

or manipulation, consistent with applicable local, state, and federal laws and regulations. Sexual misconduct includes, but is not limit >>BD,

- (6) Such conduct has the purpose or effect of unreasonably interfering with an individual's academic/work performance or creating an intimidating, hostile or offensive academic/work environment.

Examples of conduct that may constitute sexual harassment when the behavior is severe, pervasive, or persistent, include but are not limited to:

- x Generalized gender-based remarks and comments;
 - x Unwanted physical contact, such as intentional touching, grabbing, pinching, brushing against another's body or impeding or blocking movement;
 - x Verbal, written or electronic lewd, vulgar or obscene comments, jokes or unwanted propositions, including letters, notes, e-mail, text messages, invitations, gestures or inappropriate comments about a person's clothing;
 - x Visual contact, such as leering or staring at another's body;
 - x Displaying sexually suggestive objects, cartoons, posters, magazines or pictures of scantily-clad individuals; or displaying sexually suggestive material on a bulletin board, on a locker room wall, or on a screen saver in areas where individuals besides the poster can view these materials;
 - x Explicit or implicit suggestions of sex by a faculty/staff/administrator in return for a favorable educational or employment action, such as hiring, compensation, promotion, retention, grades, recommendations, etc.;
 - x Suggesting or implying that failure to accept a request for a date or sex would result in an adverse educational/employment consequence with respect to any academic or employment practice, such as evaluation or promotional opportunity; or
 - x Continuing to engage in certain behaviors of a sexual nature after an objection has been raised by the target of such inappropriate behavior.
- H. Gender-based harassment means non- sexual harassment of a person because of the person's sex and/or gender, including, but not limited to, harassment based on the person's nonconformity with gender stereotypes. Gender-based harassment is sexual misconduct.
- I. Dating violence means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- J. Domestic Violence includes felony and indictable or misdemeanor crimes 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 has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim

of the jurisdiction. A crime of violence is an offense that involves the use, attempted use, or threatened use of physical force against the person or property of another, or any other offense that is a felony or indictable crime that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

- K. Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to believe that the actor intended to harm, intimidate, or terrorize the person.

if no clear verbal or non-verbal consent is given; or if an involved individual was forced, coerced, threatened, sleeping, beaten, forcefully restrained, unconscious, or unable to give consent due to age, relationship, mental defect, or mental or physical incapacitation, or incapacitation due to the voluntary or involuntary use of any drug, intoxicant or controlled substance.

- Q. Respondent is an individual who has been reported to be the perpetrator of conduct that could constitute sexual or gender-based harassment or misconduct.
- R. Responsible Employee(s) is a University employee who has the authority to take action to redress sexual violence; who has been given the duty of reporting incidents of sexual violence, sexual harassment, or any other misconduct covered by this Procedure to the Title IX Coordinator; or who a student could reasonably believe has this authority or duty.

The University considers all employees to be Responsible Employees with a duty to report incidents of sexual violence, sexual harassment, or any other misconduct covered by this Procedure to the Title IX Coordinator, except the following individuals: employees in Counseling Services; licensed physicians and nurses; employees in the Women's, Gender, and Sexuality Center; and Osprey Advocates who are certified victim advocates. Student employees who serve in a supervisory, advisory, or managerial role are considered Responsible Employees for purposes of this Procedure (e.g., teaching assistants, residential assistants, student managers, orientation leaders, etc.).

II. APPLICABILITY AND JURISDICTION

This Procedure applies to all University employees, students, contractors and any person over whom the University has control.

This Procedure applies to sexual misconduct:

1. on University owned or controlled property;
2. at University-sponsored educational program or activities;
3. that adversely affects the University community; or
4. that threatens the health and/or safety of a member of the University community.

Sexual misconduct is a violation of Policy I-55 (Campus Conduct Code), and the policies prohibiting discrimination and harassment in the workplace (Policy VI-28) and the academic /education environment (Policy I-120), however, all reported incidents of sexual misconduct will be handled in accordance with this Procedure.

