

THE CALIFORNIA STATE UNIVERSITY  
OFFICE OF THE CHANCELLOR



BAKERSFIELD

June 23, 2015

CHANNEL ISLANDS

**MEMORANDUM**

CHICO

DOMINGUEZ HILLS

**TO:** CSU Presidents

EAST BAY

**FROM:** Timothy P. White  
Chancellor

FRESNO

FULLERTON

**SUBJECT:** Systemwide Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking Policy  
Executive Order 1095 Revised June 23, 2015

HUMBOLDT

LONG BEACH

Attached is a copy of Executive Order 1095 Revised June 23, 2015 – relating to implementation of Title IX, the Campus SaVE Act, and related legislation on sex discrimination, sexual harassment and sexual violence. Executive Order 1095 Revised June 23, 2015 supersedes Executive Order 1095 Effective June 3, 2014.

LOS ANGELES

MARITIME ACADEMY

MONTEREY BAY

In accordance with policy of the California State University, the campus president has the responsibility for implementing executive orders where applicable and for maintaining the campus repository and index for all executive orders.

NORTHRIDGE

POMONA

If you have questions regarding this executive order, please call Equal Opportunity and Compliance at (562) 951-4400.

SACRAMENTO

SAN BERNARDINO

TPW/lh

SAN DIEGO

Attachments

SAN FRANCISCO

c: CSU Office of the Chancellor Leadership  
Provosts  
Vice Presidents, Administration and Finance  
Vice Presidents, Student Affairs  
DHR Administrators  
Human Resources Officers  
Title IX Coordinators

SAN JOSÉ

SAN LUIS OBISPO

SAN MARCOS

SONOMA

STANISLAUS

**THE CALIFORNIA STATE UNIVERSITY**  
**Office of the Chancellor**  
**401 Golden Shore**  
**Long Beach, California 90802-4210**  
**(562) 951-4400**

**Executive Order:** 1095 Revised June 23, 2015

**Effective Date:** June 23, 2015

**Supersedes:** Executive Order 1095 Effective June 3, 2014

**Title:** Systemwide Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking Policy

The California State University (CSU) is committed to creating and sustaining an educational and working environment free of Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking.<sup>1</sup> The safety and well-being of our Campus communities is a priority for the University.

This Executive Order, and Executive Orders 1096, 1097 and 1098, provide direction on implementing Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 *et seq.*); the Violence Against Women Reauthorization Act of 2013 (which amends the Jeanne Clery Disclosure of Campus Security and Campus Crimes Statistics Act, commonly known as the Clery Act) (20 U.S.C. 1092(f)) (VAWA) under its Campus Sexual Violence Elimination Act provision (Campus SaVE Act); Title IV of the 1964 Civil Rights Act (42 U.S.C. § 2000c *et seq.*); the California Equity in Higher Education Act (Cal. Educ. Code § 66250 *et seq.*); the California Donahoe Higher Education Act (Cal. Educ. §§ 66000 *et seq.*); and the Governor's *California Campus Blueprint to Address Sexual Assault*, among other applicable state and federal laws and related regulations.

### **Legislative Requirements**

Title IX is a federal law that applies to educational institutions receiving federal financial assistance and prohibits discrimination on the basis of sex in an educational institution's programs or activities, including employment, academic, educational, extracurricular and athletic activities (both on and off Campus). Title IX protects all people regardless of their Gender, Sexual Orientation, or Gender Identity or Expression, from Sex Discrimination, including Sexual Harassment and Sexual Misconduct, which are forms of Sex Discrimination. Title IX requires institutions to take necessary steps to prevent Sex Discrimination on their Campuses, and to respond promptly and effectively when Sex Discrimination is reported. The Clery Act requires colleges and universities to report annual statistics on crime, including Sexual Assault and Rape, on or near their Campuses, and to develop and disseminate prevention policies. VAWA/Campus

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<sup>1</sup> These and other key capitalized terms are defined in Executive Orders 1096 and 1097. Terms contained within this Executive Order are intended to be gender neutral.

SaVE Act provides that Dating and Domestic Violence, and Stalking must be included in Campus Clery reports, and also requires that institutional policies address and prevent Sexual Misconduct, Dating and Domestic Violence, and Stalking through training, education, and certain discipline procedures.<sup>2</sup> California Education Code § 67386 requires other institutional policies, including the adoption of an Affirmative Consent standard in assessing Sexual Misconduct. The California Equity in Higher Education Act prohibits discrimination based on any Protected Status, including Gender or Sex, in all postsecondary institutions in the state. California Education Code § 67385.7 *et seq.* requires the CSU to provide educational and preventive information about Sexual Misconduct to Students. The *California Campus Blueprint to Address Sexual Assault* provides guidance on steps that can be taken to improve individual Campus responses to sexual violence.<sup>3</sup>

Together, these laws require CSU Campuses to (1) publish and widely disseminate a Notice of Nondiscrimination on the Basis of Gender or Sex; (2) designate one Employee to coordinate Title IX compliance (including compliance with VAWA/Campus SaVE Act, and all other relevant Sexual Discrimination/Harassment/Misconduct legislation); (3) adopt appropriate complaint and investigation procedures; (4) implement education and prevention programs for Students and Employees, as well as victim resource programs for victims of Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking; (5) provide written rights and options information to victims of Sexual Misconduct; (6) provide training to the Campus community on how to prevent, identify and report Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking; (7) provide training on how to conduct investigations to those Employees who investigate such allegations of Sexual Misconduct; and (8) provide training to student conduct Hearing Officers.

### **Confidentiality and Duty to Report**

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

Certain University Employees, described below, are required by law to maintain near or complete confidentiality; talking to them is sometimes called a “privileged communication.”

University Police, the Title IX Coordinator, University-employed physicians, professional counselors, sexual assault and domestic violence counselors and advocates, and certain other

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<sup>2</sup> Clery reporting and discipline procedures are addressed in other systemwide policy communications.

<sup>3</sup> Copies of the Blueprint may be obtained from <http://www.calcasa.org/wp-content/uploads/2012/06/OES-2004-CA-Campus-Blueprint.pdf>.

University Employees are required to explain to persons reporting Sexual Misconduct, Dating or Domestic Violence, or Stalking their rights and options with respect to confidentiality.

