



## Crime Safety and Security Report

United States University (USU) is committed to providing a reasonable level of security for its students, employees and visitors. The following report provides information regarding campus security policies and procedures for all students and employees of United States University.

### Procedures for Reporting Crimes

USU is required to monitor criminal activities and other emergencies occurring on campus, at non-campus facilities and property owned or controlled by USU, and on public property within, or immediately adjacent to, and accessible from, the campus. USU requests and encourages its' students, faculty and staff to promptly report such occurrences to Senior Management or Campus Security Official. The Receptionist is the Campus Security Official on each campus. Victims or witnesses to crimes may report crimes on a voluntary basis, and if need be, on a confidential basis. USU will respond to each occurrence, and if appropriate, report said crimes to local law enforcement authorities.

A crime log will be maintained by the campus security official in the reception area. The crime log will contain a record of all crimes reported that occurred on campus, at non-campus facilities and property owned or controlled by USU and on public property within, or immediately adjacent to, and accessible from the campus. Entries into the crime log include the nature, date, time, and general location of each crime, and the disposition of the complaint, if known. Names and victims or alleged perpetrators are never disclosed in the crime log. All entries to the crime log will be made within two business days of the report of the crime, or the report of additional information to campus security.

USU will monitor and record criminal activity in which students have engaged at off-campus locations, specifically clinical sites, through the local law enforcement agency. USU does not officially recognize any off-campus student organizations.

USU students and staff are encouraged to report crimes on a voluntary, confidential basis. This information will be included in the institution's annual crime safety and security report. Students in need of counseling may contact their Student Advocate for referrals to available counseling services in their community. USU employees may contact the Director of Human Resources for information regarding the Employee Assistance Program, a confidential referral program.

### Campus Security Policies

In an effort to maintain a safe and secure environment for its students, faculty and staff information regarding crime prevention and awareness is posted in the student lounge and in the staff lounge.

USU contracts with West Coast Security and Investigation Agency, LLC to provide security on campus as well as the parking lot. Security guards at the Chula Vista Campus are on duty from 7:00 pm - 11:00 pm, Monday through Friday; and from 8:00 am - 5:00 pm on Saturdays, with additional security provided as needed on holidays and weekends.

- Prompt re-keying of locks when keys are lost or stolen.
- Prompt reporting of all incidents.
- Staff and student awareness training.
- One way locking doors in high rise areas.
- Monitoring visitors to the building.
- Security guards available to escort students and staff to parking facilities.

Additionally, USU recommends students and staff to practice the following safety tips:

- Report suspicious people or activity to the appropriate staff member.
- Avoid places where you are vulnerable and there are no exits.
- Do not hesitate to call an USU staff person when strangers confront you.

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- Lock your office when you leave.
- Walk in groups of at least two people at night.
- Walk only in lighted sidewalks after dark.
- When parking, lock your vehicle and remove valuables from plain view.
- Record the serial number of your valuables.
- Make a record of your credit card numbers and keep separate from your wallet or purse.
- Avoid carrying large amounts of cash or valuables.
- Write your name in several places in your textbooks.
- Lock your bicycle with a high quality lock.
- Always report all criminal incidents and losses of property to an instructor, program dean, campus security officer or the receptionist immediately.

### Campus Law Enforcement

USU enforces its campus security policy at all times; it will not tolerate any criminal activity under any circumstances. Any and all crime occurrences on campus, at non-campus facilities and property owned by USU and on public property within, or immediately adjacent to and accessible from the campus that is reported to the campus security official, will be immediately reported to the appropriate law enforcement agency. Any and all crimes committed by a student, faculty or staff member will result in immediate dismissal from USU.

Campus security officials do not have the authority to arrest individuals. The campus security officials, contracted to work at our Chula Vista campus, work under a California State license (PPO# 16689). Each officer is employed as a private security officer under the Business and Profession Code and under BSIS (Bureau of Security and Investigative Services) rules and regulations. The campus security officials work closely with local law enforcement agencies and cooperate during any criminal investigation, consensual encounter or request for service/advisement.

### Emergency Response and Evacuation Procedures

Below is a summary of the emergency response and evacuation procedures that will occur during a crisis:

1. **Contact the Crisis Management Team (CMT) Leader** unless a life-or-death situation, in which case **contact 911**.
2. **CMT Leader will investigate the crisis.** Gathering the information, identifying the appropriate level of response and depending on time allowed determine appropriate response.

**Level I:** a minor, localized event that is quickly resolved using limited outside help. An Incident Level I event has minimal impact on normal operations and is used primarily for documentation. Examples include: minor medical emergencies, plumbing failures, and brief power outages.

**Level II:** a major emergency that disrupts a significant portion of the campus community and may require outside assistance. Level II emergencies may threaten physical safety. Examples include: building fire, prolonged power outage, and criminal activity.

**Level III:** a major emergency/disaster that impacts the campus and the surrounding neighborhood or community. Campus operations are suspended and the effects of the incident are far-reaching. Examples include: active shooter, major earthquake, and local terrorist activity.

#### ***Questions that would likely need responses as part of the investigation include:***

- What happened?
- When did it happen?
- Where did it happen? Was it on University premises?
- Did anyone call 911 or the police? Is there an official report?
- What was the chronology of events?
- Who is involved?
- Who is affected?

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- Who witnessed the event? Who knows about it? Who can provide a firsthand account?
- Where are the parties now?
- What did the University do to prevent/deter this situation?
- Could there have been steps in place?
- How can the administration provide relief/aid to the situation?
- Who besides the immediate parties knows about the situation?
- What affect will it have on normal campus operations?
- Who needs to be notified about the situation?
- What's the likelihood of the media or external audiences finding out about this situation?

### ***Develop the Response***

- The CMT, under the direction of the lead, will thoroughly discuss and deliberate appropriate response alternatives for the University, developing several courses of action, then thoughtfully select the best as determined by consensus and/or President. Including whether or not to activate campus alerts, community alerts, etc. Develop action items and assign tasks to each member of the team.

### ***Information that would likely need to be included in the response(s) includes:***

- Type of event
- When it happened
- How it happened
- Assistance that has been requested
- Who is involved
- Who is affected and what affect will it have on normal campus operations

### ***Implement/Activate the Response through a variety of alert options***

- The communication tree network. Each department manager is required to maintain a current list of his or her employees' emergency contact information. A phone tree shall be developed, under the direction of the CMT lead (both at administrative offices and on campus) which shall be invoked only under the direction of the appropriate CMT leader. After receiving direction to do so, designated departmental managers will:
  - Contact their respective associates as listed.
  - Each associate may be requested to contact others on the list, depending on the predefined rules governing how the communication on the tree will flow.
  - If unable to make contact with a person on the tree, the caller will be responsible for contacting the people under the out-of-contact person to ensure the tree is fully contacted.
  - Once a caller has communicated to everyone on his/her tree, he/she should report back to the CMT leader on the results of the contact effort. Who was reached? Who was not and what is the plan to follow up?
- University Email Blasts
- Recorded message on main campus phone number
- Depending on campus, update monitors and message boards
- Fire Alarm
- University website and student portal page
- External media (community television, radio and newspaper)
- In research and development stages of implementing an SMS text messaging notification system

### ***Debrief the Response***

- After the crisis/emergency is over, an update (including an "all clear") will be sent via one of the systems/methods above.

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### *Timely Warnings and Notification*

- United States University will without delay, and taking into account the safety of the community, determine the content of the notification and initiate the notification system, unless the notification will, in the professional judgment of responsible authorities, compromise efforts to assist victim or to contain, respond to or otherwise mitigate the emergency.

