

SAN DIEGO STATE UNIVERSITY



2020

ANNUAL SECURITY REPORT

JEANNE CLERY DISCLOSURE OF CAMPUS SECURITY POLICIES & CAMPUS CRIME
STATISTICS ACT (20 U.S.C. § 1092(F))
Clery Crime Statistics 2017-2019

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San Diego State University

ANNUAL SECURITY REPORT

MESSAGE FROM THE PRESIDENT OR THEIR DESIGNEE

Dear members of the SDSU Community,
San Diego State University is focused on providing a safe environment for our students, faculty, staff and visitors.

Campus safety and security is a shared responsibility, and the best protection against crime is a community that is informed, aware, and engaged in that process. To that end, we ask that you read the annual security report we have prepared, which includes statistics about crime on campus for the three most recent calendar years - January 1, 2017 through December 31, 2019.

We prepare this report in support of the Clery Act, which requires universities to provide timely warnings of dangerous situations that may pose a threat to the campus and to collect and report certain crime data to everyone on campus. The Clery Act, enforced by the U. S. Department of Education, affects nearly all public and private institutions of higher education. The Clery Act also requires reports of student disciplinary referrals, as well as arrests for drug, alcohol and weapons offenses on campus.

I hope you find this report informative. We always welcome questions and requests for more information about safety and security on campus. Please go to the University Police Safety and Security Reports page to view the Annual Safety and Security Report and to its Fire Safety Report to read our annual Fire Safety Report.

With best regards,

Adela de la Torre
President
San Diego State University

PREPARING THE ASR

The Campus Clery Director prepares this report to comply with the Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics Act. This report is prepared in cooperation with the San Diego State University Police Department (University Police), the Residential Education Office, the Center for Student

Rights and Responsibilities, the Center for Human Resources, Student Health Services, and Counseling and Psychological Services. Each entity provides the Clery Director or University Police Department with information on crimes that may have been reported to their office each year for inclusion in our annual crime statistics, as well as updated information on their educational efforts and programs to comply with the Clery Act.

University Police conducts outreach and establishes collaborative relationships with local law enforcement agencies surrounding our main campus and off campus sites to encourage statistical Clery reporting. Local and state agencies are also contacted to provide statistics for non-campus property and public property areas that University Police does not patrol or where they do not provide primary law enforcement response.

Campus crime, arrest and referral statistics include those reported to the University Police, designated campus officials (Campus Security Authorities) and local law enforcement agencies (when available). A procedure is in place to capture the statistics for crimes reported anonymously to designated campus officials (see Anonymous Crime Reporting).

CLERY CRIME STATISTICS 2017 - 2019

OFFENSE	YEAR	ON-CAMPUS TOTAL	CAMPUS RESIDENTIAL	NON-CAMPUS	PUBLIC PROPERTY
Murder and Non-Negligent Manslaughter	2017	0	0	0	0
	2018	0	0	0	0
	2019	0	0	0	0
Manslaughter by Negligence	2017	0	0	0	0
	2018	0	0	0	0
	2019	0	0	0	0
Rape	2017	6	4	0	0
	2018	1	7	1	1
	2019	2	5	0	0
Fondling	2017	3	1	0	2
	2018	1	0	0	0
	2019	2	2	3	0
Incest	2017	0	0	0	0
	2018	0	0	0	0
	2019	0	0	0	0
Statutory Rape	2017	1	1	0	0
	2018	0	0	0	0
	2019	0	0	0	0
Robbery	2017	8	2	0	7
	2018	3	0	0	7
	2019	3	1	2	0
Aggravated Assault	2017	1	1	0	0
	2018	2	2	0	0
	2019	4	1	1	2
Burglary	2017	50	18	5	0
	2018	26	5	3	0
	2019	23	11	3	0
Motor Vehicle Theft	2017	14	0	0	6
	2018	6	0	0	2
	2019	12	0	2	0
Arson	2017	0	0	0	0
	2018	1	0	0	0
	2019	2	2	0	1

OFFENSE	YEAR	ON-CAMPUS TOTAL	CAMPUS RESIDENTIAL	NON-CAMPUS	PUBLIC PROPERTY
Dating Violence	2017	3	3	0	0
	2018	2	2	0	1
	2019	0	0	0	0
Domestic Violence	2017	4	4	0	3
	2018	1	1	0	2
	2019	2	1	0	0
Stalking	2017	0	0	0	0
	2018	0	0	0	0
	2019	0	0	0	0

OFFENSE	YEAR	ON-CAMPUS TOTAL	CAMPUS RESIDENTIAL	NON-CAMPUS	PUBLIC PROPERTY
Liquor Law Arrests	2017	10	1	0	14
	2018	13	3	0	12
	2019	4	2	1	6
Liquor Law Referrals for Disciplinary Action	2017	669	669	0	0
	2018	569	569	0	0
	2019	205	205	0	0
Drug Law Arrests	2017	45	6	0	14
	2018	56	0	2	13
	2019	33	2	0	8
Drug Law Referrals	2017	232	232	0	0
	2018	144	144	0	0
	2019	856	856	0	0
Weapons Law Arrests	2017	7	1	0	1
	2018	7	2	0	0
	2019	5	0	1	2
Weapons Law Referrals for Disciplinary Action	2017	4	4	0	0
	2018	0	0	0	0
	2019	0	0	0	0

OFFENSE	YEAR	TOTAL
	2017	1

Unfounded Crimes	2018	1
	2019	3

HATE CRIMES

- 2019 – There were 0 hate crimes reported.
- 2018 – There were 0 hate crimes reported.
- 2017 – There were 0 hate crimes reported.

A Hate Crime is a criminal offense that manifests evidence that the victim was intentionally selected because of the perpetrator’s bias against the victim. Hate crimes includes any offense in the following group: murder and non-negligent manslaughter, sexual assault including rape, fondling, incest and statutory rape, robbery, aggravated assault, burglary, motor vehicle theft, arson, larceny-theft, simple assault, intimidation, destruction/damage/vandalism of property.

Bias is a preformed negative opinion or attitude toward a group of persons based on their race, gender, gender identity, religion, disability, sexual orientation, ethnicity, or national origin.

Hate crime reporting is considered for all Clery geography including on-campus, residential facilities, non-campus buildings or property, and public property.

REPORTING CRIMINAL ACTIONS & EMERGENCIES

SDSU encourages all members of our community to report crimes, suspicious activity, safety hazards or campus emergencies (including medical and fire emergencies), to the University Police as soon as possible by dialing 9-1-1 from any phone or by using one of the duress phones located throughout campus. Campus duress phones are distinctly marked and have a blue light on top. Campus elevators are equipped with emergency intercoms and most classrooms are equipped with campus phones that can be used to summon assistance or report crimes. For non-emergencies, contact University Police at (619) 594-1991 (from a campus phone, dial 4-1991). You may also report a crime in person by coming to the University Police department located in the Public Safety building at 55th Street and Remington Road - 5350 55th Street, SD CA 92182.

To report a crime or other emergency occurring in the community surrounding SDSU, contact the San Diego Police Department by dialing 9-1-1 or (619) 531-2000 for non-emergencies.

Faculty, Staff, students and visitors are encouraged to promptly report any criminal activity directly to the University Police. This facilitates a timely response, thorough criminal investigation, and the ability for us to make timely warning and emergency notification to the university community if necessary. We understand that in some cases the victim of a crime may feel uncomfortable contacting the police, may not want the police involved, may not desire criminal prosecution, or may want to remain anonymous. If you do not want to report a crime directly to University Police or need assistance in doing so, you may also report a criminal offense to the following designated campus officials:

- Director, Student Rights and Responsibilities at (619) 594-3069
- Director, Residential Education Office at (619) 594-6930
- Director, Counseling and Psychological Services at (619) 594-5220
- Director, Student Health Services at (619) 594-7359
- Director, Center for Human Resources at (619) 594-0469

A procedure is in place to capture crime statistics reported to these designated campus officials for inclusion in our annual crime statistics, and to issue a timely warning or emergency notification if appropriate.

VOLUNTARY CONFIDENTIAL REPORTING

Pursuant to California Education Code section 67380(a)(6)(A), CSAs who receive reports from employees or students of a Part I violent crime, sexual assault or hate crime that occurred in an on or non-campus location as defined by the Clery Act, may not disclose to UPD or local law enforcement agencies the names of the victims or the alleged assailant, unless the victim consents to disclosing their name after being informed of their right to have their personally identifying information withheld. The name of the alleged assailant may be disclosed, however, if all of the following conditions are met:

- The alleged assailant represents a serious or ongoing threat to the safety of students, employees, or the institution; and
- The immediate assistance of the local law enforcement agency is necessary to contact or detain the alleged assailant.

Note: all publicly available record keeping will be maintained without the inclusion of personally identifiable information about the victim.

TIMELY WARNINGS

Insert the following policy summary that summarizes the system-wide timely warning policy of all campuses in accordance with EO 1107:

The university will issue a timely warning as soon as pertinent information is available when a Clery reportable crime is reported to UPD or a designated campus security authority, occurred in a Clery defined geographical area, and a case by case analysis of pertinent facts known is completed and a determination is made **a serious** or continuing threat to the community exists.

The Chief of Police is responsible for the decision to issue a timely warning (or a management designee in the absence of the Chief) and will confer with the Clery Director if one is designated by the campus and available, upon receiving a report of an incident reported to a CSA and/or UPD. The Chief of Police, with the Clery Director if one is appointed and is available, will complete a case by case analysis utilizing open communication and collaboration analyzing the reported crime, the known pertinent facts of a reported incident, and determine whether the incident meets all of the following factors: 1) is a Clery reportable crime; 2) occurred in Clery defined geography; and 3) poses a serious or ongoing threat to the community.

If it is determined that any of the three factors are not met, then no timely warning will be issued. If it is determined that all three factors are met, the Chief of Police (or management designee in the absence of the

Chief) will determine the content of the timely warning bulletin, disseminate the timely warning expeditiously in a manner likely to reach the entire campus community utilizing one or more, and not limited to, the following methods to issue the timely warning bulletin:

- All employee and student e-mail distribution
- University website
- Public area video display monitors
- Hard copies posted on campus building entrance doors

For clarity to the community when a timely warning is issued it will be titled “Timely Warning Crime Bulletin” and include the following:

- A statement that the Timely Warning Bulletin is being issued in compliance with the Jeanne Clery Act and the purpose is to provide preventative information to the campus community to aid members from becoming the victim of a similar crime.
- The Clery Act reportable crime that occurred
- The date, time, and location the crime occurred
- The date the Timely Warning Bulletin is issued
- A description of the suspect, and name if known, when the suspect is at large and evading apprehension and/or law enforcement is seeking assistance from the public to locate
- Preventative information specifically related to the type of crime which occurred that could help others from becoming the victim of a similar crime

The Timely Warning Bulletins will not include, under any circumstances, the name of the victim, or information so specific that would or likely could identify the victim of the crimes of sexual violence to include rape, dating violence, domestic violence, or stalking. Issuance of timely warnings will be delayed only if the issuance would compromise the apprehension of the suspect or compromise the ability of law enforcement to investigate the crime.

SECURITY OF AND ACCESS TO CAMPUS FACILITIES

SDSU’s campus buildings are normally secured during non-business hours, on weekends and on holidays. After-hours access to campus buildings is limited to authorized faculty and staff with valid university identification. Students who wish to work in a building after hours must first obtain written authorization from the college dean, or designee, together with valid student identification. Anyone working late or on weekends should notify the University Police at (619) 594-1991.

The campus facilities are maintained by the Facilities Services department and patrolled by the University Police. Facilities Services maintains the university buildings, grounds and roadways with a concern for safety and security. They inspect campus facilities regularly, make repairs affecting safety and security, and respond to reports of potential safety and security hazards, such as broken windows, locks, and lighting. Police officers and Community Service Officers regularly test the emergency phones, and report non-functioning lights or other security hazards to Facilities Services. Periodic crime prevention surveys are conducted upon the physical change of office space and equipment, when requested by an administrator, or when a crime trend occurs. Most campus buildings are equipped with card key access and door alarms that alert the University Police. Main offices, labs, computer rooms and areas of campus have alarms and video

cameras. Call Facilities Services (619) 594-4757 during business hours or the University Police at (619) 594-1991 after hours to report any safety or security hazard in or around campus buildings, grounds or roadways.

