

# Discrimination, Harassment, Sexual Misconduct and Retaliation Prevention Policy

## Overview

Dominican is firmly committed to creating a community in which all of its members are protected from discrimination, harassment, sexual misconduct and retaliation and prohibits such behavior in all University operations. This comprehensive Discrimination, Harassment, Sexual Misconduct and Retaliation Prevention Policy applies to all community members. Key areas of this document include:

- Explicit boundaries regarding [consensual relationships](#) between community members;
- Statements [prohibiting retaliation](#) against persons who report or provide information about behavior that may constitute a violation of policy;
- Information about the [resources](#), [procedures](#) and [reporting options](#) in the event of a sexual assault;
- Procedures for [reporting concerns and violations](#) of this policy;
- A description of the [resolution process](#) and [sanctions and remedies](#) employed when misconduct is found;
- Information regarding [interim measures](#) available to protect the personal safety and well-being of the complainant and the respondent during the resolution process;
- Details of Dominican's commitments to [training and prevention](#); and
- [Definitions](#) of terms used throughout the policy.

The contacts for questions about this policy are:

Jennifer Hute, Title IX Coordinator and Associate Director of Human Resources  
(415) 482-1847, [jennifer.hute@dominican.edu](mailto:jennifer.hute@dominican.edu)

Paul Raccanello, Deputy Title IX Coordinator and Dean of Students  
(415) 485-3223, [paul.raccanello@dominican.edu](mailto:paul.raccanello@dominican.edu)

# Discrimination, Harassment, Sexual Misconduct and Retaliation Prevention Policy

## Policy Statement

Dominican University of California (“University”) is firmly committed to creating a community in which all of its members are protected from discrimination, harassment, sexual misconduct and retaliation and prohibits such behavior in all University operations. To ensure compliance with Title IX and other federal and state civil rights laws, the University has developed this policy to provide a supportive process for individuals who report discrimination, harassment, sexual misconduct or retaliation and to ensure a fair process for individuals who are alleged to have discriminated, harassed, performed sexual misconduct, including sexual violence, or retaliated against a member of the campus community.

The University’s Title IX Coordinator has primary responsibility for coordinating efforts related to investigation, resolution, and implementation of corrective measures and monitoring to stop, remediate, and prevent discrimination, harassment, sexual misconduct or retaliation.

A detailed list of [Definitions/Glossary of Terms](#) is located at the end of this document.

## Reason for Policy/Purpose and Notice of Non-Discrimination

The purpose of this policy is (1) to articulate the University’s commitment to the values of fairness, equity, and equal opportunity; (2) to describe categories of conduct that may constitute discrimination, harassment, sexual misconduct, or retaliation; (3) to explicitly prohibit discrimination, harassment, sexual misconduct, and retaliation; (4) to establish procedures to follow when a member of the University community believes that he/she has been subject to discrimination, harassment, sexual misconduct, or retaliation; and (5) to provide a pathway to share concerns regarding the structural or procedural processes which might have a byproduct of potential discriminatory biases.

The University is committed to maintaining a positive learning, working, and living environment. The University does not discriminate on the basis of race, color, national origin, sex (including pregnancy, childbirth and any related medical condition, breastfeeding and conditions related to breastfeeding), gender (including gender identity and gender expression), age (age 40 and over), marital status, registered domestic partnership status, mental or physical disability, medical condition, religion (including religious dress and grooming practices), sexual orientation, military or veteran status, genetic information, or any other characteristic protected by law in admission and access to, and treatment and employment in, its educational programs and activities. In pursuit of these goals, the University will not tolerate acts of discrimination, harassment, sexual misconduct, or retaliation on the basis of these legally protected characteristics, against or by any employee (including administrators, staff, faculty, co-workers, managers and supervisors) or student as such behavior seriously undermines the University’s effectiveness as an educational institution and a workplace. These prohibitions also apply to third parties with whom our community members may come into contact such as consultants, contractors and vendors.

While the University adheres to and supports the principles of academic freedom, each member of the University community also shares in a common responsibility to maintain an environment free from discrimination, harassment, sexual misconduct, and retaliation. Administrators, faculty, and staff members who violate this policy will be subject to disciplinary action, up to and including termination of employment. Students who violate this policy will be subject to disciplinary action, up to and including

expulsion. We believe the resolution procedures set forth in this policy provide a fair and impartial process for reporting, investigating, making findings, and determining appropriate sanctions or remedies in relation to a complaint or other report of discrimination, harassment, sexual misconduct and/or retaliation.

For definitions of the terms and terminology used throughout this policy, please refer to the Definitions/Glossary of Terms section of this policy.

### Policy Applicability

This policy applies to all community members which includes administrators, staff, faculty, students, groups/programs, contingent workers, volunteers, and third-party consultants/contractors/vendors.

### Contacts for this Policy

If you have questions about this Policy, you may call or email the Title IX Coordinator or a Deputy Title IX Coordinator:

#### **Title IX Coordinator**

Jennifer Hute, Associate Director of Human Resources  
Mailing Address: 50 Acacia Avenue, San Rafael, CA 94945  
Office Location: Carriage House behind Magnolia House on Magnolia Avenue  
(415) 482-1847  
[jennifer.hute@dominican.edu](mailto:jennifer.hute@dominican.edu)

#### **Deputy Title IX Coordinator**

Paul Raccanello, Dean of Students  
Mailing Address: 50 Acacia Avenue, San Rafael, CA 94945  
Office Location: Edgehill Mansion, Second Floor  
(415) 485-3223  
[paul.raccanello@dominican.edu](mailto:paul.raccanello@dominican.edu)

#### **Director of Human Resources**

Wendy Lee, Director of Human Resources  
Mailing Address: 50 Acacia Avenue, San Rafael, CA 94945  
Office Location: Carriage House behind Magnolia House on Magnolia Avenue  
(415) 257-1354  
[wendy.lee@dominican.edu](mailto:wendy.lee@dominican.edu)

### Policy/Procedures

#### **I. CONSENSUAL RELATIONSHIPS**

Persons in positions of power or authority over others should be aware of and sensitive to the problems that may arise from apparently consensual relationships with their subordinates. The power differential inherent in such relationships may compromise free choice, and consensual relationships can quickly turn into quid pro quo harassment. Any perceived abuse of authority diminishes trust and respect among members of the University community; therefore, all members of the University community are expected

to maintain appropriate professional relationships with one another.

