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TYPE Student Services
RATIONALE
APPROVED September 10, 2020

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

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

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

II. Scope of Policy and Procedure

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

> No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

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

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

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

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

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

1. Sexual Harassment: Sexual Harassment is any conduct on the basis of sex that satisfies one or more of the following:

    a. An employee of the College conditioning the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct;
    b. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity; or
    c. Sexual Assault, Dating Violence, Domestic Violence, or Stalking as defined in the Clery Act amended by the Violence Against Women Act (VAWA).
        i. Sexual Assault: Sexual Assault is any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent. Sexual Assault includes, but is not limited to, the following acts when they occur without consent of the victim:
            - Any penetration, however slight, of the genitals or anus of one person with the genitals of another person,
            - Any act involving the genitals of one person and the hand, mouth, tongue, or anus of another person,
            - Any sexual act involving penetration, however slight, of the genitals or anus of one person by a finger, instrument, or object,
            - Touching of another person's genitals or breasts under or over the clothing,
            - Touching of one person with the genitals of another person under or over the clothing.

            Sexual Assault is also an offense that meets the definition of fondling, incest, or statutory rape as used in the FBI's Uniform Crime Reporting system.
            (a) Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is unable of giving consent because of their age or because of their temporary or permanent mental capacity.

Force and Coercion - Force is the use or threat of physical violence, intimidation, or coercion in order to overcome another individual's freedom to choose whether or not to participate in sexual activity. For the use of force to be demonstrated, there is no requirement that an individual resist the sexual advance or request, however, resistance will be viewed as a clear demonstration of non-consent.

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

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

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

Incapacitation may result from the use of alcohol and/or drn(h)3(oa)7(w)8(a)-3(a)8(p)4(a)7isc pe 41(in)4

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Jefferson College's Confidential Reporting Source is any licensed mental health therapist contracted to provide counseling services for the student body. Additionally, although not confidential to the extent of a counselor, the On-Campus Victim Advocate is another resource a student may speak to about what options and resources are available to them. The On-Campus Victim Advocate is exempt from reporting to the Title IX Coordinator; however, they may report non-identifying information to the Clery Officer for crime statistic purposes. Both individuals are located on the second floor of the Student Center. Students can make an appointment with the licensed mental health therapist by calling 636-481-3215 and with the victim advocate by calling 636-481-3267. Students and employees may also contact a medical provider(s) at the Mercy Health virtual clinic by calling 636-543-2290. All other Jefferson College employees are instructed to report matters of sex or gender-based discrimination, harassment, and/or assault to the Title IX Coordinator as soon as they become aware of an incident.

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

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

<u>Title IX Coordinator</u>
Dr. Kimberly Harvey-Manus
Vice President of Student Services
Physical mailing address: 1000 Viking Drive, Student Center, Hillsboro, MO 63050
Office location: Student Center, 2nd floor, Room 205
Phone/Email: 636-481-3200/kharvey@jeffco.edu

<u>Deputy Title IX Coordinators</u>
Ms. Tasha Welsh
Senior Director of Human Resources
Office location: Administrative Building
Phone/Email: 636-481-3157/twelsh@jeffco.edu

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Ms. Kristine Bogue
Director of Student Compliance
Office location: Student Center, 2nd floor, Room 209
Phone/Email: 636-481-3258/kbogue1@jeffco.edu

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

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

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

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

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

- Timely Warnings: If a report of Sexual Harassment discloses a serious, immediate, or continuing threat to the Jefferson College community, the College may issue a campus-wide timely warning notification (which may be in the form of a text message, email message, or other electronic communication to the campus community members) to protect the health or safety of the community and to heighten safety awareness. The timely warning will not include any identifying information about the Complainant. The College reserves the right to send campus-wide notifications on a report of Sexual Harassment in compliance with timely warning regulations.

3. Should the Emergency Removal or Administrative Leave be implemented following an individualized safety and risk analysis, the Respondent(s) shall be provided with Notice of the Emergency Removal Order/Administrative Leave Order and an opportunity to challenge the decision following the removal.
4. The opportunity to present a challenge to the removal shall be completed as soon as possible in light of the circumstances.
5. For student Respondents, the challenge to an Emergency Leave Removal will be heard by the President or their designee.
6. For employee Respondents, the challenge to an Emergency Leave Removal will be heard by the Senior Director of Human Resources, the Vice President of Academic Affairs, or their designee.
7. The challenge or appeal of the Emergency Removal process shall be the same for students, staff, and faculty. A Respondent may respond to the Removal by presenting information, evidence, written information, and/or facts that support their challenge. The challenge will be heard face to face (meaning it may be done remotely provided the participants are able to see and/or hear each other in real time). The Respondent will have an opportunity to present their information and answer questions from the person who is hearing their challenge.

