



Discrimination, Harassment, Sexual Misconduct and Retaliation Prevention Policy (DHSMR Policy)

Dominican University of California 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.

The contacts for this policy are:

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The Title IX Coordinator is assisted by the Title IX Deputy Coordinator, and is responsible for coordinating the University's compliance with Title IX. Responsibilities include 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 Coordinators are knowledgeable about, and will provide information on, options for addressing and resolving complaints about discrimination on the basis of sex (including sexual harassment and sexual misconduct). The coordinators roles extend to addressing other forms of discrimination; 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.

To make a report or complaint, contact the Title IX Coordinator or titleIX@domincan.edu.

Online reports may also be made at:

https://cm.maxient.com/reportingform.php?DominicanUnivofCA&layout_id=9

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

1 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.

2 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.

3 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, ancestry, 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 from the University.

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 at the end of this policy.

4 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.

4.1 RELATIONSHIPS WITH STUDENTS (INCLUDING GRADUATE ASSISTANTS)

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 Title IX Coordinator.

4.2 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 Title IX Coordinator. 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 a violation of policy and will be subject to the appropriate disciplinary action, which may include suspension without pay or dismissal/termination of employment.

5 REPORTING SEXUAL ASSAULTS & RESOURCES AVAILABLE

Students and employees wanting to report a sexual assault have the following reporting options, resources, and procedures available to them:

- Report the assault to the University
- Report the assault to local law enforcement
- Report the assault to BOTH the University and local law enforcement

These reporting options can be explained further by the Title IX Coordinator or Deputies, staff in the Office of the Dean of Students or Human Resources offices.

Upon receiving a report, the University will proceed with an investigation and disciplinary process if evidence supports doing so. For all reports, the University will:

- Provide information on medical resources
- Provide information on counseling and support services (both on and off campus)
- Implement appropriate interim measures
- Provide assistance with making a report to local law enforcement (if requested)

IMPORTANT: The University is required to notify law enforcement of reports of sexual assault. In cases where the reporting party does not wish to make a report to law enforcement, the University will notify law enforcement that a report has been received – but will not share any personal or identifying information about the involved parties.

statistics (Clery Report). These reports provide only statistical information – no personal or identifying information is shared.

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

5.1 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 Title IX Coordinator or Deputy to ensure a prompt and equitable review, investigation, and resolution (see Procedures for Reporting Violations of this Policy).

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

5.1.1 Sexual Assault Response 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:

- Get Safe
 - 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.
- Protect Potential Evidence
 - If possible, secure the location where the assault occurred – do not allow others to enter, and 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 and document any details that might assist in identifying the person responsible, such as scars, marks, jewelry, dress, language, etc.
- Get Medical Attention
 - Hospitals in the 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: medical providers may be required to report to law enforcement.*
 - Physical injuries may not be visible; a medical examination or a discussion with a health care provider about 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 date-rape drug has been used, ask the health care provider to test accordingly.
- Consider Collecting Medical-Legal Evidence.
 - This will require contacting local law enforcement and filing a police report, and may be collected at a hospital or facility other than those noted above.
 - Prompt collection of physical evidence is essential should you later decide to pursue criminal prosecution and/or a civil action.
- 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 below may be able to assist survivors of sexual assault by having an advocate provide guidance, counseling, and support surrounding this process.:
 - § Community Violence Solutions: 800-670-7273
 - § Center for Domestic Peace: 415-924-6616 or text: 415-526-2557
 - § Student Health Center (Bertrand Hall, 1st floor): 415-485-3208
 - § Student Counseling Center (appointments made through Student Health Center)
 - § Office of Student Life (Edgehill Mansion, 2nd floor): 415-485-3223

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.

6.1 REPORTING TO THE UNIVERSITY

Any member of the University community who wishes to report a violation of the DHSMR policy as defined above should first bring this matter to the Title IX Coordinator or Deputy. Supervisors and managers who receive reports or complaints of this policy must immediately report it to the Title IX Coordinator or Deputy.

Questions or concerns about policy violations can be addressed verbally 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.

To make a report or register a complaint with the University regarding a potential violation of the DHSMR policy, please contact the Title IX Coordinator or Deputy.

If there is urgency to file the report after normal business hours (9am-5pm), 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.

The University will do all it can to respect the victim's wishes, but may proceed with addressing allegations of discrimination, harassment, sexual misconduct, and/or retaliation if and when it becomes 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.

