

Title IX Office Procedures for Handling Reports and Formal Complaints Alleging Sexual Misconduct

2019-2020 HANDBOOK

JMU TITLE IX OFFICE, MADISON HALL 4TH FLOOR, 540-568-5219,
TITLEIX@JMU.EDU

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Introduction

This handbook details the procedures used by the [James Madison University Title IX Office](#) for receiving and responding to reports of alleged sexual misconduct as well as investigating Formal Complaints of sexual misconduct that are filed with the Title IX Office in accordance with [University Policy 1340 Sexual Misconduct](#). *Unless otherwise stated in these procedures, definitions for terms can be found in [Policy 1340](#).*

The university encourages anyone who directly experiences or becomes aware of sexual misconduct involving JMU community members, or that occurs during an official university program or activity, or occurs on university-controlled, university-owned, or university-leased property to report the incident immediately to the Title IX Office (540-568-5219) or the [James Madison University Police Department](#) (emergencies: 540-568-6911, non-emergencies: 540-568-6912).

A reporter who reasonably believes they have been subjected to sexual misconduct may choose to make a report in good faith to the Title IX Office and to law enforcement and may pursue either or both options at the same time. A Reporter who wishes to pursue criminal action in addition to, or, instead of making a report under these procedures should contact law enforcement directly.

Title IX Office employees (also referred to in these procedures as “Title IX Coordinator or designee”) receive annual training on the issues related to sexual misconduct (including sexual assault, relational violence, and stalking). They also receive annual training on how to conduct investigations that are fair and impartial, provide parties with notice and opportunity to be heard, protect the safety of involved parties and the university community, and promote accountability.

The Title IX Office communicates with university community members using the university community member’s assigned JMU email address. As laid out in [University Policy 1209](#), university community members are responsible for regularly checking and maintaining their assigned email accounts.

Email correspondence including notifications sent by the Title IX Office are considered received 24 hours after the date and time the correspondence was sent.

Meetings under these procedures will generally be scheduled during regular university business hours, which are Monday-Friday, 8:00 AM – 5:00 PM, unless the university is closed. If the Title IX Coordinator or designee assigns a meeting time and date to a party participating in these procedures, such meetings for students will be set around the student’s academic schedule. Such meetings for employees will be scheduled to take place during regular university business hours.

Anticipated timelines, deadlines, restrictions, or procedures detailed in this handbook will not be altered except in necessary or extreme circumstances, in order to uphold the intent of the process, as determined by the Title IX Coordinator or designee. If an extension is granted, the Reporter and Respondent in a Formal Complaint will be informed of the reason for the extension.

What Reporters and Respondents can expect from the Title IX Office

- Written notice of a Formal Complaint and the procedures the Title IX Office will use to investigate the Formal Complaint.
- A reasonably prompt and equitable investigation of a Formal Complaint.
- The opportunity to offer information, statements, responses, evidence, and identify Incident Witnesses at set points during the investigation of a Formal Complaint.
- Timely and equal access to information that will be used during the investigation of the Formal Complaint and will be included in the Initial Investigation Report and Final Investigation Report.
- The opportunity to respond in writing to the Initial Investigation Report and Final Investigation Report provided the written responses are submitted to the Title IX Coordinator or designee by the established deadlines.
- Privacy in accordance with these procedures, [Policy 1340](#), and applicable state and federal law governing privacy of student and employee information.
- Reasonably available Interim Measures.
- The opportunity to articulate concerns or issues about these procedures.
- Timely notice of all meetings and proceedings in accordance with these procedures.
- The opportunity to bring a support person of their choice to any meetings and proceedings under these procedures provided the support person's schedule allows for their attendance. Meetings and proceedings are not scheduled around the availability of support persons.
- Reasonable time to prepare for meetings and to respond in accordance with these procedures.
- Written notice of the reasons for any extensions to deadlines or timeframes.
- Written notice of the date the Title IX Coordinator or designee sends the Final Investigation Report to the university authority responsible for adjudicating the Formal Complaint.

Initial Assessment of a Report Alleging Sexual Misconduct

Upon receipt of a report alleging sexual misconduct, the Title IX Coordinator or designee will make an initial assessment of the reported information to determine eligibility as defined in [Policy 1340](#) and identify any immediate health or safety concerns raised by the report. The Title IX Coordinator or designee is not assessing or determining responsibility. The presumption is that no policy violation has occurred unless proven otherwise in a campus adjudication process by a preponderance of the evidence.

