

Instructions: Please scroll through each page and read all the information prior to signing/initialing.

Enter your name as it appears on your legal documents. If you do not have a last name (surname), write your name(s) in the Last Name field and put a period in the First Name field, (e.g. **Vishnu Ajay, .**). Likewise, if you do not have a first (given) name, write your name(s) in the Last Name field and put a period in the First Name field (e.g. **Vishnu Ajay, .**).

| | |
|---|---------------------------------|
| First Name: | Shruthi |
| Middle Initial(s): | |
| Last Name: | Srinivasan |
| Street: | 383,Stockton Avenue,#322 |
| City: | San Jose |
| State: | CA |
| Zip: | 95126 |
| Phone: | 6509317739 |
| Email: | shruthi.srinivasan01@sjsu.edu |
| EmplID/Student ID: | 015952209 |
| Hiring Department: | Computer Engineering Department |
| <i>No abbreviations, please. The Hiring Department is the department you were hired to work in.</i> | |
| Would you like to sign up for Direct Deposit today? If you elect not to, you can always do so at a later time by contacting University Personnel. | |
| Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |

PLEASE SELECT ONE
 UNITED STATES CITIZENS ONLY (OATH OF ALLEGIANCE)

I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am to enter.

 LAWFUL PERMANENT RESIDENT ALIEN OF THE UNITED STATES

I am a lawful permanent resident alien of the United States.

 NON-CITIZENS ONLY

I hereby certify that I have permission to work in this country and have declared any restrictions placed upon me in this regard by the United States government to the appointing power.

PERSONAL INFORMATION

| | | | |
|--------------------|--|-------------------------------|------------------------------------|
| Name | Srinivasan | Shruthi | MI |
| | (Last) | (First) | |
| Gender: | <input checked="" type="checkbox"/> Female | <input type="checkbox"/> Male | <input type="checkbox"/> Nonbinary |
| Hiring Department: | Computer Engineering Department | EmplID/Student ID: | 015952209 |

EDUCATION LEVEL*

| | | | |
|------------------------|--|----------|-------|
| Highest Degree Earned: | Bachelor of Engineering | | |
| Degree Major: | Computer Science | | |
| Granting Institution: | Visvesvaraya Technological University (mm/yyyy): | 06/2019 | |
| State: | -- | Country: | India |

* Please enter the highest degree you have received, not the current degree you are pursuing. If your highest degree earned is a high school diploma, please indicate so in the Highest Degree Earned field and indicate General Education in the Degree Major field.

DESIGNATION OF PERSON AUTHORIZED TO RECEIVE WARRANTS

Pursuant to Section 12479 of the Government Code, I hereby designate the following person who, notwithstanding any other provision of the law, if 18 years or older, shall be entitled upon my death to receive all warrants that would have been payable to me had I survived. NOTE: Direct deposit payments are not subject to the provisions of this designation. You may change your designation at any time by completing a new form.

| | | | |
|----------|---|-----------------------|------------------------------|
| Name: | Srinivasan (Last) | Preethi (First) | MI |
| Address | 4141, Stevenson Blvd, #G-28 (Street) | Fremont (City) | CA (State) 94538 (Zip) |
| Country: | United States | Relationship: Sibling | Phone: 6504954953 |

EMERGENCY CONTACT
 EMERGENCY CONTACT same as PERSON AUTHORIZED TO RECEIVE WARRANTS

| | | | |
|----------|---|-----------------------|------------------------------|
| Name: | Srinivasan (Last) | Preethi (First) | MI |
| Address | 4141, Stevenson Blvd, #G-28 (Street) | Fremont (City) | CA (State) 94538 (Zip) |
| Country: | United States | Relationship: Sibling | Phone: 6504954953 |

I affirm that all of the answers and statements on this form are complete and true to the best of my knowledge and belief.

| | | |
|------------|--|---------------------------|
| Name: | Shruthi (First Name) | Srinivasan (Last Name) |
| Signature: | DocuSigned by: Shruthi Srinivasan 05E723D18FEE465... | |
| | Date: | 10/6/2021 |



**GENERAL CONTACT INFORMATION
NONRESIDENT ALIEN TAX ASSESSMENT
ACCOUNTING SERVICES**

Accounts Payable ▪ One Washington Square ▪ San José, CA 95192-0041

408-924-2262 ▪ 408-924-1570 (fax)

Instructions: Please print legibly using blue or black ink pen.

The Internal Revenue Service (IRS) requires that San José State University ("the university") comply with specific federal tax withholding and reporting regulations when making payments to nonresident aliens. For tax purposes, foreign nationals may be classified as either "resident aliens" or "nonresident aliens." Resident aliens are taxed in the same manner as U.S. citizens. However, different tax rules apply when making payments to nonresident aliens. In order to comply with these rules, the university is required to identify all nonresident aliens who receive payments from the university. Payments affected by these IRS rules include: compensation, wages, honoraria, consulting fees, scholarships, fellowships, stipends, and some reimbursements for travel and other expenses.