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.

6.1.1 Supportive / Remedial Measures

The University will promptly implement appropriate remedial, supportive, responsive and/or protective actions upon notice of alleged harassment, discrimination, and/or retaliation. These interim actions are intended to support both the reporting party and responding party while the resolution process is pending. Many of the supportive or remedial measures are also targeted to address the short-term effects of harassment, discrimination, and/or retaliation, i.e., to redress harm and to prevent further violations.

These remedies may include, but are not limited to:

- Referral to counseling, medical, and/or other health services
- Referral to the Employee Assistance Program
- Visa and immigration assistance
- Student financial aid counseling
- Education to the community or community subgroup
- Altering campus housing situation
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus escorts
- Providing transportation accommodations
- Implementing contact limitations (no contact orders) between the parties
- Academic support
- Offering adjustments to academic deadlines, course schedules, etc.

To the extent possible, the University will maintain as confidential any accommodations or protective measures, provided confidentiality does not impair the University's ability to provide the accommodations or protective measures.

The University may choose to interim suspend a student, employee, or organization pending the completion of investigation and resolution procedures when the safety or well-being of any member(s) of the campus community may be jeopardized by the on-campus presence of the responding party or the ongoing activity of the student organization whose behavior is in question. For reports within the scope of Title IX, an analysis for emergency removal will be conducted to determine if there is an immediate threat of harm to self or others.

In all cases in which an interim suspension is imposed, the student, employee, or student organization will be given the option to meet with the Title IX Coordinator (or designee) prior to such suspension being imposed, or as soon thereafter as reasonably possible, to show cause why the suspension or other restrictions should not be implemented or should be modified. The Title IX Coordinator (or designee) has discretion to implement or stay an interim suspension and to determine its conditions and duration. Violation of an interim suspension/emergency removal under this policy will be grounds for discipline, which may include expulsion from the University or termination of employment.

During an interim suspension/emergency removal, a student or employee may be denied access to University housing and/or the University campus/facilities/events. The University will use the least restrictive interim measures possible to ensure the continued safety and health of the reporting party and/or the campus community.

As determined by the Title IX Coordinator (or designee), these restrictions may include classes and/or all other University activities, or privileges for which the student might otherwise be eligible. For example, such measures could include, but are not limited to: removing a student from a residence hall, temporarily re-assigning an employee, restricting a student's or employee's access to or use of University facilities or equipment, allowing a student to withdraw or take incompletes without financial penalty, suspending a student's participation in extracurricular activities, student organizational leadership, or intercollegiate athletics. Alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the responding party.

6.2 REPORTING EXTERNALLY & ADDITIONAL RIGHTS

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

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](#).

Such claims should be filed promptly. Any member of the University community may seek assistance from the Title IX Coordinator 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.

6.3 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.

7 ADDRESSING REPORTS OF VIOLATIONS OF THE DHSMR POLICY

The University will act on any formal or informal allegation or notice of violation of the policy on Discrimination, Harassment, Sexual Misconduct, and Retaliation (DHSMR), that is received by the Title IX Coordinator or a member of the administration, faculty, or other employee, with the exception of confidential resources.

These procedures may also be used to address collateral misconduct occurring in conjunction with harassing or discriminatory conduct (e.g.: vandalism, physical abuse of another, etc.). All other allegations of misconduct unrelated to incidents covered by this policy will be addressed through the procedures elaborated in the student handbook or the employee handbook.

7.1 PERSONNEL INVOLVED IN THE INVESTIGATION AND DECISION-MAKING PROCESS

The following are those primarily involved in investigating reports of violation of the DHSMR policy:

- *Title IX Coordinator*: responsible for ensuring that reports of policy violations are investigated, and for organizing a Hearing Panel tasked with determining if evidence suggests a violation occurred. The Title IX Coordinator may conduct a preliminary inquiry to determine if there is reasonable cause to believe the DHSMR policy has been violated.
- *Director of Diversity, Equity, and Inclusion*: responsible for addressing reports of discrimination, harassment, or misconduct for students on the basis of protected identities other than gender, sex, or gender identity.
- *Primary Investigator*: the Title IX Coordinator or Director of DEI may serve as the primary investigator charged with fact gathering, or may designate an outside investigator to gather facts. The determination to use an outside investigator may happen after a preliminary inquiry is conducted, and such determination will be communicated to the involved parties.
- *Decision-Making Administrators (DMAs) / Hearing Panel*: responsible for conducting the hearing panel process in reports involving administrative investigation, rendering a decision and determining remedies and/or sanctions.
- *Appeal Delegate*: the Vice President for Academic Affairs is the designated Appeal Delegate and will consider the appeal request and make a determination on whether enough information exists to warrant an appeal review.

