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James Madison University Title IX Program Review

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General Information:

Finding general Title IX information for James Madison University (“JMU”) is fairly easy. I give credit to JMU for the accessibility of the general information page regarding Title IX policies and laws. The Title IX landing page is organized by JMU policies, JMU handbook policies, federal policies, and Virginia policies. Additionally, there is a side menu providing links to information about reporting, resources, the formal complaint process, and education and training. This organizational structure makes it easy to understand the different governing bodies involved with Title IX and is sufficient to quickly direct someone to more specific information. As well the landing page contains information regarding the Title IX office, which includes the current Title IX Coordinator, Amy M. Sirocky-Meck. In regard to the information on Title IX training, there is a link to another page titled “Education and Training.” Under this tab, a student or employee could request a program, consult, or view the training materials and the training log of Title IX staff. Overall, I am pleased with the accessibility of general information.

JMU is currently under investigation for two complaints. The first relates to discrimination by single-sex campus programs, and the second involves single-sex scholarship discrimination. Both complaints have been open since July 2022.

Athletics:

Despite JMU’s general information about Title IX being easily accessible, information about Title IX in the athletics context is much more difficult to find. Notably, this information is absent on the Title IX home page described above and is found instead on the JMU Sports website.¹ Once on jmusports.com, the relevant webpage is “Athletics Diversity & Inclusion.” JMU does not have separate Title IX coordinators. Amy M. Sirocky-Meck is responsible for

1 https://jmusports.com/sports/2022/8/10/title-ix.aspx
athletic-related Title IX inquiries as well. However, there are specific contacts for Title IX athletics matters. These people include Jennifer Phillips, Senior Associate for A.D. for Student-Athlete Development, and Lisa Schneider, Director of Compliance. Interestingly, under their contact information is a disclaimer about required reporters:

“NOTE: Please be aware that all Athletics staff members have a duty to disclose to the Title IX Office all reports of sexual misconduct that they receive within the course of their employment. All university employees are responsible employees with a requirement to report, and the process cannot guarantee anonymity. Physical and mental health care professionals (e.g., Team Physician, Director of Sport Psychology, Counseling Center Athletics Liaison) are NOT responsible employees and are prohibited by confidentiality laws from reporting any incidents without the complainant's permission.”

Moreover, Jimmy Rule is the reporting official, serving as the Associate Controller. On the Athletics Diversity & Inclusion page, there is a link to submit a report to Title IX. This hyperlink takes a visitor directly to a form to submit a report; it does not provide supplemental information regarding the complaint process.

**EADA Information:**

There is an imbalance at JMU in proportionality:
- There are 7,825 undergraduate men and 10,871 undergraduate women.\(^2\)
- There are 219 participants for Men’s Teams and 342 participants for Women’s Teams.\(^3\)
- The total operating expense of Men’s Teams is $4,527,538.
- The total operating expense of Women’s Teams is $2,362,569.

Regarding recent changes, it doesn’t appear that any teams have been added or removed. Nonetheless, in 2022 JMU transitioned from the CAA conference to the Sun Belt conference.

This change was a long time coming, given the success of JMU’s football program. Despite this move being popular with many JMU sports fans, the Sunbelt conference currently does not

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\(^2\) [https://ope.ed.gov/athletics/#/institution/details](https://ope.ed.gov/athletics/#/institution/details)

\(^3\) The caveat is that Women’s basketball includes 13 male students and Women’s volleyball includes 3 male students. The unduplicated count of participants is 219 men participants and 280 women participants.
sponsor women's swimming & diving, a sport that JMU was historically competitive in. The JMU Women’s Swimming and Diving Team remains but has mostly been impacted negatively by this move. Lastly, there are no current complaints or investigations of the institution in the area of athletics.