III. REPORTING PROCEDURES

Reporting of Sexual Misconduct: Any person may report sexual misconduct (whether or not the person reporting is the person alleged to be the target of sex discrimination, sexual harassment, or sexual misconduct), in person, by mail, by telephone, or electronic means. Once a report has been made, the Title IX Coordinator or the Coordinator's designee will meet with the aggrieved party and generate a Formal Complaint, which will begin the investigation process. Waiting to report an alleged incident of sexual misconduct may hinder an investigation and

delay the University's ability to respond and take appropriate action.

A person can report sexual misconduct or sexual harassment against a student; a University employee or official; or a third party who is connected to the University but is not a University employee or student (e.g. a visiting speaker, contractor).

Formal Complaint: A document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the University investigate the allegation of sexual harassment.

Any person who wishes to file a Formal Complaint of sexual harassment, sex
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Contact the Title IX Coordinator if you:

- x Have questions about Title IX and Stockton's response to sex/gender discrimination, sexual harassment, and other forms of sexual misconduct;
- x Have questions about sex/gender discrimination or sexual harassment, which is a form of sex/gender discrimination under the Federal Title IX regulations and State law;
- x Need guidance, assistance, or resource information on how to handle a situation that directly or indirectly affected you;
- x Wish to make a report and/or formal complaint; or
- x Want to provide feedback on how Stockton is fulfilling its responsibilities under this procedure.

The Title IX Coordinator will ensure that Complainants and Respondents:

- x Receive a copy of the Sexual Misconduct Procedure;
- x Are advised of their option to notify law enforcement and are assisted in doing so, if desired;
- x Are advised of the University's obligation to thoroughly investigate and process all sexual misconduct matters;
- x Are advised that even if the Complainant chooses not to pursue the complaint, the University may proceed with its investigation;
- x Receive written notice of available supportive and protective measures; and
- x Are advised about available resources for counseling, health, mental health, victim advocacy, and legal assistance.

Law Enforcement and Criminal Reporting

Complainants and reporters have the right to decline to notify law enforcement of an alleged incident of sexual misconduct. However, the University strongly encourages anyone who becomes aware of an incident of sexual misconduct which may be a crime to immediately report the incident to the Stockton University Police Department, to local law enforcement where the conduct occurred, or other appropriate law enforcement agencies. If off campus, call 911 to reach local law enforcement. If a reporter requests assistance, the Stockton University Police Department will help to notify other law enforcement agencies and will aid other agencies in a criminal investigation, if needed.

B. Reporting Under the Clery Act

Under the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act"), 20 U.S.C. § 1092(f), an employee who has been identified as Campus Security Authority (CSA) may receive a report of sexual assault, domestic violence, dating violence or stalking, and report to the Clery Compliance Coordinator only that an incident occurred, without revealing any personally identifying information if the victim wishes to remain anonymous. Speaking to a CSA about an incident will not trigger a police investigation against the Complainant's wishes and the

Complainant will not be identified in any publicly required disclosures. The incident report will be used for statistical reporting purposes and to determine if a timely warning should be sent out to the community. Reports of sex offenses must also be reported by the CSA to the Title IX Coordinator under Title IX.

On an annual basis, the Clery Compliance Coordinator will, with assistance from the Office of Human Resources and Student Affairs, identify and notify individuals of their status as a CSA. For more information about the Clery Act, see University Procedure 6930 – Clery Act Compliance.

C. Time Frame for Reporting

There is no time limit on reporting sexual misconduct, although the University's ability to respond fully may become more limited with the passage of time. If the Respondent is no longer affiliated with the University (e.g., a report is made after a student has left or graduated or an employee no longer works here), the University will still provide reasonably available Supportive Measures to the Complainant, assist the Complainant in identifying external reporting options, and may take other appropriate action to address the reported conduct.