#### **Relationships with Students (including Graduate Assistants):**

Community members should be aware that entering into a consensual sexual or physically-intimate relationship will limit the employee's ability to teach, direct work, and employ the student involved in the relationship.

The University specifically prohibits consensual sexual or physically intimate relationships between faculty and students, between staff and students, and between employees of third-party consultants/contractors/vendors and students. This prohibition applies even when the student is not currently under the direct influence or authority of the faculty, staff member, or third-party consultant/contractor/vendor through activities such as, but not limited to, teaching, coaching, advising, supervising research, supervising employment, and participation in petitions or disciplinary actions. With this policy we acknowledge that the variable cycle of influence or authority over students extends beyond the duration of a course or student employment position into future activities such as, but not limited to, making recommendations for graduate school or providing references for employment. There may be occasions when a sexually or physically intimate relationship exists before one or both of the individuals in the relationship becomes a faculty member, staff member or student, such as to violate the prohibition on consensual relationships with students. In such cases, the employee in the pre-existing relationship is required to promptly disclose the relationship to the **Director of Human Resources**.

**Relationships Between Faculty and Staff:** An individual may be found to have professional influence or authority over a faculty or staff member when that individual supervises or evaluates performance, or recommends or awards salary, reappointment, promotion or tenure of the faculty or staff member. The existence of professional influence or authority is determined on a case-by-case basis.

When a consensual sexual or physically -intimate relationship exists or develops between a faculty or staff member and a member of the faculty or staff over whom he/she has professional influence or authority, the person with professional influence or authority shall promptly report the existence of the relationship to the **Director of Human Resources**. With assistance and in a manner that causes the least detrimental effect for the staff or faculty member in the subordinate position, the faculty or staff member shall take steps to remove him/herself from the position of power or authority. Because such steps may adversely affect the subordinate person in the relationship, may jeopardize the position at the University of the person with influence or authority, and may inconvenience or cause undue hardship to other members of the University community, both parties should be mindful of the potential costs before entering into a sexually or physically intimate relationship.

Failure to comply with this policy or to self-report the existence of a relationship as required by this policy is considered sexual misconduct and will be subject to the appropriate disciplinary action, which may include suspension without pay or dismissal/termination of employment.

#### **II. REPORTING STRUCTURAL OR PROCEDURAL CONCERNS**

The campus community benefits from an environment in which concerns are shared regarding potential structural or procedural processes that might have a by-product of discriminatory bias. The exchange of ideas and problem solving serves an educative function and contributes to the climate of fairness and respect for all people. When concerns about specific behaviors rise to the level of a perceived violation of this policy, the parties should consider sharing their concerns with a supervisor or with the relevant group or program on campus that serves as a resource for communication (i.e., faculty or student governance).

#### **III. RETALIATION PROHIBITED**

The University encourages students, faculty, staff and other workers to express freely, responsibly, and in an orderly way, facts, opinions, feelings or complaints of discrimination, harassment, sexual misconduct, or retaliation. Retaliation against persons who report or provide information about discrimination,

harassment, or sexual misconduct, or behavior that might constitute discrimination, harassment, sexual misconduct, or retaliation is strictly prohibited. Any act of reprisal for reporting a violation of this policy in good faith or cooperating with an investigation, including internal interference, coercion, and restraint, by a University employee, student, or one acting on behalf of the University, is a violation of this Policy and will result in appropriate disciplinary action, up to and including termination or expulsion.

#### **IV. RESOURCES IN THE EVENT OF SEXUAL ASSAULT**

We encourage all individuals to promptly report sexual misconduct, assault, or violence, in addition to complaints about discrimination, harassment, and retaliation to the University. The University recognizes that individuals may choose to make a report to any faculty or staff member. All University faculty and staff members, including student employees, Graduate Assistants or volunteers, are required to share the report with a responsible administrator to ensure a prompt and equitable review, investigation, and resolution (see Procedures for Reporting Violations of this Policy - Section V).

Any student, faculty, or staff member who has experienced sexual assault is also encouraged to immediately notify local law enforcement and/or seek medical and counseling assistance. The University will assist victims with notifying law enforcement if requested. If transportation is needed to get medical treatment, contact Campus Security at **(415) 269-6070**.

##### Sexual Assault Procedures

It is extremely important to preserve all evidence of a sexual assault if a criminal prosecution is to be considered. Individuals who have experienced a sexual assault and who wish to pursue criminal prosecution should take the following steps:

- Ensure your safety. If the environment is not safe or secure, go to a safe location.
- Call local Police at **911**, or **9-911** from a campus phone, immediately.
- Call Campus Security at **(415) 269-6070**, a friend, or a family member to ask them to come to the location for support.
- Secure the room where the assault occurred (if possible) and do not allow anyone else to enter.
- Leave intact the area where the offense was committed.
- Preserve all physical evidence of the assault. Do not bathe, shower, douche, or use a toothbrush. Do not wash or discard any articles of clothing worn during the assault.
- Try to remember any helpful details that might assist in identifying the person responsible, such as scars, marks, jewelry, dress, language, etc.
- Seek medical attention. Physical injuries might not be apparent, so a medical examination or a discussion with a health care provider about the risk of exposure to sexually transmitted diseases and the possibility of pregnancy resulting from the sexual assault may be helpful. Should there be a concern that a rape drug has been used, ask the health care provider to take a urine sample.

