementation of the remedy requires notification to the Respondent (e.g., disciplinary action).

#### **Section 14. Student and Employee Training and Prevention Education Programs**

14.1.- The College engages in comprehensive educational programming to prevent Prohibited Conduct, consisting of primary prevention and awareness programs for all incoming students and new employees, and ongoing awareness and prevention campaigns for students, faculty, and staff that include, but are not limited to the following topics:

14.1.1.- Identifying domestic violence, dating violence, sexual assault and stalking as Prohibited Conduct;

14.1.2.- Defining what behavior constitutes domestic violence, dating violence, sexual assault, and stalking;

14.1.3.- Defining what behavior and actions constitute consent to sexual activity in the State of Mississippi;

14.1.4.- Providing safe and positive options for bystander intervention that may be carried out by an individual to prevent harm or intervene when there is a risk of domestic violence, dating violence, sexual assault, or stalking against a person other than the bystander;

14.1.5.- Providing information on risk reduction so that students and employees may recognize warning signs of abusive behavior and how to avoid potential attacks; and

14.1.6.- Providing an overview of information contained in the Annual Security Report in compliance with the Clery Act.

14.2.- The College also provides training to students and employees to ensure they understand this Policy and the topics and issues related to maintaining an education and

employment environment free from sex discrimination, sexual harassment, and sexual violence.

## **Section 15. Free Speech and Academic Freedom**

15.1.- The College is committed to free and open inquiry and expression for all members of its community. The College is dedicated to the promotion of lively and fearless freedom of debate and deliberation, but also to the protection of that freedom when others attempt to restrict it.

15.2.- In cases of Prohibited Conduct, the protections of the First Amendment and applicable state law must be considered if issues of speech or expression are involved. Title IX is intended to protect students and employees from sex discrimination, not to regulate the content of speech. To establish a violation of Title IX, the harassment must be sufficiently severe, pervasive, and objectively offensive that it effectively denies a person equal access to participate in or benefit from an education program or activity or employment.

15.3.- Moreover, in regulating the conduct of its students, faculty, and staff to prevent or redress discrimination prohibited by Title IX, great care must be taken not to inhibit open discussion, academic debate, and expression of personal opinions, particularly in the classroom. Nonetheless, speech or conduct of a harassing, sexual, or hostile nature that occurs in the context of educational instruction may exceed the protections of academic freedom and constitute prohibited harassment if it meets the definition of Prohibited Conduct and (1) is reasonably regarded as non-professorial speech (i.e., advances a personal interest of the student or faculty member as opposed to furthering the learning process or legitimate objectives of the course), or (2) lacks an accepted pedagogical purpose or is not germane to the academic subject matter.

15.4.- This Policy shall be implemented in a manner that recognizes the importance of rights to freedom of speech and expression.

## **Section 16. Resources**

16.1.- Below is a link to a listing of available resources:

<https://www.rainn.org/about-national-sexual-assault-telephone-hotline>

<https://www.nsvrc.org/find-help>

<http://www.msCasa.org/>

<http://www.msCasa.org/local-programs-services/>

[https://msdh.ms.gov/msdhsite/\\_static/41,0,104.html](https://msdh.ms.gov/msdhsite/_static/41,0,104.html)

<http://www.nasca.org/Groups-Services/MISSISSIPPI.pdf>

<https://mcadv.org/>

## **Section 17. Procedures for the Resolution of Title IX Sexual Harassment and Sexual Violence Complaints**

### 17.1.- General Principles.

17.1.1.- Applicability: These Complaint Resolution Procedures apply to the resolution of all formal complaints under the Title IX Sex Discrimination, Sexual Harassment, and Sexual Violence Policy and apply to all members of the College Community. For employees found in violation of College policy, based on the preponderance of evidence, consequences can range from a written warning to suspension and up to and including termination of employment.

17.1.2.- Investigation: For purposes of these Complaint Resolution Procedures, “Investigator” means the individual(s) designated by the Title IX Coordinator to investigate a particular formal complaint and administer relevant provisions of these Complaint Resolution Procedures. The Investigator may consult with other college administrators and counsel as needed. The Investigator may be a college employee, a third-party investigator or attorney retained for that purpose by the College. The Investigator will also be trained on issues of relevance to create an investigative report that fairly summarizes relevant evidence. The training is free of sex stereotypes and promotes impartial investigations.