Lighting and environmental improvements are constantly being evaluated. Members of the campus Parking Group periodically review lighting and other environmental concerns for safety. The campus has closed circuit and IP-based video cameras which assist the University Police in monitoring parking lots and other selected areas on campus. Improvements have included the placement of high intensity LED motion-sensor lights in buildings, parking lot areas, areas with heavy landscaping and trees, and along pathways frequently travelled by students. Distinctively marked duress telephones are located at the entrances of most university housing facilities and at many locations throughout the campus. All emergency telephones are connected directly to the University Police.

San Diego State University offers traditional residence halls, high-rise residence complexes and apartment-type complexes, which provide on-campus housing for approximately 7,500 students. Security safeguards and access control systems vary depending on the type of residence facility. In many of the residence facilities, entry is monitored on a 24-hour basis through a combination of card-key systems, conventional keys, video cameras, and on-duty Residential Education personnel. Access to those facilities is limited to residents, escorted guests, and university staff. Professional Residence Hall Coordinators (RHCs) and student Resident Advisors (RAs), who are members of the Residential Education Office staff, live on campus and provide 24-hour staff coverage. All university housing facilities have members of the Residential Education staff assigned to them.

Residents are reminded to take responsibility for their safety and security by observing building security procedures, keeping their doors locked (even when occupied), reporting security concerns, and notifying Residential Education staff of the University Police of any unfamiliar persons or unusual incidents within the residential facility. Residential Education staff, Office of Housing Administration Staff, maintenance personnel, Risk Management, and the University Police officers regularly assess university residential facilities with a concern for their safety and security. Crime prevention programs include residential education training, orientation workshops, individual floor meetings, residential community-wide presentations, and educational programs.

All Residential Education staff members undergo comprehensive training each semester for prevention of and response to safety and security issues. As part of their responsibility for campus security, both student and professional staff participate in lectures and seminars associated with topics such as substance abuse, prevention of sexual assault, and community security.

LAW ENFORCEMENT AUTHORITY

The University Police Department at SDSU provides policing services to the university 24-hours a day, 7-days a week. The police officers and dispatchers are graduates of a California Peace Officer Standards and Training (POST) academy and are empowered by section 830.2(c) of the California Penal Code and Education Code 89560. Officers are state peace officers and their policing powers extend throughout the State of California.

The University Police Department has a force of 32 sworn police officers and 53 non-sworn employees. The department has primary police jurisdiction on university property and is responsible for reporting and investigating all crimes, traffic accidents, medical emergencies, enforcement of state laws and local ordinances, and all other incidents requiring police assistance. Criminal cases are forwarded through the investigations unit to the San Diego District Attorney's Office or the San Diego City Attorney's Office for prosecution. As part of a mutual aid agreement, per a written memorandum of understanding, the San Diego Police Department Homicide Unit will be the primary investigative unit on any homicide, non-negligent manslaughter or officer involved shooting that occurs at SDSU.

University Police works closely with local, state, and federal law enforcement agencies, and has memorandums of understanding with the San Diego Police Department and local law enforcement agencies surrounding our off-campus sites. University Police officers have direct radio communication with SDPD and often respond to incidents that occur off campus in the area surrounding the university, including the locations of officially recognized student organizations. SDSU owns or controls several residential properties located off the main campus and in the adjacent area surrounding the campus. University Police are responsible for law enforcement services at those locations. For reporting purposes, crime statistics at these locations are considered on-campus residential facilities in our annual Safety and Security Report.

The San Diego Police Department and other law enforcement agencies, routinely work and communicate with the University Police in cases involving serious incidents and crime trends that might involve the university community.

Faculty, Staff, students and visitors are encouraged to promptly report any criminal activity directly to the University Police. This facilitates a timely response, thorough criminal investigation, and the ability for us to make timely warning and emergency notification to the university community if necessary. We understand that in some cases the victim of a crime may feel uncomfortable contacting the police, may not want the police involved, may not desire criminal prosecution, or may want to remain anonymous. If you do not want to report a crime directly to University Police or need assistance in doing so, you may also report a criminal offense to the following designated campus officials:

- Director, Student Rights and Responsibilities at (619) 594-3069
- Director, Residential Education Office at (619) 594-5742
- Director, Counseling and Psychological Services at (619) 594-5220
- Director, Student Health Services at (619) 594-7359
- Director, Center for Human Resources at (619) 594-6404

SECURITY PROCEDURES AND PRACTICES

The entire campus community is encouraged to report any and all known or suspected incidents of criminal activity on campus to the University Police Department as soon as possible. Voluntary confidential reporting of crime incidents on campus may be made to other non-police campus security authorities, who are officials of the university and have significant responsibility for student and campus activities (including but not limited to student housing, student discipline, campus judicial proceedings, athletic officials, deans or faculty advisors).

Confidential crime reporting can be made when the victim of the crime elects or is unable to make such a report.

A common theme of all security awareness programs is to encourage students and employees to be aware of their responsibility for their own security and the security of others. Various student organizations and campus departments conduct security procedure programs.

Red & Black Shuttles

The University Police Department provides shuttle services along three routes on campus in the immediate surrounding community. Five shuttle busses provide service to the campus, including one bus to accommodate ADA requests. The Green Route provides service to seven campus shuttle stops while the Red and Black Routes provide service to 11 shuttle stops surrounding campus. The Red & Black Shuttle operates Mon-Thu from 5:30 p.m. to Midnight when classes are in session during Fall and Spring Semesters. The shuttle does not operate on campus holidays.

Collaborative Incident Management Team (CIM-T)

This committee functions as the campus threat management and intervention team and works to ensure cooperation and communication across divisions to address any students and incidents of concern on campus. The team meets weekly and addresses potential student conduct issues, student mental health concerns and other student behavioral incidents that may occur. Although the composition of the team may vary slightly, it is generally comprised of members from departments including University Police, Center for Student Rights and Responsibilities, Student Ombuds Office, Student Affairs, and Counseling and Psychological Services.

CRIME PREVENTION PROGRAMS

The following programs have been designed to inform students, faculty and staff about various ways to help in the prevention of crimes on campus:

<u>Program Description</u>	<u>Frequency</u>	<u>Intended Audience</u>	<u>Contact Information</u>
<u>Multi Option Active shooter response training</u>	<u>Standing training twice each semester and as requested</u>	<u>All students, faculty and staff</u>	<u>University Police 619-594-1991</u>
<u>Self Defense – Basic, physical self-defense instruction</u>	<u>As requested</u>	<u>All students, faculty and staff</u>	<u>University Police 619-594-1991</u>
<u>CPTED – Crime Prevention Through Environmental Design; Designed to minimize opportunity for crime based on physical environment</u>	<u>As requested or as part of new construction</u>	<u>Primarily those in office spaces, classrooms, front desks. Faculty/staff</u>	<u>University Police 619-594-1991</u>

<u>Coffee with the Chief – Opportunity to interact with police chief to address safety concerns</u>	<u>Monthly</u>	<u>Student organizations, including cultural identity based student organizations</u>	<u>University Police 619-594-1991</u>
<u>Orientation Programs – Provide safety and security overview to new students and employees</u>	<u>Monthly for employees; Orientation for students</u>	<u>All students, faculty and staff</u>	<u>Human Resources 619-594-6404 New Student Programs 619-594-1509 Emergency Services 619-594-7903 University Police 619-594-1447</u>
<u>Social Worker Program - The social worker will serve as a liaison between first responders and our diverse campus population to promote safety, provide a wide range of resources, and foster community healing</u>	<u>40 hours per week</u>	<u>All students, faculty, staff, and campus visitors</u>	<u>University Police 619-594-1991</u>

CRIMINAL ACTIVITY AT NON-CAMPUS LOCATIONS OF STUDENT ORGANIZATIONS

The San Diego Police Department has primary jurisdiction for the public and private property that adjoins SDSU, as well as at several off-site locations maintained by SDSU. The University Police Department shares concurrent jurisdiction with the San Diego Police Department for the community immediately surrounding the university, and routinely patrols the area. SDSU records and monitors criminal activity by students at non-campus locations of student organizations through a memorandum of understanding with the San Diego Police Department that ensures the timely reporting of crimes for inclusion into our annual Security and Safety Report. University Police regularly communicates with local law enforcement agencies who may notify University Police of an incident involving a campus-affiliated group off campus. University officers may gather information and refer the incident to the Center for Student Rights and Responsibilities for further investigation.

ALCOHOL AND DRUGS

Except for certain, specified areas on campus and in some residential housing where residents are over the age of 21, the possession, sale, or use of alcoholic beverages is prohibited on campus. The campus

enforces the legal drinking age of 21 years, and all state and local laws regulating the use of alcoholic beverages. During the 2019 academic year, there was a growth in the on-campus living population, which led to a statistical increase in drug law referrals. The increase is also partly due to changes in reportable/deferrable events. All members of the campus community are subject to disciplinary action and/or criminal prosecution for the on-campus possession, use, sale or distribution of any quantity of inappropriate prescription drugs or controlled substances as defined by federal, state and local laws.

San Diego State University is committed to providing positive academic and professional environments for our students, faculty, and staff. Alcohol abuse and the use of illegal drugs are incompatible with this objective. The Center for Human Resources provides the following information to faculty and staff per the requirements of the Federal Drug-Free Schools and Communities regulations. Please also see SDSU's Alcohol and Illegal Drugs Policy, which is located here: http://go.sdsu.edu/student_affairs/healthpromotion/aodsdsualcoholsubstancepolicies.aspx. SDSU is also a smoke-free campus and smoking, including electronic cigarettes, is not permitted anywhere on campus.

Health Risks

The use and abuse of alcohol and illegal drugs can lead to accidents, injury, and death. If you see someone unconscious and suspect that alcohol and/or drugs are involved, please call 9-1-1.

Driving after consumption of even relatively small quantities of alcohol – as little as one drink – compromises safe driving and substantially increases the risk of being involved in an accident. If you witness an intoxicated driver, please call 9-1-1. Law enforcement personnel will typically need a description of the manner in which the vehicle is being driven, a license plate number and description of the vehicle and driver, and an exact location and direction of travel.

Alcohol and/or drug dependency – Continuing use of substances with adverse effects on any are of life – put life, including pregnancy, at risk and may contribute to serious health problems like cancer and heart disease.

Resources for Faculty and Staff

All faculty and staff may call the University's Employee Assistance Program (EAP) administered by AETNA at 1-800-342-8111 for confidential, around-the-clock counseling related to alcohol abuse and/or the use of illegal drugs and its impacts. University-sponsored medical insurance plans may provide additional counseling, treatment or rehabilitation programs. Contact your medial insurance provider or the Center for Human Resources, Benefits Services at (619) 594-1144 for more information.

All contact is confidential.

Law

Federal and California law make it illegal to possess most drugs (including marijuana). It is also illegal for anyone under 21 years of age to purchase or possess alcohol or to furnish alcohol to those under 21 years of age.

Consequences

While the totality of the circumstances will always be determinative of the University's handling of a violation of law or the SDSU Alcohol Abuse and Illegal Drugs Policy, such violations may result in disciplinary sanction in accordance with the controlling collective bargaining agreement and California Education Code, Section 89595, or for management employees, Title 5 of the California Code of Regulations.