Initial Assessment Procedures

In addition to determining eligibility and identifying any immediate health and safety concerns, the Title IX Coordinator or designee's initial assessment includes:

- Determining whether the information contained in the report alleges sexual misconduct as defined in [Policy 1340](#). *If the report alleges another form of conduct prohibited by university policy and/or law, The Title IX Coordinator or designee may refer the report directly to the university authority responsible for receiving and responding to those reports.* The Title IX Coordinator or designee will ensure that the Reporter is informed of any referrals.
- Determining if the report provides names and/or any other information that personally identifies the Reporter, Respondent, any Incident Witnesses, and/or any third party with knowledge of the alleged incident.
- Ascertaining the ages of the Reporter and Respondent, if known, and, if either is a minor, contacting the appropriate authorities if required by the nature of the reported incident.

Procedures for Assessing Reports Alleging Sexual Violence

Upon receipt of a report alleging sexual violence, the Title IX Coordinator or designee will notify the Sexual Violence Review Committee (SVRC) of the existence of the report.

The SVRC is composed of the Title IX Coordinator or designee, a Student Affairs administrator, and a member of the JMU Police Department. The SVRC carries out the university's obligations for responding to reports of sexual violence in accordance with Virginia Code § 23.1-806.

The SVRC will convene within 72 hours of notification by the Title IX Coordinator or designee to review the reported information and will convene again as necessary as new information is obtained.

If the SVRC determines that the disclosure of the information, including personally identifiable information, is necessary to protect the health and/or safety of the Reporter or other university community members, the university police representative on the SVRC shall immediately disclose all reported information to the law enforcement agency responsible for investigating the alleged incident of sexual violence. The provision shall not apply if the law enforcement agency responsible for investigating the alleged act of sexual violence is located outside the United States. If a disclosure to law enforcement is deemed necessary, the Title IX Coordinator or designee who is on the SVRC will notify the Reporter.

If the alleged act of sexual violence would constitute a felony, which could be prosecuted under Virginia Criminal law, the representative of the university police on the SVRC shall inform the SVRC, and within 24 hours of such determination, consult with the attorney of the commonwealth responsible for prosecuting the alleged act of sexual violence. The university police representative will provide to that prosecutor the information received by the SVRC, without disclosing personally identifiable information, unless such information was disclosed to the law enforcement agency responsible for investigating the alleged act of sexual violence as described in these procedures and Virginia Code § 23.1-806. If a disclosure to the commonwealth's attorney responsible for prosecuting the alleged act of sexual violence is deemed necessary, the Title IX Coordinator or designee who is on the SVRC will notify the Reporter.

Actions upon Completing an Initial Assessment of a Report Alleging Sexual Misconduct

Upon completion of an initial assessment of a report alleging sexual misconduct, the Title IX Coordinator or designee will make reasonable attempts to notify the Reporter of the following:

- The right to seek medical treatment and the importance of preserving any evidence.
- The right to contact law enforcement at any time, the right to decline to contact law enforcement, and information on how to seek safety measures with the assistance of law enforcement.
- University and community resources and interim measures that may be available (including counseling, medical, advocacy, law enforcement, visa and Immigration information, temporary housing, No Contact Orders, etc.), the right to seek those resources, how to request those resources, and which resources are available without filing a Formal Complaint.
- The right to bring a support person of their choice to any meetings or proceedings under these procedures provided the support person's schedule allows for their attendance. Meetings and proceedings are not scheduled around the availability of support persons.
- The types of reports of sexual misconduct that are eligible, pursuant to [Policy 1340](#), for the filing of a Formal Complaint, the process for filing a Formal Complaint, the investigation procedures used to investigate Formal Complaints, and information about the procedures used by the university to adjudicate Formal Complaints of sexual misconduct.
- Measures that are reasonably available to address any concerns or lessen barriers to filing a Formal Complaint and participating in the investigation of a Formal Complaint. This includes informing Reporters that the university will not pursue alleged policy violations of [J38-101 Alcohol](#) or [J38-102 Drugs](#), for students who are reporting alleged sexual misconduct on their own behalf or for students who participate as witnesses in the Investigation and adjudication of Formal Complaints of sexual misconduct in accordance with [Policy 1340](#), these procedures, and [J34-100 Sexual Misconduct](#).
- The procedures the university uses for responding to reports alleging sexual violence pursuant to state law and that if a disclosure to law enforcement and/or the commonwealth's attorney is deemed necessary to comply with state law, that all information that was reported including personally identifying information may be shared with law enforcement and/or the commonwealth's attorney responsible for prosecuting the alleged act of sexual violence.
- The University's prohibition on retaliation.
- The Title IX Coordinator or designee's contact information and that the Reporter may contact the Title IX Coordinator or designee to schedule an appointment and/or to discuss resources.

Generally, the Reporter will not be obligated to respond to the information provided by the Title IX Coordinator or designee and the decision about what if any resources to utilize will rest with the Reporter.