Below is a list of the titles of the persons or organizations responsible for carrying out this process:

Crisis Management Team Membership
Chula Vista
Chief Executive Officer/President ( <i>Leader</i> ) Chief Financial Officer ( <i>second if CEO unavailable</i> ) Provost

### *Procedures for disseminating emergency information to the larger community*

- In any crisis situation, it will be imperative for the appropriate persons to be notified immediately in order to set the plan in motion and provide an appropriate and swift response. If an associate believes that he or she is one of the first persons who know about an incident, he or she must immediately notify a member of the Crisis Management Team (CMT). They should follow the chain of command outlined below until they reach and notify one of the members of the team. Every associate should have the emergency contact numbers of the CMT. Once they have notified a CMT member, he or she should not convey any further information to anyone else until further directed by a member of the CMT.

### *Structure*

- The CMT is comprised of university or campus leaders. They will follow a well defined protocol on how to provide additional communication to various audiences. This team will be responsible for assessing the situation/damage, organizing a response team and developing a response and communications plan.

### *Communication Sequence*

- *As implied above, the first responder to a crisis should contact the individual designated as "leader" on the Crisis Management Team, or "second" if the leader is unavailable. At that point, the following protocol should be used:*

Crisis Management Communication Sequence
Chula Vista
1. Contact the CEO 1. Notify the receptionist of the situation, and provide guidance of what should and should not be communicated to any who call in. If necessary, advise the receptionist to direct all communication to the CMT leader. 2. The CMT leader will determine if the communication tree should be invoked, and craft the message to be used.

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### *Communication Process*

- The CEO or his/her designee shall serve as the designated media spokesperson pertaining to the University and its operations, as well as any crisis situation.
- Once the threat level has been determined and enough information has been gathered, the CEO will determine the appropriate communication and course for disseminating information to all audiences - students, associates, families, and the public-at-large. Please look to the CEO to prepare letters, statements and conduct communications briefings.
- Generally the team lead will have a crafted statement that should be read verbatim. If time allows, a quick “frequently-asked-questions” document will accompany the statement so that those who are calling will be able to answer some (likely not all) questions as they reach out to those on the emergency number contact tree. In the event of a major emergency, it is likely that no such “FAQ” will be delivered.
- During the post-emergency period of time, an investigation will be required by the CMT leader and thorough documentation will be expected (including the gathering of information, verification of information, coordination of information and documentation of information). The University will continue to provide updates to all audiences - students, associates, families, and the public-at-large.

### *Procedures to test the emergency response and evacuation process*

- The University will test the alert system and emergency response and evacuation procedures on an annual basis. The tests conducted may include fire drills, unannounced and announced alert notifications and/or table top exercises and drills. Documentation of all drills, exercises, and/or tests conducted will include information about the type of drill, exercise or test conducted, the date and time of the test and whether it was announced or unannounced. The documentation will also include evaluative information about lessons learned. Typically these tests will occur during the Spring Semester.

This emergency notification requirement does not replace the timely warning requirement. They differ in that the Timely Warning applies only to Clery reportable crimes, while the emergency notification requirement addresses a much wider range of threats (i.e., gas leaks, tornadoes, contagious viruses, etc.). An institution that follows its emergency notification procedures is not required to issue a timely warning based on the same circumstances, but must provide adequate follow up information to the community as needed.

### Crime Disclosures

USU’s annual campus security report contains the disclosure of crime occurrences for the three most recent calendar years. The most recent report is dated October 1, 2012 and discloses the number of crime occurrences in the following categories:

- a. Criminal homicide, including murder and non-negligent manslaughter and negligent manslaughter;
- b. Sex offenses, including forcible sex offenses, and non-forcible sex offenses including incest and statutory rape;
- c. Robbery;
- d. Aggravated assault;
- e. Burglary;
- f. Motor vehicle theft;
- g. Arson;
- h. Hate crimes, including simple assault, larceny-theft, intimidation, destruction/damage vandalism of property;
- i. Separately by category of prejudice, each crime listed above and any crime involving bodily injury reported to the local police agencies or to a campus security authority that shows evidence of prejudice based on race, gender, religion, sexual orientation, ethnicity or disability;
- j. Arrests for violations of liquor and drug law violations, and illegal weapons possession; and
- k. Persons not arrested but referred for campus disciplinary action for liquor, drug, and weapons law violations.

### Crime Statistics

Although we do not anticipate an increase in crime, you should be aware that crime may occur on campus and that **prevention** can reduce criminal activity. USU continues to increase its efforts to prevent crime. ***You play a key role in the***

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**prevention of crime on campus.** Be cautious, careful and alert to reduce the risk of theft or incidents that might compromise your safety. Please use the guidelines for preventing and reporting crime listed in this report. Always feel comfortable knowing that we will follow through on any incident reported.

<b>UNITED STATES UNIVERSITY</b> <i>Chula Vista</i>	830 Bay Blvd Chula Vista Ca 91911
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The following chart reflects USU’s crime statistics for the three most recent calendar years, as reported in the incident reports maintained by the campus security authority. Local law enforcement, specifically the Chula Vista Police Department, provided USU with statistics that are combined with the statistics collected by our Campus Security Authority. Crime statistics are reported by two separate categories by location:

1. On campus
2. On public property

<b>Crime Statistics</b>					
<b>United States University – Chula Vista Campus</b>					
Criminal Offense	2012	2013	2014	Location (1 or 2)	Hate Crime? (Y or N)
Murder/Non–negligent Manslaughter	0	0	0		
Negligent Manslaughter	0	0	0		
Forcible Sex Offenses (including rape)	0	0	0		
Non-forcible Sex Offenses	0	0	0		
Robbery	0	0	0		
Aggravated Assault	0	0	0		
Burglary	0	0	0		
Motor Vehicle Theft	0	0	0		
Arson	0	0	0		
<b>Hate Crimes</b>					
Criminal Offense	2012	2013	2014	Location (1 or 2)	Hate Crime? (Y or N)
Murder/Non–negligent Manslaughter	0	0	0		
Negligent Manslaughter	0	0	0		
Forcible Sex Offenses (including rape)	0	0	0		
Non-forcible Sex Offenses	0	0	0		
Robbery	0	0	0		
Aggravated Assault	0	0	0		
Burglary	0	0	0		
Motor Vehicle Theft	0	0	0		
Arson	0	0	0		
Simple Assault	0	0	0		
Larceny-theft	0	0	0		
Intimidation	0	0	0		
Destruction / Damage / Vandalism of Property	0	0	0		
<b>VIOLATIONS</b>					
	2012	2013	2014	Arrested (Y or N)	Referred for Campus Disciplinary Action? (Y or N)
Liquor Law Violations	0	0	0		
Drug Law Violations	0	0	0		
Weapons Law Violations	0	0	0		

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### Drug and Alcohol Abuse Policy

USU maintains a zero tolerance policy with regard to the possession, use, and sale of alcoholic beverages on campus. USU strictly adheres to the enforcement of state underage drinking laws.

USU also maintains a zero tolerance policy with regard to possession, use, and sale of illegal drugs on campus. USU strictly adheres to the enforcement of federal and state drug laws.

USU employees are provided with extensive drug and alcohol-abuse information in the employee disclosures during orientation. USU students are provided with extensive drug and alcohol-abuse information in their student packets upon enrollment. This information is updated annually.

USU will refer all persons in need of drug and or alcohol abuse counseling to a confidential referral program. For more information, students should contact the Director of Student Services. USU employees should contact the Human Resources Department.