### **Privileged and Confidential Communications**

*Physicians, Psychotherapists, Professional Counselors, Licensed Clinical Social Workers, and Clergy*<sup>4</sup> – Physicians, psychotherapists, professional licensed counselors, licensed clinical social workers, and clergy who work or volunteer on or off Campus, who provide medical or mental health treatment or counseling and are acting in that role as part of their employment (*and those who act under their supervision, including all individuals who work or volunteer in these centers and offices*) may not report any information about an incident of Sexual Misconduct, Dating or Domestic Violence or Stalking to anyone else at the University, including the Title IX Coordinator, without the victim's consent. A person can seek assistance and support from physicians, psychotherapists, professional licensed counselors, licensed clinical social workers, and clergy without triggering a University investigation that could reveal the person's identity or the fact of the person's disclosure. *However, see limited exceptions below regarding when these practitioners must report to local law enforcement agencies. These practitioners should explain these limited exceptions, if applicable.*

*Sexual Assault and Domestic Violence Counselors and Advocates*<sup>5</sup> – Sexual assault and domestic violence counselors and advocates who work or volunteer on or off Campus in sexual assault centers, victim advocacy offices, women's centers, gender equity centers, and health centers and who are acting in that role (*including all individuals who work or volunteer in these centers and offices, as well as non-professional counselors or advocates, and those who act in that role under their supervision*) may talk to a victim of Sexual Misconduct, Dating or Domestic Violence, or Stalking without revealing any information about the victim and the incident to anyone else at the University, including the Title IX Coordinator and law enforcement (police), without the victim's consent. A victim can seek assistance and support from these counselors and advocates without triggering a University investigation or a law enforcement (police) investigation that could reveal his/her identity or that a victim disclosed an incident to them. *However, see limited exceptions below regarding when sexual assault and domestic violence counselors and advocates must report to local law enforcement agencies. Counselors and advocates should explain these limited exceptions to victims, if applicable.*

*Union Representatives* -- A CSU employee/union representative is not required to report a possible violation of Executive Orders 1095, 1096 or 1097 if the information is provided to the union representative, acting in that role, in a confidential setting by a union member seeking advice about a possible violation or representation in a matter within the scope of representation. However, CSU employee/union representatives are **strongly encouraged** to report the information to the DHR Administrator or Title IX Coordinator.

The University will be unable to conduct an investigation into a particular incident or pursue disciplinary action if a victim chooses to: (1) speak only to a physician, professional counselor,

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<sup>4</sup> See Cal. Evid. Code § 990 *et seq.*, § 1010 *et seq.*, and § 1030 *et seq.*

<sup>5</sup> See Cal. Evid. Code § 1035 *et seq.* and § 1037 *et seq.*

clergy member, sexual assault counselor, domestic violence counselor or advocate; and, (2) maintain complete confidentiality. Even so, these individuals will assist victims in receiving other necessary protection and support, such as victim advocacy, disability, medical/health or mental health services, or legal services, and will advise victims regarding their right to file a complaint with the University and a separate complaint with local or University police. If a victim insists on confidentiality, such professionals, counselors, and advocates may not be able to assist with: University academic support or accommodations; changes to University-based living or working schedules; or adjustments to course schedules. A victim who at first requests confidentiality may later decide to file a complaint with the University or report the incident to the police, and thus have the incident fully investigated. These counselors and advocates can provide victims with that assistance if requested as well as explain that University policy and the law include protections against retaliation. They should also explain that the University will not only take steps to prevent retaliation when it knows or reasonably should know of possible retaliation, but will also take strong responsive action if retaliation occurs.

**EXCEPTIONS:** Under California law, any health practitioner employed in a health facility, clinic, physician's office, or local or state public health department or clinic is required to make a report to local law enforcement if he or she provides medical services for a *physical condition* to a person who he or she knows or reasonably suspects is suffering from: (1) a wound or physical injury inflicted by a firearm; or (2) any wound or other physical injury where the injury is the result of assaultive or abusive conduct (including Rape, Sexual Assault, and Dating and Domestic Violence).<sup>6</sup> This exception does *not* apply to sexual assault and domestic violence counselors and advocates. Health care practitioners should explain this limited exception, if applicable.

Additionally, under California law, *all* professionals described above (physicians, psychotherapists, professional counselors, clergy, and sexual assault and domestic violence counselors and advocates) are mandatory child abuse and neglect reporters, and are required to report incidents involving victims under 18 years of age to local law enforcement.<sup>7</sup> These professionals will explain this limited exception, if applicable.

Finally, some or all of these professionals may also have reporting obligations under California law to: (1) local law enforcement in cases involving threats of immediate or imminent harm to self or others where disclosure of the information is necessary to prevent the threatened danger;<sup>8</sup> or (2) to the court if compelled by court order or subpoena in a criminal proceeding related to Sexual Misconduct, Dating or Domestic Violence, or Stalking.<sup>9</sup> If applicable, these professionals will explain this limited exception.

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<sup>6</sup> Assaultive or abusive conduct is defined to include a list of 24 criminal offenses, including Sexual Battery, incest, Rape, spousal Rape, abuse of a spouse or cohabitant, and any attempt to commit these crimes. See Cal. Penal Code §§ 11160-11163.2.

<sup>7</sup> See Cal. Penal Code §§ 11164-11174.3; see also CSU Executive Order 1083 or any superseding executive order.

<sup>8</sup> See Cal. Evid. Code § 1024.

<sup>9</sup> See Cal. Evid. Code § 1035.4.

## Reporting to University or Local Police

If a victim makes a report of a sex offense as enumerated in California Government Code § 6254(f)(2) to local or University Police, the police are required to notify the victim that his/her name will become a matter of public record ***unless confidentiality is requested***.<sup>10</sup> If a victim requests that his/her identity be kept confidential, his/her name will not become a matter of public record and the police will not report the victim's identity to anyone else at the University, including the Title IX Coordinator. University Police will, however, report the facts of the incident itself to the Title IX Coordinator being sure not to reveal to the Title IX Coordinator the victim's name/identity, or compromise their own criminal/police investigation. The University is required by the federal Clery Act to report certain types of crimes (including certain sex offenses) in statistical reports. However, while the University will report the ***type*** of incident in the annual crime statistics report known as the Annual Security Report, victim names/identities will not be disclosed. Likewise, the University is required by state law to report certain types of crimes to local law enforcement (including certain sex offenses). However, the victim's identity may not be disclosed to local law enforcement unless the victim consents after being informed of his/her right to have identifying information withheld. If a victim does not consent, the alleged assailant's identity may also not be disclosed to local law enforcement.<sup>11</sup>

## Reporting to the Title IX Coordinator and Other University Employees

Most University Employees have a duty to report Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking incidents when they are on notice of them. When a victim tells the Title IX Coordinator or another University Employee about a Sexual Misconduct, Dating or Domestic Violence, or Stalking incident, the victim has the right to expect the University to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably. ***In all cases, the University strongly encourages victims to report Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking incidents directly to the Campus Title IX Coordinator.***

As detailed above in the Privileged and Confidential Communications section of this policy, all University Employees ***except*** physicians, licensed counselors, sexual assault counselors and advocates, and their staffs must report to the Title IX Coordinator all known details about any Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating or Domestic Violence, or Stalking incidents of which they become aware. The University will need to determine what happened – and will need to know the names of the person(s) involved, any witnesses, and any other relevant facts, including the date, time and specific location of the incident.

