

Judson University Sexual Harassment and Misconduct Policy

Scope

This policy applies to all visitors, students, staff, and faculty members at Judson University, including contracted employees.

Definition of Consent

Consent is a freely given agreement to sexual activity. Consent is informed, voluntary, active, clear, and given for each activity.

A person's lack of verbal or physical resistance or submission resulting from the use of threat of force does not constitute consent. A person's manner of dress does not constitute consent. A person's consent to past sexual activity does not constitute consent to future sexual activity. A person's consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another. A person can withdraw consent at any time.

Additionally, a person cannot consent to sexual activity if he or she is unable to understand the nature of the activity or give knowing consent due to the following circumstances:

- The person is incapacitated due to the use of influence of alcohol or drugs.
- The person is asleep or unconscious.
- The person is under age.
- The person has a mental disability.

Definition of Sexual Harassment

Sexual harassment is verbal or physical conduct or conduct using technology that is so severe or pervasive that it has the purpose or effect of unreasonably interfering with an individual's work performance or educational program participation, or that creates an intimidating, hostile, or offensive work or educational environment.

Sexual harassment is prohibited by law. Judson University's Office of Title IX will respond to all on-campus reports of sexual harassment, as well as reports of incidents that occur off-campus if those incidents involved officially-recognized university programs.

A person's subjective belief that behavior is intimidating, hostile, or offensive does not make that behavior harassment. The behavior must be objectively unreasonable. Expression occurring in an academic, educational or research context is considered a special case and is broadly protected by academic freedom. Such expression will not constitute harassment unless (in addition to satisfying the above definition) it is targeted at a specific person or persons, is abusive, and serves no bona fide academic purpose.

In addition to the previously-mentioned examples, an incident may constitute sexual harassment if it meets any of the following criteria:

1. Submission to such conduct was made either explicitly or implicitly a condition of an individual's employment or academic standing; or

2. It is unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denied a person equal access to the school's education program or activity; or
3. The conduct meets the definition of sexual assault as defined by the Clery Act, and dating violence, domestic violence, or stalking using the State of Illinois Criminal Code's definitions in compliance with the Violence Against Women Reauthorization Act of 2013 (VAWA).

Sexual harassment may include incidents between any members of the University community, including faculty and other academic appointees, staff, coaches, students, and non-student or non-employee participants in University programs, such as vendors, contractors and visitors. Sexual harassment may occur in hierarchical relationships or between peers, or between persons of the same sex or opposite sex.

Definition of Sexual Violence and Assault

Sexual violence, including sexual assault, sexual battery, sexual abuse and sexual coercion, is criminal activity and is prohibited by law.

Sexual assault is defined by the Clery Act as any sexual act directed against another person—forcibly and/or against that person's will or not forcibly or against that person's will—where the victim is incapable of giving consent.

Sexual assault includes forcible rape, forcible sodomy, sexual assault with an object, and forcible fondling. Non-forcible sex offenses are acts of unlawful, non-forcible sexual intercourse; they include incest and statutory rape. Judson University will not tolerate this form of behavior.

Persons who have experienced sexual assault are advised to refrain from washing, changing clothes, using the toilet, douching or otherwise disturbing the scene of the crime so as to preserve as much evidence as possible, and should contact Campus Safety immediately. On-duty Campus Safety staff at the Elgin campus can be reached at 847-622-9999. Campus Safety will assist the victim with notifying police as well as preserving evidence, and will report the incident to the University so it may be investigated.

Definition of Domestic Violence

Domestic violence is a crime and is prohibited by law. The Illinois Domestic Violence Act defines domestic violence as hitting, choking, kicking, threatening, harassing, and interfering with the personal property of another family or household member.

Under Illinois law family members and household members include:

- Family members related by blood.
- Family members who are married or used to be married.
- People who share a home, apartment or dwelling.
- People who share a child in common.
- People who are dating or engaged, or used to date.
- People with disabilities and their personal assistants.

Persons who believe they have experienced domestic violence are encouraged to notify Campus Safety. On-duty Campus Safety at the Elgin campus can be reached at 847-622-9999.