Hospitals in the local area of our San Rafael campus are:

- Marin General Hospital, 250 Bon Air Rd, Greenbrae, 415-925-7200
- Kaiser Medical Center, 99 Montecillo Rd, San Rafael, 415-444-2400
- Novato Community Hospital, 180 Rowland Way, Novato, 415-209-1350

Note: In some cases, hospitals are required to report sexual assaults to law enforcement.

- Collect medical-legal evidence. Collection of evidence entails interaction with police and a police report. Prompt collection of physical evidence is essential should you later decide to pursue criminal prosecution and/or a civil action. Medical-legal evidence may be collected at the hospital locations listed above. The community agencies listed below may be able to assist survivors of sexual assault by having an advocate provide guidance, counseling, and support surrounding this process.
- Seek support. Do not be afraid to ask for help and support from a friend, family member or one of the on and off campus resources listed below. These resources can help to review support options and identify support resources both on and off campus:

- o Community Violence Solutions: 800-670-7273
- o Center for Domestic Peace: 415-924-6616
- o Student Health Center (Bertrand Hall, 1<sup>st</sup> floor): 415-485-3208
- o Student Counseling Center (In-person appointment requests should be made at the Student Health Center): 415-485-3258
- o Office of Student Life (Edgehill Mansion, 2<sup>nd</sup> floor): 415-485-3223

The degree to which confidentiality can be protected depends upon whether the University has a legal duty to respond to the allegations and the professional role of the person consulted. That professional person should address the scope of confidentiality before specific facts are disclosed. In certain instances, the University may need to report conduct to law enforcement authorities, or initiate an investigation and disciplinary process, even when the complainant has not decided to do so.

Reporting Options and Resources

Students and employees may have the following reporting options, resources, and procedures available to them, and they can be explained further by staff in the Student Life or Human Resources offices.

For all reports:

- Medical and counseling support or resources will be offered, and interim remedies may be made available (e.g., room or class schedule change for respondent or no contact order).
- A report of this nature will be reflected in the University’s annual crime statistics if it meets reporting criteria.

Option	Investigation and Disciplinary Process	Assistance Reporting to Local Police*
<b>Reporting the assault and pursuing University charges only.</b>	The University will proceed with an investigation and disciplinary process (if evidence supports doing so).	
<b>Reporting the assault and pursuing Criminal charges only.</b>	The University will proceed with an investigation and disciplinary process (if evidence supports doing so).	The University will provide assistance, if requested, to make a report to the local Police Department.
<b>Reporting the assault and pursuing both University and Criminal charges.</b>	The University will proceed with an investigation and conduct process (if evidence supports doing so).	The University will provide assistance, if requested, to make a report to the local Police Department.
<b>Reporting the assault, but choosing not to pursue charges.</b>	The University <b>may proceed</b> with an investigation, and, if appropriate, a disciplinary process.	

\*In certain instances, the University may need to report conduct to law enforcement authorities even when the complainant has not decided to do so. See Section on Coordination with Local Law Enforcement.

The processes listed above may occur simultaneously, although the University's disciplinary processes and the Criminal process occur independently of each other.

## **V. PROCEDURE FOR REPORTING VIOLATIONS OF THIS POLICY**

### **A. Reporting to the University**

Any member of the University community who wishes to report an incident of discrimination, harassment, sexual misconduct, or retaliation as defined above should first bring this matter to the appropriate responsible administrator listed below. Supervisors and managers who receive complaints of discrimination, harassment, sexual misconduct or retaliation must immediately report it to the appropriate responsible administrator listed below. Questions or concerns about policy violations can be addressed orally or in writing; however, formal reports must be submitted in writing. Under no circumstances is an individual required to report discrimination, harassment, sexual misconduct, and/or retaliation to a potential respondent who is the alleged source of the complaint. There may be situations or circumstances when a member of the University community is subjected to discrimination, harassment, sexual misconduct, and/or retaliation, but does not wish to come forward or pursue a complaint, or when a person observes discrimination, harassment, sexual misconduct, and/or retaliation directed at another member of the University community. The University will do all it can to respect the victim's wishes, but may proceed to address allegations of discrimination, harassment, sexual misconduct, and/or retaliation if and when responsible administrators become aware of such allegations, especially where the circumstances present a threat of harm or injury to the victim or other members of the community. In all cases, the University will maintain confidentiality to the extent possible and will conduct a fair, timely and thorough investigation.

To make a report or complaint of discrimination, harassment, sexual misconduct or retaliation against a student, contact **Paul Raccanello, Deputy Title IX Coordinator and Dean of Students, (415) 485-3223, [paul.raccanello@dominican.edu](mailto:paul.raccanello@dominican.edu)**. If the report is made after business hours, please contact Campus Security at **(415) 269-6070**.

To make a report or complaint of discrimination, harassment, sexual misconduct or retaliation against a faculty member, administrator, staff member, group/program, contingent worker, volunteer, or third-party contractor/consultant/vendor, contact **Wendy Lee, Director of Human Resources, (415) 257-1354, [wendy.lee@dominican.edu](mailto:wendy.lee@dominican.edu)**. If the report is made after business hours, please contact Campus Security at **(415) 269-6070**.