The decision to initiate a Formal Complaint for allegations of sexual misconduct will generally rest with the Reporter. If the university determines there is an elevated risk to community and/or individual safety, the university may elect to override the preference of a Reporter and instruct the Title IX Office to move forward with initiating a Formal Complaint in order to conduct an investigation. In those

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circumstances, the Title IX Coordinator or designee will ensure the Reporter is notified of the university's decision and provided opportunities to participate in the investigation of the Formal Complaint.

Prior to the filing of a Formal Complaint alleging sexual misconduct, the Title IX office generally will only contact Respondents if the Title IX Coordinator or designee implements a No Contact Order or other Interim Measure that directly affects the Respondent.

Interim Measures

The following is a listing of reasonably available Interim Measures that may be available to Reporters and Respondents.

Interim Measures for Students Available Through the Title IX Office

- Academic supports, which may include assistance with class adjustments, withdrawals, and communication with faculty about absences and requests for additional time on assignments, make up work, etc.
- Assistance with on campus housing matters and temporary alternative on campus housing arrangements.
- Assistance connecting with law enforcement and confidential resources.
- Issuance of No Contact Orders when both the Reporter and Respondent are JMU Community Members.

Other On-Campus Interim and Supportive Measures Available to Students

On-Campus Confidential Resources

[Confidential Survivor Advocacy](#): University Health Center, Student Success Center First Floor, 540-568-2831. Advocates are available 8:00 AM – 5:00 PM Monday-Friday by appointment. Walk-ins are welcome during the school year. Services offered include accompaniment to law enforcement to obtain protective orders or to report a crime, safety planning, and information about a broad range of supportive resources available on campus and off.

[JMU Counseling Center](#): Third Floor, Student Success Center, First appointments are available on a walk-in basis Monday-Friday, 10:00 AM – 3:00 PM.

[University Health Center](#): Student Success Center First and Second Floor, 540-568-6178. A wide range of medical services is available by appointment including medical exams and STI testing. Urgent Care is also available on a walk-in basis.

On-Campus Law Enforcement Options

[James Madison University Police](#) To report crimes that happen on campus call non-emergency 540-568-6912, Emergencies 540-568-6911.

[Safety Escorts](#): 540-568-6913. Available on campus to students free of charge.

Off-Campus Resources Available to Students

Off-Campus Health and Counseling Resources

[The Collins Center](#): 217 S. Liberty Street, Harrisonburg, VA 22801, Low or no-cost counseling and survivor advocacy resources and 24 hour crisis hotline for survivors(540-432-6430).

[Sentara RMH](#): 2010 Health Campus Drive, Harrisonburg, 22801. Wide variety of medical services available including SANE exams and STI testing.

Off-Campus Law Enforcement Options

[Harrisonburg Police Department](#): To report crimes that take place in the City of Harrisonburg call Non-Emergencies: 540-434-4436, Emergencies: 911.

[Rockingham County Sherriff's Office](#): To report crimes that take place in Rockingham County call Non-Emergencies: 540-564-3800, Emergencies: 911.

[Protective Orders](#): There are three types of Protective Orders available in Virginia. The Police and Survivor Advocates can answer questions about and accompany individuals to obtain protective orders.

Interim Measures for Employees Available Through the Title IX Office

- Issuance of No Contact Orders if the Reporter and Respondent are JMU Community Members.
- Assistance connecting with law enforcement.
- Assistance connecting with Human Resources.

Other Interim Measures and Resources Available to Employees On-Campus

Human Resources

[Human Resources](#) provides assistance to employees of the institution with accessing Interim Measures including but not limited to: accessing counseling and medical resources available through the employee's benefits package and communication with supervisors to explore on the job Interim Measures such as alternative work schedule and/or location.

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Formal Complaint and Investigation Process

The Title IX Office will use these procedures to administer the investigation of a Formal Complaint of sexual misconduct. Refer to [Policy 1340](#) for information on what types of reports of alleged sexual misconduct are eligible for the filing of a Formal Complaint.

The Title IX Office does not adjudicate Formal Complaints of sexual misconduct. The role of the Title IX Coordinator or designee who is assigned to investigate a Formal Complaint of sexual misconduct is to serve as a neutral fact finder and not to make determinations about whether or not a policy violation has occurred.