In regard to wages, the IRS places restrictions on nonresident aliens' federal tax withholding filing, limiting the number of allowable exemptions, and prohibits claiming the standard deduction, as stated in IRS Publication 15, Circular E, Employer's Tax Guide. The IRS requires nonresident alien employees completing withholding allowance forms to:

1. Not claim an exemption from income tax withholding.
 2. Request "SINGLE" status withholding, regardless of actual marital status.

Withholding rules published by the IRS stipulate that federal tax withholding will be calculated on a combination of "actual" earned income and a standard "artificial" amount corresponding to the payroll schedule of an employer. This amount is published in December of each year in IRS Notice 1036, with amounts effective on or after January 1 of the following year. (Note. Nonresident alien students from India aren't subject to this procedure)

For 2021, SJSU employees paid on a monthly payroll schedule will have \$1,045.80 “artificially” added to their federal wage earnings before the withholding calculation is determined. This additional amount, however, will not be included in W-2 earnings or added to other applicable withholding calculations (e.g. state tax, FICA, Medicare, disability insurance or Federal Unemployment Act/FUTA tax liability).

This is your first notification of nonresident alien tax assessment. Please complete the contact information below. If applicable, copies of your passport/I-94, I-20/IAP66/DS2019/I-797, and work eligibility letter from the International Programs Office, appointment forms, Form I-9, Social Security Card and EAR form will be attached to this information request by the UP representative and forwarded to the Nonresident Alien Tax Specialist. You will receive email correspondence in approximately one week directing you to complete additional web-based information. Once complete, an interview will be scheduled for final assessment of your tax liability.

| | | |
|---|--|--------------------------------------|
| GENERAL INFORMATION | | |
| Name (last, first, middle): | | |
| Srinivasan | Shruthi | |
| Address: | | |
| 383, Stockton Avenue, #322 | | |
| City, State: | | Zip Code: |
| San Jose | | CA 95126 |
| Phone: 6509317739 | | Email: shruthi.srinivasan01@sjsu.edu |
| Hiring Department: Computer Engineering Department | | Supervisor: Prof. Jerry Gao |
| Department Phone: 4089244150 | Have you filed for an adjustment to lawful permanent residence status (Form I-485) with the USCIS(INS)? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO | |
| Country of Citizenship India | | SJSU Employee ID Number 015952209 |
| Signature | Date | |
| Shruthi Srinivasan | 10/6/2021 | |

CSU STUDENT PAYROLL
ACTION REQUEST

OFFICE USE ONLY

| | | | | |
|---|-----------|---------|----------|-----------|
| A | 01 AGENCY | 02 UNIT | 03 CLASS | 04 SERIAL |
|---|-----------|---------|----------|-----------|

CHECK ALL APPROPRIATE BOXES AND COMPLETE LISTED SECTIONS

| | | | | | | | |
|---|---|---|---|--|---|---|--|
| B | <input type="checkbox"/> A98 NEW EMPLOYEE INFORMATION (C THRU H,J,K) | <input type="checkbox"/> E03 WITHHOLDING CHANGE (C, G, H) | <input type="checkbox"/> E04 ADDRESS CHANGE (C, E, H) | E05 NAME CHANGE (C, D, H) (ATTACH SUBSTANTIATION) NAME WAS _____ | <input type="checkbox"/> E07 BIRTHDATE CHANGE (C, F, H) | 105 SSA NUMBER CHANGE (C, H) (ATTACH SUBSTANTIATION) SSN NO. WAS _____ | CAMPUS USE ONLY <input type="checkbox"/> DESIGNEE CORRECTION (C, H,J) |
| C | 01 SOCIAL SECURITY NUMBER | 02 EMPLOYEE LAST NAME | 03 FIRST NAME AND MIDDLE INITIAL | | | D | FORMER NAME (Last, First and Middle Initial) |
| E | 01 EMPLOYEE ADDRESS (Street, P.O. Box, or Rural Route) | | 02 CITY | STATE | 03 ZIP CODE | F | BIRTHDATE Mo. Day Yr. |

WITHHOLDING CERTIFICATE ***IMPORTANT*** Before completing Section G, you must read IRS Form W-4 and the applicable state tax form. (For California, use CA state tax Form DE-4 instructions.)

