

In Brief

Updates from the Office of Legal Affairs



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Accommodating Disabilities – Employee Process

The reality is that approximately 12% of Americans report having a disability. The ADA addresses this by requiring employers to provide reasonable accommodations to employees with disabilities. So, if University employees need some assistance that would help them perform the essential functions of their position, the University's Disability Accommodation Policy - http://webmedia.jcu.edu/hr/files/2017/12/I-4.5-Disability-Accommodation_12_8_2017.pdf - can help provide just that.

This policy sets out the process for requesting and receiving reasonable accommodations under the Americans with Disabilities Act as amended (ADAA).

In order to request a reasonable accommodation, employees should contact Human Resources or the Office of Regulatory Affairs and Risk Management.

All reasonable accommodation requests are kept confidential to the extent possible, and records are kept separate from personnel files.

JCU will engage those requesting accommodation in an interactive process to determine what type of accommodation is requested and reasonable accommodations that can be made.

Consistent with the law, a request for a specific reasonable accommodation does not guarantee that specific accommodation. JCU will consider the request and make the final decision on which reasonable accommodation to implement. JCU also is not able to provide an accommodation if it presents an undue hardship on the University or a fundamental alteration to the position. Examples of reasonable accommodations may include modifying work schedules or communication methods, altering how or when job duties are performed, moving to different office space, making changes in workplace policies, and providing an extension of a leave of absence.

To request an accommodation, employ-



ees may contact Human Resources at ext. 1576 or the Office of Regulatory Affairs and Risk Management at ext. 1982.

JCU's Initiative for Web Accessibility

JCU has launched a new initiative to make its website more welcoming and accessible for all of its students, potential students, staff, and faculty. This includes taking steps to make its website accessible to those individuals with visual, hearing and mobility impairments. These steps can include tagging photos with a caption for those with visual impairments or assuring color and contrast is readable to those with visual impairments. While JCU is required under the Americans with Disabilities Act ("ADA") and Section 504 of the Rehabilitation Act to make its campus and campus resources (including its website) accessible to everyone, regardless of disability, this principle is also an important part of the JCU Jesuit mission and commitment to creating a welcoming environment for all.

The University has created a Website Accessibility Task Force to develop strategies for making the University website more accessible to individuals with disabilities. The Task Force has launched a Website Accessibility web page - <http://sites.jcu.edu/accessibility/pages/web-accessibility/> - that provides a statement about the University's efforts, a checklist for web page content providers to make

web pages accessible, and a form for website users to report accessibility issues. The web design team in Marketing and Communications also has taken positive steps to update JCU's web pages.

What does this initiative mean for you? If you upload content to JCU's website, think about the items in the **Checklist on p. 2** to assure accessibility.

If you have more questions, or would like guidance on accessibility, making content accessible, or on the University's web requirements, please contact Student Accessibility Services, the Office of Regulatory Affairs and Risk Management, or the Office of Legal Affairs for more information.



See **ACCESSIBILITY**, p. 2

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Checklist for Web Accessibility

- Add meaningful alternative text to photos
- Use high color contrast between text and background
- Apply unique and descriptive web page titles
- Do you use PDFs? If yes, are they good quality and scanned as readable documents using optical character recognition ("OCR")? Screen readers and other accessibility technology need OCR to process the text. If you're not sure, try searching the PDF for a word you know is in the file. If you aren't getting a result, that PDF has been scanned as an image, and needs to be converted.
- Do you link to other resources and media? Are those materials accessible, when possible?
- Add captions for videos via auto captioning, when possible
- Do you try to find links to videos that have captions?
- Are all of your documents easily legible?
- Write clearly and use web page formatting tools properly

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**"If you upload content to JCU's website, think about the items in the checklist... to assure accessibility."**

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More on FERPA Disclosures to Third Parties: Letters of Recommendation

Imagine this – Sam, a senior, comes to you to ask if you can complete a letter of recommendation to enroll in graduate school. While considering the recommendation that you could provide to Sam who received a C- in your class, FERPA pops into your head – the Family and Educational Rights and Privacy Act. You recall that FERPA is the federal law that restricts disclosure of student educational records without a student's written consent, unless an exception applies. So, you ask yourself – Do I need Sam's written consent to provide a letter of recommendation to the several graduate schools to which he is applying?

If your answer is "No", you would be correct. FERPA regulations and JCU's FERPA Policy provide an exception for disclosures to officials at another university where the student seeks or intends to enroll, or where the student is already enrolled, as long as the disclosure is for the purpose of the student's enrollment or transfer. Also, the student – Sam in this case – has to be the one to initiate or request that you provide the recommendation.

If you wonder if Sam can inspect a copy of the letter of recommendation, that depends on whether Sam has waived in writing the right to inspect the letter. The University does have to provide to the student, upon request, a copy of the letter of recommendation given to the other university, unless the student has waived the right to view the recommendation. Students often waive the right to see the recommendation letter so that the university to which the student is enrolling or transferring will be assured that the recommendation letter is candid. The waiver is often contained on the application or transfer form for the university to which the student is applying or enrolling. Or, the

University has a FERPA Consent Form - <http://webmedia.jcu.edu/legalaffairs/files/2015/10/REQUEST-TO-RELEASE-RECORDS-10-13-15.pdf> - that faculty and staff can use to permit the student to consent to disclosure to others, and to waive or not waive the right to inspect a letter of recommendation. This form also can be used to obtain written consent of the student for a recommendation for an application for employment or receipt of an academic honor or honorary recognition, and includes the ability of the student to waive or not waive the right to see the recommendation.