17.1.3.- Promptness, Fairness, and Impartiality: These procedures provide for prompt, fair, and impartial investigations and resolutions. All College employees involved in the investigation and resolution process shall discharge their obligations under these Complaint Resolution Procedures fairly and impartially. If an involved College employee determines that he or she cannot apply these procedures fairly and impartially because of the identity of a complainant, respondent, or witness, or due to any other conflict of interest, another suitable individual will be designated by the Title IX Coordinator to fill the role.

17.1.4.- Training: These procedures will be implemented by College employees who receive training on the issues related to sexual misconduct. The Title IX Coordinator, Investigators and decision-makers have all been trained on the various relevant aspects of the College’s sexual misconduct policy and complaint resolution procedures. The training includes how to conduct investigations, hearings, appeals and informal resolutions as well as how to serve impartially, including avoiding prejudgment of the facts at issue, and conflicts of interest and bias. The training is free of sex stereotypes and promotes impartial investigations. Additionally, the decision-makers receive training on relevant technology that is used at any live hearing, relevance and the permissible use of sexual history.

17.1.5.- Participation in Investigations: All members of the College Community are encouraged and expected to fully cooperate with any investigation and

resolution under these Complaint Resolution Procedures. College employees who fail to cooperate and/or participate will face discipline, up to and including termination. In the event a potential complainant refuses to participate under these Complaint Resolution Procedures, the College may proceed as a complainant under the circumstances specified in this policy. In the event a respondent refuses to participate, the Complaint Resolution Procedures will be completed despite the Respondent's lack of participation and may result in a finding of misconduct in absentia.

17.1.6.- Remote Hearings: Hearings normally will occur in-person with the parties, advisors, and committee/decision makers in the same location. However, upon timely written request, the college will permit any party to participate remotely by means of videoconferencing or similar technology. In such cases, the arrangement of the videoconference must be such that all parties and the committee members can see and hear any party or witness while that party or witness is testifying.

#### 17.2.- Timing, Notification, and Initiation of Process

17.2.1- Timing of Investigation and Resolution: The College will endeavor to conclude its investigation and resolution of the formal complaint in a timely manner. The complainant (including a potential complainant who elected not to proceed with filing a formal complaint and a complainant who filed a formal complaint and subsequently withdrew) and the respondent will be given periodic updates regarding the status of the investigation. If either the complainant or respondent needs additional time to prepare or to gather their witnesses or information, they shall notify the Investigator in writing explaining how much additional time is needed and why it is needed. The Investigator shall respond to any such request in a timely manner. Some instances of sexual misconduct may also constitute criminal conduct. In the case where alleged criminal conduct has also been reported to law enforcement, the College may temporarily delay its investigation of the complaint where necessary to avoid interfering with law enforcement. However, the pendency of a criminal investigation does not serve as a substitute for these procedures, and the investigation and resolution process will commence promptly once interference is no longer a concern. In addition, because the College's process is separate and distinct from any criminal prosecution, the College's determination will not be held in abeyance due to the pendency of a criminal trial.

17.2.2.- Complaints Involving Multiple Parties: To the extent there are multiple complainants making formal complaints against a single respondent, or a single complainant making formal complaints against multiple respondents, each formal complaint will be addressed separately under these Complaint Resolution Procedures unless the formal complaints arise from the same transaction of facts. To the extent multiple formal complaints arise from the same transaction of facts, the Investigator, in consultation with the Title IX Coordinator, may merge the formal complaints into a single investigation and resolution process. Similarly, where the respondent makes a reciprocal allegation of sexual misconduct or where the complainant later makes additional

allegations that relate to the original formal complaint, the Investigator, in consultation with the Title IX Coordinator, may combine all related and relevant allegations of sexual misconduct into one investigation and resolution process.

17.2.3.- Notification of the Respondent and Selection of Process: Once a formal complaint is received by the Title IX Coordinator, the Coordinator will identify an investigator who will assist in the resolution process. The Coordinator will promptly notify the respondent and provide the respondent with the opportunity to review a copy of the written formal complaint. Additionally, the Coordinator will provide written notice to both parties that contains:

17.2.3.1.- Notice of the College's grievance process, including the informal resolution process;

17.2.3.2.- Notice of the specific allegations of sexual misconduct, including sufficient details known at the time to allow the parties to prepare a response before any initial interview by the Investigator, which include, but are not limited to, the identity of the parties involved, the conduct allegedly constituting sexual misconduct, and the date and location of the alleged incident, if known;

17.2.4.2.- A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.