Confidential, anonymous complaints may also be made through the Campus Conduct Hotline at <http://www.campusconduct.com/incident.aspx> or (866) 943-5787.

Prompt reporting of a complaint of discrimination, harassment, sexual misconduct, and/or retaliation as defined in this policy is strongly encouraged, as it facilitates faster resolution. However, the University may need to investigate and take appropriate action in response to all reports regardless of when the alleged conduct occurred. The ability of the University to respond is limited if the respondent is no longer a member of the University community. If a University staff member, faculty member or student leaves the University with a pending complaint against them, they will not be permitted to return to the University until the case is resolved through the University's resolution procedures.

### **B. Interim Measures**

Persons bringing a complaint of discrimination, harassment, sexual misconduct, or retaliation under this policy may seek the following arrangements from the responsible administrator handling the complaint, who will consult with the appropriate individuals and grant the request if alternative arrangements are reasonably available. The University may take whatever measures are deemed necessary in response to an

allegation in order to protect the personal safety and well-being of the complainant and the respondent; and the safety of the University community and/or preservation of University property. Interim measures may also be imposed in instances where it is determined that the respondent may pose a potential threat to another person, as well as in the cases where the respondent poses a threat of disruption or interference with the normal operations of the University. Failure to adhere to the parameters of any interim measure is a violation of University policy and may lead to additional disciplinary action. Interim measures include, but are not limited to:

1. An interim suspension or reassignment (immediate, temporary suspension pending the outcome of the complaint or student judicial resolution process),
2. A no contact order (an order that an individual refrain from direct/indirect contact with another person[s]),
3. Providing an escort to ensure movement safely between classes, activities or work assignments,
4. Restrictions on access to campus or areas of campus,
5. Appropriate changes in academic schedule, housing arrangements, office location or work assignment, and/or
6. Reporting the matter to local police.

**VI. Resolution Procedures**

**A. Informal Complaint Resolution Process, Formal Grievance Process and Appeal Process**

To make a report or complaint of discrimination, harassment, sexual misconduct or retaliation use the following procedures:

When complaint is against:	File complaint with:	Follow procedures in the:
A student	<b>Paul Raccanello, Deputy Title IX Coordinator and Dean of Students, (415) 485-3223, <a href="mailto:paul.raccanello@dominican.edu">paul.raccanello@dominican.edu</a></b>	Student Handbook
An administrator, staff member, faculty member, group/program, contingent worker, volunteer, or third-party consultant/contractor/vendor	<b>Wendy Lee Director of Human Resources (415) 257-1354 <a href="mailto:wendy.lee@dominican.edu">wendy.lee@dominican.edu</a></b>	Grievance Procedures in current Faculty and Staff Handbooks

The University will conduct a fair, timely and thorough investigation utilizing qualified personnel and will reach reasonable conclusions based on the evidence collected. The University will treat all parties fairly and according the procedures set forth above.

No other available resolution processes or appeals procedures may be applied to violations of this policy or sanctions/remedies based on those violations.

A complaint of sexual misconduct will not be resolved through informal means, and a formal complaint will always be initiated.

**B. Additional Rights**

Individuals should be aware that they also have the right to file complaints of unlawful discrimination, harassment or retaliation in employment with either the Federal Equal Employment Opportunity Commission ([www.eeoc.gov](http://www.eeoc.gov)) or the California Department of Fair Employment and Housing

([www.dfeh.ca.gov](http://www.dfeh.ca.gov)); complaints relating to discrimination on the basis of sex may be brought to the attention of the Office for Civil Rights in the U.S. Department of Education at <http://www.hhs.gov/ocr/civilrights/complaints/index.html>.

Such claims should be filed promptly. Any member of the University community may seek assistance from the Title IX Coordinator/Deputy regarding how to contact the state and federal agencies with a claim of discrimination or harassment. An individual may also have the right to pursue further legal remedies, including a prohibition on further harassment, damages, and attorneys' fees in court, if the matter has not been resolved.

### C. Sanctions/Remedies

If at the end of an investigation misconduct is found, appropriate remedial measures shall be taken. The following may be considered by the Title IX Coordinator/Deputy or responsible administrator in determining sanction(s)/remedy(ies) when it is determined that the respondent has violated the discrimination, harassment, sexual misconduct, and/or retaliation policy: the nature of and the circumstances surrounding the violation, the respondent's prior disciplinary record, precedent cases, University safety concerns, the rights of both the complainant and the respondent, and any other information deemed relevant. The sanction(s) will be structured to end the conduct, prevent its recurrence, and remedy its effects on the complainant and the University community. Not all violations will be deemed equally serious offenses, and the University reserves the right to impose different sanctions/remedies, ranging from warning to expulsion/termination, depending on the severity of the offense. The sanctions/remedies will be implemented immediately and will be in effect pending the outcome of any appeal. Where appropriate, the sanctions/remedies will be reported to the complainant and the respondent in writing. Possible sanctions/remedies include, but are not limited to:

