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I. PROHIBITION ON SEX OR GENDER-BASED HARASSMENT OR DISCRIMINATION

National University (the University) does not permit discrimination or harassment on the basis of sex or gender under any program or activity offered under its control. Sex-based or gender-based discrimination can include acts of sexual violence, sexual harassment, nonconsensual sexual contact, domestic violence, dating violence, stalking, gender-based bullying or hazing, and discrimination based on gender identity or failure to conform to stereotypical notions of masculinity or femininity.

II. INFORMATION FOR A VICTIM

If you have been the victim of this behavior, please consider the following information.

A. Medical Attention
Medical providers can treat injuries and test for pregnancy and STDs. Some medical providers can perform a Sexual Assault Forensic Exam which preserves evidence for use in a criminal case.

B. Police Reporting
It is your decision whether or not to report to the police. For the quickest police response, dial 911. To preserve evidence of a physical assault, avoid washing your body, brushing your teeth or changing your
clothes. If you believe you may have been drugged and wish to have your blood or urine tested, this should be done as soon as possible at a medical facility. Be aware that some physical evidence must be collected close in time to the incident. Even if you already cleaned up or if the incident occurred in the past, you can still report to the police. The University can provide you with the legal definitions that might be relevant to the incident, including the definition of consent in your state, and can assist you in reporting to police if you so choose.

C. Confidential Support
You may wish to talk with a person who can support you while maintaining confidentiality. In San Diego County, you can contact the Center for Community Solutions which provides free comprehensive services to victims of sexual assault, relationship violence and stalking. You can reach them by phone at 888-385-4657 or on the web at http://www.ccssd.org/get-help/hotline/

In California, you can contact CALCASA (California Coalition Against Sexual Assault) at 888-922-5227 or on the web at http://www.calcasa.org/; they can direct you to support in your county.

Outside of California, you can contact RAINN (Rape, Abuse & Incest National Network) at 202-544-3064 https://www.rainn.org/

Nation-wide resources include:

- Sexual Assault Hotline 800-656-4673
- Domestic Violence Hotline at 800-799-7233
- Center for Victims of Crime Hotline at 202-467-8700

These organizations can provide support and information on what types of conduct are prohibited by law and can assist you with information about reporting to the police or in applying for a civil protection order (a legal directive that someone not have contact with you). Importantly, these organizations can assist you in considering all of the options available to you.

D. Reporting To The School
You may wish to report to the University to access support or to file a complaint against a University student, faculty or staff member who engaged in the unwelcome behavior. Please be aware that in most cases, any University employee who receives a complaint of this nature must report all pertinent information to a designated school officer charged with responding.

Sexual harassment, sexual violence and other gender-based or sex-based harassment occurring in the college setting invokes a federal law called Title IX of the Higher Education Amendments of 1972, which prohibits discrimination on the basis of sex in education programs or activities and which triggers certain responsibilities on the part of the school. The University is committed to maintaining a
positive learning and working environment and will address all complaints appropriately. When the University determines, through its administrative process, that a violation has occurred, serious sanctions will be used to reasonably ensure that such actions are not repeated.

The University also prohibits retaliation against an individual because that individual participated in any manner in a complaint process. For more information about retaliation, see section VI, *Frequently Asked Questions*.

1. **Accessing National University Support**
   If the accused individual is not affiliated with the University as a student, faculty or staff member, or if the accuser chooses not to identify the accused individual, the University can still assist the accuser with locating counseling and other support services and may assist in rescheduling course requirements, assigning an incomplete in a class or allowing an accuser to transfer class sections.

2. **Party Resolution**
   Before filing a complaint with the school, whenever it is safe and possible, reasonable efforts may be made to constructively resolve issues through discussion between the parties. The University does not require the accuser to contact the accused if doing so is impractical or unsafe, or if the accuser believes that the conduct cannot effectively be addressed through this means.