| | | | | | | |
|---|--|---|---|--|--|--|
| G | I. FEDERAL WITHHOLDING If no tax should be withheld, complete Box 3 and Parts III and IV. | | | III. EXEMPTION FROM WITHHOLDING - Write EXEMPT in box 11 if you are eligible to claim exemption from withholding. No Federal or State income tax will be withheld from your wages. DO NOT COMPLETE PARTS I or II. (See General Information - Reverse.) | | |
| | 01 <input type="checkbox"/> NONRESIDENT ALIEN | 04 <input type="checkbox"/> HIGHER WITHHOLDING (MUST BE Y OR N. See reverse employee copy.) | 11 <input type="checkbox"/> I claim exemption from withholding because of no tax liability: Last year I did not owe any income tax and had a right to a full refund of ALL income tax withheld, AND this year I do not expect to owe any income tax and expect to have a right to a full refund of ALL income tax withheld. If you are not having income tax withheld this year but expect to have a tax liability next year, you must file a withholding allowance claim by December 1st of this year. This exemption will automatically expire February 15th of next year unless you file a withholding allowance claim by December 1st of next year. | | | |
| 02 MARITAL STATUS (Check One) FOR TAX PURPOSES ONLY | 05 <input type="checkbox"/> CLAIM DEPENDENTS AMOUNT MUST BE A WHOLE NUMBER 06 <input type="checkbox"/> OTHER INCOME NOT FROM JOBS 07 <input type="checkbox"/> DEDUCTIONS | 12 <input type="checkbox"/> I claim that the wages I will be receiving from the State are either 1) MINISTER OF A CHURCH wages, 2) NONRESIDENT ALIEN wages, or 3) DECEASED EMPLOYEE wages. Indicate reason: <input type="checkbox"/> | | | | |
| 03 EXEMPT FROM FEDERAL WITHHOLDING - Write/type EXEMPT in box 03 if you are eligible to claim exemption from Federal withholding. 03 (See Reverse) | II. STATE ALLOWANCES If no tax should be withheld, complete Part III or IV only. | | | IV. NONTAXABLE WAGES - Complete box 12 if wages you will receive are not subject to income tax withholding. (See General Information - Reverse) | | |
| 08 MARITAL STATUS (Check One) FOR TAX PURPOSES ONLY | 09 <input type="checkbox"/> REGULAR ALLOWANCES TOTAL YOU ARE CLAIMING | 10 <input type="checkbox"/> ADDITIONAL ALLOWANCES TOTAL YOU ARE CLAIMING | 12 <input type="checkbox"/> I claim that the wages I will be receiving from the State are either 1) MINISTER OF A CHURCH wages, 2) NONRESIDENT ALIEN wages, or 3) DECEASED EMPLOYEE wages. Indicate reason: <input type="checkbox"/> | | | |

EMPLOYEE CERTIFICATION

| | |
|-----------|--|
| H | I certify the above information is true and that I have read IRS Form W-4 and applicable state form. Under the penalties of perjury, I certify that the amount of withholding exemptions and allowances claimed does not exceed the amount to which I am entitled. If claiming exemption from withholding, I certify I incurred no tax liability for last year and I anticipate I will incur no liability this year. I authorize my employer via the State Controller's Office to refund any over collection of current/prior year Social Security and Medicare taxes; I certify that I shall not claim a tax refund or credit for these overcollections. If completing Section J, I hereby revoke any previous designation. If completing Section K, I hereby subscribe to the oath of allegiance or declaration of permission to work. |
| SIGNATURE | DATE |

CSU REPRESENTATIVE SIGNATURE

| | |
|-----------|---|
| I | I authorize the State Controller to take the action indicated hereon and do certify that the action is appropriate. I have reviewed the completion of this document and where appropriate, witnessed the subscription to the oath of allegiance or declaration of permission to work. |
| SIGNATURE | DATE |

DESIGNEE FOR STATE WARRANTS

| | | | |
|--|------------------------------------|-------------------|-----------------|
| J | 01 DESIGNEE FIRST NAME AND INITIAL | 02 LAST NAME | 03 RELATIONSHIP |
| 04 DESIGNEE ADDRESS (Street, P.O. Box, or Rural Route) | | 05 CITY AND STATE | 06 ZIP CODE |

OATH OF ALLEGIANCE/DECLARATION OF PERMISSION TO WORK (NEW EMPLOYEES ONLY) Complete Part I or II.

| | | | |
|--|--|--|--|
| K | PART I - OATH of ALLEGIANCE I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of California; that I take this obligation freely without any mental reservation or purpose of evasion; and I will well and faithfully discharge the duties upon which I am about to enter. I hereby subscribe to this oath by signing in Section H above. | | |
| PART II - DECLARATION OF PERMISSION TO WORK I am a lawful permanent resident noncitizen of the United States. <input type="checkbox"/> YES If "NO", I hereby certify that I have permission to work in this country and have declared any restrictions placed upon me in this regard by the United States government to the appointing power. <input type="checkbox"/> NO | | | |

GENERAL INFORMATION

EMPLOYEES WITH TWO OR MORE CONCURRENT JOBS WITH THE STATE OF CALIFORNIA. The allowances you claim on this form will be used for tax withholding purposes for all wages paid under the Uniform State Payroll System. The Uniform State Payroll System includes all California State Agencies (except as noted below), and the California State Universities. It does not include the California Agricultural Associations, Legislative employees, or the Universities of California.

IF YOU DO NOT COMPLETE SECTION G. If you are new to State service and you fail to complete Section G, you will be treated (for withholding tax purposes) as a single person with standard deduction with no other entries (IRS Publication 15-T, 2020 Federal Income Tax Withholding Methods and Section 3402(1) of the Internal Revenue Code).

If you are returning to State service and you fail to complete Section G and you have received within the past year, earnings paid under the Uniform State Payroll System, taxes will be withheld from your wages based on the allowances you previously claimed.