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<sup>10</sup> See Cal. Penal Code § 293; Cal. Gov. Code § 6254(f)(2) (“The name of a victim of any crime defined by § 220, 236.1, 261, 261.5, 262, 264, 264.1, 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285, 286, 288, 288a, 288.2, 288.3 (as added by Chapter 337 of the Statutes of 2006), 288.3 (as added by [Section 6](#) of Proposition 83 of the November 7, 2006, statewide general election), [288.5](#), [288.7](#), [289](#), [422.6](#), [422.7](#), [422.75](#), [646.9](#), or [647.6 of the Penal Code](#) may be withheld at the victim's request, or at the request of the victim's parent or guardian if the victim is a minor.”)

<sup>11</sup> See Cal. Educ. Code § 67380(a)(6)(A).

To the extent possible, information reported to the Title IX Coordinator or other University Employees will be shared only with individuals responsible for handling the University's response to the incident. The University will protect the privacy of individuals involved in the incident except as otherwise required by law or University policy. A Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating or Domestic Violence, or Stalking report may result in the gathering of extremely sensitive information about individuals in the Campus community. While such information is considered confidential, University policy regarding access to public records and disclosure of personal information may require disclosure of certain information concerning a report. In such cases, efforts will be made to redact the records, as appropriate, in order to protect the victim's identity and privacy and the privacy of other involved individuals. Except as detailed in the section on Privileged and Confidential Communications above, no University Employee, including the Title IX Coordinator, should disclose the victim's identity or the facts of the incident to the police without the victim's consent or unless the victim has also reported the incident to the police.

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

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

- Provide Interim Remedies requested by the victim, if they are reasonably available, regardless of whether the victim chooses to report the incident to Campus or local police;
- Assist victims in accessing available victim advocacy, academic support, counseling, disability, medical/health or mental health services, and legal assistance both on and off Campus;
- Provide security and support, which could include issuing a no-contact order, helping arrange a change of Campus-based living or working arrangements or course schedules

(including for the Respondent pending the outcome of the investigation), or adjustments for assignments, tests, or work duties; and

- Inform victims of their right to report a crime to University or local police – and provide assistance if desired.

The University will not require a victim who reports Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating or Domestic Violence, or Stalking to participate in any investigation or disciplinary proceeding if the victim does not wish to participate.

The University will not generally notify parents or legal guardians of a Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating or Domestic Violence or Stalking report unless the victim is under 18 years old or the person provides the University with written permission to do so.<sup>12</sup>

Under California law, and pursuant to University policy, certain University Employees, including the Title IX Coordinator, are mandatory child abuse and neglect reporters and should explain to victims under 18 years of age that they may be required to report the Sexual Misconduct, Dating or Domestic Violence, or Stalking incident to the police.<sup>13</sup> However, the identity of the person who reports and the report itself are confidential and disclosed only among appropriate agencies.<sup>14</sup>

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

The Office of the Ombuds, if available on a specific Campus, provides confidential, neutral, and informal dispute resolution services, provides information about University policies and procedures, and makes referrals. However, in Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating or Domestic Violence, or Stalking cases, the Ombuds must report incidents to the Title IX Coordinator.

**NOTE:** If the University determines that the Respondent poses a serious and immediate threat to the Campus community, a designated Campus Security Authority under the Clery Act may be called upon to issue a timely warning to the community. Any such warning will not include any information that identifies the victim.

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<sup>12</sup> If there is a health and safety issue (e.g., immediate threat to self or others), the University may notify parents or legal guardians, regardless of the victim's age, as allowed under the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g).

<sup>13</sup> See Cal. Penal Code §§ 11164-11174.3; see also CSU Executive Order 1083 or any superseding executive order.

<sup>14</sup> See Cal. Penal Code § 11167(d).



## **Notice of Nondiscrimination on the Basis of Gender or Sex**

Each CSU Campus is required to post a *Notice of Nondiscrimination on the Basis of Gender or Sex* prominently on its website. The Notice must also be: (1) posted at Campus locations where other notices regarding Campus policies are posted, as well as published in electronic and printed publications of general distribution that provide information to Students and Employees about the University's services and policies; and, (2) distributed to all Employees and all Students at the beginning of the fall term every academic year (no earlier than two weeks before and no later than two weeks after the first day of classes.) Distribution may be electronic.

The Notice must contain specific information, including contact information for the U.S. Department of Education, Office for Civil Rights, and the Campus Title IX Coordinator, as well as any Deputy Title IX Coordinator(s).

**Attachment A** is the *Notice of Nondiscrimination on the Basis of Gender or Sex* form Campuses shall make available in the manner described above. Aside from inserting information regarding Campus administrators and on and off Campus/local resources where indicated on the form, Campuses *shall not* make any other changes to the Notice. The Notice must identify the Campus Title IX Coordinator and any Deputy Title IX Coordinator(s), and their respective roles and responsibilities on Campus.<sup>15</sup>

## **Notice of Rights and Options for Victims of Sexual Misconduct, Dating or Domestic Violence or Stalking**

A *written* explanation of rights and options must be provided to a Student, Employee or Third Party *who reports to the University that s/he has been a victim* of Sexual Misconduct, Dating or Domestic Violence, or Stalking, whether the offense occurred on or off Campus. It is the Title IX Coordinator's responsibility to ensure this written Notice is provided to the complainant/victim(s).