Please note that when circumstances dictate (i.e., absence, conflict of interest, etc.), the Decision-Making Administrators, members of the Hearing Panel, and/or Appeal Delegate may be replaced with other administrators trained to serve in this capacity, and the involved parties will be notified.

7.2 PROCEDURES FOR STUDENTS AND EMPLOYEES

Upon notice to the Title IX Coordinator, this resolution process involves a prompt preliminary inquiry to determine if there is reasonable cause to believe the nondiscrimination policy has been violated. If so, the University will initiate one of three responses:

- A remedial response because the reporting party does not want to proceed formally;
- An informal resolution;
- A formal complaint including an investigation that is thorough, reliable, impartial, prompt, fair, and as private as possible.

The investigation and the subsequent resolution process determine whether the DHSMR policy has been

violated. If so, the University will promptly implement effective remedies designed to end the action, prevent its recurrence, and address its effects.

When investigating an allegation of a violation of the DHSMR policy, the University typically takes the following steps, if not completed already (not necessarily in this order):

- Determine the identity and contact information of the reporting and related parties, and assess any potential health/safety concerns.
- In coordination with campus partners, initiate or assist with any necessary supportive measures or remedial actions.
- Identify policies implicated by the alleged misconduct.
- Conduct a timely preliminary inquiry to determine if there is reasonable cause to believe a violation of this policy may have occurred.
 - If there is insufficient evidence to support reasonable cause, the inquiry is closed with no further action.
 - If sufficient evidence exists to support reasonable cause, a Primary Investigator shall be identified.
- Prepare the initial Notice of Investigation (NOI) on the basis of the preliminary inquiry.
- Commence a thorough, reliable, and impartial investigation by developing an investigation plan, including a witness and evidence list.
- Interview all relevant individuals and conduct follow-up interviews as necessary.
- Allow each party the opportunity to suggest questions they wish the investigator to ask of the other party and witnesses.
- Provide regular status updates to the parties throughout the investigation.
- Complete the investigation promptly and without unreasonable deviation from the intended timeline.
- Write an executive report summarizing the investigation and procedures. The Executive Report will include all evidence collected throughout the investigation.
- Provide parties with the opportunity to review the executive report when it is completed.
 - Provide each party no less than 10 days to respond to the Executive Report.
- Submit the Executive Report to the Decision-Making Administrators for review.
- The Decision-Making Administrators will review the entire report in advance of the hearing.

7.2.1 Hearing Panel Format (Students and Employees)

In cases where a formal complaint has been filed and an investigation conducted the Decision-Making Administrators will employ a hearing panel format. In this format, the hearing panel is responsible for reviewing all information provided by the investigator, for finding facts to determine if the policy has been violated, and for issuing sanctions.

As part of the hearing panel format, the involved parties may listen and view the hearing remotely (e.g., via video conference) to statements given by other parties or witnesses. For cases under Title IX jurisdiction, advisors will be permitted to pose questions directly to the involved parties. The hearing panel retains the right to determine the relevance of the question, prior to the party answering.

7.3 ADVISORS

Each party may have an advisor of their choice present with them for all meetings and interviews within the resolution process, if they so choose. The parties may select whomever they wish to serve as their advisor as long as the advisor is eligible and available, and otherwise not involved in the resolution process, such as serving as a witness.

The advisor may be a friend, mentor, family member, attorney, or any other supporter a party chooses to advise them. The parties may choose advisors from inside or outside the campus community, or proceed without an advisor.

The parties may be accompanied by their advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help their advisees to prepare for each meeting, and are expected to advise ethically, with integrity, and in good faith.

The University cannot guarantee equal advisory rights, meaning that if one party selects an advisor who is an attorney, but the other party does not, or cannot afford an attorney, the University is not obligated to provide one.

All advisors are subject to the same campus rules, whether they are attorneys or not. Advisors may not address campus officials in a meeting or interview unless invited. The advisor may not make a presentation or represent their advisee during any meeting or proceeding and may not speak on behalf of the advisee at any point in the investigation or resolution process, with the exception of the cross-examination portion of a live hearing in Title IX complaints.