3. **Filing a Complaint with National University or with the Office for Civil Rights**
   If the accused individual is affiliated with the University as a student, faculty or staff member the accuser may wish to file a complaint with the school. The school’s process for resolving complaints is described in section III.

The accuser also has the right to file a complaint with the Office for Civil Rights of the U.S. Department of Education (OCR). An accuser is not required to use the school’s grievance process before filing such a complaint.

Office for Civil Rights
400 Maryland Avenue SW
Washington, DC 20202-1100
Customer Service Hotline: (800) 421-3481
Email: OCR@ed.gov
III. NATIONAL UNIVERSITY PROCESS FOR RESOLVING COMPLAINTS

Jurisdiction and Reporting
Reporting a complaint is not limited to the individual or individuals who were subjected to the conduct; third-parties also may report a complaint. As necessary, the University may initiate a complaint, serve as Complainant and initiate University administrative proceedings without a formal complaint by the alleged victim.

The identity of the accused individual (Respondent) determines which office at the University has authority to resolve a complaint.

Any complaint that involves a National University student as the Respondent falls under the authority of the Office for Student Affairs (OSA) and an individual who wishes to report sex or gender-based discrimination or harassment by a student may report directly to that office. Detailed information about the OSA process for resolving complaints appears below.

Office of Student Affairs Title IX Compliance and Grievances Coordinator
National University
11255 N. Torrey Pines Road
La Jolla, CA 92037
(858) 642-8097
Email: CivilRightsComplaints@nu.edu

Any complaint that involves a non-faculty employee (staff member) as the Respondent falls under the authority and jurisdiction of the Human Resources department and a student who wishes to report sex or gender-based discrimination or harassment by a staff member may report directly to that office which can provide complete information about the process for resolving complaints against staff members:

Associate Vice President, Human Resources
National University
11255 N. Torrey Pines Road
La Jolla, CA 92037
(858) 642-8195

Any complaint that involves a faculty member as the Respondent falls under the authority and jurisdiction of the Provost and a student who wishes to report sex or gender-based discrimination or harassment by a faculty member may report directly to that office which can provide complete information about the process for resolving complaints against faculty members:
If an individual is uncertain about which office to contact, they may contact any of the above offices which will ensure that the report ultimately is reviewed by the appropriate office.

The University encourages submission of complaints in written form. Complaints should clearly describe the incident, incorporate supporting documentation, and describe the desired remedy.

IV. OFFICE OF STUDENT AFFAIRS (OSA) PROCEDURE FOR COMPLAINTS INVOLVING A UNIVERSITY STUDENT AS THE RESPONDENT

When a National University student is identified as the respondent, OSA will review the complaint and determine the most appropriate method for responding. Options may include voluntary informal mechanisms like mediation, a formal investigation as described below, or determining that there is not reasonable cause to believe that a violation occurred.

A. Location Of Incident
OSA will review all complaints regardless of where the conduct occurred, including conduct occurring partially or entirely online, to determine whether the conduct occurred in the context of an education program or activity or had continuing effects on campus or in an off-campus education program or activity.

B. Timeliness
OSA encourages prompt reporting of complaints so that a rapid response can be made and appropriate action taken. There is no time limit on filing a complaint as long as the accused individual remains subject to the University’s jurisdiction although a significant delay in reporting may negatively affect the ability of OSA to gather information about what occurred. Any individual enrolled in a course at the University when the alleged conduct occurs is subject to this policy, even if that individual withdraws or discontinues enrollment after the conduct occurs. Conduct that occurs between academic terms, involves any University records, involves the use of University resources such as the University network, or occurs when the student has a continuing relationship with the University also may be subject to this policy at the discretion of the school.

C. Time Frame For Resolution
OSA will resolve complaints in a prompt manner. OSA will make best efforts to resolve complaints within 60 calendar days, with additional time for any appeals. A concurrent criminal investigation by
police may impact this time frame as discussed below. OSA will provide the parties with periodic updates as to the status of the case as the parties desire and as is reasonable.