17.2.5.2.- Notice that each party may have an advisor of his or her choice who may be, but is not required to be, an attorney;

17.2.5.3.- Notice that each party may inspect and review evidence;

17.2.5.4.- Notice of any provisions in the College's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

17.3.- The Coordinator with the assistance of the investigator will then communicate with each party separately to discuss the pertinent avenues for resolution as set forth below. With the written consent of both parties, the Coordinator will then determine whether the formal complaint will be resolved through an informal or formal process. The Coordinator will then notify the parties of the process to be used. If any students are parties, the Dean of Students, or his/her designee, shall also be notified. If the scope of the investigation expands, the College will issue a supplemental written notice providing additional details to both parties.

#### 17.4.- Informal Resolution

##### 17.4.1.- Nature of Informal Resolution

Informal resolution is a process by which the Coordinator and/or Investigator, working alone or in concert with other appropriate College administrators (such as a supervisor if the parties are employees), attempts to resolve a formal complaint to the mutual satisfaction of both the complainant and respondent. Informal resolution may include, but is not limited to, mediation, agreed separation of the parties, referral of the parties to their respective counseling programs, agreed upon educational

or training programs for one or more of the parties, the agreement of a party to apologize for their conduct, and other agreed remedial measures, which may include agreed upon forms of discipline. Although informal resolution may involve some investigation by the Investigator in order to understand the background of the complaint, informal resolution is not intended to reach a formal determination as to whether or not sexual misconduct occurred, unless the respondent admits to the conduct at issue.

17.4.2.- When Informal Resolution May Be Used

Informal resolution is intended to resolve complaints quickly and collaboratively. However, the Coordinator and/or Investigator may determine that informal resolution is not appropriate in certain circumstances, such as where informal resolution has failed between two parties in the past, the resolution sought by one party is of a type that cannot be achieved through informal resolution, where the conduct is particularly serious, or where the respondent is accused of a pattern of misconduct. Both parties must agree in writing to use informal resolution. If either party does not wish to use informal resolution, formal resolution will be used. Both parties have the right to end informal resolution at any time prior to agreement on resolution and insist upon formal resolution. Similarly, if the Coordinator determines that efforts at informal resolution have been unsuccessful and have no prospect for success, the Coordinator may convert the matter to formal resolution, irrespective of the parties' wishes. Informal resolution will not be utilized in any case in which an employee is accused of sexually harassing a student.

17.4.3.- Documentation of Informal Resolution

If the parties reach agreement on an informal resolution, the Coordinator will consult with other appropriate College administrators (including the Dean of Students or his/her designee if any student is a party). This group will review the resolution and may reject it, approve it, or require modifications prior to approval. In the event the resolution is approved, the Coordinator will prepare a written memorandum setting forth the terms of the resolution. The Coordinator will present the written memorandum to the parties for their review and signature. The Coordinator will then provide the parties with simultaneous written notification that the case has been resolved pursuant to informal resolution. If any students are parties, the Vice President of Student Affairs shall also be notified. The Coordinator may transmit a copy of the written memorandum to other College administrators or employees whose involvement is necessary to effectuate the resolution and/or for inclusion in appropriate personnel files.

17.4.4.- Monitoring of Implementation

Because it is collaborative and must be agreed to by both parties, there is no right to appeal the terms of an informal resolution. In the event the terms of an informal resolution require future action or inaction, the Coordinator may monitor the implementation of the informal resolution

and maintain jurisdiction over a particular complaint until the terms of the informal resolution are satisfied. In the event the terms of the informal resolution are not satisfied, the Coordinator may reactivate the formal complaint and immediately commence its resolution under the formal process.

#### 17.5.- Formal Resolution

##### 17.5.1.-Nature of Formal Resolution

Formal resolution is a process by which a formal determination is made as to whether sexual misconduct occurred. If a finding is made that sexual misconduct occurred, formal resolution will also result in a decision regarding disciplinary action to be taken against the perpetrator, as well as remedial measures that may be necessary to remedy the effect of the sexual misconduct on the complainant. Unlike informal resolution, formal resolution involves an in-depth investigation and determination of facts under a preponderance of evidence standard. The formal resolution process varies depending on whether the alleged perpetrator is a student, faculty member, or non-faculty employee/other member of the College Community. The Title IX Coordinator will serve as chief compliance officer but may be assisted by other administrators, as needed. The Dean of Students will assist when students are involved. The Executive VP of Instruction will assist when faculty are involved, and the Director of Human Resources will assist when non-faculty employees and/or other members of the College community are involved.