The parties are expected to ask and respond to questions on their own behalf, without representation by their advisors. Advisors may confer quietly with their advisees or in writing as necessary, as long as they do not disrupt the process. Advisors may not speak on behalf of the parties involved and may not ask questions on behalf of their party. For longer or more involved discussions, the parties and their advisors should ask for breaks to step out of meetings to allow for private conversation. Advisors are expected to refrain from interference with the investigation and resolution.

If a party does not have an advisor for a hearing panel, under the scope of Title IX, the University will provide one for the hearing panel only.

Any advisor who steps out of their role will be warned once, and only once. If the advisor continues to disrupt or otherwise fails to respect the limits of the advisor role, the advisor will be asked to leave the meeting.

When an advisor is removed from a meeting, that meeting will typically continue without the advisor present. Subsequently, the Title IX Coordinator (or designee) will determine whether the advisor may be reinstated or replaced by a different advisor.

The University expects that the parties may wish to have the University share documentation related to the allegations with their advisors. The University requires written consent that authorizes such sharing before the University is able to share records with an advisor, though parties may share the information directly with their advisor if they wish.

Advisors are expected to maintain the privacy of the records shared with them. The University may seek to restrict the role of any advisor who does not respect the sensitive nature of the process or who fails to abide by the University's privacy expectations.

The University expects an advisor to adjust their schedule to allow them to attend University meetings when scheduled. The University does not typically change scheduled meetings to accommodate an advisor's inability to attend. The University will, however, make reasonable provisions to allow an advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

A party may elect to change advisors during the process and is not obligated to use the same advisor throughout. The parties are expected to inform the investigator of the identity of their advisor at least one (1) day before the date of their first meeting with the investigator (or as soon as possible if a more expeditious meeting is necessary or desired). The parties are expected to provide timely notice to the investigator if they change advisors at any time.

7.5 PRELIMINARY INQUIRY

Following receipt of notice of an alleged violation of this policy, the Title IX Coordinator (or designee) engages in a preliminary inquiry to determine appropriateness of an investigation and the nature of the reported violation. Reports not meeting the standard of Title IX will still be resolved under this policy, but without direct cross-examination by advisors. The parties will be notified whether the report falls within the scope of Title IX.

This inquiry may also serve to help the Title IX Coordinator (or designee) to determine if the allegations include violence, threat, pattern, predation, minors, and/or the use of a weapon, in the event that the reporting party has asked for no action to be taken.

In any situation where violence, threat, pattern, predation, minors, and/or the use of a weapon is not evidenced, the Title IX Coordinator (or designee) may respect a reporting party's request not to pursue the matter through the formal resolution process and will investigate informally only so far as necessary to determine appropriate remedies, providing a remedies-based resolution, only. As necessary, the University reserves the right to initiate resolution proceedings without a formal report or participation by the reporting party.

When the reporting party wishes to proceed, or the University determines it must proceed, the Title IX Coordinator (or designee) will commence the formal investigation process, as outlined below.

The process followed considers the preference of the parties but is ultimately determined at the discretion of the Title IX Coordinator (or designee). If, during the preliminary inquiry or at any point during the formal investigation, the Title IX Coordinator (or designee) determines that reasonable cause does not support the conclusion that policy has been violated, the process will end, and the parties will be notified.

The reporting party may request that the Title IX Coordinator (or designee) review the reasonable cause determination and/or re-open the investigation. This decision lies in the sole discretion of the Title IX Coordinator (or designee), but the request is usually only granted in extraordinary circumstances.

Cross-claims by the responding party may be made in good faith, but are also made for purposes of retaliation, on occasion. The University is obligated to ensure that this process is not abused for retaliatory purposes. The University permits the filing of cross-claims, but uses the preliminary inquiry, described above, to assess whether the allegations are made in good faith. If they are, the allegations will be processed using the resolution procedures below, typically after resolution of the underlying allegation.

A delay in the processing of cross-claims is permitted, accordingly. Occasionally, allegations and cross-claims can be resolved through the same investigation, at the discretion of the Title IX Coordinator (or designee). Where cross-claims are not made in good faith, they will be considered retaliatory, and may constitute a violation of this policy.

7.6 RESOLUTIONS

The following sections provide information on the various resolution processes that may be used in response to reported violations of the DHSMR policy.