D. Accompanying Allegations
When a complaint is accompanied by alleged violations of the Student Conduct Code, all of the allegations may be resolved together as described in this document.

E. Additional Investigators
The OSA may designate an individual from within or outside of the University to conduct or assist with the resolution process at its discretion.

F. Grievance Procedures
Upon receiving a formal report or complaint, OSA will review the information and conduct an immediate initial inquiry to determine whether there is reasonable cause to believe that a violation occurred, i.e. a reasonable person would believe that further inquiry into whether a violation occurred is warranted. If the initial inquiry indicates there is not reasonable cause to believe that there was a violation, OSA will close the case. If the initial inquiry indicates that there is reasonable cause to believe that a violation may have occurred, OSA will begin the formal grievance procedure described below. In some cases, OSA may attempt to resolve the complaint through mediation with the parties with the complainant’s permission, although this method will not be utilized in cases of sexual violence. Intentional false reporting of incidents is addressed under section VI, Frequently Asked Questions.

i. Formal Grievance Procedure - Investigation and Finding
If the initial inquiry indicates that there is reasonable cause to believe that a violation occurred and mediation is not being used, the OSA will initiate a thorough, equitable, impartial and prompt investigation designed to provide a reliable determination about whether or not a violation has occurred.

Any investigation will be conducted by OSA employees who have received specialized training in conducting these types of investigations. In general the investigation may include interviews with the parties, interviews with relevant witnesses, the identification, solicitation and review of any information relevant to the investigation including educational or personnel records and available police reports, and consultation with expert witnesses as the OSA deems necessary.

OSA will contact the Respondent by email¹ to notify them of the investigation, describe the alleged misconduct and the policies it may violate, and offer the Respondent the opportunity to meet with the OSA investigator in person or by phone to respond to the allegations within the timeframe described in

¹ The email will be sent to the email address the student has on record with the school.
the email. Notice to the Respondent is considered received on the date the email is sent. If the Respondent fails to attend a meeting by the specified date, or if the Respondent schedules but does not attend or attends but does not participate, the investigator may complete the investigation, issue findings, and, as appropriate, issue sanctions without the Respondent’s participation. OSA encourages Respondents to participate in the grievance process.

OSA will use best efforts to provide equitable rights to the parties throughout the resolution process. The Complainant and Respondent each have the option to bring one advisor to any meeting to provide advice or support. Any attorney acting as advisor may not formally represent a party in University administrative proceedings. The investigator may exclude any advisor who disrupts a meeting. Both parties have the right to identify witnesses and provide other information relevant to the investigation. The Complainant and Respondent will not be permitted to directly question each other and are not required to be present together at any point in the grievance process.

The investigation will result in a finding as to whether or not the policy has been violated. The finding will be based on a preponderance of the evidence standard, i.e., whether it is more likely than not that the conduct occurred.

**ii. Formal Grievance Procedure - Sanctions and Remedies**

When the accused is found not responsible for the alleged violation, the investigation will be closed and the Complainant and Respondent notified. An appeal may be available as described in section iii below.

When the accused is found responsible for a violation, the OSA will take action to end the discrimination or harassment, prevent its recurrence, and remedy its effects on the victim and the University community. OSA will determine the consequences or sanctions for the Respondent and remedies for the Complainant and, as appropriate, the University community.

Any student found responsible for a violation may receive sanctions ranging from probation to expulsion along with any other sanctions, depending on the severity of the incident and taking into account factors such as any previous incidents. The OSA reserves the right to broaden or lessen this range of sanctions in the event of mitigating factors or egregiously offensive behavior. Sanctions imposed are implemented immediately unless the Vice President for Student Services (VPSS) delays their implementation in extraordinary circumstances pending the outcome of an appeal as described below.

OSA will determine which remedies may be offered to a Complainant depending on the nature of the case, including changes to academic or work obligations under the school’s control. Possible remedies may include providing an escort to ensure that the Complainant can move safely between classes;
ensuring the Complainant and Respondent do not share classes or extracurricular activities; providing victim services such as counseling and academic support services; or arranging for a Complainant to re-take a class, have extra time to complete a class, or withdraw from a class without an academic or financial penalty.