##### 17.5.2.- Rules of Evidence

Formal rules of evidence (as used in criminal/civil trials) do not apply in any of the formal resolution processes specified below. Nonetheless, information presented that is irrelevant or whose prejudicial effect substantially outweighs its probative value may be excluded from consideration. A complainant's irrelevant sexual history will be excluded from consideration.

#### 17.6.- Time Frames

17.6.1.- The College will endeavor to conduct the formal resolution process within a reasonable time frame. However, the time that it takes to complete the process will be affected by circumstances such as the unavailability of parties or witnesses, scheduling conflicts, intervening breaks, prior attempts at informal resolution, the complexity of a case, and the need to avoid interference with a pending law enforcement investigation. The parties will receive written notification if extenuating circumstances are anticipated to result in lengthy delays.

17.6.2.- The College will send the evidence to the respondent and the Respondent's advisor in electronic form and give them at least (10) business days to submit a written response, which the investigator must consider before finalizing the investigation.

17.6.3.- The Investigation must result in an investigation report that fairly summarizes the investigation that must be completed at least ten (10) business days prior to the hearing and sent to each party and his or her advisor.

17.6.4.- If a hearing is conducted, the hearing committee will issue a written decision within three (3) days of the conclusion of the hearing unless extenuating circumstances prevent doing so.

17.7.- Adjudication by a Hearing Committee

17.7.1.- Initiation of the Hearing

The Title IX Coordinator (or designee) will appoint a Hearing Committee consisting of five employees. The committee will be chosen from a pool of trained employees who have received appropriate training. A Chairperson will be selected by the committee.

17.7.2.- Hearing Requirements

The Hearing Committee's role is to conduct an independent and objective review of all the evidence, including inculpatory and exculpatory evidence, directly related to the allegations, and determine if the Respondent violated the Title IX policy based on a preponderance of the evidence standard (and, if yes, to determine an appropriate sanction). The hearing will be scheduled and will proceed according to the guidelines set forth below:

17.7.3.- Notice and Timing of Hearing

The TIX Coordinator (or designee) will issue a written notice of Hearing to the parties, and their advisors with information regarding the hearing including the date, time, and location of the hearing; the names of the Hearing Committee Members; and how to challenge the Hearing Committee Members for bias or conflict of interest. The TIX Coordinator will have sole discretion to determine whether the Hearing Committee Members have bias or conflict of interest, and if so, the responsibility to appoint another committee member. The hearing will usually be scheduled as soon as reasonably possible, subject to extension for good cause at the discretion of the Hearing Committee. Any extension will be shared with all involved. If, despite being notified of the date, time, and location of the Hearing, either party is not in attendance, the hearing may proceed subject to the limitations set forth herein.

17.7.4.- Administration of the Hearing Process

The Hearing Committee is responsible for the administration of the hearing process, including procedural matters and decisions leading up to the hearing, determinations about information that will be considered or not, appropriate and inappropriate lines of questioning, and the overall decorum and conduct of the proceedings. Participants at the hearing will include the Hearing Committee, a Hearing Facilitator, the Investigator, the parties Advisors, any called witnesses, the TIX Coordinator, and anyone providing authorized accommodations or assistive services. The Hearing Facilitator will attend to logistics of rooms for various parties/witnesses as they wait; flow of parties/witnesses in and out of the hearing space; ensuring recording and/or virtual conferencing technology is working as intended; copying and distributing materials to participants, as appropriate, etc. The Hearing Committee Chair explains the

procedures and introduces the participants. The Hearing Committee will use the preponderance of the evidence standard (more likely than not) when determining whether the TIX policy has been violated. A transcript of the hearing will be available to the parties for inspection and review within 10 days of the conclusion of the hearing.

#### 17.8.- Hearing Format

17.8.1.- The hearing is an opportunity for the Complainant and Respondent to address the Hearing Committee in person. The parties may address any information in the Final Investigation Report and supplemental statements submitted in response to the Final Investigation Report. The complainant and respondent have the right to make an opening and a closing statement. The Complainant shall give the first opening statement. The Respondent shall give the final closing Statement. Both parties may include a statement of the impact of the alleged offense as part of their respective closing statements.