Outline of Formal Complaint Investigation Steps

- The Reporter will initiate the Formal Complaint by meeting with the Title IX Coordinator or designee for an Initial Advising Meeting and signing a Formal Complaint form (see Initial Advising Meeting).
- The Title IX Coordinator or designee will notify the Respondent of the existence of the Formal Complaint (see Notification of a Formal Complaint).
- The Title IX Coordinator or designee will meet with the Respondent for an Initial Advising Meeting (see Initial Advising Meeting).
- The Reporter and Respondent will have the opportunity to provide their statements of the alleged incident(s) to the Title IX Coordinator or designee who is conducting the investigation. The Reporter and Respondent will also have the opportunity to submit evidence, and contact information for Incident Witnesses (see Formal Complaint Investigation).
- The Title IX Coordinator or designee will collect statements from Incident Witnesses (see Witnesses).
- The Title Coordinator or designee will compile all information into an Initial Investigation Report (see Initial Investigation Report).
- The Reporter and Respondent will be provided an opportunity to review the Initial Investigation Report and submit additional evidence, statements, and Incident Witness contact information provided such information is submitted to the Title IX Coordinator or designee by the established deadline(s) (see Formal Complaint Investigation and Initial Investigation Report).
- The Title IX Coordinator or designee will compile a Final Investigation Report which will consist of the Initial Investigation Report, any materials submitted by the Reporter and Respondent after their review of the Initial Investigation Report, provided such materials were submitted by the established deadlines, and any additional witness interviews or statements collected by the Title IX Coordinator or designee (see Final Investigation Report).
- The Reporter and Respondent will be provided an opportunity to review the Final Investigation Report and submit a Final Response, which will be added to the Final Investigation Report, provided the Final Response is submitted to the Title IX Coordinator or designee by the established deadline (See Final Investigation Report and Final Response).
- The Title IX Coordinator or designee will then transfer the Final Investigation Report to the university authority responsible for adjudicating the allegation of sexual misconduct that is the focus of the Formal Complaint (see Actions upon Completion of an Investigation of a Formal Complaint).

Notification of a Formal Complaint

For the purpose of these procedures, the Respondent will receive written notification from the Title IX Coordinator or designee of the Formal Complaint of alleged sexual misconduct. Written notification will be sent to the Respondent's official JMU email address. *The notification to the Respondent will also inform the respondent of the date, time, and location of their Initial Advising Meeting with the Title IX Coordinator or designee, which will generally occur five days after the written notification, is received by the Respondent* (see Introduction and Initial Advising Meeting).

The Reporter will also receive written notification from the Title IX Coordinator or designee that the Respondent has been notified of the Formal Complaint. The written notification to the Reporter will be sent to the Reporter's official JMU email address.

Written notification of the Formal Complaint for the Reporter and Respondent

Written notification of the Formal Complaint shall generally:

- Identify the Reporter and Respondent.
- Specify the date(s), time(s), and location(s), if known, as well as the nature of the alleged incident(s) of sexual misconduct that is (are) the focus of the Formal Complaint.
- Identify the alleged violation(s) under [Policy 1340](#) that is (are) the focus of the Formal Complaint. If the Respondent is a student, then the alleged violations of [J34-100 Sexual Misconduct](#) that are the focus of the Formal Complaint will also be included.
- Identify the Title IX Coordinator or designee who will be carrying out the Investigation of the Formal Complaint and that in carrying out the investigation, the Title IX Coordinator or designee serves as a neutral fact finder.
- State that the presumption is that no policy violation has occurred unless proven otherwise in a campus adjudication process by a preponderance of the evidence.
- State that the Title IX Office does not adjudicate Formal Complaints of sexual misconduct and that upon completion of the investigation of the Formal Complaint by the Title IX Coordinator or designee, that the Final Investigation Report will be transferred by the Title IX Coordinator or designee to the university authority responsible for adjudicating Formal Complaints.
- State that upon receipt of the Final Investigation Report, the adjudicating authority may charge the Respondent with any alleged violation of university policy in addition to charging them with allegation(s) of sexual misconduct that have been investigated by the Title IX Office.
- Explain the prohibition against retaliation for parties participating in procedures under [Policy 1340](#).
- Instruct the parties to preserve any potentially relevant evidence in any format.
- Provide instructions for accessing [Policy 1340](#), these procedures, and if the Respondent in the Formal Complaint is a student, accessing [J34-100 Sexual Misconduct](#).
- State that once the Title IX Office has concluded the investigation into the Formal Complaint and sent the Final Investigation Report to the university authority responsible for adjudicating the Formal Complaint, that the adjudicating authority will not accept additional evidence, written statements, and responses from the Reporter or the Respondent specific to the allegations of sexual misconduct that are the focus of the Formal Complaint investigation.
- State that the university authority responsible for adjudicating the allegations of sexual misconduct that are the focus of the Formal Complaint will only permit Incident Witnesses who

participated in the investigation of the allegations of sexual misconduct that are the focus of the Formal Complaint by providing a statement to the Title IX Coordinator or designee with the ability to participate in the adjudication process for the formal complaint of sexual misconduct.

