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Students' Rights and Responsibilities

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Students' rights and responsibilities as described here are not definitive; rather, they are indicative of the direction of and changing educational environment. Students enjoy the same basic rights and are bound by the same responsibilities to themselves and to others, as are all citizens.

For the purposes of the Student Handbook, the term "student" includes all persons who have paid a deposit for admission or are currently taking courses at the university, either full-time, part-time, pursuing credit, and/or continuing education studies sponsored by the university, up to and including any graduation or completion date.

The student as a citizen has the rights of freedom of speech, freedom of the press, freedom of peaceful assembly and association, freedom of political beliefs and freedom from personal force and violence, threats of violence and personal abuse.

The student as a citizen has a right to be considered equally for admission to, employment by and promotion within the campus in accordance with the provisions against discrimination in the general law.

James Madison University is not a sanctuary from the general law; furthermore, the campus is a community of growth and fulfillment for all rather than a setting described in the concept of in loco parentis

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Procedural Statements for the Accountability Process

The Office of Student Accountability and Restorative Practices will structure and execute the Accountability Process in a manner that presumes the Accused Student not responsible for violating policy, provides fairness to the parties involved, and facilitates a determination based on a preponderance of the evidence concerning the allegations presented.

The Office of Student Accountability and Restorative Practices will make public the range of possible sanctions for violations of university policies, as well as clearly formulate and communicate the adequate cause for separation from the university.

The Office of Student Accountability and Restorative Practices can address behavior that occurs on and off campus. Student behavior on-campus that violates policies listed in the JMU Student Handbook may be addressed by the Office of Student Accountability and Restorative Practices. Alcohol, drug, or felony violations, violations of state or federal law, and other student behavior that occurs off-campus within the City of Harrisonburg or Rockingham County may be addressed by the Office of Student Accountability and Restorative Practices in accordance with university policies and procedures. Student behavior that is against the mission of the institution, including but not limited to felonies or sexual misconduct, may be addressed by the Office of Student Accountability and Restorative Practices regardless of the location in which it occurred.

The Office of Student Accountability and Restorative Practices will not represent accusing faculty, staff or students, but will provide a process for fact-finding and fair decision-making.

In evaluating evidence and information presented in the Accountability Process, the technical rules of evidence applicable in civil and criminal cases shall not apply.

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Responsibilities and Rights - Administrative Case Review

Procedural Responsibilities of the Office of Student Accountability and Restorative Practices

The Office of Student Accountability and Restorative Practices will provide a fair and impartial case review that presumes the Accused Student not responsible for violating policy.

The Office of Student Accountability and Restorative Practices will use a preponderance of the evidence to determine if an Accused Student is responsible for violating policy.

The Office of Student Accountability and Restorative Practices will notify the Reporting Party of the outcomes of the case pertaining to the charges of violence and/or sexual misconduct.

Accused Student Rights in an Administrative Case Review

Accused Student has the following rights at an Administrative Case Review:

The right to know the charges against him or her, the policy allegedly violated, and the date, time and place of the Administrative Case Review at least three days prior to the Administrative Case Review via his or her official JMU email address.

The right to be present during the entire Administrative Case Review, except for administrative consultation or follow up.

The right to not answer the Case Administrator's questions or provide information to be used in the adjudication of the case.

The right to know and respond to all information being used by the Case Administrator to make a decision in the case.

The right to be notified orally of the Case Administrator's decision once the Case Administrator has made a determination of whether or not the student is responsible for the violation and, if applicable, the sanctions imposed.

The right to receive the decision in writing within ten business days of when the Accused Student accepts the decision made by his or her Case Administrator.

The right to reject the decision of his or her Case Administrator and have the case re-heard by members of the Accountability Board in an Accountability Board Case Review.

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Responsibilities and Rights - Accountability Board Case Review

Procedural Responsibilities of the Office of Student Accountability and Restorative Practices and the Accountability Board

The Office of Student Accountability and Restorative Practices will provide a fair and impartial case review that presumes the Accused Student not responsible for violating policy.