17.8.3.- Each party must notify the TIX Coordinator at least 10 business days prior to the hearing if they will be accompanied by an advisor. If a party does not have an advisor, Jones will assign the party an advisor of the college's choice provided without fee or charge. Each party has the right to be heard and to identify and secure witnesses, including expert witnesses, for the Hearing Committee's consideration. Each part must provide a list of potential hearing witnesses to the TIX Coordinator at least four days prior to the hearing.

17.8.4.- All materials that the Complainant or Respondent want the Hearing Committee to consider must be submitted to the TIX Coordinator at least four business days prior to the hearing. All evidence each party wishes to be considered by the Hearing Committee should be presented to the Investigator during the investigation process. If a party does not provide some piece of evidence to the Investigator during the investigation process, that party may only present such evidence during the hearing if the Hearing Committee permits the party to do so in the Hearing Committee's sole discretion.

17.8.5.- The TIX Coordinator will provide the witness lists and submitted materials to the Hearing Committee and make copies available to the Complainant and Respondent at least three business days prior to the hearing. Any materials submitted and/or discovered fewer than four business days before the Hearing may only be considered at the sole discretion of the Committee.

#### 17.9.- Questioning of Parties/Witnesses and Relevancy Determinations

17.9.1.- With the exception of cross-examination, all questioning of parties is conducted through the Hearing Committee. A party may recommend direct questions to be asked of a party's own witness or non-party witnesses by submitting them in writing to the Hearing Committee prior to the hearing. During the hearing, a party may also suggest questions for direct examination of the party's witness to the Hearing Committee based on information presented during the hearing.

17.9.2.- The Hearing Committee may also independently question the parties, witnesses, and/or Investigator to elicit relevant information. The Hearing

Committee is barred from drawing any inference about the determination of responsibility based solely on a party's refusal to answer the Hearing Committee questions.

17.9.3.- Each party and all witnesses are subject to cross-examination by the opposing party's respective advisors. The party's advisor may ask the other party and any witnesses all relevant cross-examination questions and follow-up questions, including those challenging credibility. The party's advisor may otherwise not make statements, challenge relevancy determinations, or otherwise directly participate in the proceedings.

17.9.4.- Neither party is required to participate in the hearing in order for the hearing to proceed. A party's advisor may appear and conduct cross-examination even when the party whom they are advising does not appear.

## 18.0.- Sanctions

18.1.1.- The Hearing Committee will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. The Hearing Facilitator may be invited to attend the deliberation by the Hearing Committee, but is there only to facilitate procedurally, not to address the substance of the allegations. The Title IX Coordinator may be consulted for the purpose of ensuring a particular sanction is feasible, consistent with past practice, and reasonably calculated to end the policy violation. Within three (3) days the Hearing Committee will prepare a written finding of facts and conclusions statement and deliver it to the TIX Coordinator, detailing the determination, rationale, the evidence used in support of its determination, the evidence not relied upon in its determination, credibility assessments, and any sanctions.

18.1.2.- Student Sanctions: The following are the usual but not an exhaustive list of sanctions that may be imposed upon students.

18.1.2.1.- Students may receive a Warning

18.1.2.2.- Required Counseling

18.1.2.3.- Probation

18.1.2.4.- Suspension

18.1.2.5.- Expulsion

18.1.2.6.- Removal from College Housing

18.1.2.7.- Loss of Commencement Participation, or

18.1.2.8.- Other actions as deemed appropriate.

18.1.3.- Employee Sanctions/Responsive Actions: The following are the Responsive actions for an employee who has engaged in harassment and/or retaliation.

18.1.3.1.- Warning

18.1.3.2.- Performance Improvement Plan/management Process

18.1.3.3.- Enhanced supervision, Observation or Review

18.1.3.4.- Required Counseling

18.1.3.5.- Required Training

- 18.1.3.6.- Probation
- 18.1.3.7.- Denial of Pay Increase
- 18.1.3.8.- Loss of Supervisory Responsibility
- 18.1.3.9.- Demotion
- 18.1.3.10. -Transfer and/or Reassignment
- 18.1.3.11.- Suspension with or without pay
- 18.1.3.12.- Termination, or other actions as deemed appropriate.
- 18.1.3.13.- Notice of Hearing Outcome Letter.