### Sexual Discrimination and Sexual Misconduct Policy

#### I. Purpose

United States University (the “University”) is committed to fostering an environment in which students, faculty, and staff learn and work in an atmosphere free of unlawful discrimination, which includes instances of harassment, exploitation, intimidation or violence. The University regards domestic violence, dating violence, sexual assault, sexual exploitation, sexual harassment, and stalking as serious offenses that may result in suspension, expulsion, or termination of employment. Any such conduct shall be considered a violation of this policy. This policy applies to all students, faculty, and staff, regardless of sexual orientation or gender identity, as well as to third parties. Each University campus has personal safety and sexual assault prevention programs in place and follows established procedures for reporting violations of University policy and state/federal law, including contacting local law enforcement personnel and assisting alleged victims. This policy also applies to off-campus conduct if the conduct occurs in the context of an education program or setting, or had a continuing effect on a University location (campus or corporate facility). Neither the University nor any officer, faculty member, staff member, or agent of the University shall retaliate, intimidate, threaten, coerce, or otherwise discriminate against any individual for exercising their rights or responsibilities under Title IX of the Education Amendments of 1972 or the Campus Sexual Violence Elimination (SaVE) Act. The University will take strong responsive action against any retaliation. The University encourages victims to report offenses to campus security, the Title IX Coordinator and to exercise their rights, if desired.

#### II. Jurisdiction

This policy applies to sexual or gender-based harassment that is committed by students, faculty, staff, University appointees, or third parties, whenever the misconduct occurs: 1) On University property; or 2) Off University property, if: a) the conduct was in connection with a University or University-recognized program or activity; or b) the conduct may have the effect of creating a hostile environment for a member of the University community.

If the Title IX Coordinator determines that there is no jurisdiction, the Title IX Coordinator will offer to assist the Complainant and, as appropriate, the Respondent, in finding appropriate campus and off-campus resources for addressing the issue of concern.

#### III. Definitions of Terms in this Policy

“Advisor” means any individual who provides the Complainant or the Respondent with support, guidance, or advice.

“Complaint” is an allegation of sexual harassment, gender-based harassment or sexual violence made under this policy.

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“Complainant” refers to the individual who alleges that she/he has been the subject of sexual harassment, gender-based harassment or sexual violence, and can be a University student, employee (including all full-time and part-time faculty and staff), or visitor. Under this policy, the alleged incident(s) may have been brought to the University’s attention by someone other than the Complainant.

“Consent” is informed, freely given, and mutually understood. Consent requires an affirmative act or statement by each participant. Silence or failure to resist does not, in and of itself, demonstrate consent. Consent can be withdrawn at any time. Past consent to sexual activity between individuals does not constitute consent to subsequent sexual activity between those individuals, and consent to one form of sexual activity does not necessarily imply consent to other forms of sexual activity. If coercion, intimidation, threats and/or physical force are used, there is no consent. If a person is under the legal age of consent, or mentally or physically incapacitated or impaired so that the person cannot understand the fact, nature or extent of the sexual situation, there is no consent; this includes conditions due to alcohol or drug consumption or being asleep or unconscious. Whether one has taken advantage of a position of influence over another may be a factor in determining consent. The definition of consent does not vary based upon a participant’s sex, sexual orientation, gender identity or gender expression.

“Dating Violence” means a felony or misdemeanor crime of violence committed—

- (i) By a current or former spouse or intimate partner of the victim;
- (ii) By a person with whom the victim shares a child in common;
- (iii) By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
- (iv) By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or
- (v) By any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

“Domestic Violence” includes asserted violent misdemeanor and felony offenses committed by the victim’s current or former spouse, current or former cohabitant, person with whom the victim shares a child in common, person similarly situated to a spouse of the victim under domestic or family violence law, or anyone else against whom an adult or youth victim is protected under domestic or family violence law.

“Fondling” means the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

“Gender-based harassment” is unwelcome conduct of a nonsexual nature based on an individual’s actual or perceived sex, including conduct based on gender identity, gender expression, and nonconformity with gender stereotypes that is sufficiently serious that it alters the conditions of, or has the effect of substantially interfering with an individual’s educational or work experience by creating an intimidating, hostile, or offensive environment (hostile environment). The effect will be evaluated based on the perspective of a reasonable person in the position of the Complainant. An example of gender-based harassment would be persistent mocking or disparagement of a person based on a perceived lack of stereotypical masculinity or femininity.

“Hostile environment” is an unwelcoming and unprofessional environment which is created when a person experiences unwelcome conduct related to that person’s sex, pregnancy status, gender identity, gender expression, or sexual orientation, 1) that is sufficiently serious (i.e., severe, pervasive, or persistent) and objectively offensive so as to deny or limit a person’s ability to participate in or benefit from the University’s programs, services, opportunities, or activities ; or 2) when such conduct has the purpose or effect of unreasonably interfering with an individual’s employment.

A hostile environment can be created by anyone involved in a University program or activity (e.g., administrators, faculty members, students, and even guests). Mere offensiveness is not enough to create a hostile environment. Although repeated incidents increase the likelihood that harassment has created a hostile environment, a serious incident, such as a sexual assault, even if isolated, can be sufficient.

In determining whether harassment has created a hostile environment, consideration will be made not only as to whether the conduct was unwelcome to the person who feels harassed, but also whether a reasonable person in a similar situation would

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have perceived the conduct as objectively offensive. Also, the following factors will be considered: 1) the degree to which the conduct affected one or more students' education or individual's employment; 2) the nature, scope, frequency, duration, and location of incident or incidents; 3) the identity, number, and relationships of persons involved; and 4) the nature of higher education.

“Incapacitation” means any physical state when a person lacks capacity to give consent (e.g., when a person is asleep or unconscious, when a person lacks capacity to give consent due to the use of drugs or alcohol, or when an intellectual or other disability prevents the person from having the capacity to give consent).

“Incest” means sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

“Intimidation” means to coerce by threat or to make timid or fearful.

“Quid pro quo” behavior involves express or implied demands for sexual favors in exchange for some benefit (a promotion, a raise, a good grade or recommendation) or to avoid some detriment (termination, demotion, a failing grade, denial of a fellowship) in the workplace or in the classroom. By definition, it can only be perpetrated by someone in a position of power over another. One instance of “quid pro quo harassment” violates this policy.

Quid pro quo harassment may be a direct solicitation (“sleep with me or else...”) or take more oblique forms of sexual propositions or dating invitations (“let’s discuss your homework over a glass of wine at my house,”). The person in the position of power (supervisor, faculty member, etc.) does not have to make good on his or her demands or insinuations to have engaged in quid pro quo behavior for the purposes of this policy.

“Rape” means the 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 consent of the victim.

“Respondent” refers to the individual who is alleged to have committed sexual harassment, gender-based harassment or sexual violence against a University student, employee, or visitor.

“Retaliation” is adverse treatment of an individual as a result of that individual’s reporting sexual harassment, gender-based harassment or sexual violence, assisting someone with a report of sexual harassment, gender-based harassment or sexual violence, or participating in any manner in an investigation or resolution of a sexual harassment, gender-based harassment or sexual violence report. Adverse treatment includes threats, intimidation and reprisals by either a Complainant or Respondent or by others such as friends or relatives of either a Complainant or Respondent.

“Sexual assault” is any form of sexual contact (i.e., any touching of the sexual or other intimate parts of a person for the purpose of gratifying sexual desire of either party) that occurs without consent and/or through the use of force, threat of force, intimidation, or coercion. Any conduct that meets the definition of rape, fondling, incest or statutory rape constitutes a sexual assault.

“Sexual exploitation” means any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another.