Sexual Misconduct:

Again, JMU’s Title IX coordinator is Amy M. Sirocky-Meck. For information surrounding sexual misconduct, a student or employee should see JMU’s Title IX webpage. Here, one can find information about filing a formal complaint, among many other things. Under the “Formal Complaint Process” tab, there is information on filing a formal complaint, alternative resolution, the formal complainant investigation procedures, and information regarding the adjudication of a complaint.

The investigative process for Sexual Misconduct and Title IX Sexual Harassment Formal Complaints is clearly laid out by the online resources. The investigation process begins with the collection of evidence. The evidence is then made available for inspection, review, and response. Before the investigator can draft his/her report, all information must be available to the complainant, respondent, and their respective counsel for ten days. After the 10-day period, the investigator will release a report, summarizing the evidence. This investigative report does not contain any findings or recommendations. Thereafter, the complainant and respondent have 48 hours to review the report and submit a final response. The investigation process concludes when the investigator receives these responses and submits everything to the university for the adjudication process.

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5 [https://www.jmu.edu/access-and-enrollment/title-ix/about/title-ix-overview.shtml](https://www.jmu.edu/access-and-enrollment/title-ix/about/title-ix-overview.shtml)
Once the Title IX office transfers all of the above information, the adjudication process begins. Per the JMU website, it’s not entirely clear who is responsible for determining the outcome, “all responses submitted to the university entity responsible for coordinating the adjudication process to determine the outcome.”\(^6\) The adjudication process and standard of review differ depending on whether the respondent is a student, staff member, or faculty member. If the respondent is a student and the allegations are related to Sexual Harassment under JMU’s Policy 1346, then the case review is conducted by a panel of three faculty or staff members. In this instance, decisions are based on a preponderance of the evidence and determined by a majority vote. If the respondent is a staff member and the allegations fall under JMU Policy 1340: Discrimination and Retaliation, Human Resources is the adjudicating body. Similarly, if the respondent is a faculty member, then Academic Affairs is the adjudicator. JMU Policy 1324 sets out retaliation complaint procedures. Under this policy, retaliation is defined as

> “Intimidation, interference, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege under this policy, or because the individual has made a report or complaint, or has participated or refused to participate in any manner under this policy…”

To make a formal complaint of retaliation, a student or employee should file with the Office of Equal Opportunity. After the office receives the complaint, they will determine whether interim measures are required and subsequently evaluate the complaint.

Upon reflection, it seems highly inappropriate that the Academic Affairs Office is involved in sexual harassment cases. We often talk about the importance of trauma-informed responses, yet institutions like JMU leave Academic Affairs responsible for addressing Title IX complaints? Also, it seems wrong that the identity of the complainant is not taken into consideration when determining the proper adjudicator. For a student who hopes to remain at the

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University and ultimately graduate, it is no doubt a conflict of interest for him/her to have a complaint adjudicated by Academic Affairs, simply because the accused is a faculty member. Additionally, and unlike general Title IX information, the page explaining the adjudication process for sexual misconduct is very confusing. Despite spending considerable time on the relevant pages for this assignment, I still don’t have a solid understanding of who exactly at JMU investigates and adjudicates formal Title IX complaints or the relevant standards of review. This is obviously concerning, considering sexual misconduct information is much more imperative than information relating to athletics. Overall, I think there is a sufficient amount of information on the JMU website regarding sexual misconduct but there is a lack of organization and accessibility.

**Clery Act Statistics:**

- There were 19 instances of on-campus rape at JMU from 2019-2021.\(^7\)
- There were 14 instances of dating violence on the JMU campus from 2019-2021.
- Data regarding disciplinary actions are limited to weapons, drug, and liquor violations.

**Pregnancy:**

It was fairly easy to locate information regarding support for pregnant students. JMU has a page dedicated to this information, titled “Title IX: Support for Pregnancy/Pregnancy Related Conditions.”\(^8\) While it appears that JMU meets its Title IX obligations for pregnant students and employees because they offer reasonable adjustments, lactation spaces, and additional resources. There is no mention of termination of pregnancy in these policies or resources, which seems surprising for a non-religious institution in a state where abortion is still legal. I did not find any recent cases involving pregnancy discrimination against JMU.