7.6.1 Informal Resolution

The Informal Resolution process is used when all parties agree to resolve the report informally, rather than through a formal administrative resolution. An informal resolution may not be used in reports under Title IX that involve employee harassment of a student.

It is not necessary to pursue Informal Resolution first in order to pursue Formal Administrative Resolution, and any party participating in Informal Resolution can stop the process at any time and request the Formal Administrative Resolution process. Further, if an Informal Resolution fails to resolve the matter, then Formal Administrative Resolution may be pursued.

7.6.2 Formal Administrative Resolution

If Formal Administrative Resolution is initiated, the Title IX Coordinator (or designee) will provide written notification of the investigation to the responding party at an appropriate time during the investigation. Typically, notice is given in advance of an interview unless an exigency exists, such as when providing advanced notice is likely to lead to the loss or destruction of evidence or could otherwise significantly impede the integrity of the investigation. Advanced notice facilitates the responding party's ability to identify and choose an advisor to accompany them to the interview.

Notification will include a meaningful summary of the allegations and will be made in writing and may be delivered by one or more of the following methods: in person; mailed to the local or permanent address of the parties as indicated in official University records; or emailed to the parties' University-issued email account.

Once mailed, emailed and/or received in-person, notice will be presumptively delivered. The notification should include the policies allegedly violated, if known at the time. Alternatively, the policies allegedly violated can be provided at a later date, in writing, as the investigation progresses, and details become clearer. The reporting party is typically provided a copy of such correspondence.

Once the decision is made to commence a formal investigation, a Primary Investigator will be assigned. Either party may, at any time during the resolution process, raise a concern regarding bias or conflict of interest and the Title IX Coordinator (or the Vice President for Academic Affairs if the concern involves the Title IX Coordinator) will determine whether the concern is reasonable and supportable. If so, another investigator will be assigned and the impact of the bias or conflict, if any, will be remedied.

The University will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation.

The University may undertake a short delay in its investigation (several days to weeks, to allow evidence collection) when criminal charges based on the same behaviors that invoke the University's resolution process are being investigated by law enforcement. The University will promptly resume its investigation and resolution process once notified by law enforcement that the initial evidence collection process is complete.

University action(s) are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant parties and witnesses, obtaining available, relevant evidence, and identifying sources of expert information, as necessary.

All parties have a full and fair opportunity, through the Formal Administrative Resolution process, to suggest witnesses and questions, to provide evidence, and to fully review and respond to all evidence, on the record.

Witnesses (as distinguished from the parties) who are faculty, students, or staff of the University are expected to cooperate with and participate in the University's investigation and resolution process. Failure of a witness to cooperate with and/or participate in the investigation or resolution process constitutes a violation of policy and may be subject to discipline.

Witnesses may be interviewed remotely by phone, video conferencing, or similar technologies if the investigator determines that timeliness or efficiency dictate a need for remote interviewing. Witnesses may also provide written statements in lieu of interviews, if deemed appropriate by the investigator, though this approach is not ideal.

No unauthorized audio or video recording of any kind is permitted during investigation meetings. If the investigator elects to audio and/or video record interviews, all involved parties must be made aware of, and consent to, audio and/or video recording.

Unless determined it is appropriate, the investigation and the finding do not consider: (1) incidents not directly related to the possible violation, unless they evidence a pattern, (2) the sexual history of the parties (though there may be a limited exception made with regard to the sexual history between the parties), or (3) the character of the parties.

While previous conduct violations by the responding party are not generally admissible as information supporting the current allegation, information about previous good faith allegations and/or findings may be considered when that information suggests potential pattern and/or predatory conduct.

Previous disciplinary action of any kind involving the responding party may be considered in determining the appropriate sanction, because the University uses a progressive discipline system.

The investigator does not meet with character witnesses, but may accept up to two (2) letters supporting the character of each of the parties. Such letters must be provided to the investigator prior to the executive report being finalized, otherwise the parties have waived their right to provide such letters.

The responding party may admit responsibility for all or part of the alleged policy violations at any point during the resolution process. If the responding party admits responsibility, then it is determined that that the individual is in violation of University policy.

If the responding party admits the violation, or is found in violation, then the Hearing Panel determines sanction(s) or responsive actions, which are promptly implemented in order to effectively to stop the harassment or discrimination, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the reporting party and the community.