- Provide information about university and community resources and Interim Measures that may be available (including counseling, medical, law enforcement, visa and Immigration information, temporary housing, No Contact Orders, advocacy, etc.), the right to seek those resources, and how to request those resources.
- Inform the parties of the opportunity to bring a support person of their choice to any meetings or proceedings under these procedures, provided the support person's schedule allows for their attendance. Meetings and proceedings are not scheduled around the availability of support persons.
- Inform the parties of any No Contact Orders put in place and the parameters of the No Contact Order.

Notification about Transcript Notation-Formal Complaints Alleging Sexual Violence

If a student respondent withdraws while under investigation for an allegation of sexual violence, defined as physical sexual acts perpetrated against a person's will or against a person incapable of giving consent, a notation will be placed on the student respondent's transcript until a final decision in the case is rendered. In cases where a student respondent is found responsible and suspended or expelled for sexual violence a notation will be placed on the student respondent's transcript for the duration of the suspension or expulsion.

Such notations will read, as applicable:

- Withdrew while under investigation for violation of Student Standards of Conduct
- Expelled for violation of Student Standards of Conduct
- Suspended for violation of Student Standards of Conduct

Student respondents receiving a transcript notation for a suspension will have it automatically removed by the Office of the Registrar once the suspension period has ended; notations in cases of expulsion are permanent.

Initial Advising Meeting

Both the Reporter and Respondent will meet with the Title IX Coordinator or designee for an Initial Advising Meeting. The Title IX Office prefers that Initial Advising Meetings be conducted in person. However, arrangements can be made for an Initial Advising Meeting to occur over the phone or using another electronic medium the Title IX Office can reasonably access.

The Reporter will participate in an Initial Advising Meeting prior to signing the Formal Complaint Form. The Respondent will participate in the Initial Advising Meeting after the Respondent has received written notification from the Title IX Office of the Formal Complaint.

The Initial Advising meeting will not be used to collect statements, evidence, or witness information from the Reporter or Respondent. Rather, the purpose of the Initial Advising Meeting will be for the Title IX Coordinator or designee to answer any questions the party might have and:

- State that the Title IX Office does not adjudicate Formal Complaints of sexual misconduct and that the Title IX Coordinator or designee who will be carrying out the Investigation of the Formal Complaint serves as a neutral fact finder.
- Explain the procedures the Title IX Office uses to investigate Formal Complaints of sexual misconduct including deadlines for submitting information, reviewing the Initial Investigation Report, reviewing the Final Investigation Report, and submitting a final response for the Final Investigation Report and that upon completion of the investigation, the Title IX Coordinator or designee will transfer the Final Investigation Report to the university authority responsible for carrying out the adjudication of Formal Complaints of sexual misconduct.
- State that upon receipt of the Final Investigation Report, the adjudicating authority may charge the Respondent with any alleged violation of university policy in addition to charging them with allegation(s) of sexual misconduct that have been investigated by the Title IX Office.
- Review with the party that once the Title IX Office has concluded the investigation into the Formal Complaint and sent the Final Investigation Report to the university authority responsible for adjudicating the Formal Complaint, that the adjudicating authority will not accept additional evidence, written statements, and responses from the Reporter or the Respondent specific to the allegations of sexual misconduct that are the focus of the Formal Complaint investigation.
- Review with the party that the university authority responsible for adjudicating the allegations of sexual misconduct that are the focus of the Formal Complaint will only permit Incident Witnesses who participated in the investigation of the allegations of sexual misconduct that are the focus of the Formal Complaint by providing a statement to the Title IX Coordinator or designee with the ability to participate in the adjudication process for the Formal Complaint of sexual misconduct.
- Remind the party of the opportunity to bring a support person of their choice to any meetings or proceedings under these procedures, provided the support person's schedule allows for their attendance. Meetings and proceedings are not scheduled around the availability of support persons.
- State that the presumption is that no policy violation(s) has/have occurred unless proven otherwise in a campus adjudication process by a preponderance of the evidence.
- Offer information about and/or referral to Interim Measures available through the Title IX Office, other university offices, and the community.

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- Review the date(s), time(s), and location(s), if known, as well as the nature of the alleged incident(s) of sexual misconduct that is (are) the focus of the Formal Complaint.
- Review the alleged violation(s) under [Policy 1340](#) that is (are) the focus of the Formal Complaint. If the Respondent is a student, then the alleged violations of [J34-100 Sexual Misconduct](#) that are the focus of the Formal Complaint will also be included.
- Review the prohibition against retaliation for parties participating in investigations of Formal Complaints of sexual misconduct.
- Review the parameters of a No Contact Order if one has been or will be put in place.
- Provide instructions for the format(s) in which the Title IX Office is able to receive statements, evidence, and other supporting documentation.
- Schedule a meeting to take place seven days after the Initial Advising Meeting for a Statement Interview to collect the Reporter or Respondent's statement, evidence they wish to submit, and contact information for Incident Witnesses (See Formal Complaint Investigation and Reporter and Respondent Statement Interviews and Statement Submission).