Alcohol and Drug Education Programs

Various drug and alcohol education programs are offered on campus. SDSU Health Promotions offers two Alcohol and Other Drugs (AOD) presentations, one on alcohol basics and one on drug basics. Other programs include Bystander Intervention training which focuses on typical responses in problematic or emergency situations; FratMANers which raises awareness about sexually coercive behavior and rape; RADD California which promotes non-drinking designated driving; Alcohol e-CHECKUP To Go which is an interactive self-assessment tool that provides feedback about drinking and risk patterns; Marijuana e-CHECKUP To Go which is an interactive self-assessment tool that provides feedback about marijuana use and risk patterns. There is a program designed specifically for student athletes, called Aztec Choices, which is a counseling appointment for incoming students that focuses on lifestyle choices specific to student athletes. In addition, Residential Education routinely provides training to resident advisors, community assistants and other reside hall staff throughout the year.

To view a copy of the Drug-Free Schools and Communities Act (DFSC Act) biennial review, please visit: http://go.sdsu.edu/student_affairs/healthpromotion/files/08295-DFSCA_2015-2016_Biennial-Review-F.pdf.

SEXUAL VIOLENCE

The California State University does not discriminate on the basis of sex, gender, including gender identity or expression, or sexual orientation in its education programs or activities. Title IX of the Education Amendments of 1972, and certain other federal and state laws, prohibit discrimination on the basis of sex, gender, or sexual orientation in employment, as well as all education programs and activities operated by the University (both on and off campus), including admissions, and protect all people regardless of their gender from Sex Discrimination, including Sexual Harassment, Sexual Misconduct, including Sexual Assault, Dating or Domestic Violence, and Stalking.

The University seeks to provide an education environment free of Sexual Misconduct/Sexual Assault, Sexual Harassment, Dating Violence, Domestic Violence and Stalking. Every member of the University community shall be aware that Sexual Misconduct, and/or acts of violence with a sexual nature directed toward another person will not be tolerated and are prohibited by federal and state law and University policy. As members of the University community, students shall comply with University policies and guidelines in addition to federal, state, and local laws whether on or off campus. The University will discipline persons identified as responsible for Sexual Misconduct/Sexual Assault Dating or Domestic Violence, or Stalking as described in this report and University policy.

In an ongoing effort to prevent Sexual Misconduct/Sexual Assault Dating Violence, Domestic Violence and Stalking, the University provides education and prevention programs, investigates complaints, dispenses

corrective or disciplinary action where appropriate, provides referrals for medical care/counseling, modified classes, reduced course loads, campus housing changes, work assignment assistance, stay away orders, leaves of absence, and more. The University also provides information to victims on pursuing criminal action and obtaining protective orders if needed. University officials who are responsible for investigating and/or adjudicating cases of Sexual Misconduct, Dating Violence, Domestic Violence, and Stalking receive annual training for compliance with federal, state and CSU system regulations.

The University is committed to empowering victims of Sexual Misconduct/Sexual Assault Dating Violence, Domestic Violence, and Stalking by providing ample supportive services, and encouraging their choice of action, regardless of their decision to seek criminal prosecution of offender(s). If requested by the victim, University personnel will assist the victim in notifying the appropriate law enforcement authorities.

PREVENTION, EDUCATION, AND AWARENESS

Dating Violence, Domestic Violence and Sexual Assault Education Programs

<u>Program Name</u>	<u>Description</u>	<u>Frequency</u>	<u>Contact Information</u>
<u>Bystander Intervention</u>	<u>Response to difficult situations</u>	<u>On-going/As Requested</u>	<u>SDSU Health Promotion 619-594-4133</u>
<u>FratMANers</u>	<u>Avoiding sexually coercive behavior and rape</u>	<u>On-going/As Requested</u>	<u>SDSU Health Promotion 619-594-4133</u>
<u>Healthy Relationships & Dating Violence</u>	<u>Teaches about healthy relationships</u>	<u>On-going/As Requested</u>	<u>SDSU Health Promotion 619-594-4133</u>
<u>Sexual Violence Awareness, Prevention & Intervention</u>	<u>Sexual violence, Title IX, reporting options and wellness education</u>	<u>On-going/As Requested</u>	<u>SDSU Health Promotion 619-594-4133</u>
<u>Self Defense Course</u>	<u>Teaches basic personal defense</u>	<u>On-going/As Requested</u>	<u>SDSU Police Department 619-594-1991</u>
<u>Let's Talk</u>	<u>Rape and sexual assault resources</u>	<u>Online</u>	<u>Sdsutalks.sdsu.edu</u>

<u>Sexual Violence Prevention Program</u>	<u>Teaches to identify, prevent and interrupt sexual violence</u>	<u>Online</u>	<u>https://interwork.sdsu.edu/echeckup/svp/welcome</u>
<u>The Brave Project</u>	<u>Comprehensive training to prevent sexual violence</u>	<u>Three times each semester</u>	<u>Women's Resource Center 619-594-2301</u>
<u>Aztec Warrior Wellness</u>	<u>Comprehensive and ongoing training to prevent and interrupt sexual violence</u>	<u>Regularly scheduled and periodic</u>	<u>SDSU Athletics 619-594-0394</u>

DEFINITIONS PER EXECUTIVE ORDERS 1095-1097

These policy definitions are derived from the local jurisdiction, and based on the California Penal Code, the California Family Code, and the California Evidence Code. In some instances, these definitions may differ slightly from the federal definitions set forth in the next section for mandatory crime statistic reporting. For reportable crime statistics, the Clery Act regulations mandate definitions from the Federal Bureau of Investigation's (FBI's) Uniform Crime Reporting (UCR) Handbook.

In 2020, through Secretary of Education Betsy DeVos, the United States Department of Education, Office for Civil Rights (OCR) issued and amended federal regulations (Federal Regulations) implementing Title IX of the Education Amendments of 1972. The Federal Regulations are titled *Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance* (34 C.F.R. 106). The Federal Regulations were published in the Federal Register on May 19, 2020. The Federal Regulations have been implemented in CSU policy by way of an Addendum to Executive Orders 1096 and 1097 known as "Addendum B – Federal Mandated Hearing Addendum." The definitions required by the Federal Regulations are included below and identified as "Addendum B Definitions." These definitions will apply where the campus Title IX Coordinator determines that a Formal Complaint of Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, or Stalking falls within the scope of Addendum B. Additional Executive Order definitions are included. These definitions apply to conduct that falls outside of the scope of Addendum B.

SEX DISCRIMINATION

An adverse action taken against an individual because of gender or sex (including Sexual Harassment, Sexual Misconduct, Domestic Violence, Dating Violence, and Stalking) as prohibited by Title IX; Title IV; VAWA/Campus SaVE Act; California Education Code § 66250 et seq.; and/or California Government Code § 11135. See also Title VII of the Civil Rights Act of 1964, the California Fair Employment and Housing Act (Cal. Govt. Code § 12940 et seq.), and other applicable laws. Persons of all genders and gender identities can be victims of Sex Discrimination.

ADDENDUM B: SEXUAL HARASSMENT

Sexual Harassment means conduct on the basis of Sex that satisfies one or more of the following:

1. An Employee conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct;
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to an education program or activity

EXECUTIVE ORDER: SEXUAL HARASSMENT

Sexual Harassment is unwelcome verbal, nonverbal or physical conduct of a sexual nature that includes but is not limited to sexual advances, requests for sexual favors, and any other conduct of a sexual nature where:

1. Submission to, or rejection of, the conduct is explicitly or implicitly used as the basis for any decision affecting a Complainant's academic status or progress, or access to benefits and services, honors, programs, or activities available at or through the University; or
2. The conduct is sufficiently severe, persistent or pervasive that its effect, whether or not intended, could be considered by a reasonable person in the shoes of the Complainant, and is in fact considered by the Complainant, as limiting his or her ability to participate in or benefit from the services, activities or opportunities offered by the University; or
3. The conduct is sufficiently severe, persistent or pervasive that its effect, whether or not intended, could be considered by a reasonable person in the shoes of the Complainant, and is in fact considered by the Complainant, as creating an intimidating, hostile or offensive environment.

Sexual Harassment could include being forced to engage in unwanted sexual contact as a condition of membership in a student organization; being subjected to video exploitation or a campaign of sexually explicit graffiti; or frequently being exposed to unwanted images of a sexual nature in a classroom or work environment that are unrelated to the coursework or employment. Sexual Harassment also includes acts of verbal, non-verbal or physical aggression, intimidation or hostility based on gender or sex-stereotyping, even if those acts do not involve conduct of a sexual nature. The University's policy covers unwelcome conduct of a sexual nature. While romantic, sexual, intimate, personal or social relationships between members of the University community may begin as consensual, they may evolve into situations that lead to Sexual Harassment or Sexual Misconduct, including Dating or Domestic Violence, or Stalking, subject to University policy.

EXECUTIVE ORDER: SEXUAL MISCONDUCT

All sexual activity between members of the CSU community must be based on Affirmative Consent. Engaging in any sexual activity without first obtaining Affirmative Consent to the specific activity is Sexual Misconduct, whether or not the conduct violates any civil or criminal law.

Sexual activity includes, but is not limited to, kissing, touching intimate body parts, fondling, intercourse, penetration of any body part, and oral sex. It also includes any unwelcome physical sexual acts, such as unwelcome sexual touching, Sexual Assault, Sexual Battery, Rape, and Dating Violence. When based on gender, Domestic Violence or Stalking also constitute Sexual Misconduct. Sexual Misconduct may include using physical force, violence, threat, or intimidation, ignoring the objections of the other person, causing the other

person's intoxication or incapacitation through the use of drugs or alcohol, or taking advantage of the other person's incapacitation (including voluntary intoxication) to engage in sexual activity. Persons of all genders can be victims of these forms of Sexual Misconduct. Sexual activity with a minor is never consensual when the complainant is under 18 years old, because the minor is considered incapable of giving legal consent due to age.

ADDENDUM B: SEXUAL ASSAULT:

- a. Rape is the penetration, or attempted penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the Affirmative Consent of the Complainant. Rape also includes the attempted penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the Affirmative Consent of the Complainant, with the present ability and the intent to commit Rape.
- b. Fondling is the touching of the private body parts of another person for the purpose of sexual gratification, without the Affirmative Consent of the victim, including instances where the Complainant is incapable of giving Affirmative Consent because of their age or because of their temporary or permanent mental incapacity.
- c. Incest is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- d. Statutory Rape is sexual intercourse with a person who is under the age of 18 years, the California statutory age of consent.

RAPE:

A form of Sexual Misconduct, non-consensual sexual intercourse that may also involve the use of threat of force, violence, or immediate and unlawful bodily injury or threats of future retaliation and duress. Any sexual penetration, however slight, is sufficient to constitute Rape. Sexual acts including intercourse are considered non-consensual when a person is incapable of giving consent because they are incapacitated from alcohol and/or drugs, are under 18 years old, or if a mental disorder or developmental or physical disability renders a person incapable of giving consent. The respondent's relationship to the person (such as family member, spouse, friend, acquaintance or stranger) is irrelevant. (See complete definition of Consent below.)

ACQUAINTANCE RAPE:

A form of Sexual Misconduct committed by an individual known to the victim. This includes a person the victim may have just met or; i.e., at a party, introduced through a friend, or a social networking website.

AFFIRMATIVE CONSENT (Applicable in Addendum B and non-Addendum B matters)

An informed, affirmative, conscious, voluntary, and mutually agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure Affirmative Consent has been obtained from the other participant(s) to engage in the sexual activity. Lack of protest or resistance does not mean Affirmative Consent, nor does silence mean consent. Affirmative Consent must be voluntary, and given without coercion. Force, threats, or intimidation.

- The existence of a dating or social relationship between those involved, or the fact of past sexual activities between them, should never by itself be assumed to be an indicator of Affirmative Consent.

A request for someone to use a condom or birth control does not, in and of itself, constitute Affirmative Consent.