**Attachment C** is the written explanation of *Rights and Options for Victims of Sexual Misconduct, Dating or Domestic Violence, or Stalking* form Campuses shall provide to Complainants/victims. Aside from inserting information regarding Campus administrators or local resources where indicated on the form, Campuses *shall not* make any other changes to the form.

## **Complaint Procedures**

The CSU is required to adopt and publish complaint procedures that provide for prompt and equitable resolution of Sex Discrimination complaints, including Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking.

***Complaints made by Employees, former Employees, and applicants for employment.***  
Executive Order 1096, entitled "Systemwide *Policy* Prohibiting Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking Against

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<sup>15</sup> See also **Attachment B, *Myths and Facts about Sexual Misconduct***, which should be published and distributed alongside **Attachment A, *Notice of Nondiscrimination on the Basis of Gender or Sex***.

Employees and Third Parties and *Procedure* for Addressing Such Complaints by Employees and Third Parties” is the appropriate systemwide procedure for all complaints of Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking made by Employees and Third Parties against the CSU, another CSU Employee, a CSU Student or a Third Party. Employees covered by a collective bargaining agreement that provides a grievance procedure for raising allegations of Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating or Domestic Violence, or Stalking shall use the grievance procedure specified in their collective bargaining agreement.

***Complaints made by Students.***<sup>16</sup> Executive Order 1097, entitled "Systemwide *Policy* Prohibiting Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking Against Students and Systemwide *Procedure* for Addressing Such Complaints by Students" is the appropriate systemwide procedure for all complaints of Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking made by CSU Students against the CSU, a CSU Employee, another CSU Student, or a Third Party.

***Complaints made by Student-Employees.*** Executive Order 1096 is the appropriate systemwide procedure for all complaints of Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking made by Student-Employees where the alleged violation arose out of the person’s status as an Employee and not his/her status as a Student.

***Complaints made by Third Parties.*** Executive Order 1096 is the appropriate systemwide procedure for all complaints of Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking filed by Third Parties against the CSU, a CSU Employee or a CSU Student.

Regardless of whether an Employee, a Student or a Third Party ultimately files a complaint under the applicable complaint procedure, if a Campus knows or has reason to know about possible Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating or Domestic Violence, or Stalking, it must review the matter to determine if an investigation is warranted. When warranted, all such investigations must be prompt, thorough and impartial, and shall comply with the procedure outlined in the relevant Executive Order. The Campus must then take appropriate steps to eliminate the misconduct, prevent its recurrence, and remedy its effects.

## **Confidential Sexual Assault Victim’s Advocates**

### **Designation and Appointment**

Each Campus is required to designate at least one confidential Sexual Assault Victim’s Advocate (Advocate). The Advocate should be a full-time Employee of the University or a recognized University auxiliary, whose primary responsibility is rendering advice and assistance to victims of Sexual Misconduct. The Advocate may also be appointed by way of a written agreement with a local community-based sexual violence service provider, such as a rape crisis center, to provide the services described herein. The Advocate shall be confidential, independent, and certified, as

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<sup>16</sup> For purposes of this Executive Order, the term "Students" includes applicants for admission.

described below, and shall be appointed based on experience and a demonstrated ability to effectively provide sexual violence victim services and response.

### **Confidentiality**

It is essential that the Advocate be an individual who has protection under state law to engage in privileged communications, as described below in the section on Certification.

While it would be appropriate for the Advocate to report to and be supervised by Campus Student counseling services or health services, Campus placement of the Advocate in a different division, department or office would be acceptable as long as the provisions of this section are followed.

Because of their confidential nature, Advocates are not required to report Sexual Misconduct incidents to the University (e.g., to the Title IX Coordinator) or to police without the written consent of the victim, unless an exception applies as described above.

### **Roles and Responsibilities**

The Advocate will provide the emergency and ongoing support services and assistance outlined below in order to ensure the well-being and safety of victims. These services shall be available 24 hours a day.

- Advocate services need to be flexible, varied, and provided by well-trained, certified sexual assault counselors to address the variability of victim needs.
  
- The Advocate may accompany victims, at their request and with their permission, and be with them as a support person:
  - Throughout all stages of the University's investigation and discipline proceedings, including acting as an Advisor at any related meeting or hearing.
  - When giving reports to or meeting with University Police, local law enforcement, the Title IX Coordinator, and any other University administrator related to a Sexual Misconduct complaint.
  - When going to medical/counseling appointments and treatments (including medical-forensic evidentiary examinations by a Sexual Assault Forensic Examiner).
  - When going to legal appointments and hearings in court or with legal representatives, including assistance with obtaining a restraining or other protective order.

- When going to meetings and appointments with University personnel, including the Title IX Coordinator, regarding Interim Remedies (e.g., academic, employment, and housing).
- The Advocate may assist victims, with their permission:
  - In seeking reasonable and available Interim Remedies from the University, even where the victim has elected not to file a Complaint. Such reasonable and available Interim Remedies may include but not be limited to: academic support, adjustments/changes to course schedules, changes to University-based housing and work schedules, and stay away orders issued to the Respondent.
  - With other related reasonable and available on and off Campus services that ensure their well-being and safety.
- Regardless of whether victims wish to remain confidential, the Advocate shall carry out the following:
  - Ensure victims, with their consent, receive information about 24 hour-a-day sexual violence assistance services:
    - Information on how to report to law enforcement and to the University's Title IX Coordinator;
    - Emergency medical care, including follow-up medical care, as requested; and,
    - Medical forensic or evidentiary examinations.
  - Ensure victims, with their consent, receive the following sexual assault assistance services:
    - Crisis intervention counseling and ongoing counseling;
    - Information on victim rights and options, including referrals to additional support services; and,
    - Information on legal services, and the availability of restraining and/or no-contact orders.
  - Guide those who request assistance through the reporting, counseling, administrative, medical and health, academic accommodation, or legal processes of the University, University Police, and/or local law enforcement.

- Attend as an Advisor, at their request, any University adjudication proceeding related to the Sexual Misconduct. Assist with arranging transportation services, as appropriate. Maintain privacy and confidentiality.
- Regardless of whether victims wish to remain confidential, the Advocate shall not notify the University or any other authority, including law enforcement, of the identity of the victim or any witness or of the alleged circumstances surrounding the reported Sexual Misconduct unless otherwise required by applicable state or federal laws.
- Advocates may also serve on Campus-based Sexual Misconduct task force committees/teams to provide general advice and consulting, and to participate in prevention and awareness activities and programs. However, it would not be appropriate for the Advocate to discuss or communicate about confidential or private information related to specific victims.
- The Advocate may play an active role in assisting, coordinating, and collaborating with the Title IX Coordinator in developing and providing Campus-wide awareness and outreach activities, possibly including prevention activities.
  - The Title IX Coordinator remains primarily responsible for all Campus-based prevention and awareness activities.
  - All awareness outreach activities will comply and be consistent with University policies.
  - Before initiating any awareness and outreach activities, the Advocate will partner and collaborate with the Title IX Coordinator to ensure the activities comply with CSU policy, and are consistent with Campus-based practices.