“Sexual harassment” is unwelcome conduct of a sexual nature, including but not limited to unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, graphic and electronic communications or physical conduct of a sexual nature. The following is a non-exhaustive list of some of the types of conduct that might constitute sexual harassment depending on the totality of the circumstances:

- (i) Inappropriate or unwelcome physical contact or suggestive body language, such as touching, groping, patting, pinching, hugging, kissing, or brushing against an individual’s body;
- (ii) Verbal abuse or offensive comments of a sexual nature, including sexual slurs, persistent or pervasive sexually explicit statements, questions, jokes or anecdotes, degrading words regarding sexuality or gender, suggestive or obscene letters, notes, or invitations;

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- (iii) Visual displays or distribution of sexually explicit drawings, pictures, or written materials; or
- (iv) Undue and unwanted attention, such as repeated inappropriate flirting, staring, or making sexually suggestive gestures. For purposes of this policy, sexual harassment also includes acts that violate an individual's right to privacy in connection with her/his body and/or sexual activity such as:
  - (v) Recording images (e.g. video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness without that person's consent;
  - (vi) Disseminating images (e.g. video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not consent to such disclosure;
  - (vii) Viewing another person's sexual activity, intimate body parts, or nakedness in a place where that person would have a reasonable expectation of privacy, without that person's consent.

“Sexual violence” is an umbrella term that includes: sexual assault, dating violence, and domestic partner violence. Stalking, while not necessarily sexual in nature, can be a form of sexual violence depending upon the circumstances.

“Stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

- (i) Fear for the person's safety or the safety of others; or
- (ii) Suffer substantial emotional distress.

For purposes of this definition, a course of conduct means two or more acts of stalking behavior. Stalking behavior includes, but is not limited to: following a person; threatening a person; appearing uninvited at a person's home, work, or school; making unwanted phone calls; sending unwanted emails or text messages; leaving objects for a person; vandalizing a person's property; injuring a person's pet; and monitoring or placing a person under surveillance. Stalking behavior may be conducted directly or indirectly, through a third party, and may be conducted by any action, method, or device.

“Statutory Rape” means sexual intercourse with a person who is under the statutory age of consent.

“Unwelcome Conduct” is conduct that an individual did not request or invite and considers the conduct to be undesirable or offensive. Whether conduct is unwelcome is determined based on the totality of the circumstances, including various objective and subjective factors. The following types of information may be helpful in making that determination: statements by any witnesses to the alleged incident; information about the relative credibility of the parties and witnesses; the detail and consistency of each person's account; the absence of corroborating information where it should logically exist; information that the Respondent has been found to have harassed others; information that the Complainant has been found to have made false allegations against others; information about the Complainant's reaction or behavior after the alleged incident; and information about any actions the parties took immediately following the incident, including reporting the matter to others.

“Visitor” is an individual who is present at a University campus or unit but is not a student or an employee.

### IV. Prohibited Conduct

This policy prohibits quid pro quo behavior, sexual harassment that creates a hostile environment, gender-based harassment that creates a hostile environment, sexual exploitation, and sexual violence against any University student, employee or visitor. In determining whether alleged conduct violates this policy, the University will consider the totality of the facts and circumstances involved in the incident, including the nature of the alleged conduct and the context in which it occurred. Any of the prohibited conduct defined in this policy can be committed by individuals of any gender, and it can occur between individuals of the same gender or different genders. It can occur between strangers or acquaintances, as well as people involved in intimate or sexual relationships.

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The following examples, while not an exhaustive list, demonstrate conduct that may violate this policy:

- Observing, photographing, videotaping, or making other visual or auditory records of sexual activity or nudity, where there is a reasonable expectation of privacy, without the knowledge and consent of all parties
- Sharing visual or auditory records of sexual activity or nudity without the knowledge and consent of all recorded parties and recipient(s)
- Sexual advances, whether or not they involve physical touching
- Commenting about or inappropriately touching an individual's body
- Requests for sexual favors in exchange for actual or promised job benefits, such as favorable reviews, salary increases, promotions, increased benefits, or continued employment
- Lewd or sexually suggestive comments, jokes, innuendoes, or gestures
- Stalking

### V. Title IX Coordinator

#### A. Duties

The Title IX Coordinator is charged with coordinating and overseeing the University's centralized response to ensure compliance with Title IX of the Education Amendments of 1972, which prohibits sex discrimination, including sexual harassment, gender-based harassment and sexual violence, in education programs. The Title IX Coordinator communicates with all members of the University community regarding Title IX, and provides information about how individuals may access their rights. The Title IX Coordinator shall keep all statistics related to Complaints filed under the policy and shall take efforts to analyze the data related to such Complaints

Where appropriate, the Title IX Coordinator will provide to both parties information about options for obtaining medical and counseling services; information about making a criminal report, information about receiving advocacy services, information about other helpful campus and community resources. The Title IX Coordinator will offer to coordinate with other campus officials, when appropriate, to implement interim remedial measures such as no-contact orders, rearrangement of living arrangements, or academic accommodations.

The Title IX Coordinator will review applicable University policies to ensure institutional compliance with Title IX; monitor the University's administration of its own applicable policies, including record keeping, timeframes, and other procedural requirements; conduct training regarding Title IX, and prohibited conduct defined in this policy; and respond to any Complaint or report regarding conduct that violates this policy. In this capacity, the Title IX Coordinator oversees the investigation and resolution of such alleged misconduct, directs the provision of any remedial measures, and monitors the administration of any related appeal. The Title IX Coordinator may delegate responsibilities under this policy to designated administrators, who will be appropriately trained.

The University Title IX Coordinator shall take prompt and effective steps reasonably calculated to end any sexual harassment, gender-based harassment or sexual violence, including: (i) taking interim measures; (ii) preventing retaliation; (iii) providing the Complainant and the Respondent with periodic status updates of the investigation and notice of outcome of the investigation; (iv) informing the Complainant of her/his right to file a criminal Complaint; (v) coordinating with law enforcement agencies, as appropriate, after consultation with Public Safety; (vi) maintaining all documents of the investigation; and (vii) drafting a report of findings, which is to be submitted to the University President and CEO.

#### B. Responsibility to Investigate

In order to protect the safety of the campus community, the Title IX Coordinator may investigate allegations of violations of this policy even absent the filing of a formal Complaint or report, or if a Complaint or report has been withdrawn. The Title

## **Crime Safety and Security Report (Cont.)**

IX Coordinator may need to proceed with an investigation even if a Complainant specifically requests that the matter not be pursued. In such a circumstance, the Title IX Coordinator will take into account the Complainant's articulated concerns, the best interests of the campus community, the age of the Complainant, fairness to all individuals involved, and the University's obligations under Title IX.

Proceedings under this policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus. Neither a decision by law enforcement regarding prosecution nor the outcome of any criminal proceeding will be considered determinative of whether a violation of this policy has occurred. Complainants have a right to proceed simultaneously with a criminal investigation and a Title IX investigation, and the Law School may defer its investigation for a limited time for fact gathering but then will promptly resume its investigation.

### **C. Anonymous and Third Party Reporting**

The Title IX Coordinator accepts anonymous and third-party reports of conduct alleged to violate this policy and will follow up on such reports. The individual making the report is encouraged to provide as much detailed information as possible to allow the Title IX Coordinator to investigate and respond as appropriate. The Title IX Coordinator may be limited in the ability to investigate an anonymous report unless sufficient information is furnished to enable the Title IX Coordinator to conduct a meaningful and fair investigation.

### **VI. Grievance Procedures**

The University will take prompt and appropriate action to: (1) thoroughly, promptly, and impartially investigate Complaints; and (2) prevent, correct and, if necessary, discipline individuals who engage in behavior that violates this policy. The following procedures should be followed whenever a person believes that they have witnessed or been the subject of discrimination, harassment or retaliation on the basis of sex or gender. These procedures also apply to students and employees in our online environment. If an individual feels they have been harassed in any way, the student should immediately contact the Title IX Coordinator. Students and employees should report the offending incident or conduct promptly. Timely reporting is vital to the University's ability to investigate Complaints and take appropriate action. Prompt reporting also discourages further misconduct. Students and employees are encouraged to report offensive conduct even if similar conduct was not reported in the past. The Title IX Coordinator has the discretion to consolidate multiple Complaints or reports into a single investigation if evidence relevant to one incident might be relevant to the others.