Definition of Dating Violence

Teen Dating Violence is defined in the Illinois Criminal Code as a “pattern of behavior” in which a person uses or threatens to use physical, mental, or emotional abuse to control another person who is in a dating relationship with the person, where one or both persons are) 13 to 19 years of age; or (2) Behavior by which a person uses or threatens to use sexual violence against another person who is in a dating relationship with the person, where one or both persons are 13 to 19 years of age. The existence of such a dating relationship shall be based on the reporting party’s statement, with the length of relationship, type of relationship, and frequency of encounters taken into account.

Dating violence does not include acts covered under the definition of domestic violence. Persons who believe they have experienced dating violence are encouraged to notify Campus Safety. On-duty Campus Safety can be reached by phone at 847-622-9999.

Definition of Stalking

Stalking is a crime, and is defined in the State of Illinois as a course of conduct (2 or more incidents) directed at a specific person that would cause a reasonable person to fear for his or her own safety or the safety of another person or to suffer emotional distress.

Examples of stalking could include, continued contact with a person without their consent, following another person without their consent, taking pictures or video of another person without their consent, delivering “gifts” to a person without their consent, confining or restraining a person, damaging another person’s property or threatening their pet.

Persons who believe they are experiencing stalking are encouraged to keep records of incidents and notify Campus Safety. Campus Safety can assist with obtaining a campus No Contact Order as well as notifying local law enforcement to obtain a Stalking No Contact Order. On-duty Campus Safety can be reached by phone at 847-622-9999.

Sexual Misconduct Reporting Options

If the survivor of a sexual misconduct incident wishes for the matter to be held confidential, such that a University investigation does not occur, the individual may speak with a professional or pastoral counselor, or a designated “confidential advisor” as these individuals are not required by law to report identifying information regarding an allegation of sexual misconduct to the University.

- Dr. Kimberly Schellin-Rog, Coordinator of Domestic Violence Program
Community Crisis Center – Elgin, IL
847-697-2380
- Reverend Jason Poland, Executive Pastor
First Baptist Church – Elgin, IL
847-695-8700
- Rockford Sexual Assault Counseling, Inc.
4990 E State Street

Rockford, IL 61108
815-636-9811 (24/7 crisis hotline)
<http://www.rsaonline.org/>

Anonymous electronic reporting of a sexual misconduct incident can be made using the Silent Witness/Anonymous form on the Judson University website under the Title IX Services section (found under Services from the main website). This form does not collect personal identifying information and is only used to provide the University with information for the purpose of crime statistics collection and identifying dangerous trends on campus. You may choose to provide your name and contact information if you wish for the University to follow up with you. The University will respond within 12 hours to all electronic reports that contain contact information.

Persons who believe they have experienced sexual misconduct or assault are encouraged to directly report incidents to the Title IX Coordinator or Office of the President. Reports to these positions are considered reports to the institution. Either of these individuals have the authority to institute corrective actions and investigate the report.

You have the right and can expect to have incidents of sexual misconduct taken seriously by the institution when reported, and to have those incidents investigated and properly resolved. Reporting means that only people who need to know will be told, and information will be shared only as necessary with investigators, witnesses, and the accused individual.

Survivor's Rights

As a survivor of sexual violence, dating violence, domestic violence, stalking, or harassment you have the right to report or not report the incident to Judson University and/or local police. If you would like assistance with notifying local police, the Judson University Title IX Coordinator will work with Campus Safety to provide you with this assistance.

If you would like to talk to someone confidentially about options and resources available to survivors of sexual assault without reporting the incident to Judson University, you may contact any of the following individuals/organizations at no cost to you 24 hours a day:

- Dr. Kimberly Schellin-Rog, Coordinator of Domestic Violence Program
Community Crisis Center – Elgin, IL
847-697-2380
- Reverend Jason Poland, Executive Pastor
First Baptist Church – Elgin, IL
847-695-8700
- Rockford Sexual Assault Counseling, Inc.
4990 E State Street
Rockford, IL 61108
815-636-9811 (24/7 crisis hotline)
<http://www.rsaonline.org/>

To obtain a medical forensic examination at no cost to you, please contact either of the following healthcare facilities (these are not affiliated with Judson University and will not share your information without your permission):

Sherman Hospital
1425 N. Randall Road
Elgin, IL 60123
847-742-9800
www.shermanhealth.com

Rockford Memorial Hospital
2400 N Rockton Avenue
Rockford, IL
815-971-5000
<http://www.rockfordhealthsystem.org/rockford-memorial-hospital>

The Judson University Title IX Coordinator will also assist parties involved in incidents of sexual violence, domestic violence and stalking with changing campus housing, campus work arrangements, class schedules, and obtaining and enforcing orders of protection or civil no contact orders on campus as necessary. The Judson University Title IX Coordinator will also provide assistance obtaining campus counseling services.