The Hearing Panel bases the determination(s) on the preponderance of the evidence standard – this means whether it is more likely than not that the responding party violated policy.

The Hearing Panel informs the parties of the determination within 2-3 days of the resolution, without significant time delay between notifications. Notifications are made in writing and may be delivered by one or more of the following methods: in person; mailed to the local or permanent address of the parties as indicated in official University records; or emailed to the parties' University-issued email account. Once mailed, emailed, and/or received in-person, notice is presumptively delivered.

The notification of outcome specifies the finding for each alleged policy violation, any sanctions that may result which the University is permitted to share pursuant to state or federal law, and the rationale supporting the essential findings to the extent the University is permitted to share under state or federal law. The notice will detail when the determination is considered final and will detail any changes that are made prior to finalization.

Unless the determination is based on admission by the responding party, the determination may be appealed by either party. The notification of outcome also includes the grounds on which the parties may appeal and the steps the parties may take to request an appeal consideration of the findings and/or sanctions. More information about the appeals procedures can be found in the Appeals section of this policy.

The University aims to complete all Formal Administrative Resolutions (including investigations, rendering of findings, and sanctions) within a sixty (60) business day time period, which can be extended as necessary for appropriate cause by the Title IX Coordinator (or designee), with notice to the parties as appropriate.

7.7 SANCTIONS

Sanctions are determined by the Decision-Making Administrators (or Hearing Panel). Factors considered when determining a sanction/responsive action may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation
- An individual's disciplinary history
- Previous allegations or allegations involving similar conduct
- Any other information deemed relevant by the Title IX Coordinator (or designee)
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the reporting party and the community
- The impact on the parties.

The sanctions will be implemented as soon as is feasible. The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed by outside authorities.

7.7.1 Student Sanctions

The following are the usual sanctions that may be imposed upon students or student organizations singly or in combination:

- Official Warning – A formal statement that the behavior was unacceptable and a warning that further infractions of any University policy, procedure, or directive will result in more severe sanctions/responsive actions.
- Educational Sanctions – Work assignments, essays, service to the University, reflections, mandated workshops, and other related assignments.
- No Contact Directive – A notification indicating no contact between two or more parties at the institution.
- Fines – Previously established and published fines may be imposed.
- Restitution – Compensation for loss, damage or injury. This may take the form of appropriate service and/or monetary or material replacement.
- Loss of Privileges – Denial of specific privileges for a designated period of time.
- Organizational Sanctions – Deactivation, loss of recognition, loss of some or all privileges (including University registration), for a specified period of time.
- Disciplinary Probation – A written reprimand for violation of University policy, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any University policy, procedure or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, no-contact orders and/or other measures deemed appropriate.
- Residence Hall Exclusion – Permanent separation of the student from the University Residence Halls.

- Suspension – Termination of student status for a definite period of time not to exceed two years, and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure as a student at University.
- Expulsion - Permanent termination of student status, revocation of rights to be on campus for any reason or attend University-sponsored events.
- Withholding Diploma – The University may withhold a student’s diploma for a specified period of time and/or deny a student participation in commencement activities if the student has an allegation pending, or as a sanction if the student is found responsible for an alleged violation.
- Revocation of Degree – The University reserves the right to revoke a degree previously awarded from the University for fraud, misrepresentation, or other violation of University policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- Other Actions – In addition to, or in place of the above sanctions, the University may assign any other sanctions as deemed appropriate.

7.7.2 Employee Sanctions

Responsive actions for an employee who has engaged in harassment, discrimination, and/or retaliation may include, but are not limited to, the following:

- Warning – Verbal or Written
- Performance Improvement/Management Process
- Required Counseling
- Required Training or Education
- Probation
- Loss of Oversight or Supervisory Responsibility
- Demotion
- Suspension with pay
- Suspension without pay
- Termination
- Other Actions: In addition to or in place of the above sanctions, the University may assign any other sanctions as deemed appropriate.

7.7.3 Long-Term Remedies/Actions

Following the conclusion of the resolution process and in addition to any sanctions implemented, the Hearing Panel may implement long-term remedies or actions with respect to the parties and/or the campus community to stop the harassment or discrimination, remedy its effects, and prevent its reoccurrence.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Education to the community
- Permanent alteration of housing arrangements
- Permanent alteration of work arrangements for student employees
- Provision of campus escorts
- Climate surveys
- Policy modification
- Provision of transportation accommodations

- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator (or designee), appropriate and reasonable remedial measures may also be implemented even if no policy violation is found.