The Office of Student Accountability and Restorative Practices will use a preponderance of the evidence to determine if an Accused Student is responsible for violating policy.

The Office of Student Accountability and Restorative Practices will notify the Reporting Party of the outcomes of the case pertaining to the charges of violence and/or sexual misconduct.

Accused Student Rights in an Accountability Board Case Review

An Accused Student has the following rights at an Accountability Board Case Review:

The right to know the charges against him or her, the policy allegedly violated, and the date, time and place of the Accountability Board Case Review at least three days prior to the Accountability Board Case Review via his

or her official JMU email address.

The right to be present during the entire Accountability Board Case Review, except for closed deliberation.

The right for a support person or attorney to attend the Accountability Board Case Review in accordance with the restrictions outlined in the Accountability Process.

The right to not answer questions or provide information to be used in the adjudication of the case.

The right to know and respond to all information being used to make a decision in the case and the right to provide information to be included in the case file and used in the adjudication of the case in accordance with the deadlines and restrictions listed in the Accountability Process.

The right to question all witnesses who present at the Accountability Board Case Review.

The right to have witnesses present at the Accountability Board Case Review in accordance with the restrictions listed in the Accountability Process, provided witnesses are able to attend the scheduled Accountability Board Case Review or to provide witness statements in accordance with the deadlines and restrictions listed in the Accountability Process.

The right to have members of the Accountability Board only be informed of the Accused Student's previous history in the Office of Student Accountability and Restorative Practices and/or sanctions imposed if the Accountability Board makes a determination after deliberation that the student is responsible for violating policy in order to determine sanctions. The student may elect to share previous violations or sanctions with the Accountability Board as a part of his or her own statements.

The right to be notified of the Accountability Board's determination of whether or not the student is responsible for the violations and, if applicable, the sanctions imposed at the conclusion of the Accountability Board's closed deliberation if present at the Accountability Board Case Review. Students not present at the Accountability Board Case Review will be informed the next business day.

The right to submit a written appeal of the decision made at the Accountability Board Case Review within four days of when the Accountability Board Case Review occurs for any of the following causes:

Due process, meaning that the university failed to follow the process it set forth for the review of the case.

New evidence that was not available or accessible at the time of the Accountability Board Case Review.

The right to have access to a recording of the Accountability Board Case Review solely for the purposes of preparing a written appeal.

In circumstances where an Appeal Review occurs, an Accused Student has the right to receive the decision made by the Appeal Board in writing within ten business days of the Appeal Review or final review by the Dean of Students or designee.

In circumstances where an Appeal Review does not occur, an Accused Student the right to receive the decision made by the Accountability Board in writing within ten business days of the Accountability Board Case Review.

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Administrative Witness

An Administrative Witness is a university faculty member, staff member, student, or other employee or volunteer that provides a report, statement, evidence, or other information to be used in the placing or adjudication of a charge in the Office of Student Accountability and Restorative Practices that is not called as a witness by an Accused Student or Reporting Party, but is determined by the Office of Student Accountability and Restorative Practices as having relevant information necessary for the adjudication of the case. Administrative Witnesses include, but are not limited to, Residence Life Staff, Professors reporting violations, University Staff, Police Officers, and Title IX Officers/Coordinators/Investigators. Administrative Witnesses do not present against an Accused Student, but it is often their interaction with an Accused Student and/or Reporting Party that led to a charge being placed against a student. Written statements provided by Administrative Witnesses are typically used during Administrative Case Reviews. The availability of an Administrative Witness is considered when the Office of Student Accountability and Restorative Practices schedules an Accountability Board Case Review or Sexual Misconduct Case Review. Administrative Witnesses do not have the right to be accompanied by an attorney or support person at an Accountability Board Case Review or Sexual Misconduct Case Review with an attorney or support person.