Procedures for Investigating Claims of Sexual Misconduct

The Title IX coordinator, or his/her designee, shall bear responsibility for initially investigating the circumstances of the alleged offense to the extent necessary to make a determination as to whether the allegations could constitute a violation of the Judson University Sexual Misconduct Policy. This includes fact-finding, collecting and documenting evidence and interviewing witnesses including the complainant and respondent.

Romantic or consensual sexual relationships or incidents that do not meet the definition of sexual misconduct may still constitute a violation of Judson University policies, and would be referred to the Vice President having jurisdiction over the persons involved.

The investigation shall be conducted as follows:

- a. The Title IX coordinator shall assign a Title IX investigator(s) to contact the complainant for an initial interview after receiving a formal complaint of a potential violation of the Policy. The Title IX investigator shall provide the complainant, once identified, with a copy of their rights as a survivor. The respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.
- b. The Title IX coordinator shall dismiss complaints from the Title IX process that meet the following criteria:
 1. The alleged conduct even if true is not a policy violation.
 2. The alleged conduct did not occur in an educational program or activity.
 3. The alleged conduct did not occur against a person in the United States.

Note that such a dismissal from the Title IX process does not preclude action under another provision of the University's code of conduct or policies.

- c. The Title IX coordinator has the discretion to dismiss complaints from the Title IX process at any time that meet the following criteria:

1. The complainant requests a withdrawal of the complaint in writing.
 2. The respondent is no longer enrolled or employed by the institution.
 3. Specific circumstances prevent the institution from gathering sufficient evidence to reach a determination.
- d. After determining if merit exists for a formal investigation into an incident, a statement of charges in writing will be presented within a timely manner by the Title IX coordinator to both the complainant and respondent in all cases of alleged sexual assault or harassment. This statement will include:
1. Discussion of the formal complaint process, including any informal resolution option
 2. The allegations of sexual harassment or misconduct
 3. A statement that the respondent is presumed innocent and that a determination of responsibility is made at the conclusion of the process
 4. A statement regarding right to an advisor and to review and inspect evidence
 5. A statement of the University's code of conduct prohibiting knowingly making false statements or knowingly submitting false information
- e. A party whose participation is invited or expected, will be provided written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.
- f. If all parties voluntarily agree to participate in an informal resolution that does not involve a full investigation and adjudication after receiving a full disclosure of the allegations and their options for formal resolution and if the Title IX Coordinator determines that the particular Title IX complaint is appropriate for such a process, the school may facilitate an informal resolution, including mediation, to assist the parties in reaching a voluntary resolution. The complainant or respondent may choose to end this process at any time and proceed with a formal investigation.
- g. If an incident is under investigation by law enforcement, Judson University shall still conduct its own independent investigation without delay.
- h. In all incidents where it is suspected that a crime has been committed as defined by federal, state or local law, the Title IX coordinator shall assist the survivor with notifying local law enforcement if requested.
- i. Judson University may take immediate, interim protective measures to include changes in living, work or academic arrangements, as possible. To protect the safety of the community, Judson University reserves the right to suspend or place on administrative leave any community member accused of violating the Sexual Harassment and Misconduct Policy, pending the outcome of the investigation, in accordance with the University's Threat Assessment Policy.
- j. The investigation will be led by the Title IX Coordinator or other designated, trained investigator(s). The assigned investigator shall create a comprehensive investigation report of "directly related evidence" that will be made available to both involved parties. Investigator notes are not considered "directly related evidence" and do not need to be provided to parties. Parties must be given at least 10 days to review copies of written evidence before providing a written response, which the investigator will consider prior to finalizing their investigative report summarizing relevant evidence.