IF YOU ARE EXEMPT FROM STATE WITHHOLDING ONLY, but not exempt from federal and state, contact your personnel office for special instructions.

IF YOU ARE EXEMPT FROM FEDERAL WITHHOLDING ONLY, Write/type EXEMPT in box 03 if you are eligible to claim exemption from federal withholding. No Federal income tax will be withheld from your wages.

IF YOU ARE A NONRESIDENT ALIEN PER INTERNAL REVENUE SERVICE (IRS) NOTICE 2005-76 check the Nonresident Alien box (Section G, Box 1). If you have questions as to whether you should mark this box, you should contact your human resources officer.

IF YOU WILL RECEIVE NONTAXABLE WAGES, please indicate the reason on your withholding claim in the space provided. The reason must be one of the following:

- a. "Minister of a Church"- employed by the State of California as a Minister of a Church.
- b. "Nonresident Alien per Tax Treaty" (Indicate on claim: "Exempt per Article _____ of treaty between the United States and _____ .") (country) Tax Treaty must cite exemption from both Federal and State personal income tax to qualify for this exemption.
- c. "Deceased Employee Wages"- campus administrative action.

If you have any questions regarding your eligibility under any of the above reasons, you should contact your local Internal Revenue Service Office or the Local Employment Tax Office of the Employment Development Department.

STUDENT PAYROLL ACTION REQUEST INSTRUCTIONS

Read all instructions before completing this form. Use pen and print all entries. Sign your name in Section H. Retain a copy for your records. If you have questions about any item on this form, consult your personnel/payroll office.

SECTION B

Type of Transaction - Check all appropriate boxes and complete listed sections.

SECTION C

Social Security Number - Enter your number as it appears on your social security card. If you do not have a social security card, you must apply for your card through the Social Security Administration using the application for a social security number, SS-5. In the box for social security number on STD. 457 you should write "SS-5 SENT". A copy of the SS-5 form should be attached to the STD. 457. When you receive your social security number, please notify your personnel/payroll office.

Name - Enter your name as it appears on your social security card. Enter last name first. This same name must be used on all future employment documents unless formally changed by you.

SECTION D

Name Change - Complete a new STD. 457 in your personnel/payroll office. You must also submit a name change form (SS-5) to the Social Security Administration. A copy of the name change form (SS-5) or the receipt issued by the Social Security Administration (SSA-5028-374) must be attached to the STD. 457.

SECTION E

Address - Enter your mailing address. This address will be used for W-2 statements and mailing of final warrants, if any. Notify your employer immediately if your address changes. Complete a new STD. 457 in your personnel/payroll office.

SECTION F

Birthdate - Enter numerically the month, day, and year of your birth. (March 20, 2002 enter 03/20/02.)

SECTION G

Part I - Federal Withholding

Part II - State Allowance

} Use worksheets on Internal Revenue Service Form W-4 and California Form DE-4 to complete your withholding allowances.

} See General Information above.

Part III - Exemption from Withholding

Part IV - Nontaxable Wages

SECTION H

Employee Certification - You must sign your name, certifying to the accuracy of information entered on the form.

SECTION J

Designee for State Payroll Warrants (G.C. 12479) - This item must be completed by all employees. Notwithstanding any other provision of law, the person you designate, if 18 years or older, shall be entitled upon your death to receive all State warrants due you, excluding retirement benefits. Your designee must file a written request for such warrants with your personnel office within 60 days after the date of your death. NOTE: If you make an error in designee name, you must complete a new STD. 457.

Designee Name - Enter the full name (Mary Jane Smith not Mrs. Robert L. Smith) in J01 and J02. Specify the relationship of the person designated in J03 (e.g., wife, husband, domestic partner, daughter, son, mother, father, parent, or friend). Enter address in J05 to J07. If you have no designee, enter "NONE" in J01.

Designee Address - Enter the permanent mailing address. File a new STD. 457 anytime your designee's address changes. Designee Change - You may change or revoke your designee at any time by completing a new STD. 457.

SECTION K

Oath of Allegiance or Declaration of Permission to Work - Complete Part 1 or Part 2. Every State employee, except legally employed noncitizens, must sign the Oath (Part 1). The Declaration of Permission to Work (Part 2), is required of noncitizens. If you are a nonresident, noncitizen employee and become a naturalized citizen, an oath **must be signed and filed**.

The Oath/Declaration must be signed before entering into employment. Payment may not be made to any CSU employee unless the employee has taken and subscribed to the Oath/Declaration.

Penalties (G.C. 3108) - "Every person who, while taking and subscribing to the Oath or affirmation required by this chapter, states as true any material matter which he/she knows to be false, is guilty of perjury, and is punishable by imprisonment in the state prison not less than one nor more than 14 years."

STATE

MUST BE COMPLETED, EFFECTIVE 2020

For important information regarding these items, you must read [Employment Development Department](#) (EDD) Form DE-4.