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JEFFERSON COLLEGE SUPPORTIVE MEASURES
COMTREA on campus mental health services for students: Contact 636-481-3215 to schedule an appointment and/or email counseling@jeffco.edu.
On-Campus Victim Advocate for students: Contact 636-481-3267 to schedule an appointment and/or email alowery3@jeffco.edu.
Central Methodist University Clinical Counseling Services for students (virtual appointments): Email cccjeffco@centralmethodist.edu to schedule an appointment.
Personal Assistance Services for full-time employees: https://www.jeffco.edu/employee-resources/pas-employee-assistance-program
Jefferson College Police Department: Safety escorts may be provided as well as support for overall safety concerns. Contact 636-481-3500 or 911 in an emergency.
Academic Success Center: Located on the first floor of the Technology Center on the Hillsboro campus, staff in the ASC can assist students with tutoring, test preparation, and writing skills. ASC also has resources at the Arnold/Imperial locations, and via online services.
Student Financial Services: Located on the first floor of the Student Center, Student Financial Services staff can assist a student with questions or concerns related to their financial aid packages.
Accessibility Resource Office: Located on the first floor of the Technology Center, staff in ARO can assist students who may wish to learn more about disability accommodations on campus.
Residential Life accommodations (when applicable): This may include a room or apartment change, space permitting.
Reciprocal No Contact Orders: Either party may request a No Contact Order at any point in the process or in the absence of a formal complaint. No Contact Orders are reciprocal, non-punitive administrative orders from the school designed to preserve all parties' access to educational and employment opportunities.
Change of Class Schedule or other academic arrangements: Either party may request or be assigned a class schedule change as available. Other academic accommodations may be implemented in conjunction with the Title IX Coordinator and Instructional staff/faculty.
Change of Working environment: In conjunction with Human Resources and the Title IX Coordinator, employees (including student workers) may receive supportive measures within the working environment in order to maximize safety and minimize disruption.
Mercy Clinic to address health needs (virtual appointments): Contact 636-543-2290
Supportive Measures on campus can be implemented in conjunction with or in the absence of a formal complaint, and are available to any impacted party, including Complainants, Respondents, Witnesses, or other third-parties. For more information on support at Jefferson College, please visit: https://www.jeffco.edu/titleIX/Support-Measures

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COMMUNITY RESOURCES – the Title IX Coordinator may refer a person to any of these community resources in order to provide additional support as needed.

Behavioral Health Response Hotline: BHR provides confidential telephone counseling to people in mental health crises as well as mobile outreach services, community referral services and critical

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

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

4. If the reported conduct in a formal complaint did not occur within Jefferson College's education program or activity, or did not occur against

in writing, on any of the following bases, within five (5) College business days of the issuance of the Notification of Formal Complaint Dismissal:

1. Procedural Irregularity: There was a procedural irregularity that affected the decision to dismiss the formal complaint.
2. New Information/Evidence: There is new information that was not reasonably available at the time the determination regarding dismissal was made, and the information is such that it could affect the outcome of the matter.
3. Conflict of Interest or Bias on the part of persons involved in the process:

(10) College business days of the receipt of the appeal(s). If the appeal

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information. Any person found to have provided knowingly false information in bad faith may be subject to disciplinary processes under student or employee procedures at the College.

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

Coordinator and any individual(s) designated as a Hearing Officer prior to the hearing. The Title IX Coordinator, in conjunction with other partners at the College such as Deputy Title IX Coordinators or other College leadership, will assist in the scheduling, coordination, and implementation of a live hearing, as set forth below and in subsequent sections:

1. Hearings shall be conducted live. A hearing may be conducted with parties in remote locations or virtually, provided that the parties are able to see and hear each other simultaneously. The Complainant and Respondent are not required to be in the same room during a hearing provided the conditions for viewing and hearing simultaneously are met as stated above.
2. The College will provide an individual (or individuals, at their discretion) to serve as a Hearing Officer, who will make the determination as to whether this policy was violated. The Hearing Officer will have the appropriate training and experience to serve in this role and may be someone who works at the College or who is hired/contracted externally by the College to fulfill this roisfwill4(a)-246(to)]TJ0-1.141085T(c)7(r)5(e)8(tio)4(n)3())e
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f. Hearing Process Continued – Questioning and Cross-Examination Procedures - During the live hearing, the Hearing Officer(s) as well as each party's Advisors will be provided with an opportunity to ask the parties as well as witnesses relevant questions and follow up questions, including questions that challenge credibility. The Hearing Officer(s) will ask their questions and follow up questions first, followed by each party's Advisor. Federal regulations stipulate that each party's Advisor be provided with the opportunity to "cross examine" the other party as well as witnesses during the hearing.

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

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

Cross-examination questions or other questions that may be asked of a party or witness must be relevant to the incident(s). Questions, evidence, or other information about the Complainant's sexual predisposition are not permitted. Questions, evidence, or other information about prior sexual behavior are not permitted, unless such questions or information are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent. Before a Complainant, Respondent, or witness answers a question or cross-examination question, the Hearing Officer(s) must determine whether the question is relevant. If the Hearing Officer(s) determines that the question is not

relevant and therefore is to be excluded, they must provide an explanation as to why the question will be excluded. The Hearing Officer will provide that explanation during the hearing, and may, at their discretion choose to provide additional information during the hearing or after the hearing.

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

The Hearing Officer, when formulating their determination regarding responsibility, is not permitted to make a finding or draw an inference regarding

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

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

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

j. <u>Sanctions, Remedies, and Continuations of Supportive Measures following a Determination of Responsibility</u>

- Sanctions: A Hearing Officer has the discretion to assign sanctions and remedies following a determination of responsibility where the Respondent has been found to be in violation of this policy. Sanctions are disciplinary actions consisting of one or more of the following: formal/final/written warnings, disciplinary probation, employment probation, loss of privileges, loss of access to all or parts of campus, restitution/community service, educational sanctions, counseling, mandated counseling or assessments, classes, fines, suspension, expulsion,

temporary or permanent removal from employment, or other disciplinary actions or sanctions either found in College publications or assigned at the

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

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

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

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

- Every Sexual Harassment investigation including any determination regarding