- **Students:** a written warning, a letter of reprimand, mandatory participation in an educational program on discrimination, harassment, and/or sexual misconduct, mandatory referral for psychological assessment and compliance with any resulting treatment plan, change in room assignment, probation, suspension or expulsion from residence halls and/or from non-academic campus activities, suspension for up to one year, or expulsion from the University.
- **Faculty:** an oral warning, a written warning, a letter of reprimand, mandatory attendance of an educational program on discrimination, harassment, sexual misconduct, and/or retaliation, mandatory referral for psychological assessment and compliance with any resulting treatment plan, restriction of responsibilities, reassignment, denial of salary increase, suspension without pay or dismissal/termination of employment. Sanctions/remedies including dismissal/termination of employment will be carried out in accordance with the Faculty Handbook.
- **Administrators & Staff:** an oral warning, a written warning, a letter of reprimand, mandatory attendance of an educational program on discrimination, harassment, and/or sexual misconduct, or retaliation, mandatory referral for psychological assessment and compliance with any resulting treatment plan, restriction of responsibilities, reassignment or transfer to another department, denial of salary increase, suspension without pay, final written warning or dismissal/termination of employment. Should the respondent be the Vice President for Academic Affairs or the Vice President for Finance and Administration, the communication will be to the University President. Should the respondent be the University President, the communication will be to the Chair of the Board of Trustees.
- **Groups/Programs:** an oral warning, a written warning, a letter of reprimand, mandatory attendance of an education program on discrimination, harassment, sexual misconduct and/or retaliation, restriction of responsibilities, reassignment, or other sanctions or remedies required to redress the discriminatory behavior/actions.
- **Contingent worker, Volunteer, Third-Party Consultants/Contractors/Vendors:** up to and including removal from campus and termination of contractual arrangements.

The sanctions/remedies described in this policy are not exclusive of and may be in addition to other actions taken or sanctions/remedies imposed by outside authorities (see Coordination with Local Law Enforcement-Section IX).

Typically, the Title IX Coordinator/Deputy or responsible administrator will render a sanction/remedy decision within ten (10) business days of receiving the investigation report.

<b>Sanctions/remedies imposed on</b>	<b>Will be implemented by</b>
Students	The Director of Student Rights and Responsibilities
Employees, contingent workers, volunteers	The Director of Human Resources together with the employee’s supervisor and/or department head
Groups/programs, third-party consultants/contractors/vendors	The Vice President for Finance and Administration.

**VIII. PRIVACY**

Cases involving discrimination, harassment, sexual misconduct, and/or retaliation are particularly sensitive and demand special attention to issues of privacy. Those responsible for carrying out the responsibilities outlined in this policy will respect the privacy of the individuals involved, to the extent reasonably possible. Those individuals reporting, involved in, respondent of, or otherwise involved in a complaint of discrimination, harassment, sexual misconduct and/or retaliation are also required to keep the matter as private as is reasonably possible. Absolute confidentiality may not be maintained in all circumstances, including when the University is required to disclose information in response to legal process or when the University’s need to protect the rights of others must outweigh privacy concerns. In addition, University personnel responsible for handling or investigating these matters may consult with legal counsel at any point during the process.

**IX. COORDINATION WITH LOCAL LAW ENFORCEMENT**

In cases involving potential crimes, including sexual assault, dating or domestic violence, or gender-based stalking, individuals are encouraged to file a report with the local police department.

The University’s resolution procedures and the legal system work independently from one another and the University will proceed with its process, regardless of action or inaction by outside authorities. Decisions made or sanctions/remedies imposed through these grievance/judicial procedures are not subject to change because criminal or civil charges arising from the same conduct are dismissed, reduced, or rejected in favor of or against the respondent.

In certain instances, the University may need to report conduct to law enforcement authorities even when the complainant has not decided to do so. Such circumstances include incidents that warrant the undertaking of additional safety and security measures for the protection of the complainant and the campus community or other situations in which there is clear and imminent danger or when a minor is involved.

Additionally, law enforcement may ask the University to halt its grievance process, in order to allow them time to gather evidence. If and when this occurs, the University will notify the parties. Once it receives clearance from law enforcement, the University will resume its process.

**X. ANONYMOUS COMPLAINTS**

The University will reasonably respond to all allegations of discrimination, harassment, sexual misconduct,

and/or retaliation. However, due to the inherent difficulty of investigating and resolving allegations from unknown persons, it may be difficult for the University to resolve an anonymous complaint. The University may be unable to properly investigate or impose disciplinary action against a person or group who has allegedly committed discrimination, harassment, sexual misconduct, and/or retaliation if a complainant insists that his/her name not be revealed. Confidential, anonymous complaints may be made through the Campus Conduct Hotline at <http://www.campusconduct.com/incident.aspx> or (866) 943-5787.

#### **XI. FRIVOLOUS COMPLAINTS PROHIBITED**

The purpose of this policy is to promote and maintain an environment at the University that is free from discrimination, harassment, sexual misconduct and/or retaliation. Any member of the University community who believes that he/she has been subjected to discrimination, harassment, sexual misconduct, and/or retaliation is encouraged to use the procedures provided in this policy, not only for the benefit and protection of that individual, but ultimately for the entire University community. However, false charges of discrimination, harassment, sexual misconduct, and/or retaliation undermine the purpose and effectiveness of this policy. Accordingly, persons who knowingly make false charges of discrimination, harassment, sexual misconduct, and/or retaliation may be subject to disciplinary action. The failure of a complaint to result in a finding of discrimination, harassment, sexual misconduct, and/or retaliation is not alone evidence that the charges were knowingly false.

#### **XII. TRAINING**

The University is committed to providing effective educational and training programs to students, faculty, and staff as a key component in maintaining an environment free from discrimination, harassment, sexual misconduct and retaliation. This policy will be available via the University's website, as well as be included in other sources of media as is deemed appropriate. Educational programs on discrimination, harassment, sexual misconduct, and retaliation will be provided for all new faculty and staff, including student employees and graduate assistants. Periodic refresher programs will also be provided, as will training to individuals with specific responsibilities as defined within this policy to ensure their ability to carry out those responsibilities effectively.