For more information on the University's FERPA Policy, visit the Registrar's website at <http://sites.jcu.edu/registrar/pages/students/ferpa/>, or p. 63-65 of the Undergraduate Bulletin at <http://sites.jcu.edu/undergraduatebulletin/home/2017-2019-undergraduate-bulletin/>. For questions about FERPA, feel free to contact the Office of Legal Affairs at ext. 1590 or the Office of the Registrar at ext. 6650.



Upcoming Training Sessions

April 12, 2018

9:00 a.m.-10:30 a.m.

"Legal Update for Supervisors: Current Legal Issues that Impact Supervisors"

Jardine Room

Presented by Office of Legal Affairs

April 19, 2018

10:00 a.m.-11:30 a.m.

"Minors on Campus"

~ Requirements for camps, academic programs and events involving minors ~

Jardine Room

Presented by Offices of Risk Management, JCUPD and Legal Affairs

General Data Protection Regulations

If you or your department collects or retains documents or data on any European Union resident, new international regulations that will take effect this summer will require safeguards to protect the security of such data. The European Union currently includes the 28 primarily European member countries joined in a political and economic union with common goals and a unified financial market.

The European Union's (EU) new General Data Protection Regulations (GDPR) take effect on May 25, 2018. GDPR extends the scope of data protection requirements by applying the regulations to the processing and collection of data of any person in the EU, not just EU citizens. GDPR will apply to a number of university activities such as study abroad programs, solicitation for students or donors based in EU countries, international applicants and enrolled students, faculty research collabora-



tions between EU-based faculty and JCU faculty, and academic research incorporating data of EU-based individuals. Once GDPR takes effect, universities affected by the regulations will need to document why they need to process and keep EU resident data. GDPR requires consent of EU residents to use and process data on them. EU individuals also can request information as to why their data is being processed, when it is being processed, who is receiving the data, how long it will be stored, and who the original source for the data is. Individuals then can object to incorrect data or object to the grounds for processing and keeping their data.

Generally to prepare for GDPR's effective date, JCU is updating the Sensitive Data and Security Policy and reviewing necessary steps to be compliant with GDPR. Information Technology Services is working with Legal Affairs on compliance requirements. In the meantime, questions on GDPR should be directed to ITS at ext. 1614 or Legal Affairs at ext. 1590.

JCU Minors on Campus Policy

With spring and summer camps and activities just around the corner, it is a great time to take a look at JCU's policy governing programs involving minors. The JCU Minors on Campus Policy, <http://webmedia.jcu.edu/hr/files/2016/04/Q3122013-Final-Draft-Policy-on-Minors.pdf>, governs activities involving children who are under 18, other than enrolled students, that are organized by or sponsored by an academic or administrative unit of the University, or activities where outside groups bring minors onto University property. This policy also requires the mandatory reporting of any suspected abuse of minors internally to the appropriate vice president for the applicable program, the Office of Legal Affairs, and to JCUPD and/or another appropriate law enforcement authority. This reporting requirement is in addition to any other reports that may need to be made under the University's Title IX policies, Mandatory Reporting Policy, and/or other professional or legal reporting obligations.

The Minors policy requires the following of programs that fall within its purview:

- Training and Supervision. Adults authorized to supervise minors under

this policy, "Authorized Adults", must meet training, background check, and supervision requirements. Authorized Adults also must comport with certain University-wide rules and requirements for their interactions with minors as specified in the JCU Minors Policy. A list of Authorized Adults is maintained by Regulatory Affairs and Risk Management.

- A program registration and approval process is required for all University sponsored or affiliated activities that fall within the scope of the Minors Policy. This process includes approval by the appropriate vice president.
- External programs involving minors must gain appropriate institutional approval to operate on University owned or controlled property.

Programs that fail to abide by the Minors Policy requirements may be suspended, terminated, and/or barred from returning to campus.



New Signatory Policy



If you ever wondered what to do with a contract that landed on your desk or who has authority to sign a contract on behalf of the University, soon there will be a policy in place to spell out just that.

The University is rolling out a new Contract Approval and Signatory Policy, effective March 1, 2018. The policy, posted on the Human Resources and Legal Affairs websites at http://webmedia.jcu.edu/hr/files/2018/02/II-4-Contract-Approval-Signatory_POST-final.pdf and http://webmedia.jcu.edu/legalaffairs/files/2018/02/II-4-Contract-Approval-Signatory_POST-final.pdf, sets out the process for contract review, who can sign contracts for the University, and when review by the Finance Office and Legal Affairs is needed. The policy may look familiar, as it was recently circulated for 30 days for comment via the Human Resources Policy Review process, and revised to address the comments from the University community.

For example, if you receive a contract for review in your office, the new policy describes the steps for reviewing the contract yourself to be sure it is the deal you were intending; obtaining financial and legal review of the contract when called for in the policy; and getting the contract signed by the right person. The policy lists when legal review is necessary (such as when the total value is more than \$10,000 or includes indemnification or insurance requirements) and when it is not (such as when it is a pre-approved form contract or is a routine purchasing contract overseen by the Purchasing Department).

A delegation schedule with those individuals who have authority to sign on behalf of the University is available on the Human Resources and Legal Affairs websites at http://webmedia.jcu.edu/hr/files/2018/02/Signature-Delegations_POST_final.pdf and http://webmedia.jcu.edu/legalaffairs/files/2018/02/Signature-Delegations_POST_final.pdf.

If you have questions about this new policy, feel free to call the Office of Legal Affairs at ext. 1590.