7.7.4 Failure to Complete Sanctions and/or Comply with Remedies/Responsive Actions

All responding parties are expected to comply with conduct sanctions, responsive actions, and corrective actions within the timeframe specified by the Hearing Panel. Failure to abide by the sanctions/actions imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanctions/responsive/corrective actions, including suspension and/or expulsion. A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator (or designee).

7.8 APPEALS

A request for an appeal of the findings and/or sanctions is subject to the grounds outlined below. All original sanctions imposed remain in effect through determination of the appeal, and both parties should be timely informed of the status of request for appeal, the status of the appeal consideration, and the result of the appeal decision.

- 7.8.1 Requests for Appeal must be submitted in writing to the Title IX Coordinator (or designee) within five (5) business days of receipt of the findings. In the event there needs to be an extension beyond the five (5) business days, the party must request in writing any extension and must include a detailed explanation as to why the extension is being sought.
- 7.8.2 The Title IX Coordinator (or designee) will forward the request to the Appeal Delegate for review.
- 7.8.3 Appeal requests are limited to the following grounds:
- A) *A procedural or substantive error occurred that significantly impacted the outcome of the hearing (e.g. substantiated bias, material deviation from established procedures, etc.). A summary explaining the error must be included with the request for an appeal.*
 - B) *To consider new evidence, unavailable during the original hearing or investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included with the request for appeal. If an appeal is successfully granted on this ground, the Appellate Officer may interview additional witnesses, if appropriate.*
 - C) *The sanctions imposed are substantially outside the parameters or guidelines set by the University for this type of offense or the cumulative conduct record of the responding student. A summary explaining the disproportionality of the sanctions must be included with the request for an appeal.*
- 7.8.4 Upon receipt of the Request for Appeal, the Appeal Delegate will consider the appeal request and all submitted summaries, evaluate the merit of a request for an appeal in light of the circumstances and the relevant policies (Student Handbook & Code of Conduct), and make a determination on whether enough information exists to warrant an appeal review.
- A) *If an appeal review is denied: the Administrative Disposition stands as-is.*
 - B) *If an appeal review is granted: the Appeal Delegate will engage in a thorough review of the*

appeal request (including the submitted summaries), the original record (including the investigator's report), and any other relevant information, and will take one or a combination of the following actions;

- 1) Uphold the findings and/or sanctions outlined in the Administrative Disposition;*
- 2) Modify the findings and/or sanctions outlined in the Administrative Disposition;*
- 3) Dismiss the findings and/or sanctions outlined in the Administrative Disposition.*

C) The decision of the Appeal Delegate will be considered final and binding for all parties involved.

7.9 RECORDS

In implementing this policy, records of all allegations, investigations, resolutions, and hearings will be kept for a minimum of seven years, either from the close of the investigation or the date of graduation, if the investigation involves a student, whichever is longer. Records will be maintained by the Title IX Coordinator.

7.10 STATEMENT OF THE RIGHTS OF THE PARTIES

- The right to investigation and appropriate resolution of all credible allegations of prohibited harassment or discrimination made in good faith to University officials;
- The right to timely written notice of all alleged violations, including the nature of the violation, the applicable policies and procedures, and possible sanctions;
 - The right to a fair and neutral process, with the presumption of innocence maintained, pending review of the evidence and a decision being made.
- The right to be informed in advance of any public release of information regarding the allegation(s) or underlying incident(s), whenever possible.
- The right to not have any personally identifiable information released to the public without their consent, except to the extent permitted by law;
- The right to be treated with respect by University officials;
- The right to have University policies and procedures followed without material deviation;
- The right to not be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence;
- The right to not be discouraged by University officials from reporting sexual misconduct or discrimination to both on-campus and off-campus authorities;
- The right to be informed by University officials of options to notify proper law enforcement authorities, including campus and local police, and the option to be assisted by campus authorities in notifying such authorities, if the party so chooses. This also includes the right not to be pressured to report, as well;
- The right to have allegations of sexual misconduct responded to promptly and with sensitivity by campus security and other campus officials;
- The right to be informed of available interim actions such as counseling, mental health, advocacy, health, legal assistance, student financial aid, visa and immigration assistance, or other student services, both on campus and in the community;
- The right to a campus no-contact order (or a no-trespass order against a non-affiliated third party) when that person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper behavior that presents a danger to the welfare of the party or others;
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- The right to have the University maintain such actions for as long as necessary, and for protective measures to remain private, provided privacy does not impair the University's ability to provide the accommodations or protective measures;