D. Privacy and Confidentiality in Reporting

There is a distinction between reporting to a confidential resource and making a report of prohibited conduct to the University. Any individual may choose to seek support from professionals on campus or in the community who hold a legally

- (1) Student services: Staff within the Women's, Gender, and Sexuality Center, the Osprey Advocates who are certified victim advocates, employees of Counseling Services, and the licensed physicians and nurses in Health Services will treat incidents in a completely confidential manner, except where there is immediate and serious concern about safety, either that of the person reporting or that of others.

The staff identified immediately above will only disclose to the University that an incident of sexual misconduct has occurred, but without any personally identifying information, except if there is immediate and serious concern about safety of the person reporting or that of others, and/or they are given permission to make an identifiable report.

Please note that Responsible Employees (i.e., all employees not identified above) are not a confidential resource. Responsible Employees are required to report incidents of sexual misconduct, sex discrimination, or sexual harassment to the Title IX Coordinator. A report to a Responsible Employee constitutes a report to the University – and generally obligates the University to perform an inquiry and/or investigate the incident and offer supportive measures and the opportunity to file a formal complaint.

- (2) Employee services: The Stockton University Employee Assistance Plan (EAP) offers confidential consultation, assessment and referral, and short-term counseling to help staff, faculty and their household members with personal or work-related concerns including sexual harassment. EAP also provides unlimited consultation to managers and HR practitioners. Trained domestic violence counselors are available 24 hours a day, seven days a week by telephone. Contact EAP: Toll-Free: (866) 327-2400, 24 hours a day, or review available services on the Deer Oaks EAP Services website.

The privacy of the Complainant, the Respondent, and any other individuals associated with the reporting of an alleged incident of sexual misconduct will be maintained to the extent reasonably possible consistent with the law and the University's commitment to

of violence, whether the alleged perpetrator threatened further sexual misconduct or other misconduct against the Complainant or others, and whether the sexual misconduct was committed by multiple perpetrators). The factors considered also include an increased risk of future acts of sexual misconduct under similar circumstances (e.g., whether the Complainant's report reveals a pattern of perpetration at a given location or by a particular group), whether the sexual misconduct was perpetrated with a weapon, the age of the Complainant subjected to the sexual misconduct, and whether the University possesses other means to obtain relevant evidence (e.g., security cameras or physical evidence). If the University determines that it must disclose the Complainant's identity to an alleged perpetrator, it will inform the Complainant prior to making this disclosure.

IV. SUPPORTIVE MEASURES IN SEXUAL MISCONDUCT CASES

Supportive Measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Supportive measures are designed to restore or preserve equal access to the University's education program or activity without unreasonably burdening the other party, including measures designed to: protect the safety of all parties or the University's educational environment and workplace, maintain the integrity of the investigative and/or resolution process, and deter retaliation.

Supportive measures may include counseling, extensions of deadlines or other course- related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in housing locations, leaves of absence, temporary reassignment to other work duties and responsibilities, other work locations, other work groups/teams, or other supervision/management, increased security and monitoring of certain areas of the campus, and other similar measures. Depending on the situation, these measures may be provided on an interim or permanent basis.

The University will maintain as confidential any supportive measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the supportive measures (e.g., where a no-contact order is appropriate and one party would need to know the identity of the other party to comply with the no-contact order, or campus security is informed about the no- contact order to help enforce its terms). The University also will communicate with the beneficiary of a supportive measure before sharing personally identifying information the University believes is necessary to provide the measure.

The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures; however, various University offices share responsibilities to provide supportive measures for the Complainant and the Respondent. For example:

- x The Women's, Gender, and Sexuality Center (WGSC) [Room F-103] ensures confidentiality and provides advocacy and outreach to students related to

issues addressing sexual and gender-based harassment, sexual misconduct, sexual assault, dating and domestic violence, stalking, and gender and sexual identities. The staff of the WGSC provides confidentiality, following up counseling, as well as referrals, where appropriate.