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Reporting Party (Violence)

A Reporting Party (Violence) is a person who reports that he or she is allegedly a victim of behavior committed by a JMU student that is covered by

[JMU Policy J43-100 Physical Force or Attempted Physical Force](#)

that does not fall under

[J34-100 Sexual Misconduct](#)

. A Reporting Party (Violence) need not necessarily present charges against an Accused Student, but it is often their interaction with an Accused Student that led to a charge being placed by the Office of Student Accountability and Restorative Practices. Written statements provided by Reporting Party (Violence) are typically used during Administrative Case Reviews. The availability of a Reporting Party (Violence) is considered when the Office of Student Accountability and Restorative Practices schedules an Accountability Board Case Review. The Office of Student Accountability and Restorative Practices confers the rights outlined in the Reporting Party Rights (Violence) to those who meet this definition.

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Reporting Party Rights (Violence)

The Reporting Party for an incident that allegedly violates

[JMU Policy J43-100 Physical Force or Attempted Physical Force](#)

has the following rights:

The right to be notified the date, time and place of the Accountability Board Case Review at least three days prior to the Accountability Board Case Review via email

The right for a support person or attorney to attend the Accountability Board Case Review in accordance with the restrictions outlined in the Accountability Process

The right to be informed of the outcomes in the case that pertain to the Reporting Party.

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Reporting Party Witness

A Reporting Party Witness is a person who provides a report, statement, evidence, or other information to be used in the placement or adjudication of a charge in the Office of Student Accountability and Restorative Practices and who is called by a Reporting Party. A Reporting Party Witness may provide his or her perspective as a written statement, in person, or both, in accordance with any restrictions put in place as listed in the Student Handbook. A Reporting Party Witness can provide information relevant to the case, including but not limited to what he or she knows about the alleged incident or his or her knowledge of the Reporting Party. A Reporting Party Witness may not provide his or her perspective on the character of the Accused Student, nor what he or she feels the appropriate decision or sanction in the case should be. The availability of a Reporting Party Witness is not considered when the Office of Student Accountability and Restorative Practices schedules an Accountability Board Case Review or Sexual Misconduct Case Review. The Office of Student Accountability and Restorative Practices confers the rights outlined in the Reporting Party Witness Rights to those serving in this role.

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Reporting Party Witness Rights

A witness called by a Reporting Party has the following rights:

The right to be notified the date, time and place of the Accountability Board Case Review or Sexual Misconduct Case Review at least three days prior to the case via email.

The right for a support person or attorney to attend the Accountability Board Case Review in accordance with the restrictions outlined in the Accountability Process. A support person or attorney for a Reporting Party Witness may not also serve as a witness in the case.

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Accused Student Witness

An Accused Student Witness is a person who provides a report, statement, evidence, or other information to be used in the adjudication of a charge in the Office of Student Accountability and Restorative Practices, and who is called by an Accused Student. An Accused Student Witness may provide his or her perspective as a written statement, in person, or both, in accordance with any restrictions put in place as listed in the Student Handbook. An Accused Student Witness can provide information relevant to the case, including but not limited to what he or she knows about the alleged incident or his or her knowledge of the Accused Student. An Accused Student Witness may not provide his or her perspective on the character of the Reporting Party, nor what he or she feels the appropriate decision or sanction in the case should be. The availability of an Accused Student Witness is not considered when the Office of Student Accountability and Restorative Practices schedules an Accountability Board

Case Review or Sexual Misconduct Case Review. The Office of Student Accountability and Restorative Practices confers the rights outlined in the Accused Student Witness Rights to those serving in this role.