The Complainant and Respondent will be informed of the finding, the rationale for the finding and any relevant sanctions to the extent permissible by law simultaneously and via email, usually within 24 hours of the decision.

iii. Appellate Procedure
The only grounds for appeal are as follows:
1. To consider new evidence, unavailable during the original investigation, that could substantially impact the original finding or sanction. A summary of the new evidence and its potential impact must be included in the request for appeal; or
2. The sanctions imposed are substantially disproportionate to the severity of the violation; or
3. The grievance procedure was not followed which significantly impacted the outcome.

Either party may submit a request for an appeal for one of the three reasons above. The VPSS must receive any request for appeal in writing along with all relevant documentation within 3 business days of the decision being sent to the parties.

Vice President, Student Services
National University
11355 N. Torrey Pines Road
La Jolla, CA 92037
(858) 642-8036
Email: CivilRightsComplaints@nu.edu

The VPSS will review the request for appeal to determine if the appeal meets the limited grounds and is timely.

If the appeal is not timely or eligible, the original finding and any sanctions, if sanctions were issued, will stand and the decision is final. The VPSS will notify both parties in writing. The decision of the VPSS to deny appeal requests is final.

If the appeal is timely and eligible, the VPSS will share information from the appeal with the other party, who may file a response within 3 business days.

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2 Monday through Friday excluding official University holidays.
The VPSS will review the statements of both parties and may consult with the OSA staff who resolved the complaint and issued findings.

If the VPSS determines that new evidence exists which should be considered, the VPSS will return the complaint to the OSA to reconsider in light of the new evidence only. The reconsideration of the OSA may not be appealed.

If the VPSS determines that the grievance procedure was not followed which significantly impacted the outcome, the VPSS will return the complaint to the OSA to correct the error. The results may not be appealed.

If the VPSS determines that the sanctions imposed are substantially disproportionate to the severity of the violation, the VPSS will return the complaint to the OSA, who may then increase, decrease or otherwise modify the sanctions. The results may not be appealed.

The procedures governing the hearing of appeals include the following:

- The parties will be informed of the status of requests for appeal, the status of the appeal consideration, and the results of the appeal decision in a timely manner;
- Appeals are not intended to be full re-hearings of the complaint. In most cases, appeals are confined to a review of the written documentation or record and pertinent documentation regarding the grounds for appeal;
- Appeal officers will not substitute their judgment for that of the original hearing body merely because they disagree with the finding and/or sanctions. Appeal decisions are deferential to the original hearing body.

The VPSS will render a written decision on the appeal to all parties within 10 business days from receiving the appeal. If the VPSS returns the case to OSA as a result of the appeal, the OSA will notify the parties of the final results within 5 business days from receiving the appeal from the VPSS.

Any sanctions imposed by the OSA prior to appeal are implemented immediately unless the VPSS delays their implementation in extraordinary circumstances pending the outcome of an appeal. Graduation, internships/externships and similar circumstances do not in and of themselves constitute extraordinary circumstances, and students may not be able to participate in those activities during their appeal. In cases where the appeal results in reinstatement to the University or of privileges, all reasonable attempts will be made to restore the student to their prior status.

G. Interim Steps During The Resolution Process

OSA will take interim steps to protect a Complainant while the case is pending. Depending on the case, the Complainant’s wishes, and what is reasonably available, these steps may include changes to
academic and working situations over which the University has control, directing a Respondent to not have contact with a Complainant, excluding a Respondent from parts of campus, or providing a Complainant with an escort on campus. Any adjustments made will be designed to minimize the burden on the Complainant’s educational program. The OSA may modify work or academic arrangements during an investigation as it deems necessary in order to protect the safety or welfare of a member of the campus community or to allow the Complainant to continue to receive the benefits of education.