09. REGULAR ALLOWANCES: Total Number of Allowances you are claiming.

10. ADDITIONAL ALLOWANCES: If you expect to itemize deductions on your California income tax return, you can claim additional withholding allowances. Use Worksheet B and C from the EDD Form DE-4 to determine whether your expected estimated deductions may entitle you to claim one or more additional withholding allowances.

FEDERAL

NEW ITEMS, EFFECTIVE 2020

For important information regarding these items, you must read the [Internal Revenue Service](#) (IRS) Form W-4.

04. HIGHER WITHHOLDING (TWO JOB INDICATOR - STEP 2(C) ON THE IRS 2020 FORM W-4):

Y - YES TO HIGHER WITHHOLDING

N - NO TO HIGHER WITHHOLDING

05. CLAIM DEPENDENTS: Enter the annual amount to be claimed. This is the amount for the child tax credit and the credits for other dependents that may be claimed on your tax return.

06. OTHER INCOME (NOT FROM JOBS): Enter the total dollar amount of other estimated income for the year, if any. This does not include income from other jobs. This may include, interest dividends and retirement income.

07. DEDUCTIONS: Enter the resulting amount from the Deductions Worksheet on the IRS Form W-4, if you expect to claim deductions other than the basic standard deductions on the current year's tax return.

PRIVACY NOTIFICATION

The Information Practices Act of 1977 (California Civil Code § 1798.17) and the Federal Privacy Act (5 USC 552a, subd. (e)(3)) require this notice be provided when collecting personal information from individuals. The information you are asked to provide on this form is requested by the Office of the State Controller, Personnel and Payroll Services Division. Furnishing the information requested on this form is mandatory. Noncompliance in providing your Social Security Number and name will result in refusal of employment.

Information requested on this form is used for personnel, payroll and related processing. Legal references authorizing the maintenance of this information by the State Controller's Office include: Federal Internal Revenue Code (26 USC §§ 3402(a), 6011, 6051, 6109) and the regulations thereto; federal Public Health and Welfare Code (42 USC § 403); California Government Code §§ 12470 through 12479 and 16391 through 16395; California Unemployment Insurance Code § 13020; delegated authority from the Trustees of the California State University.

Certain items of information furnished on this form may be transferred to the following governmental or private agencies where authorized by law: Trustees, The California State University, Employment Development Department, Department of Social Services, employing State agencies and campuses, Social Security Administration, Federal Internal Revenue Service, California State Franchise Tax Board, other state income tax bureaus and other governmental agencies when required by state or federal law, and organizations for which deductions are authorized by law.

Employees have the right to review their own personal information maintained by the State Controller's Office, unless access is exempted by law. Contact: Personnel/Payroll Services Division, State Controller's Office, Post Office Box 942850, Sacramento, California 94250-5878.

EMPLOYEE ACTION REQUEST

STD. 686 (REV 12/2020)(FRONT)

Print Form**Reset Form****PERSONNEL OFFICE USE**

| | | | | |
|----------|-----------|---------|-------------|---------------|
| A | 01 AGENCY | 02 UNIT | 03 KEYED BY | 04 DATE KEYED |
|----------|-----------|---------|-------------|---------------|

CHECK ONE OR MORE BOX(ES) AND COMPLETE LISTED SECTIONS.

| | | | | | |
|----------|--|--|--|--|--|
| B | 01 <input checked="" type="checkbox"/> New Employee SECTION C, E, F, G, H, I | 03 <input type="checkbox"/> Withholding Allowance Change SECTION C, E, I | 04 <input type="checkbox"/> * Address Change } SECTION C, F, I | 05 <input type="checkbox"/> Name Change (Attach substantiation) SECTION C, D, I | 07 <input type="checkbox"/> Birthdate Correction SECTION C, H, I |
|----------|--|--|--|--|--|

NOTE: Social Security Number and Last Name, First Name, and Middle Initial must be entered exactly as shown on Social Security card.

| | | | | |
|----------|--|-------------------------------------|---|--|
| C | 01 SOCIAL SECURITY NUMBER 009-69-3809 | 02 EMPLOYEE LAST NAME Srinivasan | 03 FIRST NAME AND MIDDLE INITIAL Shruthi | NAME CHANGE D FORMER NAME (Last, First, and Middle) |
|----------|--|-------------------------------------|---|--|

WITHHOLDING CHANGE OR NEW EMPLOYEE

IMPORTANT Before completing Section E, you must read the instructions on Internal Revenue Service (IRS) Form W-4 and the applicable state tax form. (For California, use Form DE-4)