18.2. The TIX Coordinator will prepare a Notice of Outcome in collaboration with the Hearing Committee. Jones College legal counsel will review the Notice of Outcome. The TIX Coordinator will then simultaneously share the letter, including the final determination, rationale, and any applicable sanction(s) with the parties and their Advisors within five (5) business days of receiving the Hearing Committee's finding of facts and conclusions statement.

### 18.3.- Appeal

Both the complainant and respondent have the right to appeal the written determination on the grounds set forth below. The appeal procedures shall be as follows: In order to appeal, the aggrieved party must submit a written statement of appeal to the President of the College or his/her designee within five (5) business days of being notified of the outcome of the hearing. The written statement must include the grounds for appeal and describe the basis for it in detail. The grounds for appeal are limited to the following:

- 18.3.1. Material and prejudicial violation of procedural rights that affected the outcome;
- 18.3.2.- New information, not reasonably available at the time of the hearing, that could have resulted in a different outcome;
- 18.3.3.- Conflict of interest or bias by the decision-makers that affected the outcome.

18.4.- In the event the written statement of appeal fails to state a permissible ground for appeal and/or does not describe the basis for the appeal, the appeal may be summarily dismissed. Upon receiving a valid appeal, the President of the College or his/her designee will provide a copy of the written statement of appeal to the other party. Thereafter, the party so notified will have five (5) business days to submit a written response to the appeal. The President of the College or his/her designee shall deliver simultaneous written notification of the outcome of the appeal and the rationale for the result to the complainant and respondent within ten (10) business days after the deadline for submission of any written response to the appeal. The written determination becomes final upon the earlier of when: (i) the parties are notified of the determination on appeal; or (ii) the time to file an appeal has passed with neither party appealing. The decision of the President of the College is final.

### 18.5.- Records

All official records created during the formal resolution of a complaint against a student shall be maintained by the Vice President of Student Affairs, with copies made available to the Title IX Coordinator as needed. All records will be maintained for a period of seven years including informal resolution records.

#### 18.6.- Withdrawal and Readmission

If a student Respondent voluntarily withdraws from the University while a Formal Complaint against him or her is pending, permission for readmission will be considered only after the charges have been resolved.

### **Section 19. Headings**

All headings contained in this Policy are solely for the purpose of reference only, and shall not limit or otherwise affect any of the terms or provisions of this Policy and shall not be construed or interpreted in connection with any term or provision of this Policy.

### **Appendix 1**

For purposes of the Title IX Sex Discrimination, Sexual Harassment, and Sexual Violence Policy, conduct that is deemed, by a preponderance of the evidence (which means more likely than not the alleged conduct occurred) to be gender-based and meet the definitions of any of the types of Prohibited Conduct identified in Section (5) above and in the legal definitions set forth below (whether defined federal or by state laws, as amended from time to time), constitutes a violation of this Policy. A person whose gender-based conduct violates the federal or state criminal statutes as established by a preponderance of the evidence need not be criminally charged or convicted for their conduct to be deemed a violation of this Policy. Additionally, to the extent that federal or state criminal laws addressing gender-based conduct that could be

deemed Prohibited Conduct are created or amended, engaging in such conduct (as proven by a preponderance of the evidence) shall be considered a violation of this Policy even if the definitions below have not been updated to reflect the most recent additions to or changes in the law.

### **INTIMATE PARTNER VIOLENCE: DATING OR DOMESTIC VIOLENCE**

#### **Federal Law:**

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

1. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
2. For the purposes of this definition—
  - a. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
  - b. Dating violence does not include acts covered under the definition of domestic violence. 34 C.F.R. § 668.46(a)

**Mississippi Law:** Included under Intimate Partner Violence: Domestic Violence

### **INTIMATE PARTNER VIOLENCE: DOMESTIC VIOLENCE**

#### **Federal Law:**

A felony or misdemeanor crime of violence committed—

1. By a current or former spouse or intimate partner of the victim;
2. By a person with whom the victim shares a child in common;
3. By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
4. 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
5. 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. 34 C.F.R. § 668.46 (a)

#### **Mississippi Law:**

An act of violence is considered to be “domestic violence” when the offense is committed against a current or former spouse of the defendant or a child of that person, a person living as a spouse or who formerly lived as a spouse with the defendant or a child of that person a parent, grandparent, child, grandchild or someone similarly situated to the defendant, a person who has a current or former dating relationship with the defendant, or a person with whom the defendant has had a biological or legally adopted child.