- Affirmative Consent can be withdrawn or revoked. Consent to one form of sexual activity (or one sexual act) does not constitute consent to other forms of sexual activity. Consent given to sexual activity on one occasion does not constitute consent on another occasion. There must always be mutual and affirmative consent to engage in sexual activity. Consent must be ongoing throughout a sexual activity and can be revoked at any time, including after penetration. Once consent is withdrawn or revoked, the sexual activity must stop immediately.
- Affirmative Consent cannot be given by a person who is incapacitated. A person is unable to consent when asleep, unconscious or is incapacitated due to the influence of drugs, alcohol or medication so that the person could not understand the fact, nature or extent of the sexual activity. A person is incapacitated if they lack the physical and/or mental ability to make informed, rational decisions,
- Whether an intoxicated person (as a result of using alcohol or other drugs) is incapacitated depends on the extent to which the alcohol or other drugs impact the person's decision-making ability, awareness of consequences, and ability to make informed judgments. A person's own intoxication or incapacitation from drugs or alcohol does not diminish that person's responsibility to obtain Affirmative Consent before engaging in sexual activity.
- A person with a medical or mental disability may also lack the capacity to give consent.
- Sexual activity with a minor (a person under 18 years old) is not consensual, because a minor is considered incapable of giving consent due to age.
- It shall not be a valid excuse that a person affirmatively consented to the sexual activity if the respondent knew or reasonably should have known that the person was unable to consent to the sexual activity under any of the following circumstances:
 - o The person was asleep or unconscious;
 - o The person was incapacitated due to the influence of drugs, alcohol or medication, so that the person could not understand the fact, nature or extent of the sexual activity;
 - o The person was unable to communicate due to a mental or physical condition.
- It shall not be a valid excuse that the respondent believed that the person consented to the sexual activity under either of the following circumstances:
 - o The respondent's belief in Affirmative Consent arose from the intoxication or recklessness of the respondent;
 - o The respondent did not take reasonable steps, in the circumstances known to the respondent at the time, to ascertain whether the person affirmatively consented.

ADDENDUM B: DOMESTIC VIOLENCE

Physical violence or threat of physical violence committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the Complainant.

EXECUTIVE ORDER: DOMESTIC VIOLENCE

Abuse committed against someone who is a current or former spouse; current or former cohabitant; someone with whom the Respondent has a child; someone with whom the Respondent has or had a dating or engagement relationship; or a person similarly situated under California domestic or family violence law. Cohabitant means two unrelated persons living together for a substantial period of time, resulting in some

permanency of relationship. It does not include roommates who do not have a romantic, intimate, or sexual relationship. Factors that may determine whether persons are cohabiting include, but are not limited to: (1) sexual relations between the Parties while sharing the same living quarters; (2) sharing of income or expenses; (3) joint use or ownership of property; (4) whether the Parties hold themselves out as spouses; (5) the continuity of the relationship; and, (6) the length of the relationship. For purposes of this definition, "abuse" means intentionally or recklessly causing or attempting to cause bodily injury or placing another person in reasonable apprehension of imminent serious bodily injury to self, or another. Abuse does not include non-physical, emotional distress or injury.

ADDENDUM B: DATING VIOLENCE

Physical violence or threat of physical violence committed by a person—

- a. who is or has been in a social relationship of a romantic or intimate nature with the Complainant; and
- b. where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - i. The length of the relationship.
 - ii. The type of relationship.
 - iii. The frequency of interaction between the persons involved in the relationship.

EXECUTIVE ORDER: DATING VIOLENCE

Abuse committed by a person who is or has been in a social or dating relationship of a romantic or intimate nature with the victim.¹¹ This may include someone the victim just met; i.e., at a party, introduced through a friend, or on a social networking website. For purposes of this definition, "abuse" means intentionally or recklessly causing or attempting to cause bodily injury or placing another person in reasonable apprehension of imminent serious bodily injury to self or another. Abuse does not include non-physical, emotional distress or injury.

ADDENDUM B: STALKING

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others; or suffer substantial emotional distress.

EXECUTIVE ORDER: STALKING

Engaging in a repeated Course of Conduct directed at a specific person that would cause a Reasonable Person to fear for his or her safety or the safety of others, or to suffer Substantial Emotional Distress. For purposes of this definition:

- Course of Conduct means two or more acts, including but not limited to, acts in which the stalker directly, indirectly, or through Third Parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property;
- Reasonable Person means a reasonable person under similar circumstances and with the same Protected Status(es) as the complainant;
- Substantial Emotional Distress means significant mental suffering or anguish that may, but does not necessarily require medical or other professional treatment or counseling.

- Protected Status includes Age, Disability (physical or mental), Gender (or sex), Genetic Information, Gender Identity or Expression, Nationality, Marital Status, Race or Ethnicity, Religion, Sexual Orientation, and Veteran or Military Status.

PROCEDURES FOR REPORTING A CRIME OF SEXUAL VIOLENCE/SEXUAL MISCONDUCT

Call 9-1-1 in any kind of emergency, or when facing immediate harm or threat of harm.

Persons who have experienced Sexual Misconduct/Sexual Assault, including Rape, Dating Violence, Domestic Violence, or Stalking, are encouraged to seek immediate assistance from police and healthcare providers for their physical safety, emotional support and medical care. University or local police can escort victims to a safe place and transport them to a hospital for medical treatment, if needed. University police can also provide access to a Sexual Assault Victim Advocate. Regardless of whether an individual chooses to notify the police, they are strongly encouraged to seek assistance from the campus Title IX Coordinator and/or a Sexual Assault Victim Advocate or counselor who can provide information on options, rights and remedies.

A written explanation of rights and options must be provided to a Student, Employee or Third Party who reports to the University that s/he has been a victim of Sexual Misconduct/Sexual Assault, Dating or Domestic Violence, or Stalking, whether the offense occurred on or off Campus. It is the Title IX Coordinators responsibility to ensure this written Notice is provided to the complainant/victim(s). The Title IX Coordinator annually provides the written explanation of Rights and Options for Victims of Sexual Misconduct/Sexual Assault, Dating or Domestic Violence, or Stalking (Attachment C in Executive Order 1095) to all members of the campus community including Sexual Misconduct/Sexual Assault, Dating or Domestic Violence, or Stalking victims. This includes information on preservation of evidence, how and to whom to report the alleged offense, the options available regarding and involving law enforcement and campus authorities (including notification of law enforcement authorities, being assisted by campus authorities in notifying law enforcement if the victim chooses, and declining to notify the authorities), and notification of the rights of victims to seek orders of protection and request “no-contact” orders, and restraining orders.

Victims have the right to decide who and when to tell about Sexual Misconduct/Sexual Assault, Dating and Domestic Violence, and Stalking. However, it is very important that they get medical attention after being assaulted. Following the incident, a victim may be physically injured, may have contracted a sexually transmitted disease, or may become pregnant.

The University’s primary concern is the safety and well-being of every member of the campus community. The use of alcohol or drugs never makes the victim at fault. If a campus community member has experienced Sexual Misconduct, Dating Violence, Domestic Violence, or Stalking they should not be deterred from reporting the incident out of a concern that they might be disciplined for related violations of drug, alcohol, or other University policies. A person who participates in investigations or proceedings involving Sexual Misconduct/Sexual Assault, Dating Violence, Domestic Violence, or Stalking will not be subject to discipline for related violations of the Student Conduct Code or other University policies at or near the time of the incident unless the University determines the conduct places the health and safety of another person at risk, or is otherwise egregious.

The University encourages victims of Sexual Misconduct/Sexual Assault, Dating Violence, Domestic Violence, or Stalking to talk to someone about what happened – so they can get the support they need, and so the University can respond appropriately. Whether – and the extent to which – a University employee may agree to maintain confidentiality (and not disclose information to the Title IX Coordinator) depends on the employee’s position and responsibilities at the University. The following information is intended to make everyone aware of the various reporting and confidential disclosure options available to them – so they can make informed choices about where to turn for help. The University strongly encourages victims to talk to someone identified in one or more of these groups.

Certain University employees, listed below, are required by law to maintain near or complete confidentiality; talking to them is sometimes called a “privileged communication.” University law enforcement employees may maintain the victim’s identity as confidential, if requested by the victim, but will report the facts of the incident to the Title IX Coordinator, including the identity of the perpetrator. Most other University employees are required to report all details of an incident (including the identities of both the victim and alleged perpetrator) to the Title IX Coordinator so the University can take immediate action to protect the victim, and take steps to correct and eliminate the misconduct.

University Police, the Title IX Coordinator, University-employed physicians, professional counselors, licensed clinical social workers, sexual assault and domestic violence counselors and advocates, and certain other University employees are required to explain to victims their rights and options with respect to confidentiality.

PRIVILEGED AND CONFIDENTIAL REPORTS

Treating physicians, psychotherapists, professional counselors, and clergy who work or volunteer providing medical or mental health treatment or counseling (including those who act in that role under their supervision may not report any information about an incident of Sexual Misconduct/Sexual Assault, Dating Violence, Domestic Violence, or Stalking to anyone else at the University, including the Title IX Coordinator, without the victim’s consent. A victim can seek assistance and support from physicians, psychotherapists, professional, licensed counselors, and clergy without triggering a University investigation that could reveal the victim’s identity or the fact of the victim’s disclosure. However, see limited exceptions below regarding when these professionals must report to local law enforcement agencies. These confidential professionals should explain these limited exceptions to victims, if applicable.

The University will be unable to conduct an investigation into a particular incident or pursue disciplinary action against a perpetrator if a victim chooses to (1) speak only to a treating physician, psychotherapist, professional counselor, or clergy member, and (2) maintain complete confidentiality. Even so, these individuals will assist victims in receiving other necessary protection and support, such as victim advocacy, disability, medical/health or mental health services, or legal services, and will advise victims regarding their right to file a Title IX complaint with the University and a separate complaint with local or University Police. If a victim insists on confidentiality, the University will likely not be able to fully assist the victim with: University academic support or accommodations; changes to University-based living or working schedules; or adjustments to course schedules.

A victim who at first requests confidentiality may later decide to file a complaint with the University or report the incident to the police, and thus have the incident fully investigated. Counselors and advocates can provide

victims with that assistance if requested. Treating physicians, psychotherapists, professional counselors, and clergy will also explain that Title IX includes protections against retaliation, and that the University will not only take steps to prevent retaliation when it knows or reasonably should know of possible retaliation, but will also take strong responsive action if it occurs.

EXCEPTIONS TO CONFIDENTIALITY

Under California law, any health practitioner employed in a health facility, clinic, physician's office, or local or state public health department or clinic is required to make a report to local law enforcement if they provide medical services for a physical condition to a patient/victim who they know or reasonably suspects is suffering from (1) a wound or physical injury inflicted by a firearm; or (2) any wound or other physical injury inflicted upon a victim where the injury is the result of assaultive or abusive conduct (including Sexual Misconduct/Sexual Assault, Domestic Violence, and Dating Violence).

This exception does not apply to sexual assault and domestic violence counselors and advocates. Health care practitioners should explain this limited exception to victims, if applicable

Additionally, under California law, physicians, psychotherapists, professional counselors, licensed clinical social workers, clergy, and sexual assault and domestic violence counselors and advocates are mandatory child abuse and neglect reporters, and are required to report incidents involving victims under 18 years of age to local law enforcement. These professionals will explain this limited exception to victims, if applicable. Finally, some or all of these professionals may also have reporting obligations under California law to (1) local law enforcement in cases involving threats of immediate or imminent harm to self or others where disclosure of the information is necessary to prevent the threatened danger; (2) to the court if compelled by court order or subpoena in a criminal proceeding related to the sexual violence incident. If applicable, these professionals will explain this limited exception to victims.

PRESERVATION OF EVIDENCE

In cases of Sexual Misconduct/Sexual Assault, Dating Violence, Domestic Violence, or Stalking, the preservation of physical evidence is important to facilitate the identity and successful prosecution of the offender. The victim should not change clothes, bathe, douche, or shower following the attack. Sexual Assault Response Team (S.A.R.T.) medical personnel are trained to collect, process, and preserve physical evidence of Sexual Misconduct, and are committed in their assistance to the victim. Victims may request a S.A.R.T. exam to preserve forensic evidence without completing a police report. This evidence may be used in the case a victim wishes to report the assault at a later date. Victims are not financially responsible for S.A.R.T. exams and the cost will be the responsibility of the local law enforcement jurisdiction.