#### **XIII. PREVENTION**

The University performs pre-employment background checks on all new employees (except most student workers) as a condition of employment. Background checks are not required on current employees with the exception of those employees changing positions. For current employees changing positions, including those filling interim positions, a background check is only required when the new position increases the impact of the perceptible risk factor (contact with protected persons). If an employee experiences a position change within the same or greater perceptible risk factor, a new background check needs to be conducted if it has been five or more years since their last background check.

The University also performs background checks on volunteers who will be engaged with the University for 30 or more days, key students, camp counselors (via California Department of Justice Live Scan) and program leaders prior to performing the duties or participating in the activity qualifying them for this requirement.

#### **XIV. RECORD RETENTION**

Records of investigations are maintained by the Title IX Coordinator/Deputy Coordinator for a minimum of seven (7) years as indicated below.

**Students:** If the Respondent is a student, the records will be maintained for a minimum of seven (7) years past the student's graduation or if the student leaves the University before graduation, for a minimum of seven (7) years past the date of the incident and in accordance with the Family Educational Rights and Privacy Act (FERPA), which protects the privacy of student education records.

**Faculty or Staff:** If the Respondent is a faculty or staff member, the records will be maintained for a minimum of seven (7) years past the conclusion of the investigation.

**Groups/Programs:** If the respondent is a group, the records will be maintained for a minimum of seven (7) years past the conclusion of the investigation.

## **XV. INFORMATION CONCERNING REGISTERED SEX OFFENDERS**

As required by the federal Campus Sex Crimes Prevention Act, institutions of higher education must issue a statement advising University community members where information concerning registered sex offenders may be obtained. This information can be found through the following web links:

**California Sex Offender Information:** <http://www.meganslaw.ca.gov/>

For information on registered sex offenders attending or employed at the College, contact the local police department or Human Resources.

### **Definitions/Glossary of Terms**

The following terms are used throughout this policy and are defined by the main headings identified below:

**Title IX Coordinator/Deputy Coordinator:** The Title IX Coordinator, **Jennifer Hute, Associate Director of Human Resources**, is assisted by Title IX Deputy Coordinator, **Paul Raccanello, Dean of Students**. Together, they are responsible for coordinating the University's compliance with Title IX, which includes, among other responsibilities, complaint handling, communications and training in connection with Title IX's prohibition of discrimination based upon gender, and identifying and addressing any patterns or systemic problems that arise during the review of reports.

The Title IX Coordinator and Deputy Coordinator are knowledgeable about and will provide information on all options for addressing and resolving complaints about discrimination on the basis of sex, including concerns pertaining to sexual harassment and sexual misconduct. At the University, the role of Title IX Coordinators extends to other forms of discrimination cited above—race, color, religion, national origin, sex (including pregnancy, childbirth and any related medical condition), gender (including gender identity and gender expression), age, marital status, registered domestic partnership status, mental or physical disability status, religion (including religious dress and grooming practices), sexual orientation, military or veteran status, genetic information or any other characteristic protected by law in admission and access to, and treatment and employment in, its educational programs and activities. Together, this team plays an integral role in carrying out the University's commitment to creating, fostering and maintaining an educational, employment, and campus environment that is free of discrimination, harassment, sexual misconduct and retaliation.

#### **Complaint Process and Parties to a Complaint**

**Complainant:** The person who makes a complaint of discrimination, harassment, sexual misconduct or retaliation. This term may also refer to third-parties who bring a complaint on behalf of another member(s) of the University community. Complainants may be individuals or groups of individuals who have been impacted by discrimination, harassment, sexual misconduct or retaliation. Informal complaints may be made orally or in writing. Formal complaints must be made in writing.

**Investigator:** An impartial individual who is free from any conflict of interest, who coordinates the gathering of information from parties who may have information relevant to the complaint, and who prepares a report setting forth the facts gathered. An investigator has specific training and experience to investigate allegations of discrimination, harassment, sexual misconduct, or retaliation. This person may be a faculty or staff member or, at the sole discretion of the University, an external party as determined by the circumstances.

**Jurisdiction:** The University is able to respond to alleged incidents of sexual misconduct that occurred on campus, that were part of official University programs/groups (regardless of location), or where the complainant and respondent are members of the University community, regardless of whether the misconduct occurred off-campus. If the respondent is unknown or is not a member of the University community, the Title IX Coordinator/Deputy will assist students or others in identifying appropriate campus resources or local authorities if the individual would like to file a report. In addition, the University may take other actions to protect the student, faculty, or staff member.

**Resolution Process:** The process or procedures followed to ensure the timely, thorough and complete approach to facilitating and resolving misunderstandings and maintaining positive work relations. A resolution process may include both a formal and an informal approach to resolving issues, as appropriate, except in the case of sexual misconduct.

**Respondent:** The party who is alleged to have discriminated, harassed, performed sexual misconduct or retaliated against the complainant. A respondent may be an individual, group/program or the University.

**Responsible Administrator:** An administrator who is the University representative who receives complaints of discrimination, harassment, sexual misconduct and/or retaliation. This is typically the **Director of Student Rights and Responsibility** for complaints involving students; and the **Associate Director of Human Resources** for complaints involving other community members.

**Responsible Employee:** A responsible employee includes any employee: who has the authority to take action to redress sexual violence; who has been given the duty of reporting incidents of sexual violence or any other misconduct to the Title IX Coordinator or other appropriate school designee; or whom a student could reasonably believe has this authority or duty. Examples of responsible employees include Deans, Vice Presidents and other senior administrators.