1. A person is guilty of simple domestic violence who: (i) Attempts to cause or purposely, knowingly or recklessly causes bodily injury to another; (ii) Negligently causes bodily injury to another with a deadly weapon or other means likely to produce death or serious bodily harm; or (iii) Attempts by physical menace to put another in fear of imminent serious bodily harm.

2. A person is guilty of aggravated domestic violence who: (i) Attempts to cause serious bodily injury to another, or causes such an injury purposely, knowingly or recklessly under circumstances manifesting extreme indifference to the value of human life; (ii) Attempts to cause or purposely or knowingly causes bodily injury to another with a deadly weapon or other means likely to produce death or serious bodily harm; or (iii) Strangles, or attempts to strangle another. 97-3-7 Mississippi Code of 1972 Annotated

## **STALKING**

### **Federal Law:**

Stalking is:

1. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to—
  - a. Fear for the person’s safety or the safety of others; or
  - b. Suffer substantial emotional distress.
2. For the purposes of this definition—
  - a. 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.
  - b. Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.
  - c. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling. 34 C.F.R. § 668.46(a)

### **Mississippi Law:**

Any person who purposefully engages in a course of conduct directed at a specific person, or who makes a credible threat, and who knows or should know that the conduct would cause a reasonable person to fear for his or her own safety, to fear for the safety of another person, or to fear damage or destruction of his or her property, is guilty of the crime of stalking.

## **SEXUAL ASSAULT OFFENSES – SEXUAL ASSAULT, RAPE, STATUTORY RAPE, SEXUAL CONTACT, SODOMY & OTHER SEXUAL OFFENSES**

### **Federal Law:**

Sex offenses are any sexual act directed against another person, without the consent of the Complainant, including instances where the Complainant is incapable of giving consent. Sexual Assault is an offense that meets the definition of rape, fondling, incest, or statutory rape. 34 C.F.R. § 668.46 Appendix A

Rape is the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. 34 C.F.R. § 668.46 Appendix A

Statutory rape is sexual intercourse with a person who is under the statutory age of consent. 34 C.F.R. §668.46 Appendix A

**Mississippi Law:**

Sexual assault (including but not limited to rape) is defined as any kind of sexual physical contact that involves force, or threat of force, coercion, fraud or intimidation, as well as any sexual physical contact with a person who is unable to consent. Sexual physical contact includes the intentional touching of another person on any area of the body generally recognized as an intimate part of the body or touching any part of another person's body with an intimate part of one's own body. Sexual touching includes bodily contact or contact with an object. A person who is unable to consent includes, but is not limited to, any unmarried person under age 17, anyone who is physically helpless, or anyone who is mentally incapacitated. A physically helpless person is considered to be one who is unconscious or for any other reason unable to communicate unwillingness to engage in any act. A mentally incapacitated person may be one who is under the influence of alcohol or a drug, or who is mentally incapable of understanding the implications and consequences of any act.

**FONDLING**

**Federal Law:**

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 incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity. 34 C.F.R. § 668.46 Appendix A

**Mississippi Law:** See Mississippi definition of Sexual Abuse.

**SEXUAL HARASSMENT OR GENDER-BASED HARASSMENT**

**Federal Law:**

Sexual harassment is unwelcome conduct of a sexual nature. It includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual violence is a form of sexual harassment. Gender-based harassment, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping, even if those acts do not involve conduct of a sexual nature, is also prohibited. When a student sexually harasses another student, the harassing conduct creates a hostile environment if the conduct is sufficiently serious that it interferes with or limits a student's ability to participate in or benefit from the school's program. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment, particularly if the harassment is physical. Indeed, a single or isolated incident of sexual harassment may create a hostile environment if the incident is sufficiently severe.

See April 4, 2011 Dear Colleague Letter,

<http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf>; and Revised Sexual

Harassment Guidance: Harassment of Students by School Employees, Other Students or Third Parties (January 2001), <https://www2.ed.gov/offices/OCR/archives/pdf/shguide.pdf>.  
**Mississippi Law:** Covered under other Mississippi laws related to harassment.

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