| | | | | | | | | | |
|--|---|--|---|--|--|--|--|--|--|
| E | I. FEDERAL WITHHOLDING – If no tax should be withheld, complete box 03, Part IV or V only. | | | III. ADDITIONAL DEDUCTIONS – Part I and Part II must be completed. Complete box(es) 11 and/or 12 if you wish additional Federal and/or State tax withheld from your wages. IF BOXES ARE NOT COMPLETED, CURRENT DEDUCTIONS (IF ANY) WILL BE CANCELLED. The first deduction will be made from your earnings for the pay period in which this form is processed. Must be a dollar amount. | | | | | |
| | 01 <input checked="" type="checkbox"/> NONRESIDENT ALIEN (See reverse, employee copy) | 04 <input type="checkbox"/> HIGHER WITHHOLDING (Must be Y or N. See reverse) | | | | | | | |
| | 02 MARITAL STATUS FOR TAX PURPOSES ONLY | 05 <input type="checkbox"/> CLAIM DEPENDENTS AMOUNT MUST BE A WHOLE NUMBER | | | | | | | |
| | <input checked="" type="checkbox"/> SINGLE | 06 <input type="checkbox"/> OTHER INCOME NOT FROM JOBS | | | | | | | |
| | <input type="checkbox"/> MARRIED | 07 <input type="checkbox"/> DEDUCTIONS | | | | | | | |
| | <input type="checkbox"/> HEAD OF HOUSEHOLD | | | | | | | | |
| | 03 EXEMPT FROM FEDERAL WITHHOLDING – Write/type EXEMPT in box 03 if you are eligible to claim exemption from Federal withholding. 03 | (See reverse) | | | | | | | |
| | II. STATE ALLOWANCES – If no tax should be withheld, complete Part IV or V only. | | | IV. EXEMPTION FROM WITHHOLDING – Write/type EXEMPT in box 13 if you are eligible to claim exemption from withholding. No Federal or State income tax will be withheld from your wages. DO NOT COMPLETE PARTS I, II, OR III. (See General Information on reverse.) | | | | | |
| | 08 MARITAL STATUS FOR TAX PURPOSES ONLY (Check one) | 09 <input type="checkbox"/> REGULAR ALLOWANCE(S) Total you are claiming | By writing/typing EXEMPT, I claim exemption from withholding because of no tax liability: Last year I did not owe any income tax and had a right to a full refund of ALL income tax withheld, AND this year I do not expect to owe any income tax and expect to have a right to a full refund of ALL income tax withheld. | | | | | | |
| | <input checked="" type="checkbox"/> SINGLE OR MARRIED (WITH TWO OR MORE INCOMES) | 10 <input type="checkbox"/> ADDITIONAL ALLOWANCE(S) Total you are claiming | NOTE: This exemption will automatically expire on February 15 of next year unless you file a new certification by January 31 of next year. 13 | | | | | | |
| <input type="checkbox"/> MARRIED (ONE INCOME) | | | | | | | | | |
| <input type="checkbox"/> HEAD OF HOUSEHOLD | | | | | | | | | |
| V. NONTAXABLE WAGES – Check box 14 if wages you will receive are not subject to income tax withholding. | | | 14 <input type="checkbox"/> I claim that the wages I will be receiving from the State are either a 1) MINISTER OF A CHURCH in the exercise of his/her ministry, 2) NONRESIDENT ALIEN wages, or 3) DECEASED EMPLOYEE WAGES. Indicate reason (See General Information on reverse) | | | | | | |

ADDRESS CHANGE OR NEW EMPLOYEE

*See reverse.

| | | | | |
|--|--|---------------------|-------------|----------------------|
| F | 01 EMPLOYEE ADDRESS (Street, Rural Route, or P.O. Box) 383, Stockton Avenue, #322 | 02 CITY San Jose | STATE CA | 03 ZIP CODE 95126 |
| 04 EMPLOYMENT LIST | | WORK PHONE | HOME PHONE | 6509317739 |
| <input type="checkbox"/> Check this box and enter your phone number(s) if your address is changing and your name appears on any departmental employment list. (See reverse.) | | | | |

NEW EMPLOYEE - THIS INFORMATION MAY BE USED TO LOCATE PRIOR PUBLIC EMPLOYMENT SERVICE FOR STATE SERVICE CREDITS AND/OR RETIREMENT SYSTEM BENEFITS

| | | | | | | |
|----------|---|-----------------------------|--------------|---|-----------------------------|--------------|
| G | 01 LAST EMPLOYED BY CALIFORNIA STATE AGENCY OR CAMPUS OF: | 02 LAST NAME (if different) | 03 SEPARATED | 04 LAST EMPLOYED BY CALIFORNIA PUBLIC AGENCY OF: (City, County, Public School, Utility, etc.) | 05 LAST NAME (if different) | 06 SEPARATED |
| | | | MO | YR | | |

NEW EMPLOYEE OR BIRTHDATE CORRECTION

| | | | | |
|----------|------------------------------------|--|-------------------|---|
| H | BIRTHDATE 06 23 97 MO DAY YR | EMPLOYEE'S SIGNATURE DocuSigned by: Shruthi Srinivasan 05E723D18FEE465... | DATE 10/6/2021 | PERSONNEL OFFICE USE J REVIEWER'S SIGNATURE  DATE PHONE NUMBER |
|----------|------------------------------------|--|-------------------|---|

EMPLOYEE ACTION REQUEST

STD. 686 (REV 12/2020)(REVERSE)

INFORMATION FOR EMPLOYEES COVERED BY THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (CalPERS)

You are entering into membership in the California Public Employees' Retirement System (CalPERS) which provides you and your fellow State employees with retirement and other benefits. Member contributions, those contributions made by the State of California, and the interest earned on investments provide for service retirement, disability retirement, and death benefits. An information booklet is available from your personnel office. The booklet describes your particular benefit coverage in detail.