## **Supervision**

To assure the independence and support needed for the Advocate to represent the interests of the victim independent of the University, the Advocate must report to and be supervised by an individual outside the office(s) handling the investigation and adjudication of Sexual Misconduct

complaints. Thus, the Advocate may not be under the direct control or supervision of the University's Title IX office, Student Conduct office, or Police Department.

If the Advocate is appointed by way of written agreement with a local community-based sexual violence service provider, such as a rape crisis center, supervision shall be provided by the outside service provider in accordance with the terms and conditions set forth in the written agreement.

### **Certification**

If employed by the University, the Advocate shall be a person whose primary responsibilities are rendering advice and assistance to Sexual Misconduct victims. The Advocate must have received a certificate evidencing completion of a training program in the counseling of Sexual Assault victims issued by a counseling center that meets the criteria for the award of a grant established pursuant to California Penal Code §13837 and who meets one of the following requirements:

1) Is a psychotherapist as defined in California Evidence Code § 1010; has a master's degree in counseling or a related field; or has one year of counseling experience, at least six months of which is in rape crisis counseling; or

2) Has 40 hours of training as described below and is supervised by an individual who qualifies as a psychotherapist or counselor under paragraph (1). The training, supervised by a person qualified under paragraph (1), shall include but not be limited to the following areas:

- Law
- Medicine
- Societal attitudes
- Crisis intervention and counseling techniques
- Role playing
- Referral services
- Sexuality

Alternatively, the Advocate may be a person who is employed by any organization providing the programs specified in California Penal Code § 13835.2 for the purpose of counseling and assisting Sexual Assault victims, and who meets one of the following requirements:

1) Is a psychotherapist as defined in California Evidence Code § 1010; has a master's degree in counseling or a related field; or has one year of counseling experience, at least six months of which is in rape crisis counseling; or

2) Has the minimum training for sexual assault counseling required by the guidelines established by the employing agency pursuant to California Penal Code § 13835.10(c), and is supervised by an individual who qualifies as a psychotherapist or counselor under

paragraph (1). The training, supervised by a person qualified under paragraph (1), shall include but not be limited to the following areas:

- Law
- Medicine
- Societal attitudes
- Crisis intervention and counseling techniques
- Role playing
- Referral services
- Sexuality

### **Location and Availability of Services**

The Advocate shall provide effective and accessible victim-advocacy services, in a safe, private, and confidential environment.

The Advocate should be physically housed on Campus in a gender-neutral location which allows for privacy and confidentiality when meeting with victims. The Advocate should not be housed in a women's center, as some victims are men or gender-nonconforming and might not be comfortable seeking assistance in a women's center. A gender equity or similar inclusive center would be appropriate, but is not mandatory if a Campus has no such office.

Advocates will provide services to all Student and Employee victims. If a Student or Employee victim leaves the University, the Advocate may assist with referrals to off-Campus resources and services to ensure sustained support.

Advocacy services should be available 24 hours a day, and should be provided via a 24/7 telephone and web-based hotline. However, one employee Advocate cannot provide 24/7 coverage. Therefore, where Campus staffing, resources or funding are insufficient, a memorandum of understanding (MOU) with a local rape crisis or treatment center should be considered for after-business hours advocacy services. The MOU should provide that the local rape crisis or treatment center will coordinate and communicate with the Campus-based Advocate, in accordance with these guidelines.

Online advocacy services should also be available 24 hours a day. A prominently displayed, clear and plainly written website should be created and utilized so victims can anonymously and privately obtain all relevant information, any time of day or night.

### **Annual Report**

The Advocate shall submit to the Campus President and Title IX Coordinator an annual report summarizing how the resources supplied to the Advocate were used, including the number of Sexual Misconduct victims assisted. No personally identifying information will be included in

the report. These annual Campus reports will also be submitted to the Systemwide Title IX Compliance Officer.

### **Campus Title IX Coordinators**

Each Campus is required to designate one Title IX Coordinator with primary responsibility to monitor, supervise, and oversee overall Campus-wide implementation of and compliance with Title IX and this Executive Order,<sup>17</sup> including coordination of training, education, communications, and administration of complaint procedures for Employees, Students and Third Parties in the areas of Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking. The Title IX Coordinator shall have authority across *all* Campus-based divisions and programs (e.g., Human Resources, Academic Affairs, Student Affairs, Athletics, Housing, University Police, etc.) to monitor, supervise, oversee, and ensure implementation of this Executive Order in all areas, including the duties listed below. The Title IX Coordinator and any Deputy Title IX Coordinator(s) shall be Management Personnel Plan (MPP) employees. The designated coordinator should be someone without other institutional responsibilities that could create a conflict of interest (e.g., someone serving as University counsel or as a disciplinary decision maker) and should report directly to a vice-president or higher. The Title IX Coordinator must have the qualifications, authority and time to address all complaints throughout the Campus involving Title IX issues.

Each Campus may designate one or more Deputy Title IX Coordinators. The Title IX Coordinator may delegate training, education, communications, complaint procedure administration, investigations, and related Title IX duties to one or more Deputy Title IX Coordinators. However, all Deputy Title IX Coordinators must report to the Title IX Coordinator in their capacity as Deputy Title IX Coordinators. The Title IX Coordinator shall monitor, supervise, and oversee all such delegated tasks, including reviewing all investigative reports before they are final to ensure that the investigation was sufficient, appropriate, impartial, and in compliance with all relevant Executive Orders.

The Title IX Coordinator and any Deputy Title IX Coordinator(s) must have adequate training on what constitutes Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking, as well as how to investigate such complaints. The Title IX Coordinator and any Deputy Title IX Coordinator(s) must also understand how Campus and systemwide complaint procedures operate.