A Complainant may wish to report to law enforcement or obtain a civil or criminal restraining order while the case is underway. The OSA can provide information about these options.

OSA will discuss retaliation with the parties. Parties who believe they have been retaliated against due to participation in a grievance proceeding should notify the VPSS as soon as possible. Retaliation is defined below.3

The VPSS may place a Respondent on an interim suspension pending the resolution of the case where there is a substantial concern for the health, safety or welfare of any person, and will notify the Respondent by email if this occurs. An interim suspension means that the student cannot attend class and must remain off of University property until the grievance procedure is completed. Should a Respondent need to be on campus during this period, they must submit a request to the VPSS in writing 24 hours in advance, including the reason for needing to be on campus and the specific date, time frame and location requested. The VPSS will review the request and respond as to whether or not the request has been approved. Until the student receives written approval granting their request, their presence on campus will be considered trespass and law enforcement will be contacted.

H. Definitions
The OSA will utilize the following definitions in determining whether a violation occurred.

*Sexual Harassment:* Sexual harassment is unwelcome conduct of a sexual nature. It may involve intimidation, threats, coercion, sexual advances, requests for sexual favors or other verbal, non-verbal, or physical conduct of a sexual nature. For example, one student repeatedly subjects another student to egregious, unwanted sexual attention; sexual exploitation.

*Hostile Environment Sexual Harassment:* To constitute a violation of the sexual harassment provision, the behavior must create a hostile environment, meaning the behavior must be severe or pervasive enough to interfere with a person’s learning or working environment. Whether conduct creates a hostile environment will be considered from both a subjective and objective perspective, i.e. from the

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3 Allegations of retaliation will be addressed as separate violations subject to the investigative process described above and may result in sanctions, regardless of the outcome of the underlying case.
viewpoint of the person impacted as well as from the viewpoint of a reasonable person. One instance of nonconsensual sexual intercourse, nonconsensual sexual contact or sexual exploitation may constitute sexual harassment.

**Gender or Sex-based Discrimination:** Conduct that deprives an individual of an educational or employment benefit or opportunity on the basis of the individual’s actual or perceived gender or sex.

**Discriminatory Harassment:** Harassment based on an individual’s gender or sex that interferes with that individual's academic or work performance or participation in University programs or activities and creates a threatening, intimidating, or hostile learning or working environment. Whether conduct constitutes discriminatory harassment will be considered from both a subjective and objective perspective, i.e. from the viewpoint of the person impacted as well as from the viewpoint of a reasonable person.

**Retaliation:** Intentional adverse action against an individual as reprisal for filing or participating in a university or other formal grievance proceeding, taken without legitimate purpose. To be considered retaliation, a causal connection is required between the adverse action and the act of (1) reporting an allegation of discrimination or harassment; or (2) participating in support of an investigation of discrimination or harassment. A materially adverse action is one that would dissuade a reasonable person from reporting an allegation of discrimination or harassment, or from participating in support of an investigation of an allegation of discrimination or harassment. A determination of whether an action is materially adverse is made on a case-by-case basis.

**Non-Consensual Sexual Contact:** Any intentional sexual touching, however slight, with any object, by an individual upon an individual, that is without consent and/or by force. Sexual contact includes intentional contact with the breasts, buttock, groin, or genitals; touching another with any of these body parts; making another touch you or themselves with or on any of these body parts; and any intentional bodily contact in a sexual manner, though not involving contact with/of/by breasts, buttocks, groin, genitals, mouth or other orifice.

**Non-Consensual Sexual Intercourse:** Any sexual intercourse, however slight, with any object, by an individual upon an individual, that is without consent and/or by force. Intercourse includes: vaginal penetration by a penis, object, tongue or finger, anal penetration by a penis, object, tongue, or finger, and oral copulation (mouth to genital contact or genital to mouth contact), no matter how slight the penetration or contact.