**Support Person:** The complainant and/or the respondent may have a support person present with him/her at all meetings associated with a complaint in which the party to the complaint is participating. The support person must be a current member of the University community, except in sexual misconduct cases. In sexual misconduct cases, both parties may choose an advisor of their choice. The support person may attend, but shall not participate in meetings. The role of the support person shall be limited to counsel and support, rather than advocacy and/or representation.

**Witness:** An individual who may offer firsthand knowledge or information relevant to the complaint being investigated.

### **Terminology Defining Standard of Affirmative Consent and Prohibited Conduct**

**Affirmative Consent:** Affirmative consent is defined as positive, unambiguous, and voluntary agreement to engage in specific sexual activity. Affirmative consent maintains the value that all persons have the right to feel respected, acknowledged, and safe during sexual interactions. The following points are important aspects of affirmative consent:

- It is the responsibility of each person involved in sexual activity to ensure that he or she has the affirmative consent of the other or others to engage in sexual activity.
- Consent must be mutual and ongoing throughout a sexual encounter and can be revoked at any time.
- Consent can be communicated verbally or by action(s). In whatever way consent is communicated, it must be mutually understandable. Although consent does not need to be verbal, verbal communication is the most reliable form of asking for and gauging consent, participants in a relationship are thus urged to seek consent in verbal form. Talking with sexual partners about desires and limits may seem awkward, but serves as the basis for positive sexual experiences shaped by mutual willingness and respect.
- Consent to some sexual acts does not imply consent to others, nor does past consent to a given act imply present or future consent.

- The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent.
- Silence alone (absent a non-verbal action clearly demonstrating consent) and lack of protest or resistance are not considered consent. Consent cannot be inferred from the absence of a “no”; a clear “yes”, verbal or otherwise, is necessary.
- Minors, mentally disabled individuals or incapacitated persons can never give affirmative consent. Examples of incapacitation include, but are not limited to, being intoxicated due to drugs, alcohol or medication, blacked out, passed out, asleep, unable to communicate due to a mental or physical condition or subjected to violence. Physical indicators of incapacitation may include slurred speech, unsteady gait or stumbling, vomiting, unfocused or bloodshot eyes, disorientation, unresponsiveness or outrageous or unusual behavior. Engaging in sexual activity with a person who is known to be – or could reasonably be known to be – incapacitated constitutes sexual assault.
- Consent can only be accurately gauged through direct communication about the decision to engage in sexual activity. Presumptions based upon contextual factors (such as clothing, alcohol consumption, or dancing) are unwarranted, and should not be considered as evidence for consent.
- Affirmative consent cannot result from force, or threat of force, coercion, fraud, intimidation, or incapacitation. Physical force includes but is not limited to: hitting, kicking and restraining. Intimidation is generally understood to mean forcing someone into some action or deterring a person from some action by inducing fear. Coercion is generally understood to mean the use of express or implied threats of violence or reprisal or other intimidating behavior that puts a person in immediate fear of the consequences in order to compel that person to act against his/her will. Threatening someone can come in the form of words, gestures, or non-verbal actions. It is not possible to obtain consent for a sexual act through the above-described means.
- If at any time consent is withdrawn, the activity must stop immediately.

**Dating Violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of a social relationship is based on the reporting party’s statement with consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved.

**Discrimination:** Conduct that is based upon an individual’s race, color, religion, national origin, sex (including pregnancy, childbirth and any related medical condition), gender (including gender identity and gender expression), age, marital status, registered domestic partnership status, mental or physical disability status, religion (including religious dress and grooming practices), sexual orientation, military or veteran status, genetic information or any other characteristic protected by law. Such behavior has the effect of excluding individuals from participation, denies the individual the benefits of, treats the individual differently, or otherwise adversely affects a term or condition of an individual’s employment, education, living environment or participation in a University program or activity.

**Domestic Violence:** Domestic violence includes felony or misdemeanor crimes of violence committed by family members related by blood; people who are married or used to be married; people who share or used to share a home, apartment or other common dwelling; people who have or allegedly have a child in common or a blood relationship through a child in common; people who are dating or engaged or used to date, including same sex couples; people with disabilities and their personal assistants; or violence 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.

**Gender-Based Stalking:** Stalking is 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 to suffer substantial emotional distress.

**Gender-Based Harassment:** Acts of verbal, nonverbal, or physical aggression, intimidation, stalking or hostility based on gender or gender-stereotyping constitute gender-based harassment. Gender-based harassment can occur if one is harassed either for exhibiting what is perceived as a stereotypical characteristic for one's sex, or for failing to conform to stereotypical notions of masculinity or femininity. In order to constitute harassment, the conduct must be sufficiently severe or pervasive such that it has the effect of unreasonably interfering with an individual's academic performance or creating an intimidating, hostile, demeaning or offensive work, academic or living environment.

**Hostile Learning Environment and Academic Freedom:** Takes into account that robust discussion and debate are fundamental to the life of the University. This policy shall be interpreted in a manner that is consistent with academic freedom. Free speech rights apply in the classroom and in all other educational programs and activities of institutions. Great care must be taken not to inhibit open discussion, academic debate, and expression of personal opinion, particularly in the classroom. Nonetheless, speech or conduct of a sexual or hostile nature which occurs in the context of educational instruction may exceed the protections of academic freedom and constitute prohibited discrimination, harassment, sexual misconduct, or retaliation if it meets the definition of discrimination, harassment, sexual misconduct, or retaliation as noted throughout this policy and a) is reasonably regarded as non-professorial speech (i.e., advances a personal interest of the faculty member or student as opposed to furthering the learning process or legitimate objectives of the course), or b) lacks accepted pedagogical purpose or is not germane to the academic subject matter.