Formal Complaint Investigation

The Title IX Coordinator or designee who is assigned to conduct the investigation of the Formal Complaint will use these procedures for collecting statements and evidence to be included in the Initial Investigation Report and the Final Investigation Report. These procedures include instructions and timeframes for Reporters, Respondents, and Witnesses.

Reporter and Respondent Statement Interviews and Statement Submission

Statement Interviews are made available to both the Reporter and Respondent. Statement Interviews are scheduled to take place seven days after the Initial Advising Meeting. The purpose of the Statement Interview is for the Reporter and Respondent to provide any information they would like included for the investigation of the Formal Complaint. This includes any evidence or supporting documentation the party wishes to submit as well as contact information for Incident Witnesses that the Reporter or Respondent would like for the Title IX Coordinator or designee to collect statements from during the investigation.

Contact information for Incident Witnesses should consist of the Incident Witnesses' full first (not nickname) and last name, a phone number where the Incident Witness can be reached, and if the Incident Witness is not a JMU Community Member, an email address for the Incident Witness. If the Reporter or Respondent is also aware of the first initial of the Incident Witnesses' middle name and/or any suffixes (Jr., III, etc.) used by the Incident Witness that will be helpful to the Title IX Coordinator or designee in ensuring they are contacting the right individual. The Title IX Office will obtain the JMU email address of university community members who are named as Incident Witnesses.

The Statement Interview is also the first opportunity for the Reporter and Respondent to share with the Title IX Coordinator or designee their perspective of the incident(s) that is (are) the focus of the investigation of the Formal Complaint. Reporters and Respondents are encouraged to use the Statement Interview to provide as much documentation and information as possible since the next opportunity to do so will not be until the Reporter and Respondent review the Initial Investigation Report.

The Title IX Coordinator or designee will conduct interviews in person. However, arrangements can be made to interview individuals over the phone or through another electronic method the Title IX Office can reasonably access.

For the purpose of the Statement Interview, the Reporter and Respondent may bring with them to the meeting or submit electronically, prior to a Statement Interview conducted over the phone or using another electronic method the Title IX Office can reasonably access, a written account of their perspective of the events that are the focus of the investigation of the Formal Complaint. To submit a written statement electronically, the Reporter or Respondent should send the statement to the Title IX Coordinator or designee directly at the Title IX Coordinator or designee's official JMU email address.

The Title IX Coordinator or designee will also use the Statement Interview to ask questions of the Reporter and Respondent about their experience of the events that are the focus of the investigation of the Formal Complaint. The Reporter and Respondent may choose to answer any questions posed by the Title IX Coordinator or designee or decline to answer any questions. In situations where the Reporter or Respondent also submit a written statement, the written statement will be attached to the statement

the Title IX Coordinator or designee collects from the Statement Interview. Neither party will be given access to the other party's statement during the Statement Interview.

Evidence Submission and Collection

The Reporter and Respondent will be provided opportunities to submit evidence related to the allegation(s) of sexual misconduct that is(are) the focus of the Formal Complaint investigation at designated points in the Formal Complaint investigation process. *The first opportunity to submit evidence related to the alleged incident of sexual misconduct that is the focus of the Formal Complaint investigation will occur at the Statement Interview.* The final opportunity to submit evidence related to the allegation(s) of sexual misconduct that is(are) the focus of the Formal Complaint investigation will be five days after the date the Reporter and Respondent review the Initial Investigation Report. The Reporter and Respondent should submit any evidence they wish to include for the Investigation of the alleged incident(s) of sexual misconduct that is (are) the focus of the Formal Complaint investigation directly to the Title IX Coordinator or designee who is conducting the investigation.

Since the focus of the investigation of the Formal Complaint is the alleged incident of sexual misconduct, only evidence relevant to the alleged incident that is the specific focus of the Formal Complaint will be accepted from the Reporter, Respondent, or Incident Witnesses. Character statements and other documentation of general good character will not be accepted.

The Title IX Office does not have a mechanism for compelling individuals or agencies to share documents that may be relevant to the investigation of a Formal Complaint including but not limited to medical reports, educational records, correspondence (either electronic or mailed) that may have taken place between parties involved, surveillance video, police reports, personal texts messages, other electronic communication, pictures, video, etc. Reporters, Respondents, and Incident Witnesses who wish to include any such information will be responsible for obtaining it and submitting it in the timeframe allotted.