**Sexual Exploitation:** Occurs when an individual takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one
being exploited, and that behavior does not otherwise constitute one of other offenses. Examples of sexual exploitation include, but are not limited to:

- Invasion of sexual privacy
- Non-consensual recording of sexual activity
- Going beyond the boundaries of consent (such as letting friends hide in the closet to watch consensual sex)
- Engaging in voyeurism
- Exposing one’s genitals in non-consensual circumstances or inducing another to expose their genitals
- Sexually-based stalking and/or bullying may also be forms of sexual exploitation

Consent: In order for individuals to engage in sexual activity of any type with each other, there must be clear, knowing and voluntary consent prior to and during sexual activity. Consent is sexual permission. Consent can be given by word or action, but non-verbal consent is less clear than verbal communication.

- Consent to some form of sexual activity cannot be taken automatically as consent to any other form of sexual activity.
- Silence, without actions demonstrating permission, cannot be assumed as consent.
- Consent is clear, knowing and voluntary.
- Consent is active, not passive.
- Consent can be given by words or actions, as long as those words or actions create mutually understandable clear permission regarding willingness to engage in, and the conditions of, sexual activity.
- Previous relationships or prior consent cannot imply consent to future sexual acts.
- Sexual activity resulting from coercion is not consensual. Coercion is unreasonable pressure for sex.
- Sexual activity resulting from force is not consensual. Force is the use of physical violence or physical imposition to gain sexual access.
- When alcohol or other drugs are being used, a person will be considered unable to give valid consent if they cannot fully understand the details of sexual interaction.

Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or to suffer substantial emotional distress.

Domestic Violence: Acts of violence or threatened acts of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or who has cohabited with the victim as a spouse or intimate partner, or by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state.
Dating Violence: Acts of violence or threatened acts of violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

Bullying, gender or sex-based: Repeated and/or severe aggressive behavior based on an individual’s gender or sex that is likely to intimidate or intentionally hurt, control or diminish another person physically or mentally that is not protected by free speech laws.

Hazing, gender or sex-based: Acts likely to cause physical or psychological harm or social ostracism to a person in the University community when related to admission, initiation, pledging or joining of a group activity or any other group affiliation activity, when based on sex or gender.

Attempts: In most cases, an attempt to commit a violation will be treated as if that attempt had been completed. For example, attempted non-consensual sexual contact will be treated as a completed act.

I. Conduct That May Be Criminal In Nature
The OSA has authority to address these complaints in a non-criminal context. The University process is completely separate from the police and courts.

For any incident that potentially involves criminal activity, an accuser may wish to report directly to law enforcement in addition to, or instead of, reporting to the University. University personnel including staff in the OSA can assist a Complainant in making a report to law enforcement. A Complainant may pursue both the University process and the criminal process simultaneously. In addition, in some states and in some circumstances, state law may require a University official to report certain crimes to law enforcement if police have not already been notified; if you have questions about this please contact the OSA.

When a police or criminal matter occurs simultaneous to the University process, in most cases the University will not wait until the criminal case is resolved before proceeding with the University process. The University’s fact-finding investigation may be delayed for a short period of time upon a request from law enforcement, but the University will promptly resume the investigation as soon as possible.

In cases involving threats, threatening behavior or violence including sexual violence, the OSA can provide information about seeking an order of protection through the courts.

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4 For example, University administrators are required to report to the police any information about a sex offense involving someone under the age of 18.
Each state has statutes that define rape, sexual assault, consent, domestic violence and stalking. If you need assistance locating these statutes please contact the OSA.\textsuperscript{5}

J. Rights Of The Parties

\textit{i. Both the accused and the accuser have the following rights:}

- The right to a thorough investigation and appropriate resolution of all credible complaints made in good faith to university administrators;
- The right to have one individual present in a support or advisory role during a related campus meeting;
- The right to be informed of the outcome and sanction of any University proceeding involving allegations of this nature, usually within 24 hours of the decision;
- The right to be notified of available counseling or other student services;
- The right to appeal the results pursuant to school policy;
- The right to preservation of privacy to the extent possible and allowed by law;
- The right to ask investigators to identify and question relevant witnesses, including expert witnesses;
- The right to be informed of campus procedures;
- The right to not have irrelevant prior sexual history admitted as evidence in a campus investigation;
- The right to submit an impact statement to be considered in determining sanctions;
- The right to have complaints addressed by University officials who have received sexual misconduct training.