- k. A live hearing shall be conducted as part of the University's investigation into sexual misconduct, and shall be chaired by the assigned Deputy Title IX Coordinator. A copy of the investigative report will be provided at least 10 days prior to the hearing date to each party and their adviser. To avoid any potential conflicts of interest, notice shall be sent to both the complainant and respondent of the composition of the hearing committee prior to contact between the hearing committee and the accuser or accused. The hearing committee shall receive the same investigative report as provided to the parties.
- l. During the hearing, both complainant and respondent shall have equal rights to present witnesses, have an advisor present, and shall also have similar access to the same information.
- m. The hearing chair shall make final determinations on advisors and parties that may be present at the hearing in order to protect confidentiality. Advisors may not interrupt proceedings or harass or abuse any other party involved, including witnesses. The hearing chair will establish rules of decorum and may remove any advisor from proceedings who violates these rules.
- n. During a live hearing, neither the complainant nor respondent can be compelled to testify in the presence of the other party. At the request of either party, institution must provide for a live hearing to occur with parties located in separate rooms with technology enabling decision-maker(s) and parties to simultaneously see and hear the hearing.
- o. During the hearing, parties shall be given the opportunity to cross-examine evidence, including witness statements. Witnesses must be available for cross-examination. Statements by witnesses who do not submit to cross-examination may not be considered evidence, which includes statements in police reports, medical records, text or other electronic messages, and other documents.
- p. Guilt shall be determined for each allegation using the "preponderance of the evidence" standard. The preponderance of evidence standard is met when it is determined based on fact that an incident more likely than not occurred.
- q. Audio transcripts of the live hearing shall be maintained by the Office of Title IX for up to seven years from the date of the hearing.
- r. The investigation and hearing process shall be conducted fairly within a reasonably prompt timeframe. Both complainant and respondent shall be notified in writing simultaneously within seven days of the outcome of the investigation. Notification shall include the decision; any sanctions imposed; and the rationale for the decision and the sanctions.
- s. Disciplinary sanctions related to a finding of guilt shall be proportionate to the violation, and shall be determined by the hearing committee. Any student found guilty of sexual harassment or sexual assault faces disciplinary sanctions that could include: mandated counseling or treatment, no contact orders and restrictions, suspension, dismissal, or expulsion. Likewise any employee of the University found guilty of sexual harassment or

sexual assault shall face sanctions that include suspension from duty or termination of employment.

- t. Following notification of the outcome of the investigation, either party may file an appeal within five business days to the University President. The President shall select two appointees to consider appeals who have not previously participated in the resolution procedure and who do not have a conflict of interest with either party. Appeals will be considered only on the basis of: (i) procedural error; (ii) new information that would substantially change the outcome of the finding; or, (iii) the sanction is disproportionate with the violation. Substantive judgments of the original investigative team will not be revisited. Notification to the parties of the appeal decision will be made within seven days of the finding.

Retaliation Against Survivors

Judson University supports survivors of sexual misconduct. Any retaliation against survivors or witnesses for making a report in good faith or otherwise supporting the complaint-resolution process will not be tolerated. Any person who believes that they have experienced retaliation for making such a report shall immediately bring it to the attention of the Title IX Coordinator.

Survivors of sexual violence will not receive disciplinary sanctions for minor student conduct violations related to the reported incident, such as alcohol consumption or premarital sex.

Bystander Intervention

Appropriate bystander intervention can reduce incidents of sexual misconduct and mitigate negative effects. Intervention techniques include:

- Understanding that alcohol may intensify the effect of certain medications, leading to rapid intoxication or unconsciousness
- Respecting another person's right to say no to a sexual encounter. Someone who is intoxicated or unconscious cannot consent to a sexual encounter.
- Speaking up against false comments or jokes about sexual assault or harassment. Be honest and direct.
- Getting help from others, including calling the police or Campus Safety when a situation gets serious. Keep yourself safe.

Other Resources

Services available off-campus in the Elgin area include:

- Elgin Police Department (911)
- The Community Crisis Center (847-697-2380)
- Sherman Hospital (847-742-9800)
- St. Joseph Hospital (847-695-3200)

For Rockford, off-campus agencies include:

- Rockford Police Department (911)
- Rockford Sexual Assault Counseling, Inc. (815-636-9811)
- Rockford Memorial Hospital (815-971-5000)

For more information on sexual discrimination, harassment or assault, or to inquire about Title IX, please contact the Title IX coordinator:

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Elgin, IL 60123
847-628-2492
nsalzmnn@judsonu.edu*

Record of Changes:

8/6/2015	Enacted as policy
7/12/2016	Revisions approved by Leadership Team
8/15/2017	Revisions approved by Leadership Team
8/27/2018	Added to procedures, Coordinator changed, revisions approved
8/27/2019	Revisions approved by Cabinet
8/18/2020	Revisions approved by Cabinet