- x The Stockton University Police Department [Building 70] can assist in the criminal investigative process, obtain and serve restraining order(s), and transport to an off-campus medical facility.
- x The Dean of Students Office [Room CC-243] may require a student to undergo an individualized safety and risk analysis in order to determine if an emergency removal is needed. The Dean of Students staff also refers students to appropriate resources.
- x The Office of Student Conduct [Room F-107] offers case management services to student Complainants and Respondents. The staff works with students to identify and implement appropriate supportive measures. The staff is also available to review the grievance process with student parties. The Office of Student Conduct also offers mediation as an informal resolution option.
- x Health Services [WQ-108] provides students, among other services, confidential medical assistance including arranging transportation to an off-campus facility.
- x The Title IX Coordinator [L-214] among other actions, supervises the investigations of administrative Title IX complaints. As necessary, the Title IX Coordinator may conduct the administrative Title IX investigation.
- x The Office of Residential Life [A-100, and AC Residential Complex] assists in

process, including the records that will be maintained or could be shared. At

misconduct at issue, the date and location of the alleged misconduct, if known, and the section(s) of the Campus Conduct Code potentially violated. The Respondent will be informed in writing if, during the investigation, additional information is disclosed that may constitute additional prohibited conduct under the Campus Conduct Code.

Overview of Investigation. Upon receipt of the formal complaint or where a formal resolution process is deemed appropriate, the Title IX Coordinator/investigator(s) will promptly begin an investigation, which shall

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encounter significant delay, the Title IX Coordinator or case investigator will inform the parties of the reasons for the delay and the projected timetable.

Inspection and Access to Evidence. After the gathering of evidence has been completed but prior to completion of the investigative report, the investigator will provide to each party and party's advisor, if any, any evidence obtained as part of the investigation that is directly related to the allegations that is not privileged or otherwise protected, including the evidence upon which the University does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence (whether obtained from a party or other source), so that each party can meaningfully respond to the evidence prior to the conclusion of the investigation. The evidence will be provided in an electronic format or a hard copy. The parties will have ten (10) business days to submit a written response to the evidence, which will be considered by the investigator prior to completion of the investigative report. The evidence will be made available for the parties to use at the hearing.

Investigative Report. After the 10-day inspection period, and at least ten (10) business days prior to a hearing, the investigator will complete an investigative report that summarizes all relevant evidence and send it in electronic format or hard copy to each party and the party's advisor, if any, for their review and written response. The parties may provide a written response to the investigative report within five (5) business days after receiving it.

C. **Coordination with Law Enforcement**

Where the University is made aware that there is a concurrent criminal investigation, the investigator will inform any law enforcement agency that is conducting its own investigation that a University investigation is also in progress; ascertain the status of the criminal investigation; and determine the extent to which any evidence collected by law enforcement may be available to the University in its investigation.

At the request of law enforcement, the University may agree to temporarily defer part or all of the investigation until after the initial evidence-gathering phase of the law enforcement investigation is complete. The investigator will communicate with the parties, consistent with the law enforcement request and the University's obligations, about resources and support, procedural options, anticipated timing, and the implementation of any necessary interim measures for the safety and well-being of all affected individuals.

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barring exceptional circumstances. The University reserves its right to adapt or modify the Investigation Process (including timelines) to ensure prompt, thorough, and equitable resolution of a report of prohibited conduct. In such instances, the University will notify all parties of the modification of the Investigation Process and, if appropriate, the circumstances requiring the adaption or modification.

E. Consolidation of Investigations

The Title IX Coordinator has the discretion to consolidate multiple reports against a Respondent and/or cross-complaints between a Complainant and a Respondent into one investigation, if the evidence related to each incident would be relevant and probative of the other(s). Matters may be consolidated where they involve multiple Complainants, multiple Respondents, or related conduct.

VII. SUPPORT PERSON and ADVISORS

All Complainants and Respondents are permitted to have a support person and an advisor of their choice present during any grievance proceeding, including any related meeting. The advisor of choice may be, but is not required to be, an attorney. The selection of a support person and advisor is up to the individual party, provided that the support person and advisor may not be directly involved in the matter for example as a Complainant, Respondent, or witness. A party shall not select an advisor or support person with the actual or effective purpose of disrupting or attempting to disrupt the proceedings or causing emotional distress to the other party or parties.