As time passes, evidence may dissipate or become lost or unavailable, thereby making investigation, possible prosecution, disciplinary proceedings, or obtaining protection orders related to the incident more difficult. Victims who choose not to make a complaint regarding an incident, nevertheless should consider speaking with University Police or other law enforcement to preserve evidence in the event that they change their mind and wish to report the assault at a later date.

A victim has the right to have a confidential advocate present when reporting to law enforcement and during examinations. With the victim's consent, the confidential advocate will assess the victim's immediate needs and provide support and referral as appropriate. This confidential assistance may include: counseling, information concerning rape trauma syndrome; information on the collection of medical evidence and available health services to test for injuries, sexually transmitted diseases, and/or pregnancy. Assistance is also available with access to other resources and services, including assistance in obtaining emergency protection orders and restraining orders.

REPORTING OPTIONS

Victims have several reporting options including those with confidentiality, and may pursue one or all of these options at any time. Victims have a right to have a friend, family member, sexual assault victim advocate, or other representative present while reporting the incident. They also have the right to have a sexual assault victim advocate and support person of their choice present with them during a rape examination. The campus Title IX Coordinator can assist in notifying the police. Victims may also take any of the actions below.

REPORTING TO THE POLICE

Reporting to University Police and/or local police is an option at any time. Victims who choose not to report to the police immediately following a Sexual Misconduct/Sexual Assault, Dating and Domestic Violence, or Stalking incident, can still make the report at a later time. However, with the passage of time, the ability to gather evidence to assist with criminal prosecution may be limited. Depending on the circumstances, the police may be able to obtain a criminal restraining order on the victim's behalf.

As soon after the incident as possible, victims of Sexual Misconduct/Sexual Assault, Dating Violence, Domestic Violence, or Stalking are strongly encouraged to report the incident to the police. Sexual Misconduct/Sexual Assault, Dating Violence, Domestic Violence, or Stalking may be reported to the University Police Department by dialing 911. The University Police will support all victims of Sexual Misconduct/Sexual Assault, Dating Violence, Domestic Violence, or Stalking regardless of their decision to seek criminal prosecution of the offender or not. Victims have the option to report anonymously to the police and the decision to seek criminal prosecution remains with the victim. University Police will protect the confidentiality of the victim to the extent permitted by applicable California State law.

If a victim reports to a local police agency or the University Police about Sexual Misconduct/Sexual Assault, Dating Violence, Domestic Violence, or Stalking, the police are required to notify victims that their names will become a matter of public record unless confidentiality is requested. If a victim requests that their identity be kept confidential, their name will not become a matter of public record and the police will not report the victim's identity to anyone else at the University, including the Title IX Coordinator. University Police will, however, report the facts of the incident itself, including the identity of the perpetrator if known, to the Title IX Coordinator being sure not to reveal the victim names/identities or compromise their own criminal investigation. The University is required by the federal Clery Act to report certain types of crimes (including certain sex offenses) in statistical reports. However, while the University will report the type of incident in the annual crime statistics report known as the Annual Security Report, victim names/identities will not be revealed.

REPORTING TO A CSA

Any member of the University community may report incidents of Sexual Misconduct/Sexual Assault, Dating Violence, Domestic Violence or Stalking to any Campus Security Authority (CSA's). These University personnel will assist the victim in notifying the appropriate law enforcement agency if the victim requests the assistance of law enforcement. In addition, most campus employees including CSA's are required to report incidents of Sexual Misconduct/Sexual Assault, Dating Violence, Dating Violence and Stalking to the Title IX Coordinator. Title IX Coordinator reporting responsibilities are described in detail below.

NOTE: If the University determines that the perpetrator poses a serious and immediate threat to the campus community, under the Clery Act the campus may be required to issue a timely warning to the community. Any such warning will not include any information that identifies the victim.

ADMINISTRATIVE

Victims may report to the campus Title IX Coordinator, who will provide written and verbal information regarding applicable University complaint procedures for investigating and addressing the incident. The Title IX Coordinator will also provide information regarding resources available to victims, as well as information regarding their rights and options. Contact information for the Title IX Coordinator is listed above.

The Campus Title IX Coordinator will also provide information regarding any reasonable Supportive Measures the University may offer prior to conclusion of an investigation to reduce or eliminate negative impact and provide available assistance. Examples include: adjustment to work assignments, housing locations, course schedules or supervisory reporting relationship; mutual restrictions on contact between the Complainant and the Respondent; leaves of absence; or campus escorts. These options may be available whether or not the victim chooses to report the incident to Campus police or law enforcement. The Title IX Coordinator remains available to assist the victim and provide reasonable Supportive Measures requested throughout the reporting, investigative, and disciplinary processes, and thereafter.

REPORTING TO A TITLE IX COORDINATOR OR RESPONSIBLE EMPLOYEE

Many resources and options are available on and off campus including confidential and privileged communication options. The University has designated a Title IX Coordinator as the primary point of contact to provide victims with assistance and support, and to monitor and oversee overall compliance with laws and policies related to Sexual Misconduct/Sexual Assault, Dating and Domestic Violence, and Stalking. The campus Title IX Coordinator is available to explain and discuss rights to file a criminal complaint and to assist in doing so; the University's relevant formal complaint process, and rights to receive assistance with that process, including the investigation process; how confidentiality is handled; available resources, both on and off campus; and other related matters.

Most University employees have a duty to report disclosed incidents of Sexual Misconduct/Sexual Assault, Dating Violence, Domestic Violence, or Stalking when they are on notice of it. When a victim tells the Title IX Coordinator or another non-confidential University employee about a Sexual Misconduct/Sexual Assault, Dating Violence, Domestic Violence, or Stalking incident, the victim has the right to expect the University to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably. In all cases, the University strongly encourages victims to report Sexual Misconduct, Dating Violence, Domestic Violence, or Stalking directly to the campus Title IX Coordinator.

As detailed above, most University employees except treating physicians, licensed counselors, and clergy must report to the Title IX Coordinator all relevant details about any Sexual Misconduct/Sexual Assault, Dating Violence, Domestic Violence, or Stalking incidents of which they become aware. The University will need to determine what happened and will need to know the names of the victim(s) and the alleged perpetrator(s), any witnesses, and any other relevant facts, including the date, time and specific location of the incident.

To the extent possible, information reported to the Title IX Coordinator or other University employees will be kept private and shared only with individuals responsible for handling the University's response to the incident. Any Supportive Measures will remain confidential except when it is not possible to maintain confidentiality in order to provide the Supportive Measures. The University will protect the privacy of individuals involved in a Sexual Misconduct/Sexual Assault, Dating Violence, Domestic Violence, or Stalking incident except as otherwise required by law or University policy. A Sexual Misconduct/Sexual Assault, Dating Violence, Domestic Violence, or Stalking report may result in the gathering of extremely sensitive information about individuals in the campus community. While such information is considered confidential, University policy regarding access to public records and disclosure of personal information may require disclosure of certain information concerning a report. In such cases, efforts will be made to redact the records, as appropriate, in order to protect the victim's identity and privacy and the privacy of other involved individuals. Except as detailed in the section on Privileged and Confidential Communications above, no University employee, including the Title IX Coordinator, should disclose the victim's identity to the police without the victim's consent or unless the victim has also reported the incident to the police.

If a victim requests of the Title IX Coordinator or another University employee that their identity remain completely confidential, the Title IX Coordinator will explain that the University cannot always honor that request and guarantee complete confidentiality. If a victim wishes to remain confidential or request that no investigation be conducted or disciplinary action taken, the University must weigh that request against the University's obligation to provide a safe, non-discriminatory environment for all students, employees and third parties, including the victim. Under those circumstances, the Title IX Coordinator will determine whether the victim's request for complete confidentiality and/or no investigation can be honored under the facts and circumstances of the particular case, including whether the University has a legal obligation to report the incident, conduct an investigation or take other appropriate steps. Without information about a victim's identity, the University's ability to meaningfully investigate the incident and pursue disciplinary action against the perpetrator may be severely limited.

The Title IX Coordinator will inform the victim of the initiation of an investigation prior to starting an investigation and will, to the extent possible, only share information with people responsible for handling the University's response to the incident. The Title IX Coordinator will remain mindful of the victim's well-being, and will take ongoing steps to protect the victim from retaliation or harm, and work with the victim to create a safety plan. Retaliation against the victim, whether by students, employees or third parties, will not be tolerated. The University and Title IX Coordinator will also:

- Provide Supportive Measures requested by the victim and the other party to a complaint, if they are reasonably available, regardless of whether the victim chooses to report to campus or local police;
- Assist victims in accessing available victim advocacy, academic support, counseling, disability, medical/health or mental health services, and legal assistance both on and off campus;
- Assist victims in accessing available financial aid assistance, assistance with transportation, and visa or immigration assistance.

- Provide security and support, which could include issuing a mutual no-contact order, helping arrange a change of campus-based living or working arrangements or course schedules or adjustments for assignments, tests, or work duties; and
- Inform victims of their right to report a crime to University or local police – and provide victims with assistance if desired.

The Title IX Coordinator is responsible for coordinating the effective implementation of Supportive Measures. Supportive Measures will remain confidential except when it is not possible to maintain confidentiality in order to provide the Supportive Measures.

The University will not require a victim to participate in any investigation or disciplinary proceeding if the victim does not wish to participate.

The University will not generally notify parents or legal guardians of a Sexual Misconduct/Sexual Assault, Dating Violence, Domestic Violence, or Stalking report unless the victim is under 18 years old or the victim provides the University with written permission to do so.

The institution will, upon written request, disclose to the alleged victim of a crime of violence or a non-forcible sex offense, the report on the results of any disciplinary proceeding conducted by the institution against a student who is the alleged perpetrator of such a crime or offense. If the alleged victim is deceased as a result of such crime or offense, the next of kin of such a victim shall be treated as the alleged victim.

Under California law, and pursuant to University policy, many University employees, including the Title IX Coordinator, are mandatory child abuse and neglect reporters and should explain to victims under 18 years of age that they are required to report the incident to the police. However, the identity of the person who reports and the report itself are confidential and disclosed only among appropriate agencies.

Because the University is under a continuing legal obligation to address the issue of Sexual Misconduct/Sexual Assault, Dating Violence, Domestic Violence, or Stalking campus-wide, reports (including non-identifying reports) may also require the University to consider broader remedial action – such as increased monitoring, supervision or security at locations where the reported incident(s) occurred; increased education, training and prevention efforts, including to targeted population groups; climate assessments/victimization surveys; and/or revision of policies and practices.

NON-REPORTING

Victims are strongly encouraged to formally report any incident of Sexual Misconduct/Sexual Assault, Dating and Domestic Violence, or Stalking to the police and/or campus Title IX Coordinator so that steps may be taken to protect them and the rest of the campus community. However, non-reporting is also an option.

CIVIL LAWSUIT

Victims may choose to file a civil lawsuit against the perpetrator, whether or not criminal charges have been filed. A civil lawsuit provides the opportunity to recover actual damages, which may include compensation for medical expenses, lost wages, pain, suffering and emotional distress.

RESTRAINING ORDERS

Victims may also choose to obtain a protective or restraining order (such as a Domestic Violence restraining order or a civil harassment restraining order). Restraining orders must be obtained from a court in the jurisdiction where the incident occurred. Restraining orders can protect victims who have experienced or are reasonably in fear of physical violence, Sexual Misconduct/Sexual Assault, Dating Violence, Domestic Violence, or Stalking. The campus Title IX Coordinator or Sexual Assault Victim's Advocate can offer assistance with obtaining a protective or restraining order.

DISCIPLINARY PROCEDURES

The investigation and hearing process (when applicable) from initial formal complaint to final result shall be prompt, fair, and impartial. An investigator will meet separately with the complainant and the respondent and other potential witnesses to gather information.