\textit{ii. The accuser has these additional rights:}

- The right to not be discouraged by University officials from reporting an incident;
- The right to be informed by University officials of options to notify law enforcement authorities and the option to be assisted by campus authorities in doing so, if the accuser so chooses;
- The right to notification of options for changing academic situations after an alleged sexual assault incident, if so requested and if such changes are reasonably available. Options may include rescheduling course requirements, taking an incomplete in a class or transferring class sections;
- The right to not have any complaint of sexual assault resolved through mediation;
- The right to a campus no contact order against another student who has engaged in or threatens to engage in stalking, threatening, harassing or other improper behavior that presents a danger to the welfare of the complaining student or others.

\textit{iii. The accused has these additional rights:}

- The right to be informed of the nature and extent of alleged violations contained within the complaint;

\textsuperscript{5} California: Rape, Unlawful Sexual Intercourse and Consent defined in the California Penal Code §261-269; Stalking defined in the California Penal Code §646.9; Stalking defined in the California Civil Code §1708.7; Domestic Violence defined in the California Penal Code §6200-6219.
- The right to a meeting with the investigator within the designated deadline to present relevant information for consideration prior to any decision being made.

V. INFORMATION FOR THE ACCUSED

It can be difficult to be accused of misconduct. The following resources may be of use to an accused individual: San Diego County 24 Hour Crisis Line: 800-479-3339; San Diego County Warm Line (non-crisis telephone support): 800-930-WARM. If you feel you may be a danger to yourself, please call the National Suicide Prevention Lifeline at 1-800-784-2433.

If you are a Respondent in a case before the school, please note that the University utilizes neutral fact finders who will gather relevant and available information before making decisions about the allegations. Your participation in the grievance process is encouraged. The University is required by federal law to address allegations brought forward and to make decisions using a preponderance of the information standard of proof, including situations where the police are involved and many situations that occur off of campus. You may choose to not participate in a University process or to not make a statement regarding the allegations, but the school will make a finding regardless, and may issue sanctions without your participation if you are found responsible. Please see more information about your rights within the OSA process see section IV.

VI. FREQUENTLY ASKED QUESTIONS

What if the person who committed the violation is not a student, faculty or staff member of the University?
When the accused is not affiliated with the University, the University can still assist an accuser with locating counseling and other support services and in reporting to police.

Can an accuser report to the school confidentially?
In most cases, any University employee who receives a complaint of this nature must report all pertinent information to a designated school officer charged with responding. An exception to the reporting requirement exists for University employees who are required by licensure or statutory exemption to keep certain communications confidential; those persons are exempt from disclosing confidential communications received while performing their professional duties (e.g., a professional counselor, social worker or psychologist).

Who can an accuser talk to confidentially?
Confidential resources are described in section II. Confidential resources can assist a victim in considering all of the available options for support and reporting.

What if an accuser discloses the incident to the school but asks the school to not proceed with the case?
The University will attempt to defer to an accuser’s wishes, however when the University becomes aware of serious misconduct including sexual violence, the University may have an obligation to proceed with an investigation regardless of an accuser’s wishes in order to ensure campus safety. If an accuser requests that their name or other identifying information not be used in an investigation, the school will consider that request and make every effort to honor the request in light of the school’s responsibility to provide a safe and nondiscriminatory environment for all students. An accuser is never required to participate if they choose not to, however this may limit the University’s ability to respond to the incident. In most cases where the University proceeds, information including an accuser’s name may be shared with the Respondent, witnesses and with University officials who have a legitimate need to know. Beyond that, the University will take steps to protect an accuser’s identity.