Witnesses

For the purpose of these procedures, an Incident Witness is an individual who has information about the alleged incident(s) that is (are) the focus of the Formal Complaint Investigation. The Title IX Coordinator or designee collects Incident Witness statements and evidence Incident Witnesses wish to submit. The Title IX Coordinator or designee does not interview Character Witnesses, ask questions of Incident Witnesses about character, or receive statements solely about character.

Incident Witnesses

Generally, the Title IX Coordinator or designee who is conducting the investigation of the Formal Complaint will identify Incident Witnesses to collect statements from for the investigation of the Formal Complaint. The Reporter and Respondent may also identify Incident Witnesses from whom they would like the Title IX Coordinator or designee to collect statements.

While the Title IX Coordinator or designee will make reasonable attempts to reach out to all potential Incident Witnesses, there is no mechanism for Title IX Office to compel Incident Witnesses to be interviewed. The procedures listed here will be used to notify, collect statements from, and/or interview Incident Witnesses. Interviews with Incident Witnesses can be conducted in person, over the phone, or using another electronic method the Title IX Office can reasonably access.

Retaliation against Incident Witnesses for choosing to participate in the investigation of a Formal Complaint, declining to participate in the investigation of a Formal Complaint, and/or for information Incident Witnesses share in their statements and supporting documentation submitted for an investigation of the Formal Complaint, is prohibited.

Procedures for JMU Community Members who are named as Incident Witnesses

The Title IX Coordinator or designee will contact JMU community members who are potential Incident Witnesses via email using the JMU community member's official JMU email address to ask the JMU community member if they wish to provide a statement as an Incident Witness to the Title IX Coordinator or designee. Though the JMU community member who is contacted reserves the right to decide whether or not they wish to participate as an Incident Witness, the JMU community member is required to communicate their decision about whether or not they are going to participate as an Incident Witness to the Title IX Coordinator or designee. Failure to communicate their decision about whether or not to participate as an Incident Witness to the Title IX Coordinator or designee in the manner requested and by the deadline stated in the request may result in referral for disciplinary action to the university authority responsible for addressing non-response to official requests. If the JMU community member is a student, as defined in the [JMU Student Handbook](#), the student may be referred to the Office of Student Accountability and Restorative Practices for an alleged violation of [J21-100 Noncompliance](#).

If the JMU Incident Witness elects to provide a statement, the Title IX Coordinator or designee will schedule a time for seven days from the date the Incident Witness agreed to participate, to interview the Incident Witness and accept any evidence or supporting documentation the Incident Witness wishes to submit. Incident Witnesses must submit any evidence, written statements, and supporting documents directly to the Title IX Coordinator or designee.

Procedures for Non-JMU Community Members who are named as Incident Witnesses

The Title IX Coordinator or designee will take reasonable steps to make contact with Incident Witnesses who are not JMU affiliated. The Non-JMU community member Incident Witness will be asked to respond with a decision as to whether or not they would like to participate as an Incident Witness by a deadline stated in the notification. There is no mechanism for the Title IX Coordinator or designee to compel Non-JMU community member Incident Witnesses to respond to any requests. If a Non-JMU affiliated Incident Witness elects to provide a statement, the Title IX Coordinator or designee will schedule a time for seven days from the date the Incident Witness agreed to participate, to interview the Incident Witness and accept any evidence or supporting documentation the Incident Witness wishes to submit. Incident Witnesses must submit any evidence, written statements, and supporting documents directly to the Title IX Coordinator or designee.

Incident Witness Statement and Evidence Collection and Submission Procedures

The procedures for accepting statements from Incident Witnesses, conducting Statement Interview meetings, and collecting evidence from Incident witnesses will generally be the same as the procedures used for collecting statements and evidence from the Reporter and Respondent. However, Incident Witnesses are not granted access to the information collected by the Title IX Coordinator or designee for the investigation of the Formal Complaint nor are they provided opportunities to respond to the Initial Investigation Report or Final Investigation Report.

Administrative Witnesses

For the purpose of these procedures, an Administrative Witness is defined as an individual who has an official role in receiving and documenting allegations of sexual misconduct including but not limited to, Office of Residence Life staff and law enforcement personnel. The Title IX Coordinator or designee will include the official documentation of the report the Title IX Coordinator or designee receives from an Administrative Witness, if the Administrative Witness is permitted by their agency to submit their report for the investigation of the Formal Complaint conducted by the Title IX Office.

Initial Investigation Report

The Title IX Coordinator or designee will compile all interviews, statements, and evidence submitted and collected to create the Initial Investigation Report. In general, the Title IX Coordinator or designee will have twenty business days from the date the Formal Complaint was initiated to compile the Initial Investigation Report.