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\(^7\) Largely missing is information about criminal offenses off-campus and on public property. There are 0 reported instances of ANY criminal offense from 2019-2021, which is completely misleading and inaccurate.

LGBTQ:

While I was unable to find an official university statement dedicated solely to LGBTQ anti-discrimination, JMU’s Notice of Non-Discrimination and Equal Opportunity encompass gender identity and sexual orientation:

“James Madison University does not discriminate and prohibits discrimination in its employment, programs, activities, and admissions on the basis of age, color, disability, gender expression, gender identity, genetic information (including family medical history), marital status, military status (including veteran status), national origin (including ethnicity), parental status, political affiliation, pregnancy (including childbirth or related medical conditions), race, religion, sex, sexual orientation, or on any basis protected by law, unless otherwise permitted or required by law.”

Policies and procedures for LGBTQIA-related bias fall under sexual harassment and sexual misconduct policies. This information, which ultimately links you back to the Title IX page, is found under a separate webpage titled “Being LGBTQIQA at JMU”, among other places. JMU does a good job of making the information on LGBTQIA student resources easily accessible. The “Sexual Orientation, Gender Identity and Expression” (SOGE) is the University organization/office that works most closely with LGBTQIA students. According to their website, SOGIE “works toward promoting James Madison University's commitment to diversity through education, support, advocacy and the fostering of equity for all students, inclusive of all sexual orientations, gender identities and expressions.” It is also encouraging to see that JMU also offers universal bathrooms on campus. Though I couldn’t find information about anti-discrimination specific to housing, or if it exists, it’s not easily found.

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9 https://www.jmu.edu/oeo/non-discrimination-statement.shtml#:%7E:text=Inquiries%20or%20complaints%20may%20be,(540)%20568%2D6991.
10 https://www.jmu.edu/counselingctr/audience-resources/lgbtqiqa/lgbtq-at-jmu.shtml#bias-and-reporting
11 https://www.jmu.edu/studentaffairs/departments/diversity-equity-inclusion/sogie/about.shtml
Recommendations:

Overall, I am pleased with the accessibility of the information regarding JMU’s Title IX program. Nonetheless, I have some recommendations for how they can improve their Title IX program:

1. **Training** - While JMU provides information regarding education and training; it is not explicitly clear who already receives such training outside of the individuals in the Title IX office. Therefore, I suggest some resource that outlines all faculty/staff members who have received training on responding to sexual harassment or assault. Furthermore, I recommend that JMU increases the depth of its training on Title IX for ALL community members.

2. **Reporting Mechanisms** - I would love to see JMU implement more reporting mechanisms that are easily accessible to students. While I know there is a University Counseling hotline, I don’t know if there is an anonymous hotline for reporting sexual assaults. Thus, it would benefit students to have the reassurance of 24/7 resources promising anonymity.

3. **Incident Reports** - To find information regarding complaints against the University, I had to look to external sources. It would be great if JMU published an annual report containing an exhaustive list of incidents and the university’s response (including all incidents in which Title IX charges were dropped/dismissed).

4. **Termination of Pregnancy** - Again, I couldn’t find any mention of termination of pregnancy on JMU’s page dedicated to pregnancy accommodations. In our post-*Dobbs* world, it is even more imperative that female students have easily accessible information related to the termination of pregnancy. Therefore, JMU needs to make this information
more accessible (if it already exists) or ensure they have policies and resources in place to support students who have had or are considering having an abortion.

Finally, I encourage JMU to collaborate with local organizations in the Harrisonburg community that work to prevent discrimination. This collaboration would greatly benefit JMU because it would not only help the local community but also the university could benefit from shared resources and advocacy initiatives. Conclusively, JMU’s Title IX program and public information about such are adequate. Still, there is room for improvement and by implementing the strategies suggested above, JMU could improve its Title IX program and further promote a culture of inclusion.