BENEFICIARIES FOR PRE-RETIREMENT SURVIVOR BENEFITS

For information regarding CalPERS beneficiaries for Survivor Benefits, please go to www.calpers.ca.gov, and use the search engine to locate information on Beneficiary Designations.

RESTORATION OR PURCHASE OF RETIREMENT SERVICE CREDIT

You may be eligible to increase your CalPERS service credit through a service credit purchase and the more service credit you have at retirement, the higher your monthly benefit may be. Information on the purchase or redeposit of retirement service credit may be obtained by visiting the CalPERS website at www.calpers.ca.gov.

ADDRESS CHANGE

IF YOU HAVE DEDUCTIONS, you must change your address with the deduction company. This form does not affect an address change with deduction companies.

IF YOUR NAME APPEARS ON ANY DEPARTMENTAL EMPLOYMENT LIST (Open, Promotional, Reemployment, etc.), and your address is changing, check Box 04 and enter your phone number(s) in Section F. Your department will update the appropriate list(s) with this information.

GENERAL TAX INFORMATION

IF YOU ARE A NONRESIDENT ALIEN PER INTERNAL REVENUE SERVICE (IRS) NOTICE 2005-76, check the Nonresident Alien box. If you have questions as to whether you should mark this box, you should contact your human resources office.

IF YOU ARE EXEMPT FROM STATE WITHHOLDING ONLY, but not exempt from federal and state, contact your personnel office for special instructions.

IF YOU ARE EXEMPT FROM FEDERAL WITHHOLDING ONLY, Write/type EXEMPT in box 03 if you are eligible to claim exemption from federal withholding. No Federal income tax will be withheld from your wages.

IF YOU WILL RECEIVE NONTAXABLE WAGES, please indicate the reason on your withholding claim in the space provided. The reason must be one of the following:

- a. "Minister of the church in the exercise of his / her ministry" – employed by the State of California as a Chaplain.
- b. "Nonresident Alien per Tax Treaty" (indicate on claim: "Exempt per Article _____ of treaty between United States and (Country).") Tax Treaty must cite exemption from both Federal and State personal income tax to qualify for this exemption.
- c. "Deceased Employee Wages" – agency administrative action.

IF YOU HAVE ANY QUESTIONS REGARDING YOUR ELIGIBILITY UNDER ANY OF THE ABOVE REASONS, you should contact your local Internal Revenue Service office or the Employment Tax District Office of the Employment Development Department.

EMPLOYEES WITH TWO OR MORE CONCURRENT JOBS WITH THE STATE OF CALIFORNIA. The allowances you claim on this form will be used for tax withholding purposes for all wages paid under the Uniform State Payroll System. The Uniform State Payroll System includes all California State Agencies (except as noted below) and the California State Universities. It does not include the California Agricultural Associations, the University of California, or Legislative employees.

IF YOUR NORMAL LOCATION OF EMPLOYMENT IS NOT IN CALIFORNIA and you are a California State employee, you may be eligible to have income tax for another state withheld from your wages under the reciprocity provisions required by G.C. 1170.5. Contact your personnel office for additional information.

STATE**MUST BE COMPLETED, EFFECTIVE 2020**

For important information regarding these items, you must read [Employment Development Department](#) (EDD) Form DE-4.

09. REGULAR ALLOWANCES: Total Number of Allowances you are claiming.

10. ADDITIONAL ALLOWANCES: If you expect to itemize deductions on your California income tax return, you can claim additional withholding allowances. Use Worksheet B to determine whether your expected estimated deductions may entitle you to claim one or more additional withholding allowances.

FEDERAL**NEW ITEMS, EFFECTIVE 2020**

For important information regarding these items, you must read the [Internal Revenue Service](#) (IRS) Form W-4.

04. HIGHER WITHHOLDING (TWO JOB INDICATOR - STEP 2(C) ON THE IRS 2020 FORM W-4):

- Y- YES TO HIGHER WITHHOLDING
N - NO TO HIGHER WITHHOLDING

05. CLAIM DEPENDENTS: Enter the annual amount to be claimed. This is the amount for the child tax credit and the credits for other dependents that may be claimed on your tax return.

06. OTHER INCOME (NOT FROM JOBS): Enter the total dollar amount of other estimated income for the year, if any. This does not include income from other jobs. This may include, interest dividends and retirement income.

07. DEDUCTIONS: Enter the resulting amount from the Deductions Worksheet on the IRS Form W-4, if you expect to claim deductions other than the basic standard deductions on the current year's tax return.

PRIVACY NOTIFICATION

The Information Practices Act of 1977 (California Civil Code Section 1798.17) and the Federal Privacy Act (5 USC 552a, subd. (e)(3)) require this notice to be provided when collecting personal information from individuals.