In reviewing a Complaint, the Title IX Coordinator determines whether there is a preponderance of the evidence to believe that an individual engaged in a violation of this policy. This means that individuals are presumed not to have engaged in alleged conduct unless a "preponderance of the evidence" supports a finding that the conduct has occurred. This "preponderance of the evidence" standard requires that the evidence supporting each finding be more convincing than the evidence in opposition to it.

The sexual history of the Complainant and/or the Respondent will generally not be used in determining whether a violation of this policy has occurred. However, in certain circumstances, the sexual history between parties may have limited relevance. For example, if consent is at issue, the sexual history between the parties may be relevant to determining whether consent was sought and given during the incident in question, although it must be remembered that even in the context of a relationship, consent to one sexual act does not constitute consent to another sexual act, and consent on one occasion does not constitute consent on a subsequent occasion. In addition, under very limited circumstances, sexual history may be relevant to explain injury, to provide proof of a pattern, or for another specific question raised by an allegation.

### **VII. University Complaints and Reporting**

The University strives to provide a prompt, fair, and impartial process from the initial investigation to the final result. The University encourages members of the campus community to identify potential violations of this policy so we may create the welcoming atmosphere necessary for you to work and learn. The reporting and grievance process shall be conducted by officials who, at a minimum, receive annual training on the issues related to dating violence, domestic violence, sexual assault, and stalking and on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability. The University also provides the Complainant and the Respondent with the same opportunities to have others present during any institutional disciplinary proceeding, including the opportunity to be accompanied to any related meeting or

## Crime Safety and Security Report (Cont.)

proceeding by the advisor of their choice. The University does, however, reserve the right to establish restrictions (applicable to both the Complainant and the Respondent) regarding the extent to which the advisor may participate in the proceedings. Nonetheless, the University will not limit the choice of advisor or presence for either the Complainant or the Respondent.

Complaints and third-party reports of discrimination should be made to the Title IX Coordinator. The Title IX Coordinator is trained to help you find the resources you might need, to explain all reporting options, and to respond appropriately to conduct of concern. All instances of retaliation should be reported and will be addressed in the same manner. The Title IX Coordinator coordinates and tracks all Complaints and reports under this procedure. The contact information for the Title IX Coordinator is listed below.

Title IX Coordinator  
Nga Phan  
United States University  
830 Bay Boulevard  
Chula Vista, Ca 91911  
619-477-6310 ext. 2002  
[nphan@usuniversity.edu](mailto:nphan@usuniversity.edu)

A person wishing to file a Complaint should submit a written statement to the Title IX Coordinator. The Complaint should specify: 1) the name of the individual(s) against whom the Complaint is made; 2) the nature of the alleged offense; 3) the specifics of the offending incident(s) with precise details (what happened, who was present, when, where, any reasons why they believe the action was taken); 4) the names of any witnesses to the events; and 5) the date and signature of the person making the Complaint. It is recommended that as much information as possible be provided regarding the offending incident or conduct.

### **A. Criminal Reporting**

Please remember that if someone is in immediate danger or needs immediate medical attention, the first place to report is 911. Some forms of discrimination and harassment may also be crimes and criminal reports should be made to law enforcement, even if it is uncertain whether the particular conduct is a crime. Calling local law enforcement can help you: obtain emergency and nonemergency medical care; get immediate law enforcement response for your protection; understand how to provide assistance in a situation that may escalate to more severe criminal behavior; arrange a meeting with victim advocate services; find counseling and support; initiate a criminal investigation; and answer questions about the criminal process.

### **B. University Reporting**

The University encourages individuals who have experienced sexual harassment, gender-based harassment or sexual violence (referred to in this policy as “Complainants”) to report the incident(s) to campus authorities, even if they have reported the incident to outside law enforcement, and regardless of whether the incident took place on or off-campus. Such reporting will enable Complainants to get the support they need, and provide the University with the information it needs to take appropriate action. Individuals should be aware that there are employees at their University whom they can speak with on a strictly confidential basis before determining whether to make a report to University authorities. All information in connection with the Complaint, including the identities of the Complainant and the Respondent, will be kept as confidential as possible and will only be shared with those who have a legitimate need for the information.

### **C. Conflicts**

If there is a Complaint about the Title IX Coordinator or any staff member that is part of the Title IX Coordinator Office, or if the Title IX Coordinator or Title IX Coordinator staff has a Complaint, that Complaint should be filed with the President of the University. If the President agrees, the President will appoint another trained individual to take the place of the Title IX Coordinator for purposes of the Complaint. If the President is the Respondent, the investigation will be handled by the University Title IX Coordinator or her/his designee.

## Crime Safety and Security Report (Cont.)

### VIII. Initial Assessment of Complaints

The investigative process is initiated when the Title IX Coordinator receives a Complaint or report of a violation of this policy. The Title IX Coordinator will conduct an initial assessment. Following the initial assessment, the Title IX Coordinator may take any of the following actions:

- If the Title IX Coordinator determines that the Complaint, even if substantiated, would not rise to the level of a policy violation, the Title IX Coordinator may dismiss the Complaint.
- If the Title IX Coordinator determines that the Complaint is outside the scope of this policy, the Title IX Coordinator may refer the Complaint to another office for review.
- If the Title IX Coordinator determines that the Complaint or report would, if substantiated, constitute a violation of this policy, the Title IX Coordinator will determine appropriate interim measures and initiate an investigation.

### IX. Interim/Protective Measures

Upon receipt of a Complaint or report of a violation of this policy, the University will provide reasonable and appropriate interim/protective measures designed to preserve the Complainant's educational experience, the safety of all parties and the broader University community, maintain the integrity of the investigative and/or resolution process, and deter retaliation. The University may provide interim/protective measures regardless of whether the Complainant seeks formal disciplinary action. Interim/protective measures may include:

- Access to counseling services and assistance in arranging an initial appointment;
- Rescheduling of exams and assignments;
- Change in class schedule, including the ability to transfer course sections or withdraw from a course;
- Change in work schedule or job assignment;
- Providing medical services;
- Imposition of an on-campus "no contact order," an administrative remedy designed to curtail contact and communications between two or more individuals;
- Barring individuals from coming on campus for a period to time; and/or
- Any other remedy that can be used to achieve the goals of this policy.

Any interim measures will not disproportionately impact the Complainant. Requests for interim measures may be made by or on behalf of the Complainant to any University official, including the Title IX Coordinator. The Title IX Coordinator is responsible for ensuring the implementation of interim measures and coordinating the University's response with the appropriate offices on campus.

All individuals are encouraged to report concerns about the failure of another to abide by any restrictions imposed by an interim measure. The University will take immediate action to enforce a previously implemented measure and disciplinary penalties can be imposed for failing to abide by a University-imposed measure.

### X. Resolution

If a Complainant chooses to file a Complaint the Respondent shall, absent concerns about confidentiality (as discussed in Section XVIII) be notified that a Complaint has been filed and of the allegations in the Complaint. The Title IX Coordinator must interview the Respondent and receive any statements and evidence (including a list of potential witnesses) the Respondent wishes to offer. Note, both the Complainant and Respondent may have an adviser present with them during any meetings with the Title IX Coordinator.

There are two avenues for resolution of an alleged policy violation: 1) informal resolution and 2) formal resolution. The Complainant has the option to proceed informally, when permissible. **In cases involving allegations of sexual assault or sexual exploitation, informal resolution is not appropriate, even if both the Complainant and Respondent indicate a preference for informal resolution.** The Title IX Coordinator is available to explain the informal and formal resolution procedures.