If the University is able to honor an accuser’s request to not proceed, the University can still work with the accuser on changing academic or work assignments under the University’s control and providing increased monitoring, supervision or security at locations or activities. The school also may consider conducting climate surveys or means of preventing the conduct from recurring such as increased security on campus.

What interim remedies are available to a Complainant while an investigation is underway?
The University will discuss with the Complainant the options to avoid contact with the accused, options to allow the Complainant to change academic and work activities and any available resources, such as victim advocacy, academic support, counseling, disability services, health and mental health services, and the right to report a crime to law enforcement.

What is Title IX and who can I talk to about Title IX issues?
Sexual harassment, sexual violence and other gender-based or sex-based harassment occurring in the college setting implicates a federal law called Title IX of the Higher Education Amendments of 1972, which prohibits discrimination on the basis of sex in education programs or activities and which triggers certain responsibilities on the part of the University. Any questions regarding how Title IX applies should be directed to the University officials indicated in section III.

What is Retaliation?
If an individual brings concerns about possible violations to the school’s attention, it is unlawful for any student, staff or faculty member to retaliate against that individual for doing so. It is also unlawful
to retaliate against an individual because they participated in any manner in an OCR or school’s investigation or proceeding. Retaliation includes intimidating, threatening, coercing, or in any way discriminating against the individual. The school also prohibits retaliation against the Complainant or witnesses by the alleged Respondent. The University will take steps to prevent retaliation and will take strong responsive action if it occurs. Respondents are informed of this provision, and any retaliation should be reported immediately to the school.

How does the school address false complaints?
The University will not tolerate the intentional false reporting of incidents and it is a violation of the Student Conduct Code for a student to make an intentionally false report. Intentional false reporting may violate state criminal statutes and civil defamation laws. Allegations made in good faith, even if the allegations cannot be substantiated by an investigation, do not constitute false reporting under the school’s policies.

What if I was drinking while underage or taking drugs and I am the victim of unwanted sexual contact?
A Complainant’s use of alcohol or other drugs does not make the Complainant at fault for being a victim of violence. Because the school’s primary concern is student safety, minor alcohol and drug violations by a Complainant related to the incident being reported will be handled outside of the University’s Student Conduct process whenever possible. When a Respondent is found to have intentionally caused a victim to become intoxicated in order to facilitate non-consensual sex, that information may be considered an aggravating factor which may impact sanctioning.

Will my past sexual history be considered as a part of the investigation?
The past sexual history or sexual character of either party is generally regarded as irrelevant, unless the OSA determines such information is highly material, such as when a Respondent was previously found responsible for similar misconduct.

What is FERPA?
The Family Educational Rights and Privacy Act (FERPA) controls what information from a student’s education record may be disclosed, to whom, and under what circumstances. It can be found at 20 USC Sct. 1232 (g); http://www2.ed.gov/policy/gen/guid/fpco/pdf/ferparegs.pdf

How can I guard against unwanted sexual contact?
Only individuals who commit sexual violence are responsible for those actions. Nonetheless, these suggestions may help reduce your risk of unwanted sexual contact:
- If you have limits, make them known as early as possible.
- Tell a sexual aggressor “no” clearly and firmly.
- Try to remove yourself from the physical presence of a sexual aggressor.
• Find someone nearby and ask for help.
• Take affirmative responsibility for your alcohol intake/drug use and acknowledge that alcohol/drugs lower your sexual inhibitions and may make you vulnerable to someone who views an intoxicated person as a sexual opportunity.

How can I guard against being accused of unwanted sexual contact?
• Don’t make assumptions about consent or about whether someone is physically and/or mentally able to consent. If there are any questions or ambiguity, you do not have consent.
• Mixed messages from your partner are a clear indication that you should stop and communicate.
• Don’t take advantage of someone’s intoxicated state, even if they did it to themselves.
• Realize that your potential partner could be intimidated by you or fearful. You may have a power advantage simply because of your gender or size.
• Understand that consent to some forms of sexual behavior does not automatically imply consent to any other forms of sexual behavior.

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