The Title IX Coordinator is responsible for ensuring the *Notice of Non-Discrimination on the Basis of Gender or Sex (Notice) (Attachment A)* and the *Myths and Facts About Sexual Misconduct (Attachment B)* are widely published and distributed as set forth above. Also, the Notice must identify the Campus Title IX Coordinator and any Deputy Title IX Coordinator(s), and their respective roles and responsibilities on Campus. The Title IX Coordinator is also responsible for ensuring the written explanation of *Rights and Options for Victims of Sexual Misconduct, Dating or Domestic Violence, or Stalking (Attachment C)* is provided to all Sexual Misconduct, Dating or Domestic Violence, or Stalking victims.

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<sup>17</sup> Again, this includes compliance with VAWA/Campus SaVE Act and all other related sexual harassment/violence legislation.



Title IX prohibits sex-based discrimination in all University programs and activities, including athletics. Title IX measures gender equity in athletics in three distinct areas: (1) participation; (2) scholarships; and, (3) other benefits, including the provision of equipment and supplies, scheduling, travel, tutoring, coaching, locker rooms, facilities, medical and training facilities, and services, publicity, recruiting, and support services. The Title IX Coordinator is responsible for comparing the Campus's enrollment data to the number of athletic participation opportunities for Students of the underrepresented sex; and evaluating whether there is unmet interest in a particular sport, whether there is sufficient ability to sustain a team in the sport, and whether there is a reasonable expectation of competition for the team. The Title IX Coordinator should also coordinate the Campus's efforts to ensure that athletic financial assistance awards and the distribution of athletic benefits, including financial expenditures, comply with Title IX regulations. Because the Title IX requirements governing gender equity in athletics are complex and require coordination with NCAA and other rules, Campuses may wish to consider designating a Deputy Title IX Coordinator to handle only gender equity in athletics issues under the supervision of the Title IX Coordinator, who remains ultimately responsible for Campus-wide compliance.

In addition to coordinating training, education and preventive measures in the areas of Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking, the Campus Title IX Coordinator's mandatory duties include:

- Ensuring that victims reporting Sexual Misconduct, Dating or Domestic Violence, or Stalking are notified of the right to file a criminal complaint;
- Providing reasonable Interim Remedies, if requested and available, regardless of whether the victim chooses to report the conduct to Campus police or local law enforcement;
- Meeting on a regular basis, as appropriate, with victims reporting Sexual Misconduct, Dating or Domestic Violence, or Stalking to determine what steps (interim and ultimate) should be taken to protect him/her from any resulting hostile or unsafe environment, and ensuring that such steps are taken;
- Working with all Campus divisions (e.g., University Police, Human Resources, Academic Affairs, Student Affairs, and Athletics) to provide Employees and Students all required education programs and information;
- Monitoring, supervising, and overseeing **all** complaints of Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating or Domestic Violence, or Stalking, including related investigations, reports, interim and/or ultimate remedies, resolution, and coordination with disciplinary decision-makers regarding any resulting discipline against the Respondent;
- Creating a case management team responsible for coordinating and monitoring reports and investigations to assure that responses are timely, appropriate, impartial, and in compliance with this and all relevant Executive Orders;
- Reviewing all investigative reports before they are final to ensure that they are sufficient, appropriate, impartial, and in compliance with this and all relevant Executive Orders;

- Ensuring that appropriate disciplinary sanctions are imposed against Employees or Students who have violated Executive Orders 1096 or 1097;
- Reviewing the outcome of Employee and Student disciplinary proceedings involving cases of alleged Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking to determine whether they resolve all complaints, and whether any additional remedies need to be provided;
- Creating a committee of Employees, Students and Campus officials to identify strategies for ensuring that Employees and Students know how to identify and report Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking, and know what Remedies are available to victims;
- Regularly assessing Employee and Student activities to ensure that no practices or behaviors violate policies against Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating or Domestic Violence, or Stalking, and using the results of such assessments to inform proactive remedial steps;
- Assisting the campus in developing a method to survey the school climate and coordinate the collection and analysis of information from that survey;
- Creating a website, with a link prominently displayed on the Campus's homepage, that includes the name and contact information of the Title IX Coordinator and any deputies, relevant policies and grievance procedures, and other resources related to Title IX compliance and gender equity;
- Identifying and addressing any systemic or other patterns of Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating or Domestic Violence, or Stalking, and implementing corrective measures, as appropriate;
- Reviewing recruitment materials, admission forms, and policies and practices to ensure that the Campus does not discriminate on the basis of sex or Gender in recruitment and admissions;
- Reviewing materials used in counseling or guiding students or applicants for admission to ensure that the Campus does not use different materials for students based on sex or Gender or use materials that permit or require different treatment of students based on sex or Gender;
- Monitoring sex-based disparities in enrollment, including in nontraditional fields, by reviewing enrollment data, counseling practices, and appraisal materials, to ensure that disparities are not the result of discrimination on the basis of sex or Gender;
- Monitoring procedures and practices for awarding financial assistance to ensure compliance with Title IX regulatory requirements;

- Providing training to Students, administrators, faculty and other staff so that they know that Title IX prohibits discrimination against pregnant and parenting Students, and assisting the Campus in helping to meet the unique educational, child care, and health care needs of pregnant and parenting Students;
- Monitoring the Campus's administration of discipline to ensure that similarly situated students are not disciplined differently based on sex or Gender for the same offense and that the disciplinary policies do not have an unlawful disparate impact on Students based on sex, Gender Identity, or for failing to conform to stereotypical notions of masculinity or femininity in their behavior or appearance; and,
- Regularly evaluating the timeliness of investigations in a systematic manner to ensure that investigations are conducted as promptly as possible.

### **Training, Education and Preventive Measures**

Each Campus must implement preventive education programs to promote the awareness of CSU policies against Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking, and to make victim resources available, including comprehensive victim services. Programs must include primary prevention and awareness programs: (1) for all *new* Students<sup>18</sup> and *new* Employees; (2) refresher programs at least annually for all Students; (3) twice a year for all Students who serve as Advisors in residence halls; (4) annually for all Student members of fraternities and sororities; (5) annually for all Student athletes and coaches; and, (6) annually for all Employees consistent with their role in responding to and reporting incidents. Ongoing prevention and awareness campaigns for *all* Students and Employees shall also be conducted.

Each Campus must assess which Student organizations participate in activities that may place Students at risk and ensure that they receive annual supplemental trainings focused on situations the group's members may encounter.