The Initial Investigation Report will contain any written statements from the Reporter, Respondent, and Incident Witnesses that were submitted to the Title IX Coordinator or designee either electronically or in person, the statements from any interviews conducted by the Title IX Coordinator or designee, and any evidence submitted by the Reporter, Respondent, and Incident Witnesses. If an Administrative Witness submitted a report to the Title IX Office, their report will be included too.

Upon completion of the Initial Investigation Report, the Reporter and the Respondent will be sent an email notification simultaneously that the Initial Investigation Report is ready for their review. Both parties will be assigned a meeting time by the Title IX Office to review the Initial Investigation Report. The time of the meeting will be **three business days** after the notification is considered received as described in these procedures (See Introduction).

The Reporter and the Respondent will then have **five days** from the date they review the Initial Investigation Report to submit electronically or in person to the Title IX Coordinator or designee any written responses, supporting documents, or additional Incident Witness contact information related to the allegation of sexual misconduct that is the focus of the Formal Complaint investigation to the Title IX Coordinator or designee for inclusion in the Final Investigation Report (see Evidence Submission and Collection and Witnesses).

Other than providing a written response to the Final Investigation Report this will be the final opportunity for either the Reporter or the Respondent to provide written responses, written statements, evidence, and Incident Witness contact information for the allegation(s) of sexual misconduct that is (are) the focus of the investigation by the Title IX Office of the Formal Complaint. There will not be another opportunity for either party to provide additional Incident Witnesses contact information or statements or documentation for the allegation(s) of sexual misconduct that are the focus of the investigation by the Title IX Office of the Formal Complaint even if the Formal Complaint and Investigation leads to adjudication through a campus conduct process.

Final Investigation Report

Once the Reporter and Respondent have reviewed the Initial Investigation Report and submitted in person or electronically to the Title IX Coordinator or designee any additional documentation, written statements, and Incident Witness contact information related to the allegation(s) of sexual misconduct that is the focus of the Formal Complaint investigation by the deadline stated, the Title IX Coordinator or designee will have fifteen business days to conduct interviews with Incident Witnesses (see Witnesses), and compile the interviews along with the additional information submitted by the Reporter and Respondent into the Final Investigation Report.

The Final Investigation Report will consist of the Initial Investigation Report and all information collected after the Initial Investigation Report was reviewed by the Reporter and Respondent.

Upon completion of the Final Investigation Report, the Reporter and the Respondent will be sent an email notification simultaneously that the Final Investigation Report is ready for their review. Both parties will be assigned a meeting time by the Title IX Office to review the Final Investigation Report. The time of the meeting will be **three business days** after the notification is considered received as described in these procedures (see Introduction).

The Reporter and Respondent will then have **five days** from the time of their Final Investigation Report review meeting to submit, in person or electronically, to the Title IX Coordinator or designee a written final response. *The final responses submitted by each party by the deadline indicated will be added to the Final Investigation Report.* No final responses will be accepted after the established deadline.

Final Response

The final written response may consist of any additional thoughts regarding the alleged incident(s) of sexual misconduct that is(are) the focus of the Formal Complaint and the evidence and statements related to the allegation of sexual misconduct that is the focus of the Formal Complaint submitted for the Final Investigation Report. The parties may attach supporting documentation related to the allegation(s) of sexual misconduct that is (are) the focus of the Formal Complaint to their final written response. The Final Responses received will be included in the Final Investigation Report when transferred to the university authority responsible for the adjudication of the formal complaint.

Actions upon Completion of an Investigation of a Formal Complaint

The Title IX Coordinator or designee will be responsible for transferring the Final Investigation Report to the university authority responsible for adjudicating Formal Complaints of sexual misconduct and notifying the Reporter and Respondent simultaneously about the transfer of the Final Investigation Report.

The Title IX Office will retain a copy of the Final Investigation Report for the period specified by state and federal law for retention of records.

If there is a No Contact Order in effect, it will remain in effect pending the final outcome in the adjudication of the Formal Complaint by the university authority that is responsible for carrying out the adjudication procedures.

After the transfer of the Final Investigation Report, The Title IX Office will continue to provide reasonably available Interim Measures and referrals for Interim Measures available through other university offices and the community to the Reporter and Respondent.

Title IX Coordinator or Designees Role in Campus Adjudication Proceedings

The Title IX Coordinator or designee responsible for conducting the investigation of the Formal Complaint may be called on by university officials to appear as an Administrative Witness at proceedings the university uses to adjudicate the allegation of sexual misconduct that is the focus of the Formal Complaint. The Title IX Coordinator or designee will not provide any recommendations, determinations, perspectives on credibility, or perspectives on the validity of any claims or evidence during any adjudication proceedings.