- The right to be fully informed of campus policies and procedures as well as the nature and extent of all alleged violations;
- The right to receive a detailed notice of investigation, once the University has decided to pursue a formal investigation, containing the identity of the parties involved, the date and location of the alleged incident, the specific policies alleged to have been violated, and the precise misconduct alleged.
- The right to provide the investigator with a list of questions that, if deemed relevant and appropriate by the investigator, may be asked of any party or witness.
- The right to receive copies of the executive report, subject to privacy limitations imposed by state and federal law, prior to a final determination by the Title IX Coordinator (or designee);
- The right to be informed of the names of all identified witnesses whose information will be used to make a finding, in advance of that finding, where relevant;
- The right to not have irrelevant prior sexual history or character admitted as evidence;
- The right of a party to receive sufficiently advanced, written notice of any meeting or interview involving the other party, where possible;
- The right to updates on the status of the investigation and/or resolution (upon request);
- The right to have reports addressed by a trained administrator.
- The right to preservation of privacy, to the extent possible and permitted by law;
- The right to meetings and/or interviews that are closed to the public;
- The right to petition that any University representative in the process be recused on the basis of demonstrated bias or conflict-of-interest;
- The right to have an advisor of their choice to accompany the party in all meetings and/or interviews associated with the resolution process;
- The right to receive a copy of the executive report prior to the report being finalized, and the right to have 10 business days to review and provide the investigator with comments and any additional relevant evidence at that time.
- The right to use of the preponderance of the evidence standard to make a finding after weighing all relevant evidence.
- The right to a fundamentally fair resolution as defined in these and other relevant procedures.

7.11 Disabilities Accommodation in the Resolution Process

The University is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the resolution process at University. Students needing such accommodations or support should contact the Accessibility and Disability Services Office. The requests will be reviewed and, in consultation with the person requesting the accommodation and the Title IX Coordinator (or designee), a determination will be made for which accommodations are appropriate and necessary for full participation in the process.

8 ADDITIONAL INFORMATION RELATED TO DHSMR POLICY

8.1 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.

8.2 COORDINATION WITH 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.

8.3 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.

8.4 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.

8.5 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.

8.6 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.

8.7 RECORD RETENTION

The Title IX Coordinator maintains records of investigations for a minimum of seven (7) years past the conclusion of the investigation. In cases where a student is the respondent, 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.

8.8 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.

9 DEFINITIONS & GLOSSARY OF TERMS

COMPLAINT PROCESS AND PARTIES TO A COMPLAINT

Complainant: The party 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 verbally or in writing. Formal complaints must be made in writing.

Investigator / Primary 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 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.

Official with Authority: The Title IX Coordinator or Deputy Title IX Coordinator(s) are designated as the Officials with Authority for responding to complaints of Title IX.

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 Employee: A responsible employee includes any employee 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.

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.

Title IX: Under the final rule, effective August 14, 2020, a report of sexual harassment is within the scope of Title IX if it occurred within the United States and in a location, event, or circumstance in which the university exercises substantial control over both the Respondent and the context in which the harassment is reported to have occurred.

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, cannot 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.

Harassment: Prohibited harassment includes, but is not limited to, epithets, slurs, derogatory comments or jokes, intimidation, negative stereotyping, threats, assault or any physical interference with the employee's normal work or movement. Harassment may also include written or graphic material placed on walls, bulletin boards or elsewhere on the Dominican's premises or circulated in the workplace that denigrates, shows hostility or aversion towards an individual or group because of the characteristics identified above.

Hostile Learning Environment and Academic Freedom: The University 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 sexual conduct of any nature that creates an offensive or hostile work environment, including unwelcome sexual advances, requests for sexual favors and other verbal, nonverbal and physical conduct of a sexual nature. 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.

Stalking: "Any person who willfully, maliciously, and repeatedly follows or willfully and maliciously harasses another person and who makes a credible threat with the intent to place that person in reasonable fear for his or her safety, or the safety of his or her immediate family is guilty of the crime of stalking." *Source: California Penal Code Section 646.9.*

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.