Victims are not required to participate in any University disciplinary process and may choose not to be a part of it. Disciplinary procedures will:

- Provide a prompt, fair, and impartial process and resolution;
- Be conducted by officials who receive annual training on Sexual Misconduct/Sexual Assault, Dating Violence, Domestic Violence, and Stalking and how to conduct a hearing process that protects members of the campus community and promotes accountability;
- Provide the complainant and respondent the same opportunity to be accompanied to any related meeting or proceeding by the Support Advisor of their choice;
- Simultaneously inform the complainant and respondent in writing of:
 - o The outcome of the disciplinary proceeding;
 - o The University's procedures to appeal the results of the disciplinary proceeding;
 - o Any change to the disciplinary results that occurs prior to the time such results become final;
 - and
 - o When disciplinary results become final.

COMPLAINT PROCEDURES

The CSU has adopted and published complaint procedures that provide for prompt, impartial, and equitable resolution of complaints of Sex Discrimination, including Sexual Harassment, Sexual Misconduct/Sexual Assault, Sexual Assault, Domestic Violence, Dating Violence, and Stalking.

Regardless of whether an employee, a student or a third party ultimately files a formal complaint under the applicable complaint procedure, if the University knows or has reason to know about possible Sex

Discrimination, Sexual Harassment, Sexual Misconduct, Domestic Violence, Dating Violence, and Stalking, the Title IX Coordinator must review the matter to determine if an investigation is warranted. When warranted, all such investigations must be prompt, thorough and impartial. The University must then take appropriate steps to eliminate the Sex Discrimination, Sexual Harassment, Sexual Misconduct/Sexual Assault, Domestic Violence, Dating Violence, and/or Stalking, prevent its recurrence, and remedy its effects.

COMPLAINTS MADE BY STUDENTS

Executive Order 1097, entitled "Systemwide Policy Prohibiting Discrimination, Harassment, and Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking Against Students and Systemwide Procedure for Addressing Such Complaints by Students" is the appropriate systemwide procedure for all complaints of Sex Discrimination, Sexual Harassment, Sexual Misconduct, Sexual Violence, Domestic Violence, Dating Violence, and Stalking made by CSU students against the CSU, a CSU employee, another CSU student, or a third party. Executive Order 1097 can be viewed at <https://calstate.policystat.com/policy/6742744/latest/>

COMPLAINTS MADE BY EMPLOYEES, FORMER EMPLOYEES, THIRD PARTIES, AND APPLICANTS FOR EMPLOYMENT

Executive Order 1096, entitled "Systemwide Policy Prohibiting Discrimination, Harassment and Retaliation, Sexual Misconduct/Sexual Assault, Dating and Domestic Violence, and Stalking Against Employees and Third Parties and Systemwide Procedure for Addressing Such Complaints by Employees and Third Parties" is the appropriate systemwide procedure for all complaints of Sex Discrimination, Sexual Harassment, Sexual Misconduct, Domestic Violence, Dating Violence, and Stalking made by employees and former employees against the CSU, another CSU employee, a CSU student or a third party.

Employees covered by a collective bargaining agreement that provides a grievance procedure for raising allegations of Sex Discrimination or Sexual Harassment, including Sexual Misconduct, Domestic Violence, Dating Violence, and Stalking shall use the grievance procedure specified in their collective bargaining agreement. Executive Order 1096 can be viewed at <https://calstate.policystat.com/policy/6743499/latest/>

COMPLAINTS MADE BY STUDENT-EMPLOYEES

Executive Order 1096 is the appropriate system-wide procedure for all complaints of Sex Discrimination, including Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking, made by student-employees where the alleged Sex Discrimination, Sexual Misconduct, Domestic Violence, Dating Violence, and Stalking arose out of the person's status as an employee and not their status as a student. Executive Order 1096 can be viewed at <https://calstate.policystat.com/policy/6743499/latest/>

When the Title IX Coordinator receives a Formal Complaint, or where new information or events arise, the Title IX Coordinator will assess whether the Formal Complaint meets the requirements of the Federal Regulations to move forward under the process in Addendum B. A determination that allegations in a Formal Complaint do not meet the requirements of the Federal Regulations will result in a dismissal of the allegations in the Formal Complaint that do not meet the requirements and, in some cases, a referral of the allegations to another process as the University may have an obligation to address the matter under other laws and policies.

Written notice of a mandatory or discretionary dismissal and reason(s) for the dismissal will be sent Simultaneously to the Parties when a Title IX Coordinator dismisses a Formal Complaint. The notice will inform

the Parties of their right to appeal the dismissal, whether the matter will be referred to another process and the process for submitting an appeal. This notice may be accompanied by a Notice of Allegations, as described in Article VI. below, where a Notice of Allegations has not already been provided.

Either Party may appeal from a dismissal of a Formal Complaint or any part of the Complaint. The appeal must be filed within 10 Working Days from the date of the Notice of Dismissal. The appeal will be in writing and will be based only on one or more of the following grounds: a procedural irregularity occurred that affected the dismissal of the Formal Complaint; new evidence that was not reasonably available at the time the dismissal decision was made that could affect the decision to dismiss the Formal Complaint; or the Title IX Coordinator (or designee) who dismissed the Formal Complaint had a conflict of interest or bias for or against the complainant or respondent in this case or complainants or respondents in general.

Appeals will be filed with the Chancellor's Office (CO) and will be addressed to:

Systemwide Title IX Unit

Systemwide Human Resources

Office of the Chancellor

TIX-Dismissal-Appeals@calstate.edu

If you are unable to file an appeal or a response to an appeal electronically, please contact the Campus Title IX Office for assistance.

When an appeal is submitted, the other Party as well as the Campus Title IX Coordinator will be notified in writing. In response to the appeal, the other Party will be given 5 Working Days from their receipt of notice of the appeal to submit a written statement in support of or challenging the dismissal. Within 10 Working Days of the CO's receipt of the appeal, the Parties will Simultaneously receive (via email) a written decision with explanation.

The CO review will not involve a new assessment of the Dismissal/Referral or consideration of evidence that was not introduced during the Campus review, unless the new evidence was not reasonably available at the time of the review.

If the CO review determines that the Dismissal/Referral should be reviewed to cure any defects, the matter will be remanded back to the Campus to reassess within a timeframe specified by the CO. The Parties will be informed Simultaneously of the review and the timeframe. Once the review is complete the Campus will provide the Parties and the CO with either a Notice of Dismissal/Referral or Notice of Allegations, depending on the outcome, that reflects any changes to the determination. The notice will inform the Parties of their right to appeal and the CO will contact the appealing Party to determine whether that Party wishes to continue with the appeal.

The CO appeal response is final and concludes the Dismissal/Referral process under Addendum B. If there is a mandatory dismissal of a Formal Complaint, it does not preclude the Campus from later identifying a relevant policy or policies that address the alleged conduct, notifying the Parties of the policy or policies, and moving forward under the procedures of those policies.

When the Title IX Coordinator receives a Formal Complaint, the Title IX Coordinator will Simultaneously provide both Parties a written Notice of Allegations.

The Notice of Allegations will be provided to both Parties regardless of whether the Formal Complaint must be dismissed. See section above on dismissal of formal complaints. If a Formal Complaint is dismissed at this stage of the process, the Notice of Allegations will also include the Notice of Dismissal and appeal rights.

If new allegations are raised during the investigation that were not included in the Notice of Allegations, a revised Notice of Allegations will be issued Simultaneously to the Parties.

If the Notice of Allegations also serves as notice of a Respondent's expected attendance at an interview, it will include details of the date, time, location, participants, and purpose of that interview. The Notice of Allegations must be provided to a Respondent at least 5 Working Days prior to the interview.

If a Respondent requests to meet sooner than 5 Working Days after receipt of the Notice of Allegations, they should verbally confirm at the start of the meeting that they are aware that they were provided notice of at least 5 Working days and this confirmation should be documented by the Title IX Coordinator or investigator.

INFORMAL RESOLUTION

At any time prior to the issuance of the Hearing Officer's Report, if the Title IX Coordinator or either Party believes that it may be possible to resolve the Formal Complaint in a prompt, fair, and reasonable manner without a hearing, the Parties may consider an Informal Resolution that does not involve a full investigation and adjudication, subject to the following:

- A.** informal Resolution under Addendum B may only be offered where a Formal Complaint has been filed;
- B.** the University cannot offer or facilitate Informal Resolution under Addendum B to resolve allegations that an Employee sexually harassed a Student; and
- C.** the University must obtain the Parties' voluntary, written consent before starting the Informal Resolution process.

Once the Title IX Coordinator determines that Informal Resolution is appropriate, the Parties should Simultaneously be provided written notice regarding Informal Resolution that includes the following:

- A.** the allegations of Sexual Harassment, as defined by Addendum B;
- B.** the requirements of the Informal Resolution process including that once the Informal Resolution process is finalized neither Party is permitted to file another Formal Complaint arising from the same allegations;
- C.** an explanation that at any time prior to agreeing to a resolution, any Party has the right to withdraw from the Informal Resolution process and resume the Formal Complaint process;
- D.** an explanation of any consequences resulting from participating in the Informal Resolution process, including the records that will be maintained or could be shared; and
- E.** the Parties' right to consult with a Support Advisor, if any.

The Title IX Coordinator will oversee the Informal Resolution process and make the final determination on all Informal Resolutions facilitated by the Title IX Coordinator or designee regarding whether the terms agreed to by the Parties are appropriate in light of all of the circumstances of the Formal Complaint.

The Informal Resolution process will be completed prior to any determination of responsibility being made, but no later than 60 Working Days after both Parties provide voluntary, written consent to participate in the Informal Resolution process.

The University may not require the Parties to participate in an Informal Resolution process under Addendum B, nor may a Party be required to waive their right to the investigation and adjudication of a Formal Complaint as a condition of enrollment or employment, or continuing enrollment or employment.

The terms of any Informal Resolution must be put in writing and signed by the Parties, and the Title IX Coordinator. Prior to signing the Informal Resolution, the Title IX Coordinator will consult with the Student Conduct Administrator and/or other appropriate University Administrator responsible for the implementation of the terms. Use of electronic signatures is permitted.

Any agreed-upon Remedies and disciplinary sanctions will have the force and effect of sanctions imposed following a hearing.

The resolution will be final and not appealable by either party.

INVESTIGATIVE PROCEDURES

The Title IX Coordinator will either promptly investigate the Formal Complaint or assign this task to another Investigator. If assigned to another Investigator, the Title IX Coordinator will monitor, supervise, and oversee all such delegated tasks, including reviewing all investigation draft reports before they are final to ensure that the investigation is sufficient, appropriate, impartial, and in compliance with the relevant Executive Order, including Addendum B.

Gathering of Evidence

The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the University and not on the Parties. The Investigator will take reasonable steps to gather all relevant evidence from the Parties, other witnesses or other sources. The Investigator will document the steps taken to gather evidence, even when those efforts are not successful. Parties should be aware that all evidence Directly Related to the investigation will be provided to the other Party, subject to the exceptions described below. The University cannot access, consider, disclose, or otherwise use a Party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the Party, unless the University obtains that Party's voluntary, written consent to do so for a Formal Complaint process under Addendum B. The University will not restrict the ability of either Party to discuss the allegations under investigation or to gather and present Relevant evidence (for example, contacting a potential witness).

Advisors

Support Advisor-The Complainant and the Respondent may each elect to be accompanied by a Support Advisor to any meeting, interview, or proceeding regarding the allegations that are the subject of a Formal Complaint. The Support Advisor may be anyone, including a union representative from the Complainant's or Respondent's collective bargaining unit, an attorney, or, in the case of the Complainant, a Sexual Assault Victim's Advocate. The Support Advisor may not answer questions regarding the subject matter of the

investigation for the Complainant or the Respondent or speak on behalf of a Complainant or Respondent. However, the Support Advisor may observe and consult with the Complainant or Respondent.

Hearing Advisor-The Complainant and Respondent must have a Hearing Advisor at the hearing. A Hearing Advisor will be responsible for asking the other Party and any witnesses all Relevant questions and follow-up questions, including those that challenge credibility, during the hearing. During a hearing, Parties may not ask questions of the other Party or any witnesses. Questioning at the live hearing will be conducted directly, orally, and in real time by the Party's Hearing Advisor of choice or a Hearing Advisor provided by the University if the Party does not have a Hearing Advisor. The Hearing Advisor may be the same person as the Support Advisor. A Party may have both a Support Advisor and a Hearing Advisor present at a hearing. If a Party does not have a Hearing Advisor to perform questioning during the hearing, the University shall provide the Party with a Hearing Advisor for this purpose.