**Hostile Work, Learning, or Living Environment:** In general, sexually oriented conduct, whether it is intended or not, that is unwelcome and has the effect of creating a workplace, learning environment, or living environment that is hostile, offensive, intimidating, or humiliating may constitute sexual harassment. Such conduct may create a hostile environment for individuals other than those at whom the conduct is directed. Harassment that creates a hostile environment includes peer harassment, such as student-to-student or colleague-to-colleague. To constitute a hostile environment, the harassment must be sufficiently severe or pervasive to affect the conditions of the complainant's employment, academic standing or participation in an education program or activity, and must create an offensive or abusive environment. A single incident or isolated incidents of offensive sexual conduct or remarks may create a hostile environment, but generally does not unless the conduct is quite severe. Even instances that may not constitute a hostile environment should be addressed under the informal procedures of this policy so that they are not repeated.

While it is not possible to list all of the conduct or circumstances that may constitute sexual harassment, the following are some examples of conduct which, if unwelcome, may constitute sexual harassment depending upon the totality of the circumstances, including the severity of the conduct and its pervasiveness:

- Unwelcome sexual advances -- whether they involve physical touching or not -- and unwanted discussions of sexual matters;
- Sexual epithets, jokes, written or oral references to sexual conduct; gossip regarding one's sex life; comment on an individual's body; comment about an individual's sexual activity, deficiencies, or prowess;
- Displaying sexually suggestive objects, pictures, cartoons;
- Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments;
- Sexist remarks/ behaviors that are delivered with the intent to belittle, control, embarrass or hurt others;
- Requests or demands for sexual favors accompanied by implicit or explicit promised rewards or threatened punishment;

- Inquiries into one's sexual experiences; and
- Discussion of one's sexual activities.

This definition of harassment is intended to be illustrative and is not limited to the stated definition.

**Quid Pro Quo Harassment:** A type of sexual harassment, *Quid pro quo* sexual harassment may occur when anyone in a position of power or authority over another uses any academic or supervisor reward to subject such other person to unwanted sexual attention or to subject such other person to verbal or physical conduct of a sexual nature. In general, *quid pro quo* sexual harassment means: unwelcome sexual advances, requests for sexual favors, or other verbal and physical conduct of a sexual nature by one in a position of power or influence when:

- Submission by an individual is made either an explicit or implicit term or condition of employment or of academic standing; or
- Submission to or rejection of such conduct is used as the basis for academic or employment decisions affecting that student or employee;
- Such conduct creates an intimidating, hostile, or offensive working environment.

Most often *quid pro quo* sexual harassment arises in the context of an authority relationship or power differential. This relationship may be direct (as in the case of a supervisor/subordinate or teacher/student), or it may be indirect (when the harasser has the power to influence others who have authority over the victim.) This definition is intended to be illustrative and is not limited to the stated definition.

**Sexual Harassment:** Unwelcome conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favors and other verbal, nonverbal and physical conduct of a sexual nature constitutes sexual harassment. Types of sexual harassment may include *quid pro quo* sexual harassment or hostile environment harassment.

**Sexual Assault:** Defined as non-consensual physical contact of a sexual nature, sexual assault includes rape, acts using force, threat, intimidation, or coercion or using advantage gained by the victim's inability (temporary or permanent) to make rational, reasonable decisions about sex of which the respondent was aware or should have been aware.

Examples of sexual assault include non-consensual sexual intercourse (anal, oral or vaginal), however slight, with any object or body part, between any genders, without consent and non-consensual sexual contact, which is any sexual touching (including disrobing or exposure), however slight, with any object or body part, between any genders, without consent, non-forcible sexual intercourse when a person is under the age of consent (the age of consent in California is 18 years old), attempted vaginal intercourse by a person(s) known or unknown, dating violence, domestic violence and acquaintance or date rape.

**Sexual Exploitation:** Occurs when a person takes non-consensual, unjust or abusive sexual advantage of another person for his/her own benefit or for the benefit of anyone other than the person being exploited and does not otherwise constitute sexual harassment or assault under this policy. Examples of prohibited conduct include, but are not limited to: non-consensual video/audio taping of sexual activity by any electronic device; non-consensual sharing of a consensually made video/audio tape of sexual activity; prostituting another individual; going beyond the boundaries of consent given, such as by secretly allowing others to watch consensual sex; or voyeurism of a sexual nature. Sexual exploitation is prohibited and will be treated as sexual misconduct.

**Sexual Misconduct:** Includes sexual violence, sexual assault, sexual exploitation, dating and domestic violence and gender-based stalking.

**Sexual Violence:** Includes physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol. An individual may be unable to give consent due to an intellectual disability or other disability such as being under the influence of drugs or alcohol.

### **Additional Terminology**

**Background Checks:** A search for sex-related offenses in an individual's counties of residence for the past seven years; a search of the state registry of sex offenders; and a database search for criminal activity in the individual's states of residence for the past seven years.

**Camp Counselors and Program Leaders:** Includes those students, faculty, staff and volunteers who in the course and scope of their employment or service to Dominican conduct activities at or on behalf of Dominican and come in contact with protected persons.

**Key Students:** Includes those students who are in practicum involving protected persons or the medical field, student teachers, resident assistants and employed students working with protected persons.

**Protected Persons:** Includes minors, developmentally disabled individuals regardless of age and vulnerable individuals regardless of age. Vulnerable individuals include those who are mentally incapacitated, whether temporarily or permanently, for any cause including but not limited to intoxication, drugs, or mental incompetence.