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Accused Student Witness Rights

A witness called by an Accused Student has the following rights:

The right to be notified the date, time and place of the Accountability Board Case Review or Sexual Misconduct Case Review at least three days prior to the case via email

The right for a support person or attorney to attend the Accountability Board Case Review in accordance with the restrictions outlined in the Accountability Process. A support person or attorney for an Accused Student Witness may not also serve as a witness in the case

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Responsibilities and Rights - Sexual Misconduct

Procedural Responsibilities of the Office of Student Accountability and Restorative Practices

The Office of Student Accountability and Restorative Practices will provide a fair and impartial case review that presumes the Accused Student not responsible for violating policy.

The Office of Student Accountability and Restorative Practices will use a preponderance of the evidence to determine if an Accused Student is responsible for violating policy.

The Office of Student Accountability and Restorative Practices will notify the Reporting Party of the outcomes of the case pertaining to the charges of violence and/or sexual misconduct.

Rights Granted in the Sexual Misconduct Accountability Process

The right to know the charges against the Accused Student, the policy allegedly violated, and the date, time and place of the Sexual Misconduct Case Review at least three days prior to the Sexual Misconduct Case Review via his or her official JMU email address.

The right to a support person or attorney to accompany him or her at any meetings in the Office of Student Accountability and Restorative Practices, provided that support person or attorney's schedule allows them to

attend. An attorney or support person attending a case review may not actively represent a party, but provide support or advice on how to present his or her case.

The right to request reasonable safety measures be put in place, including but not limited to partitions, teleconferencing, or police presence.

The right to access all documentation to be used in the case file in the adjudication of the case, the right to submit documentation to be used in the case file in the adjudication of the case in accordance with the deadlines, guidelines, and restrictions listed in the Sexual Misconduct Accountability Process, and the right to know and respond to all information, evidence, or witness statements being used in the adjudication of the case.

The right to relate his or her account of the alleged incident and the right to share information to be used in the adjudication of the case in accordance with the deadlines, guidelines, and restrictions listed in the Sexual Misconduct Accountability Process; the right to not answer questions or provide information to be used in the adjudication of the case.

The right to be present during the entire Sexual Misconduct Case Review, except for closed deliberation.

The right to question all witnesses who present at the Sexual Misconduct Case Review and the right to have witnesses present at the Sexual Misconduct Case Review in accordance with the restrictions listed in the Sexual Misconduct Accountability Process, provided the witness is able to attend the Sexual Misconduct Case Review and the Office of Student Accountability and Restorative Practices is notified of the witness in accordance with the deadlines listed in the Sexual Misconduct Accountability Process.

The right to not be questioned directly by the other party in the case, nor have one's own witnesses directly questioned by the other party in the case; all questions for the other party or the other party's witnesses will be stated through the Board Chair.

The right not to have his or her intimate relationships or sexual history with other people discussed as a part of the case.

The right to read a closing statement at the Sexual Misconduct Case Review or have one read by the Board Chair.

The right to have members of the Board only be informed of the Accused Student's previous history in the Office of Student Accountability and Restorative Practices and/or sanctions imposed if the Board makes a recommendation after deliberation that the student is responsible for violating policy in order to recommend sanctions. The Accused Student may elect to share previous violations or sanctions with the Accountability Board as a part of his or her own statements.

The right to be notified of the Board's relevant recommendations of whether or not the Accused Student is responsible for the violation and, if applicable, the relevant sanctions imposed at the conclusion of the Board's closed deliberation.

The right to submit a written appeal of the recommendations made at the Sexual Misconduct Case Review within four days of when the Sexual Misconduct Case Review occurs for any of the following reasons:

Due process, meaning that the university failed to follow the process it set forth for the review of the case.

New evidence that was not available or accessible at the time of the Sexual Misconduct Case Review.

The right to have access to a recording of his or her Sexual Misconduct Case Review solely for the purposes of preparing an appeal or response to an appeal.

The right to be notified in writing of relevant final outcomes of the case after the final review of the Board's recommendation conducted by the Dean of Students or designee within ten business days of the conclusion of the Dean of Students or designee's review.

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Office of Student Accountability and Restorative Practices

Student Success Center

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