Primary prevention programs include programming, initiatives, and strategies informed by research or assessed for value, effectiveness or outcome that are intended to stop Sexual Misconduct, Dating or Domestic Violence, or Stalking before they occur through the promotion of positive and healthy behaviors that foster mutually respectful relationships and sexuality, encourage safe bystander intervention, and seek to change behavior and social norms in healthy and safe directions.

Bystander intervention means safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of Sexual Misconduct, Dating or Domestic Violence, or Stalking. It includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening and identifying safe and effective intervention options, and taking action to intervene.

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<sup>18</sup> This includes incoming transfer, graduate, online, and extended education Students. The programs should occur no later than the first few weeks of the first semester.

Awareness programs include community-wide or audience-specific programming, initiatives, and strategies that increase audience knowledge and share information and resources to prevent violence, promote safety, and reduce perpetration.

To ensure that all Students receive the necessary information and training enumerated above on Sexual Misconduct, Dating and Domestic Violence, and Stalking, Campuses should impose consequences, such as registration holds, on those Students who do not participate in and complete such mandatory training.

These education and training programs shall include the following information:

- A statement that the CSU prohibits Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking.
- What constitutes Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking.
- The definition of Affirmative Consent.
- A statement that Sexual Misconduct, Dating and Domestic Violence, and Stalking violate University policy and may also violate criminal law.
- Common facts and myths about the causes of Sexual Misconduct. (See **Attachment B, *Myths and Facts about Sexual Misconduct***, to be posted and published alongside **Attachment A, *Notice of Nondiscrimination on the Basis of Gender or Sex***.)
- Safe and positive options for bystander intervention that may be taken by an individual to prevent harm or intervene in risky situations involving these offenses.
- Methods of encouraging peer support for victims.
- Information regarding Campus, criminal, and civil consequences of committing acts of Sexual Misconduct, Dating and Domestic Violence, and Stalking.
- A statement explaining that the University's primary concern is the safety of members of the Campus community; that the use of alcohol or drugs never makes the victim at fault for Sexual Misconduct; that Students or Employees who experience or witness Sexual Misconduct should not be deterred from reporting incidents out of a concern that they might be disciplined for related violations of drug, alcohol, or other University policies; and that Students or Employees who experience or witness Sexual Misconduct shall not be subject to discipline for related violations of conduct policies at or near the time of the misconduct unless the violation is egregious (including actions that place the health or safety of any other person at risk or involves plagiarism, cheating, or academic dishonesty.)
- A statement that "CSU policy prohibits retaliation against a person who: reports Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating or Domestic Violence, or Stalking; assists someone with a report of such conduct; or participates in any manner in an related investigation or resolution. Retaliation includes threats, intimidation, reprisals, and/or adverse actions related to employment or education."
- How to recognize warning signs of abusive behavior and how to avoid potential attacks.

- Information on risk reduction, including options designed to decrease perpetration and bystander inaction, and to increase empowerment for victims in order to promote safety and to help individuals and communities address conditions that facilitate violence.
- What someone should do if s/he has experienced or witnessed Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating or Domestic Violence, or Stalking.
- Individuals to whom incidents may be reported along with information regarding what degree of confidentiality may be maintained by those individuals.
- The availability of, and contact information for, Campus and community resources for victims of Sexual Misconduct, Dating or Domestic Violence, or Stalking.
- A description of Campus and systemwide policies and disciplinary procedures available for addressing alleged violations and the consequences of violating these policies, including the fact that such proceedings shall:
  - Provide a prompt, fair, and impartial investigation and resolution; and,
  - Be conducted by officials who receive annual training on issues related to Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking, and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.
- The fact that the victim and the Respondent will be afforded the same opportunities to have others present during a disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the Advisor of their choice.
- The fact that both the victim and the Respondent shall be simultaneously informed in writing of:
  - The outcome of any disciplinary proceedings that arises from an allegation of a Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating or Domestic Violence, or Stalking;
  - The University's procedures for the victim or Respondent to appeal the results of the disciplinary proceeding;
  - Any change to the disciplinary results that occurs prior to the time such results become final; and,
  - When disciplinary results become final.
- Possible sanctions or protective measures the University may impose following the final determination of a University disciplinary procedure regarding Sexual Misconduct, Dating or Domestic Violence, or Stalking.
- How the University will protect the confidentiality of victims, including how publicly-available recordkeeping (e.g., Campus Clery reports) will be accomplished without the inclusion of identifying information about the victim to the extent permissible by law.
- That persons who report being a victim of Sexual Misconduct, Dating or Domestic Violence, or Stalking ***must receive written*** notification of:

- Existing counseling, health, mental health, victim advocacy, legal assistance, and other services available for victims, both on Campus and in the community.
  - Options for, and available assistance in, changing academic, living, transportation, and working situations, if requested and if such accommodations are reasonably available, regardless of whether the victim chooses to report the incident to Campus police or local law enforcement.
- Procedures victims should follow if Sexual Misconduct, Dating or Domestic Violence, or Stalking has occurred, as well as the fact that the following *written* information must be provided to victims:
    - The importance of preserving evidence as may be necessary to prove Sexual Misconduct, Dating or Domestic Violence, or Stalking, or to obtain a temporary restraining or other protective order;
    - The name and contact information of the University Employee(s) to whom the alleged offense should be reported;
    - Reporting to law enforcement and Campus authorities, including the option to: (a) notify law enforcement authorities, including on-Campus and local police; (b) be assisted by Campus authorities in notifying law enforcement authorities if the victim so chooses; and, (c) decline to notify such authorities;
    - Where applicable, the rights of victims and the University's responsibilities regarding orders of protection, no contact orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court.

The above information is also contained in the *Notice of Nondiscrimination on the Basis of Gender or Sex (Attachment A)*. As previously stated, Campuses shall post the Notice prominently on the Campus website and include the Notice in handbooks/policies applicable to Employees, Students, Student athletes and members of Student activity groups and organizations, along with *Myths and Facts About Sexual Misconduct (Attachment B.)*

All persons involved in implementing these procedures (e.g., the Campus Title IX Coordinator and any Deputy Title IX Coordinator(s), investigators, Human Resource Directors and Hearing Officers presiding over student conduct hearings) shall have relevant annual training on issues related to Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking. Such annual training shall include the CSU complaint processes, as well as the handling, investigation and analysis of complaints of Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking. The annual training shall also address applicable confidentiality issues, especially with respect to the Title IX Coordinator's duty to weigh any victim's request for confidentiality against the duty to provide a safe and nondiscriminatory environment for all members of the Campus community. For matters involving Sexual Misconduct, Dating and Domestic Violence, and Stalking, the training shall also include how to conduct an investigation and hearing process that protects the safety of the person(s) involved and promotes accountability.