## Crime Safety and Security Report (Cont.)

### A. Informal Process and Resolution

If the Complainant, the Respondent, and the Title IX Coordinator all agree that an informal resolution should be pursued, the Title IX Coordinator (or her/his designee) shall attempt to facilitate a resolution of the conflict that is agreeable to all parties. Under the informal process the Title IX Coordinator shall be required only to conduct such fact-finding as is useful to resolve the conflict and as is necessary to protect the interests of the parties, the University and the community. The official to whom the request is directed must determine whether informal resolution is appropriate in light of the severity of the alleged harassment and the potential risk of a hostile environment for others in the community. Typically, an informal investigation will be completed within twenty (20) days of receipt of the Complaint. If it becomes necessary to extend the process, both parties will be notified of a revised expected resolution timeframe.

A Complainant or Respondent always has the option to request a formal investigation. The Title IX Coordinator also always has the discretion to initiate a formal investigation. If at any point during the informal process, the Complainant, the Respondent, or the Title IX Coordinator wishes to cease the informal process and to proceed through formal grievance procedures, the formal process outlined below will be invoked.

The informal resolution must adequately address the concerns of the Complainant, as well as the rights of the Respondent and the overall intent of the University to stop, remedy and prevent violations of this policy. (Informal actions might include, but are not limited to: providing training to a work unit; having an informal discussion with an individual whose conduct, if not stopped, could rise to the level of discrimination, or create a hostile environment; or having a confidential conversation with a supervisor or instructor). **The informal resolution process will not, however, be used in cases of sexual exploitation or sexual violence.**

### B. Formal Investigation and Resolution

Individuals are encouraged to report any alleged violation of this policy directly to the Title IX Coordinator. In order to do so, individuals may use the Complaint procedures as specified in Section VII or schedule an appointment with the Title IX Coordinator.

#### 1. Investigation, Disciplinary, and Appeal Procedures

##### i. Investigation and Adjudication

When the Title IX Coordinator receives a Complaint or report alleging that a student violated this policy, the Title IX Coordinator will appoint a three-person investigative panel of administrators and/or outside investigators. The investigative panel will conduct an inquiry and determine, by a preponderance of the evidence, whether this policy was violated. All panelists will have training in investigating and evaluating conduct prohibited under the policy. The panelists will also be impartial and unbiased.

The Title IX Coordinator will provide to the panel the Complaint, any statements of the Complainant and the Respondent, and any evidence or witness lists provided by the parties. The panel will interview the parties to the Complaint separately. Each party may select an adviser of their choice who may accompany them to any meeting or related proceeding, but the adviser may not participate in the interview process. All three members of the panel will participate in interviews with the Complainant and the Respondent. The panel will interview witnesses as necessary and may, at its discretion, delegate witness interviews to one or two of the panelists. Witnesses may not bring advisers. In all meetings, at least one member of the panel will serve as note taker. At the conclusion of each interview, the panelists will review the notes with the interviewee.

The panel will prepare a case file of all interview summaries, witness statements, and other documents. The file, redacted of personally identifiable information as necessary, will be shared with the Complainant and the Respondent. The panel will describe in writing for the parties the charges that will be adjudicated.

After reviewing the file, each party will have an opportunity: (1) to meet again with the panel, (2) to respond in writing to the panel, and (3) to request the collection of other information by the panel, including the interviewing of additional witnesses. If any additional information is gathered, it will be shared with both parties and each will have the opportunity for further

## **Crime Safety and Security Report (Cont.)**

response. The panel will designate reasonably prompt time frames to ensure a timely completion of the process but also an adequate opportunity for both sides to respond thoroughly to the information gathered in the investigation.

Following the investigation, the panel will meet to determine, by a majority decision, whether the Respondent, based on the preponderance of evidence standard, violated University policy. The panel will prepare a report, which will include findings of fact, findings of responsibility, and the panel's rationale. All members of the panel must endorse the report as a record of their deliberations and rationale.

### **ii. Penalties**

If a student is found responsible for violating University policy, the entire case file will be forwarded to the Provost and Chief Academic Officer, who will determine the penalty. Penalties will be determined based on the seriousness of the misconduct and the student's previous disciplinary history (if any). Remedial measures will be determined based on the need to afford the parties an educational environment free from discrimination under Title IX. The findings regarding fact and responsibility, as well as the decision regarding the penalty in cases where violations of University policy have occurred, will be conveyed to the parties at the same time in writing. The notification will include the parties' appeal rights.

If a student is found responsible for violating University policy, the Office of the Provost and Chief Academic Officer will record the penalty and retain records in accordance with protocols for all other disciplinary cases. In all cases, the case file will also be archived by the Title IX Coordinator.

### **iii. Rights of Appeal**

Both parties, the Complainant and the Respondent, have equal rights to an impartial appeal. All appeals and appeal responses should be filed with the Title IX Coordinator. All appeals will be referred to appellate body composed of three of the following persons: President,/CEO, the Provost,/Chief Academic Officer, and the Dean of the college in which the student is enrolled. All members of the appellate body will have training regarding Title IX and prohibited conduct defined under this policy. The members of the appellate body will be impartial and unbiased. If any member of the appellate body cannot maintain impartiality, or is involved in the Complaint, that person shall be recused from the matter and the remaining members shall appoint an appropriately trained replacement.

A Complainant or Respondent may file a written appeal on the grounds that: (1) there is substantial relevant information that was not presented, and reasonably could not have been presented during the investigation; (2) the imposed penalty does not fall within the range of penalties imposed for similar misconduct, or (3) there was procedural unfairness during the disciplinary process.

The purpose of an appeal is not to initiate a review of substantive issues of fact or a new determination of whether a violation of University rules has occurred. The appellate body may decide to uphold the original decision of the panel and/or the deans; to alter the imposed penalty; or to return the case to the panel for additional proceedings or other action.

The deadline for filing an appeal is one week from the date the parties are notified of the decision. If either party files an appeal, the University will notify the other party in writing, provide that party with the appeal, and permit that party three (3) days to file a response. The University will also provide to the appealing party a copy of any response. The University will notify both parties will be notified simultaneously, and in writing, of the outcome of the appeal. Although the timing for final determinations on appeals may vary, it is expected that a decision on a typical appeal should take thirty (30) days from the date the Title IX Coordinator receives the response to the appeal (or the time for filing such response has lapsed).

### **iv. Student Enrollment**

Pending action by the panel on the charges or pending an appeal, the Respondent may be permitted to attend classes, and make use of some or all University facilities, except for circumstances relating to the physical or emotional safety or well-being of a member (or members) of the University community, or the ability of the University to carry out its essential functions. Certain restrictions may be imposed by the deans on the Respondent in order to provide the Complainant with an educational environment free from discrimination under Title IX.

The Respondent should understand that if the decision of the panel proves adverse, and if an appeal proves unsuccessful, the penalty will normally be considered effective as of the date of the original decision.

## Crime Safety and Security Report (Cont.)

For students, in cases adjudicated prior to the last day of classes, if the final decision is a separation from the University (i.e., suspension, suspension with conditions, or expulsion), the Respondent will normally not earn credit for the semester in which the infraction occurred. If the Respondent has successfully completed course requirements while awaiting the final disposition of the matter, obtaining credit for the semester will be at the discretion of the Provost/Chief Academic Officer. Pending an investigation and adjudication or the Respondent's decision about whether to appeal a separation from the University or the withholding of the degree, and/or while an appeal is in process, an administrative hold will be placed on the Respondent's University transcript. Should the Respondent decide not to appeal a separation or the withholding of the degree, or should an appeal not result in an alteration of the Provost /Chief Academic Officer's decision to dismiss the Respondent or withhold the degree, the registrar will record the fact of the penalty on the Respondent's transcript.