The Title IX Coordinator or Investigator will explain to the Complainant and Respondent that they may request that their Support Advisor, if any, be copied on communications during the Formal Complaint process. Any such request will be in writing to the Title IX Coordinator or Investigator and should include the Support Advisor's name and contact information. The Title IX Coordinator or Investigator will also explain that Support Advisors will receive a copy of the evidence and Final Investigation Report, unless the Party specifically directs in writing that this information should not be sent to their Support Advisor. Although reasonable efforts will be made to accommodate Hearing Advisors and Support Advisors, undue delays affecting the complaint resolution timeline will not be permitted. Disruptive, abusive, or disrespectful behavior also will not be tolerated. At the discretion of the Investigator or Title IX Coordinator during meetings or interviews and of the Hearing Officer during hearings, a Hearing Advisor or Support Advisor who engages in disruptive, abusive or disrespectful behavior will not be permitted to participate. If a Hearing Advisor is excused during a hearing, the University will either provide a Party with another Hearing Advisor or allow the Party to obtain another Hearing Advisor. It is within the Hearing Officer's discretion to proceed with or postpone the hearing in order to address the situation.

Notice of Meetings, Interviews and Hearings

Parties will be provided written notice of the date, time, location, names of participants, and purpose of all meetings and investigative interviews at which their participation is expected. This written notice should be provided with at least 3 Working Days for the Party to prepare to participate in the meeting or interview. This requirement will not apply where a Party themselves requests to meet with the Title IX Coordinator or Investigator or as addressed in Article VI of Addendum B.

If a Party requests to meet sooner than 3 Working Days after receipt of written notice of an investigative interview or meeting, they should verbally confirm at the start of the interview or meeting that they are aware that they were provided notice of at least 3 Working Days and this confirmation should be documented by the Title IX Coordinator or Investigator.

Review of Evidence

Before issuing a final investigation report (Final Investigation Report), the Investigator will send to the Complainant and Respondent, and their respective Support Advisors,⁴² if any, all evidence (including evidence upon which the University does not intend to rely) obtained as part of the investigation that is Directly Related to the allegations raised in the Formal Complaint (Preliminary Investigation Report). This

includes inculpatory or exculpatory evidence whether obtained from a Party or other source, redacted if required by law.

Each Party will be given a minimum of 10 Working Days for the initial Review of Evidence to respond to the list of disputed facts and evidence and submit additional questions for the other Party and witnesses. This timeframe may be extended at the discretion of the Title IX Coordinator (either on their own or in response to a Party's request). The extension must be made available to both Parties, who must be notified as such. During the Review of Evidence, each Party may:

1. meet again with the Investigator to further discuss the allegations;
2. identify additional disputed facts;
3. respond to the evidence in writing;
4. request that the Investigator ask additional specific questions to the other Party and other witnesses;
5. identify additional relevant witnesses; or
6. request that the Investigator gather additional evidence.

Final Investigation Report After the Review of Evidence phase is concluded, the Parties will receive a Final Investigation Report that will summarize all Relevant evidence (inculpatory and exculpatory), including additional Relevant evidence received during the Review of Evidence. Any Relevant documentary or other tangible evidence provided by the Parties or witnesses, or otherwise gathered by the Investigator will be attached to the Final Investigation Report as exhibits. As part of an Informal Resolution, at the request of both Parties, Campuses will provide a written preliminary assessment of the evidence by the Title IX Coordinator. Neither the fact nor the substance of the assessment will be shared with the Hearing Officer or considered Relevant at the Hearing. The Final Investigation Report shall be sent to the Parties and their respective Support Advisors, if any, in electronic format (which may include use of a file sharing platform that restricts the Parties and any Support Advisors from downloading or copying the evidence) or hard copy. The Parties and their Support Advisors will be provided 10 Working Days to review and provide a written response to the Final Investigation Report. Campuses will inform Parties not to include any reference to the preliminary assessment and that any such references will be redacted. The written response will be attached to the Final Investigation Report and provided to the Hearing Officer, if appropriate, and the Parties. Any references to a preliminary assessment, assuming one was requested, will be redacted from this written response. No documentation should be provided to the Hearing Officer if an Informal Resolution is reached.

Timeframe for Completion of Investigation

Absent a determination of good cause made by the Investigator or Title IX Coordinator (of which the Parties will receive written notice): (i) the investigation should be concluded within 100 Working Days from the date that the Notice of Allegations is provided to the Parties; and (ii) the Final Investigation Report should be completed and provided to the Parties within 10 Working Days after the Review of Evidence has concluded. Extensions may be granted, and notice to the Parties given, as set forth in Article V. E. of EO 1096 and EO 1097. Within 10 Working Days after the Parties have been provided the Final Investigation Report, the Parties will be informed of the timelines that will apply to the pre-hearing and hearing processes described in Article IX below. The Parties will be required to provide the name and contact information for their Hearing Advisor within 5 Working Days after notice of the hearing timeline.

HEARING PROCEDURES

A Hearing Coordinator, (either the Student Conduct Administrator, Title IX Coordinator, or other appropriate Administrator) will be responsible for coordinating the hearing process. The Hearing Coordinator's duties will include: scheduling the hearing; notifying witnesses of the hearing; ensuring that the Hearing Officer is provided with appropriate materials including a copy of the report and any exhibits; coordinating videoconferencing (if necessary); and securing a location for the hearing. The Hearing Coordinator will also act as liaison between the Parties and the Hearing Officer on procedural matters.

The Parties will be given written notice of the date, time, location, participants, and purpose of the hearing, as well as the identity of the Hearing Officer. Notification of the hearing will be sent to the designated CSU campus e-mail address, unless the recipient has specifically requested in writing to the Hearing Coordinator that notice be given to a different e-mail address. Communications from the Hearing Coordinator will be deemed received on the date sent. The hearing will not be set sooner than 20 Working Days after the date of notice of hearing.

Any objections to an appointed Hearing Officer must be made in writing to the Hearing Coordinator within 5 Working Days after notice of the identity of the Hearing Officer has been communicated to the Parties. The objection may only be based on an actual conflict of interest. A conflict of interest exists if the Hearing Officer has a personal relationship with one of the Parties or witnesses or has demonstrated actual bias towards a Party or witness. The fact that a Hearing Officer has previously served as a Hearing Officer in a University proceedings will not constitute a conflict of interest. The Hearing Coordinator will determine if a conflict of interest exists. In that event, the Parties will be notified in writing of the name of the new Hearing Officer. The date for the hearing may need to be rescheduled. Any objection to the new Hearing Officer will be made in accordance with this section.

No later than 15 Working Days before the hearing, each Party may: a. Provide to the Hearing Coordinator a proposed witness list that includes the names of, and current contact information for, that Party's proposed witnesses as well as an explanation of the relevance of each proposed witness's testimony and the disputed issue to which the witness's testimony relates. No later than 10 Working Days before the hearing, the Hearing Coordinator will share a final witness list with the Parties and notify each witness of the date, time and location of the hearing.

Witnesses will be directed to attend the hearing and to promptly direct any questions or concerns about their attendance at the hearing to the Hearing Coordinator. No later than 5 Working Days prior to the hearing, the Parties may submit a list of proposed questions to the Hearing Coordinator. The questions will be provided to the Hearing Officer. Parties are strongly encouraged to provide questions in advance of the hearing in order to streamline the hearing process and provide the Hearing Officer an opportunity to resolve relevancy concerns prior to the hearing. The proposed questions will not be shared with the other Party.

DETERMINATION REGARDING RESPONSIBILITY

After the hearing, the Hearing Officer will make written findings of fact and conclusions about whether the Respondent violated Addendum B with respect to the definition of Sexual Harassment.

The standard of proof the Hearing Officer will use is whether each allegation is substantiated by a Preponderance of the Evidence. The Title IX Coordinator will review the Hearing Officer's Report to ensure procedural compliance with Addendum B.

The Hearing Coordinator will Simultaneously send the Hearing Officer's Report promptly to the Parties, the Title IX Coordinator, and the appropriate University Administrator, usually within 15 Working Days of the close of the hearing.

If no violation of the addendum is found, the president (or designee) will be notified along with the Parties. The notification will include the outcome of the hearing, a copy of the Hearing Officer's Report (redacted as appropriate or as otherwise required by law) and notice of the Complainant's and Respondent's right to appeal to the Chancellor's Office.

If a violation of the addendum is found, within 5 Working Days of receiving such finding the Parties may submit to the Hearing Coordinator an impact statement or other statement regarding discipline that is no more than 2000 words in length. The document is an opportunity for the Parties to suggest disciplinary outcomes and to provide information that they believe is important for the Hearing Officer to consider. The Student Conduct Administrator and/or appropriate University Administrator responsible for discipline and Title IX Coordinator may also submit a written statement regarding aggravating and mitigating factors that provides a recommendation regarding the disciplinary outcome, including information regarding prior disciplinary outcomes for similar conduct and whether the Respondent was previously found to have violated university policy.

Within 5 Working Days after receiving and considering any impact or other statements submitted by the Parties and other statements described above, the Hearing Officer will submit the Hearing Officer's Report to the president (or designee). The Hearing Officer's Report will be amended to include a statement of, and rationale for, any recommended disciplinary sanctions to be imposed on the Respondent ("Final Hearing Officer's Report"). The Final Hearing Officer's Report will attach the Final Investigation Report.

In cases where the Hearing Officer has found a violation of policy, the president (or designee) will review the Final Investigation Report and the Final Hearing Officer's Report and issue a decision ("Decision Letter") concerning the appropriate sanction or discipline within 10 Working Days of receipt of the Final Hearing Officer's Report.

PRESIDENT'S SANCTION DECISION/NOTIFICATION

The president (or designee) may impose the recommended sanctions, adopt a different sanction or discipline, or reject sanctions or disciplines altogether. If the president (or designee) adopts a sanction other than what is recommended by the Hearing Officer, the president (or designee) must set forth the reasons in the Decision Letter.

The president will simultaneously send the Decision Letter electronically to the Respondent and Complainant at the University-assigned or other primary e-mail address linked to their University accounts. The decision letter will also be sent to the Student Conduct Administrator or other appropriate University Administrator responsible for Employee discipline and the Hearing Officer.

The determination regarding responsibility and any sanctions become final either on the date that the Chancellor's Office provides the Parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely (11 working days after the date of the decision letter).

EMPLOYEE SANCTIONS

Where a complaint is made against an employee, Human Resources or Academic/Faculty Affairs shall be notified and provided a copy of the investigation reports. Sanctions are imposed in accordance with current collective bargaining agreement, when applicable, and may include:

- verbal reprimand
- written reprimand,
- reduction in salary
- temporary or permanent demotion
- paid or unpaid administrative leave
- suspension
- denial or curtailment of emeritus status
- mandated education or training
- change in work location
- restrictions from all or portions of campus
- restrictions to scope of work
- dismissal

STUDENT SANCTIONS

The following sanctions may be imposed for violation of the Student Conduct Code:

1. RESTITUTION

Compensation for loss, damages or injury. This may include appropriate service and/or monetary material replacement.

2. LOSS OF FINANCIAL AID

Scholarships, loans, grants, fellowships and any other types of state financial aid given or guaranteed for the purposes of academic assistance can be conditioned, limited, cancelled or denied.

3. EDUCATIONAL AND REMEDIAL SANCTIONS

Assignments, such as work, research, essays, service to the University or the community, training, counseling, removal from participation in recognized student clubs and organizations (e.g., fraternities misconduct or as deemed appropriate based upon the nature of the violation.

4. DENIAL OF ACCESS TO CAMPUS OR PERSONS

A designated period of time during which the student is not permitted: (i) on University Property or specified areas of campus; or (ii) to have contact (physical or otherwise) with the complainant, witnesses or other specified persons.