## **Remedies and Enforcement**

**Interim and Ultimate Remedies.** The University is required to provide victims who experience Sexual Misconduct, Dating or Domestic Violence, or Stalking with reasonably available Interim Remedies, if requested, regardless of whether the victim chooses to report the misconduct to Campus police or local law enforcement. Victims should be notified of options for avoiding contact with the Respondent, including changes to the Respondent's or purported victim's employment, academic or living situations, as appropriate. For example, the Campus may prohibit the parties from having any contact with each other pending the outcome of the Campus investigation and any ensuing discipline proceeding. Campuses should minimize the burden on the victim and should not, as a matter of course, remove victims from work assignments, job sites, classes or housing while allowing the Respondent to maintain the status quo. Other possible interim (and ultimate) steps may include providing an escort between Campus locations in extraordinary cases where safety may be endangered; changes to Employee work areas, work assignments or reporting relationships; providing Students with academic support services such as tutoring or allowing Students to re-take a course or withdraw from a course without penalty and without adverse effect on their academic records; and reviewing any disciplinary actions proposed to be taken against an alleged victim to see if there is a causal connection between the misconduct forming the basis for the proposed discipline and the alleged Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating or Domestic Violence, or Stalking. The Title IX Coordinator shall assist and provide the purported victim with reasonable Remedies as requested throughout the reporting, investigative, and disciplinary processes, and thereafter.

**Victim Rights and Resources.** Victims also should be made aware of their rights under Title IX, VAWA/Campus SaVE Act and related legislation, and any available resources, such as counseling, health, and mental health services, as well as the right to file a complaint with University and/or local law enforcement. Campuses must also ensure that persons know how to report any subsequent problems, and the Campus Title IX Coordinator or other appropriate Campus representatives should follow-up to determine whether any retaliation or new incidents of misconduct have occurred.

When addressing Sexual Misconduct, Dating or Domestic Violence or Stalking, Campuses should consider both on and off Campus resources, including local rape crisis centers, municipal law enforcement agencies, district attorneys' offices, and forensic medical examination sites. This allows Campuses to draw upon the expertise and resources of a broader group of professionals, thereby marshalling and maximizing time-sensitive services and resources.

## **Coordination with Criminal Investigations and Proceedings**

A pending (Campus or local) police criminal investigation does not relieve a Campus of its responsibility to resolve Sexual Misconduct, Dating or Domestic Violence, or Stalking complaints: a Campus may not wait until the conclusion of a police investigation to commence its own administrative investigation, and must take immediate steps to protect the victim(s). Although it may be necessary to temporarily delay the administrative investigation while the police are gathering evidence conducting their criminal investigation, once notified that the police have completed the fact gathering portion of their investigation, the Campus must promptly resume and complete its own investigation. Subject to applicable law, the Title IX Coordinator should normally be given access to Campus law enforcement investigation notes,

reports and findings as necessary for the administrative investigation, so long as it does not compromise the police/criminal investigation.

Campus police shall encourage the victim to file a complaint with the Title IX Coordinator (in addition to filing a criminal complaint). Unless the victim has already notified and/or consented to the disclosure of his/her identity to the Title IX Coordinator, Campus law enforcement shall redact all identity information before providing the Title IX Coordinator access to its investigation notes, reports and findings. Campus police shall also report the incident itself to the Title IX Coordinator while maintaining the confidentiality of the victim's identity (if anonymity is requested).

Campus police should receive copies of, and training on, this and all relevant Executive Orders, including the University's Sexual Misconduct, Dating and Domestic Violence, and Stalking investigation and complaint procedures.

Campus agreements with local law enforcement must allow the Campus to meet its obligations under this and all related Executive Orders to resolve complaints promptly and equitably.

### **Annual Report**

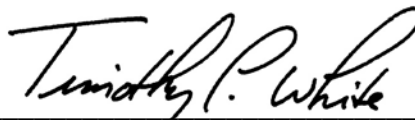
Each Campus will report the following annually on October 1, for the prior fiscal year (July 1 to June 30), without disclosing any information that would reveal the identities of the parties involved:

- (1) The number of Sexual Misconduct, Dating and Domestic Violence, and Stalking reports received in which a Student is the Respondent;
- (2) The number of Sexual Misconduct, Dating and Domestic Violence, and Stalking reports received in which an Employee is the Respondent;
- (3) The number of Sexual Misconduct, Dating and Domestic Violence, and Stalking reports investigated;
- (4) The number of Sexual Misconduct, Dating and Domestic Violence, and Stalking reports resolved without investigation, including a description of the resolution and/or reason for no investigation;
- (5) The number of Sexual Misconduct, Dating and Domestic Violence, and Stalking investigations in which the Respondent was held responsible, including a description of the final sanction; and,
- (6) The number of Sexual Misconduct, Dating and Domestic Violence, and Stalking investigations in which the evidence was found insufficient to hold the Respondent responsible.



The information shall be reported in a manner that protects the privacy of the persons involved, including victims, Respondents, and witnesses, and shall be posted on the Campus web site.

The Title IX Coordinator is responsible for preparing and publishing the annual report.



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Timothy P. White, Chancellor

Dated: June 23, 2015

Attachments:

Attachment A – Notice of Non-Discrimination on the Basis of Gender or Sex

Attachment B – Myths and Facts about Sexual Misconduct

Attachment C – Rights and Options for Victims of Sexual Misconduct, Dating and Domestic Violence, and Stalking

**Revision History:**

As a result of the issuance of this Executive Order, the following documents are superseded as of the effective date of this Executive Order and are no longer applicable:

- Executive Order 1095 (*Implementation of Title IX, VAWA/Campus SaVE Act, and Related Sex Discrimination, Sexual Harassment and Sexual Violence Legislation*), dated June 3, 2014
- Executive Order 1072 (*Implementation of Title IX of the Education Amendments of 1972 and Related Sexual Harassment/Violence Legislation for CSU Students*), dated April 6, 2012
- Executive Order 993 (*Implementation of the "California Campus Blueprint to Address Sexual Assault" and other Sexual Assault Legislation*), dated October 23, 2006