### **2. Disciplinary Procedures Where One Party is a Member of the University Community and the Other Party is a Non-Member of the University Community**

When a third party, (i.e., a non-member of our University community) is involved as a Complainant or a Respondent, the University will use disciplinary procedures that are generally consistent with the disciplinary procedures stated in sections X(A) through X(B), appropriately modified based on the particular circumstances involved and taking into account privacy requirements and the like. In no case will a member of our community (i.e., current student, faculty member or staff member) be afforded lesser rights or lesser opportunities to participate in the disciplinary proceeding than the non-member of the University community.

### **3. Other Investigation and Resolution Procedures**

If a Complaint or report of conduct prohibited by this policy is made against multiple individuals, an office, or the University in general, the Title IX Coordinator will review the matter and take appropriate action, in accordance with this policy. The Title IX Coordinator may conduct an investigation, using investigative and disciplinary procedures that are generally consistent with those stated in this policy, appropriately modified based on the particular circumstances involved.

## **XI. Range of Penalties under This Policy and Disciplinary Procedures**

Members of the University community may be subject to disciplinary penalties for violating this policy.

### **A. Additional Accommodations**

If a Respondent is found responsible for violating this policy, the Complainant may request accommodations not already in place, such as a one-way no contact order. The University will promptly implement the accommodation as appropriate. In no circumstance will the burden of the accommodation be placed on the Complainant. The accommodation shall be effective even if the Respondent files an appeal or if such an appeal is pending.

### **B. Penalties Applicable to Students**

1. For violations of this policy by students, in general the penalties, in ascending order of severity, are:
  - i. **Warning:** A formal admonition that does not become part of an individual's permanent record, but that may be taken into account in judging the seriousness of any future violation.
  - ii. **Disciplinary Probation:** A more serious admonition assigned for a definite amount of time. It implies that any future violation, of whatever kind, during that time, may be grounds for suspension, suspension with conditions, or in especially serious cases, expulsion from the University. Disciplinary probation will be taken into account in judging the seriousness of any subsequent infraction even if the probationary period has expired.

Disciplinary probation appears on an individual's permanent record at the University (but not on the transcript) and may be disclosed by the Office of the Provost and Chief Academic Officer in response to requests for which the student has given permission or as otherwise legally required.

## Crime Safety and Security Report (Cont.)

- iii. **Withholding of Degree:** In cases involving students in their final semester, the University may withhold a student's degree for a specified period of time. This penalty is imposed instead of suspension at the end of the final year of study when all other degree requirements have been met. A withheld degree is recorded on a student's transcript. Relevant information remains on the student's permanent record at the University and may be disclosed by the Office of the Provost and Chief Academic Officer in response to requests for which the student has given permission or as otherwise legally required.
  - iv. **Suspension:** Removal from membership in the University for a specified period of time. A suspension is recorded on a student's transcript. Relevant information remains on the student's permanent record at the University and may be disclosed by the Office of the Provost and Chief Academic Officer in response to requests for which the student has given permission or as otherwise legally required.
  - v. **Suspension with Conditions:** Removal from membership in the University for at least the period of time specified by the suspension, with the suspension to continue until certain conditions, stipulated by the appropriate body applying this penalty, have been fulfilled. These conditions may include, but are not limited to, restitution of damages, formal apology, or counseling. A suspension with conditions is recorded on a student's transcript. Relevant information remains on the student's permanent record at the University and may be disclosed by the Office of the Provost and Chief Academic Officer in response to requests for which the student has given permission or as otherwise legally required.
  - vi. **Expulsion:** Permanent removal from membership in the University, without any opportunity for readmission to the community. Expulsion is recorded on a student's transcript. Relevant information remains on the student's permanent record at the University and may be disclosed by the Office of Provost and Chief Academic Officer in response to requests for which the student has given permission or as otherwise legally required.
  - vii. **Censure:** University censure can be added to any of the penalties listed above, except warning. Censure indicates the University's desire to underscore the seriousness of the violation and the absence of mitigating circumstances and to convey that seriousness in response to future authorized inquiries about the given individual's conduct.
2. The following may accompany the preceding penalties, as appropriate:
- i. **Restriction of Access to Space, Resources, and Activities:** When appropriate in cases involving behavioral misconduct between members of the community, restrictions may be placed on access to space and/or resources or on participation in activities so as to limit opportunities for contact among the parties.
  - ii. **Educational Refresher Programs:** In addition to any of the penalties listed above, a student may be required to participate in educational refresher programs appropriate to the infraction.

### C. Penalties Applicable to Faculty and Staff Members

For violations of this policy by faculty or staff members, disciplinary penalties may include (in accordance with the employment policies governing the employee in question) counseling or training, written warning, financial penalty, unpaid leave of absence, suspension, demotion or termination in accordance with the employment policies governing the specific employee.

### D. Action Against Visitors

In cases where the person accused of sexual harassment, gender-based harassment or sexual violence is neither a University student nor a University employee, the University's ability to take action against the accused is extremely limited. However, the

## **Crime Safety and Security Report (Cont.)**

University shall take all appropriate actions within its control, such as restricting the visitor's access to campus. In addition, the matter shall be referred to local law enforcement for legal action where appropriate.

### **XII. No Disciplinary Action**

In cases where a determination is made not to bring disciplinary action, the Title IX Coordinator shall inform the Complainant and the Respondent of that decision contemporaneously, in writing, and shall offer counseling or other support services to both the Complainant and the Respondent.

### **XIII. Mediation**

While mediation is not permitted in cases where sexual violence is alleged, it may be appropriate where sexual harassment or gender-based harassment allegations have been made by a student or employee but there is no allegation of sexual violence. Mediation is a process whereby the parties can participate in a search for fair and workable solutions. Mediation requires the consent of both the Complainant and the Respondent, but does not require the Complainant and Respondent to meet face-to-face. Either party, however, has the right to end the mediation at any time and proceed with the investigation process. A Respondent who is covered by a collective bargaining agreement may consult with and have a union representative present at any mediation session.

### **XIV. Timing**

The University shall make every reasonable effort to ensure that the investigation and resolution of a Complaint are carried out as timely and efficiently as possible. The Title IX Coordinator or designee may extend this timeframe for good cause, including but not limited to, law enforcement involvement, number of witnesses to be interviewed, and University breaks. University will take all reasonable efforts to apprise the parties of the progress of the investigation. While some Complaints may require extensive investigation, whenever possible, the investigation of Complaints should be completed within sixty (60) calendar days of the receipt of the Complaint. If there is a delay in completing the investigation, the Title IX Coordinator shall notify the Complainant and the Respondent in writing.

Although cooperation with law enforcement may require the University to temporarily suspend the fact-finding aspect of a Title IX investigation, the University will promptly resume its Title IX investigation as soon as it is notified by the law enforcement agency that the agency has completed the evidence gathering process. The University will not, however, wait for the conclusion of a criminal proceeding to begin its own investigation and, if needed, will take immediate steps to provide interim measures for the Complainant.

The University Procedures set out reasonably prompt timeframes for proceedings thereunder, including a description of factors that may extend the timeframes, such as the complexity of the investigation, and/or the severity and extent of the alleged conduct. All steps under these procedures shall take place with reasonable promptness, taking into account the complexity of any case and the severity and extent of alleged conduct. Timeframes for all phases of the disciplinary process, including the investigation, any related disciplinary proceedings, and any related appeal, apply equally to both Complainant and Respondent.

### **XV. False and Malicious Allegations**

Members of the University community who make false and malicious Complaints of sexual harassment, gender-based harassment, sexual exploitation or sexual violence, as opposed to Complaints which, even if erroneous, are made in good faith, may be subject to disciplinary action.