The Complainant and Respondent must notify the meeting organizer at least two (2) business days before meeting of the attendance and names of the support person and/or advisor. The University reserves the right to have legal counsel present at any meeting.

- (6) Cross- Examination by Advisors. At the live hearing, the Hearing Officer will permit each party's advisor to ask the other party and any witnesses relevant questions and follow- up questions, including those challenging credibility. Such cross-examination at the live hearing will be conducted directly, orally, and in real time

- iii. Findings of fact supporting the determination;
- iv. Conclusions regarding the application of the Campus Conduct Code and/or applicable policy to the facts;
- v. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility; and
- vi. The University's procedures and permissible bases for the Complainant and Respondent to appeal.

The University will provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that the University provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

REFERRAL FOR SANCTIONS

If the Hearing Officer has found the Respondent responsible for the conduct, the written determination shall refer the case to the Office of Student Conduct (students) or the Office of Human Resources (employees) for the imposition of appropriate sanctions. The referral

incidents of sexual misconduct, and those reporting incidents of discrimination, harassment or violence, are all afforded the same considerations for confidentiality and privacy, and protections against retaliation.

Student sanctions may be applied to address specific personal growth needs pertaining to the behavior that led to violation of the Campus Conduct Code. There are three categories of sanctions: status changes; educational; and fines or restitution.

- x Status changes may be applied to reflect the seriousness of a behavior and range from a minimum of a warning to a maximum of expulsion from the University. Sanctions for sexual misconduct are thritionsy9 (io)-5.9 (n)]TJ 0 Tc 0 Tw 1.e led

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XI. RECORDS RETENTION

Records of the Title IX Office and its designee(s) created and maintained under this Procedure shall be retained indefinitely by the Title IX Office (in database, digital, and/ or paper form) unless destruction or expungement is authorized by the Title IX Coordinator, or in accordance with a duly executed and binding settlement of claim, and/or by court order.

Records of the Grievance- Resolution process under this Procedure shall be maintained in the Office of Student Conduct for students or in the Office of Human Resources for employees, in accordance with retention policies of those offices.

Affirmative findings of responsibility in matters resolved through the grievance process are part of a student's conduct record and an employee's employment file. Such records shall be used in reviewing any further conduct, or developing sanctions, and shall remain a part of a formal record. Discipline resulting in expulsion or extended suspension shall be maintained permanently in a student's record.

Drafts and Working Files : Drafts and "working files" are not considered records that must be maintained by the University. They are preliminary versions of records and other documents that do not state a final position on the subject matter reviewed or are not considered to be in final form by their creator. An example is a draft of a preliminary investigative report submitted to the Title IX Coordinator for review prior to finalization. An example of a "working file" would be the investigator notes made during one interview with topics the investigator wants to revisit in subsequent interviews. Sole possession records maintained as such in accordance with FERPA are also included in this category.

Attorney Work- Product : Communications from the Title IX Office or its designees with the University's legal counsel may be work product protected by attorney-client confidentiality. These communications are not considered records to be maintained by the Title IX Office unless the Title IX Coordinator, in consultation with legal counsel as necessary, determines that these communications should be included as records.

XII. PREVENTION AND EDUCATIONAL PROGRAMS

In order to reduce incidents of sexual misconduct, the University will provide students and employees with information regarding the prevention of prohibited discrimination/harassment, including sexual misconduct, and the procedure to be followed in filing complaints. In addition, the University will provide ongoing awareness and prevention programming and training for the campuscommunity.

XIII. CONFLICT OF INTEREST

A conflict of interest may arise when a member of the University community uses or has the authority to use their position to improperly influence a University decision, action or outcome with regard to the implementation and enforcement of this Procedure, including associated investigative and disciplinary procedures. It is the responsibility of all members of the Stockton community involved in any aspect of a report of Prohibited Conduct to identify and disclose potential or actual