5. DISCIPLINARY PROBATION

A designated period of time during which privileges of continuing in student status are conditioned upon future behavior. Conditions may include the potential loss of specified privileges to which a current student would otherwise be entitled, or the probability of more severe disciplinary sanctions if the student is found to violate the Student Conduct Code or any University policy during the probationary period.

6. SUSPENSION

Temporary separation of the student from active student status or student status.

- a. A student who is suspended for less than one academic year shall be placed on inactive student (or equivalent) status (subject to individual campus policies) and remains eligible to re-enroll at the University (subject to individual campus enrollment policies) once the suspension has been served. Conditions for re-enrollment may be specified.
- b. A student who is suspended for one academic year or more shall be separated from student status but remains eligible to reapply to the University (subject to individual campus application policies) once the suspension has been served. Conditions for readmission may be specified.
- c. Suspension of one academic year or more, withdrawals in lieu of suspension, and withdrawals with pending misconduct investigations or disciplinary proceedings shall be entered on the student's transcript permanently without exception; this requirement shall not be waived in connection with a resolution agreement.

7. EXPULSION

Permanent separation of the student from student status from the California State University system.

Expulsion, withdrawal in lieu of expulsion, and withdrawal with pending misconduct investigation or disciplinary proceeding shall be entered on the student's transcript permanently, without exception; this requirement shall not be waived in connection with a resolution agreement.

8. COUNSELING

Counseling may include mandatory participation in the Alcohol and other Substance abuse Prevention Intervention Re-directive Effort (ASPIRE) or the Successful Community Living Program (SCL)

More than one sanction may be imposed for a single violation.

OTHER CONSIDERATIONS RELATED TO SANCTIONS:

1. ADMINISTRATIVE HOLD AND WITHHOLDING A DEGREE

The University may place an administrative hold on registration transactions and release of records and transcripts of a student who has been sent written notice of a pending investigation or disciplinary case concerning that student, and may withhold awarding a degree otherwise earned until the completion of the process, including the completion of all sanctions imposed¹.

2. RECORD OF DISCIPLINE

¹ For matters involving processes other than those that fall under addendum B, this is not applicable.

A record of disciplinary probation or suspension is entered on a student's transcript, with beginning and end date, for the duration of the sanction. A record of expulsion or suspension for one academic year or more shall note the effective date of discipline and remains on the transcript permanently, without exception. A record of withdrawal in lieu of suspension or expulsion and withdrawal with pending misconduct investigation or disciplinary proceeding remains on the transcript permanently, without exception². These requirements shall not be waived in connection with any resolution agreement.

3. INTERIM SUSPENSION

A president may impose an interim suspension pursuant to Title 5, California Code of Regulations section 41302 where there is reasonable cause to believe that separation of a student is necessary to protect the personal safety of persons within the University community or University property, and to ensure the maintenance of order.

An investigative finding of a violation of Executive Orders 1096 or 1097 standing alone may be sufficient to constitute reasonable cause to believe that an interim suspension is necessary to protect the personal safety of persons within the University community or University property, and to ensure the maintenance of order.

4. DENIAL OF PRESENCE ON CAMPUS DURING INTERIM SUSPENSION

During the period of an interim suspension, the student charged may not, without prior written permission from the campus president, enter any campus of the California State University other than to attend the hearing regarding the merits of the interim suspension and any disciplinary hearing. The president may also restrict the student's participation in University-related activities on a case-by-case basis, such as attending off-campus activities and/or participating in on-line classes. Violation of any condition of interim suspension shall be grounds for expulsion.

5. ADMISSION OR READMISSION

Applicants for admission or readmission into any University program are subject to appropriate sanctions for violations of the Student Conduct Code, including qualification, revocation or denial of admission or readmission. For students who withdraw while a disciplinary matter is proceeding, the campus has discretion whether to continue proceedings or hold proceedings in abeyance.

APPEAL OF PRESIDENT'S SANCTION

Filing an Appeal to the Chancellor's Officer. Any Complainant or Respondent who is not satisfied with a Formal Complaint Process outcome (determination regarding responsibility or recommended sanction) may file an appeal with the Chancellor's Office (CO) no later than 10 Working Days after the date of the Decision Letter. All arguments and/or evidence supporting the appeal must be submitted by the deadline to file the appeal. Evidence/arguments submitted after the appeal submission deadline will not be considered by the CO.

The appeal must be in writing and may be based only on one or more of the grounds for appeal listed below: the hearing outcome is not supported by substantial evidence (in other words, there was no reasonable basis for such findings or conclusions); a procedural irregularity occurred that affected the outcome of the matter; new evidence that was not reasonably available at the time of the hearing and would have affected

² For matters involving processes other than those that fall under addendum B, this is not applicable.

the Hearing Officer's decision about whether the Respondent violated the Executive Order, including addendum B; the Title IX Coordinator, Investigator, or Hearing Officer had a Conflict of Interest or Bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter; and the sanction(s) imposed as part of the outcome of the Formal Complaint process constituted an abuse of discretion based on the substantiated conduct.

Issues and Evidence on Appeal. The issues and evidence raised on appeal will be limited to those raised and identified during the Campus hearing, unless new evidence becomes available that was not reasonably available at the time of a Campus hearing that could affect the outcome of the matter and is submitted by the appealing party. The CO may communicate, at the CO's discretion, with the appealing party, the responding party, and/or the Campus to clarify the written appeal. Appeals will be addressed to:

Equal Opportunity and Whistleblower Compliance Unit Systemwide Human Resources Office of the Chancellor
401 Golden Shore, 4th Floor Long Beach, California 90802 eo-wbappeals@calstate.edu

Electronic submission to the email address listed above is the preferred method of submitting appeals.

The CO will provide prompt written acknowledgement of the receipt of the appeal to the appealing Party, and will provide prompt written notification of the appeal, including a copy of the appeal, to the non-appealing Party and the Campus Title IX Coordinator. The notice will include the right of the non-appealing Party and the Campus to provide a response to the appeal within 10 Working Days of the date of the notice. The appeal and appeal response shall be limited to 3,500 words, excluding exhibits.

REGISTERED SEX OFFENDERS

California's sex offender registration laws require convicted sex offenders to register their status with the University police department if they are enrolled, residing, attending, carrying on a vocation (i.e. contractor or vendor on campus for more than 30 days in the year), or working with or without compensation for the institution. All public information available in California about registered sex offenders, to include the ability to look-up offenders by name, residence address, and zip code, is on the California Department of Justice Megan's law web site at <http://www.meganslaw.ca.gov/>

EMERGENCY NOTIFICATION

The University will issue emergency notifications, without delay, in response to a confirmed significant emergency or a dangerous situation, occurring in the Clery defined on campus geography that, in the judgment of the University, constitutes an immediate threat to the health or safety of members of the on-campus community.

Once UPD has received the report, the Chief of Police, (or management designee in the absence of the Chief), will confer with the appropriate public official (e.g., fire chief, health department) and any campus officials responsible for managing the on-campus emergency, if available, to confirm both: 1) an emergency or dangerous situation in fact exists in on-campus geography; and 2) the emergency or dangerous situation poses an immediate or imminent threat to members of the on-campus community.

If both of the above factors are not met, no emergency notification will be issued.

If it is determined that both of the above factors are met, then an emergency notification will be issued to the community. The Chief of Police (or management designee in the absence of the Chief), will confer with the Clery Director if one is designated and if available, to prepare the content of the notification taking into account the safety of the on-campus community. They will also determine, based on the confirmed facts of the emergency, if the entire campus community or only a specific segment of the on campus community is threatened and need to be notified. Examples of emergencies where only a segment might be alerted would be a fire contained in a dorm laundry room where only the residents of that one dorm floor or of that one dorm building are at risk and need to evacuate, or a chemical spill in a lab where only the one room, floor, or the occupants of that one building are at risk and need to evacuate.

Once the notification is prepared, the Chief of Police or the Clery Director if one is designated, or in their absence, the management designee(s) will, without delay and taking into account the safety of the community, transmit the emergency notification unless doing so would delay the ability to mitigate and/or contain the emergency, including the ability to provide immediate, life saving measures.

Distribution methods of emergency notifications may include but are not limited to one or more of the following methods:

- The campus mass notification system, including but not limited to phone, campus email, or text messaging
- Audio/visual message boards
- Audible alarms/sirens
- Campus public address systems
- In person or door-to-door notifications in a building or residence halls
- Other means appropriate under the circumstances

Students and employees who need information on how to add contact information to be included for emergency notification or to remove information and “opt out” of notifications should visit www.sdsu.edu/sdsualert or call the on campus Office of Emergency Preparedness at 619-594-0857 for assistance.

The Chief of Police or the Clery Director if one is designated, or in their absence, the management designee(s) will provide follow-up notifications and information until the emergency is mitigated and no longer poses a threat.

If an emergency notification is issued, a timely warning will not be issued to the community for the same incident.

TESTING THE EMERGENCY NOTIFICATION SYSTEM

Testing of the Emergency Notification System and evacuation will be done at least once annually. The tests may be announced or unannounced. Tests must be scheduled, contain drills, exercises and appropriate follow-through activities, and be designed for assessment and evaluations of emergency plans and

capabilities. However, at least one test will be publicized in conjunction with the campus' emergency response and evacuation procedures. Each test will be documented to include a description of the exercise, the date of the test, the start and end times of the test, and whether the test was announced or unannounced.

MISSING STUDENT NOTIFICATION

The purpose of the SDSU Missing Student policy is to establish procedures for the college's response to reports of missing students, as required by the Higher Education Opportunity Act of 2008. This policy applies to students who reside in San Diego State University's on-campus housing.

For purposes of this policy, a student may be considered to be a "missing student" if the student's absence is contrary to his/her usual pattern of behavior and unusual circumstances may have caused the absence. Such circumstances could include, but not be limited to, a report or suspicion that the missing person may be the victim of foul play, has expressed suicidal thoughts, is drug dependent, is in a life-threatening situation, or has been with persons who may endanger the student's welfare.

Upon check in, each student living on campus is required to provide emergency contact information. If the resident is under 18 years old they must also provide the contact information for their parent or legal guardian. In addition, students may identify a confidential contact person to be notified within 24 hours of when the student has been determined to be missing. In the event that a student under 18 years old is determined to be missing, their parents or listed contact person will be notified within 24 hours.

This information is confidential and accessible only by authorized university officials responsible for maintaining the information. It will not be disclosed except to law enforcement personnel in furtherance of an official missing person investigation. Students may update this information via their online Housing Portal.

Missing students may be reported to University Police, the Dean of Students Office, or any Residential Education Office or Office of Housing Administration staff member. Upon notification of a potentially missing student, SDSU University Police shall be notified immediately, and they will begin an investigation of the situation which may include, but not be limited to, the following:

- Conduct a welfare check in the student's on-campus residence.
- Attempt to contact the missing student via phone numbers on file.
- Contact online, call, or speak in person with known contacts such as roommate, suitemates, apartment mates, and friends.
- Contact the student employer, if known.
- Contact the student's professors to gather information about the student's recent class attendance.
- If the student has a vehicle, Parking Services will attempt to locate the vehicle on campus.

If the student cannot be located after reasonable efforts, the Dean of Students, Director of Residential Education, Director of Housing Administration, or University Police will then contact the student's emergency contacts no later than 24 hours after the student has been suspected as being missing. If the investigation indicates that a student is missing, University Police will file a Missing Persons Report and notify the San Diego Police Department.

A student who is missing and is believed to be the victim of “foul play”, involved in a life threatening situation, has indicated suicidal threats or it is believed they will do harm to themselves constitutes an immediate response situation. University Police will be contacted immediately and will initiate a report as well as take responsibility for notifying additional appropriate law enforcement agencies.

FIRE SAFETY ACT

The 2018 Fire Safety Act Report is available at the following link:

http://housing.sdsu.edu/documents/about_us/2018_Fire_Report.pdf