### **XVI. External Complaints**

If you filed a Complaint with the Title IX Coordinator and believe the University's response was inadequate, or you otherwise believe you have been discriminated against by the University on the basis of race, color, national origin, sex, including sexual harassment, disability age, or retaliation, you may file a Complaint with the Office for Civil Rights (OCR) of the U.S. Department of Education based in Seattle or the Educational Opportunities Section (Title IX Coordinator of the Civil Rights

## Crime Safety and Security Report (Cont.)

Division of the U.S. Justice Department of Justice, and a Complaint based on religion with Title IX Coordinator of the U.S. Justice Department.

The University may coordinate with outside law enforcement authorities in order to avoid interfering with their activities and, where possible, to obtain information regarding their investigation. Neither a law enforcement determination whether to prosecute a Respondent, nor the outcome of any criminal prosecution, is dispositive of whether the Respondent has committed a violation of this policy.

Filing External Complaints Complainants have the right at any time to file Complaints with the Office for Civil Rights (“OCR”) of the U.S. Department of Education, alleging violations of Title IX, and to file Complaints with other appropriate agencies alleging violations of other federal, state or local laws. Contact information for OCR and other relevant agencies is set forth on the CUNY Title IX web page.

### **XVII. University obligations under this Policy**

In addition to addressing possible violations of this policy, the University has the following obligations: 1) Dissemination of Policies, Procedures and Notices. The Title IX Coordinator, in coordination with the other appropriate offices, is responsible for the wide dissemination of the following on her/his campus: (i) this Policy; (ii) the University’s Notice of Non-Discrimination; (iii) the Title IX Coordinator’s name, phone number, office location, and email address; and (iv) contact information for the campus Public Safety Office. Such dissemination shall include posting the documents and information on the University website and including it in any student or faculty handbooks.

#### **A. Confidential Employees**

Although there is no one directly employed by the University to whom University employees can speak on a confidential basis regarding sexual harassment, gender-based harassment or sexual violence, confidential community counseling resources are available throughout Chula Vista and California.

#### **B. “Responsible” Employees**

“Responsible” employees have a duty to report incidents of sexual harassment, gender based harassment or sexual violence, including all relevant details, to the Title IX Coordinator. Such employees are not permitted under any circumstances to maintain a Complainant’s confidentiality. To the extent possible, information reported to responsible employees will be shared only with the Title IX Coordinator, the “responsible” employee’s supervisor, and other people responsible for handling the University’s response to the report. Before a Complainant reveals any information to a responsible employee, the employee shall advise the Complainant of the employee’s reporting obligations—and if the Complainant wants to maintain confidentiality, direct the Complainant to confidential resources.

The University has designated the following individuals as “responsible” employees: (i) Title IX Coordinator and her/his staff (ii) President and CEO, (iii) Provost and Chief Academic Officer, (iv) Associate Provost Online Learning, (v) Assistant Provost for Institutional Research, (vi) Dean, (vii) Core Faculty member or (viii) Director. Once a responsible employee (that is not the Title IX Coordinator or her/his staff) receives such information, that employee will inform the Title IX Coordinator of the report.

### **XVIII. Confidentiality, Requests Not to Conduct Investigations, or Not to Report to Outside Law Enforcement**

If Complainant requests that an investigation not be conducted, the Title IX Coordinator will consider the reasons for the request, including concerns about the age and continued safety of the person reportedly harmed and members of the campus community. The Title IX Coordinator must also balance considerations about the continued health and safety of members of the community against a reporter’s or Complainant’s desire not to have the report investigated. In cases when a reporter or Complainant does not want to have a report investigated, but the Title IX Coordinator has concerns that not taking formal or informal action might endanger the health or safety of members of the campus community, the Title IX Coordinator will initiate confidential consultation with appropriate individuals to analyze the situation and assist in determining appropriate

## **Crime Safety and Security Report (Cont.)**

measures to take. The Title IX Coordinator will make the ultimate decision about whether to conduct a formal investigation or respond to the report in another manner, including taking informal actions, such as those described above.

Parties in these processes, including the Complainant, Respondent, and witnesses, have privacy rights and reasonable expectations of confidentiality in the investigation of matters subject to this procedure.

In addition, the integrity of the process depends on ensuring reasonable expectations of confidentiality. The Title IX Coordinator will keep confidential the Complaint, report, witness statements, and any other information provided by the Complainant, Respondent, or witnesses and will disclose this information only to the Complainant, Respondent, or witnesses, as necessary to give fair notice of the allegations and to conduct the investigation; to law enforcement consistent with state and federal law; to other University officials as necessary for coordinating interim measures or for health, welfare, and safety reasons, and to government agencies who review the University's compliance with federal law. Information about Complaints and reports, absent personally identifiable information, may be reported to University officials, and external entities for statistical and analysis purposes pursuant to federal and state law and University policy.

After a report of an alleged incident of sexual harassment, gender-based harassment, sexual exploitation, or sexual violence has been made to the Title IX Coordinator, a Complainant may request that the matter be investigated without her/his identity or any details regarding the incident being divulged further. Alternatively, a Complainant may request that no investigation into a particular incident be conducted or that an incident not be reported to outside law enforcement.

In all such cases, the Title IX Coordinator will weigh the Complainant's requests against the University's obligation to provide a safe, non-discriminatory environment for all students, employees and visitors, including the Complainant. A decision to maintain confidentiality does not mean that confidentiality can be absolutely guaranteed in all circumstances, but only that all efforts will be undertaken to keep information confidential consistent with law.

If the Title IX Coordinator determines that she/he will maintain confidentiality as requested by the Complainant, the University will take all reasonable steps to investigate the incident consistent with the request for confidentiality. However, a University's ability to meaningfully investigate the incident and pursue disciplinary action may be limited by such a request. In any event, the University is required to abide by any laws mandating disclosure, such as the Jeanne Clery Act. However, notification under the Jeanne Clery Act is done without divulging the Complaint's identity. If the Title IX Coordinator determines that the University must report the incident to outside law enforcement, the University will cooperate with any criminal investigation, which may include providing the outside law enforcement agency with any evidence in its possession relating to the incident.

An individual who speaks to a University employee about sexual harassment, gender-based harassment, sexual exploitation or sexual violence should be aware that employees fall into three categories: (1) "confidential" employees, who have an obligation to maintain a Complainant's confidentiality regarding the incident(s); (2) "responsible" employees, who are required to report the incident(s) to the Title IX Coordinator; and (3) all other employees, who are strongly encouraged but not required to report the incident(s).

### **XIX. Faculty-Student Relations**

No University faculty member shall have romantic or sexual relations with a student who is enrolled in a course taught by that faculty member, or who is otherwise subject to the faculty member's academic supervision. A student is considered enrolled in a faculty member's course until such time as a final grade for the course has been submitted to the Registrar; other forms of academic supervision conclude upon the submission of a final grade to the Registrar (where applicable) or upon the student's completion of all supervised work. The University Provost and Chief Academic Officer may grant an exception to this policy in extraordinary cases.

### **XX. Retaliation**

This policy prohibits retaliation, including threats, intimidation, coercion, or discrimination (including harassment), against any person who reports sexual harassment, gender-based harassment, sexual exploitation or sexual violence. This policy further prohibits retaliation against any person who assists someone making a report of sexual harassment, gender-based harassment or sexual violence, or participates in any manner in an investigation or resolution of a sexual harassment, gender-based

## **Crime Safety and Security Report (Cont.)**

harassment or sexual violence Complaint. Any allegations of retaliation for making a report under this policy should be reported to the Title IX Coordinator and her/his staff, or the President if the Title IX Coordinator is alleged to have engaged in the retaliation.