The information you are asked to provide on this form is requested by the Office of the State Controller, Personnel/Payroll Services Division. The information will be used by the State Controller's Office for personnel, payroll, retirement, and health benefits processing.

Furnishing the information requested on this form is mandatory except for Prior Public Employment (Section G). Furnishing prior public employment information is voluntary. Noncompliance in providing your social security number and name will result in refusal of employment. Failure to furnish other requested information may result in inaccurate determination of credit for State service, payroll calculations, retirement, and/or health benefits.

Legal references authorizing the maintenance of this information by the State Controller's Office include: Federal Internal Revenue Code (26 USC Sections 3402(a), 6011, 6051, and 6109) and the regulations thereto; Federal Public Health and Welfare Code (42 USC Section 403); and California

Government Code Sections 12470 through 12479 and 16391 through 16395; California Unemployment Insurance Code Section 13020; delegated authority from the State Personnel Board; and delegated authority from the Trustees of the California State University.

Certain items of information furnished on this form may be transferred to the following governmental or private agencies where authorized by law: State Personnel Board, Department of Human Resources, Trustees of the California State University, Employment Development Department, Department of Social Services, Department of Finance, Public Employees' Retirement System, employing State agencies and campuses, Social Security Administration, Federal Internal Revenue Service, California State Franchise Tax Board, other State income tax bureaus and other governmental entities when required by State or Federal law, organizations for which deductions are authorized by law, and collective bargaining organizations.

Employees have the right to review their own personal information maintained by the State Controller's Office unless access is exempted by law. Contact: Personnel/Payroll Services Division, State Controller's Office, P.O. Box 942850, Sacramento, CA 94250-5878.

DIRECT DEPOSIT

ENROLLMENT AUTHORIZATION

STD. 699 (REV. 11/2020)

COMPLETION INSTRUCTIONS AND PRIVACY NOTICE ARE ON THE REVERSE OF THE EMPLOYEE COPY. PLEASE TYPE OR USE BALL POINT PEN-PRINT CLEARLY.

Hiring Dept: Computer Engineering Department

This authorization remains in full force and effect until the State Controller's Office receives written notification from the employee of its termination, or until the State Controller's Office or appointing authority deems it necessary to terminate the agreement.

SECTION A (To be completed by employee)

| | | |
|--|---------------------------|-------------------|
| 1. TYPE OF ENROLLMENT ACTION | 2. SOCIAL SECURITY NUMBER | |
| 1. <input checked="" type="checkbox"/> NEW SECTIONS A, B, AND C MUST BE COMPLETED | 009-69-3809 | |
| 2. <input type="checkbox"/> CHANGE SECTIONS A, B, AND C MUST BE COMPLETED | 3. NAME (First) | Middle Last) |
| 3. <input type="checkbox"/> CANCEL SECTIONS A AND D MUST BE COMPLETED | Shruthi Srinivasan | |

SECTION B (To be completed by employee if **NEW or **CHANGE** box in Section A is checked)**

| | | | | | | | | | | |
|---|-----------------------------|--------------|---------------|---|---|---|---|---|---|-----------|
| 1. TYPE OF ACCOUNT- MUST BE CHECKED, IF LEFT BLANK, WILL BE PROCESSED AS CHECKING | | | | | | | | | | |
| <input checked="" type="checkbox"/> C (Checking) <input type="checkbox"/> S (Savings) | | | | | | | | | | |
| Verify Routing/Depositor Numbers with Financial Institution | | | | | | | | | | |
| 2. ROUTING NUMBER | 3. DEPOSITOR ACCOUNT NUMBER | | | | | | | | | |
| <table border="1" style="width: 100px; text-align: center;"> <tr><td>3</td><td>2</td><td>2</td><td>2</td><td>7</td><td>1</td><td>6</td><td>2</td><td>7</td></tr> </table> | 3 | 2 | 2 | 2 | 7 | 1 | 6 | 2 | 7 | 759600973 |
| 3 | 2 | 2 | 2 | 7 | 1 | 6 | 2 | 7 | | |
| 4. FINANCIAL INSTITUTION NAME | | | | | | | | | | |
| Chase Bank | | | | | | | | | | |
| 5. FINANCIAL INSTITUTION ADDRESS | Number and Street | City / State | ZIP | | | | | | | |
| 39395 Paseo Padre Pkwy | | Fremont | CA 94538 | | | | | | | |

SECTION C (To be completed by employee if **NEW or **CHANGE** box in Section A is checked)**

I hereby authorize the State Controller's Office to provide for direct deposit of any salary or wages due me, less any mandatory or authorized withholding or deductions therefrom, in the above designated account.

If at any time the amount of salary or wages so deposited exceeds the amount of salary or wages actually due and payable to me, I hereby authorize the State Controller's Office to either:

- (a) Withhold a sum equal to the overpayment from future salary or wages; or
- (b) Recover such overpayment from the above-designated account.

If the State is legally obligated to withhold any part of my wage or salary payment for any reason, or if I no longer meet eligibility requirements for the Direct Deposit program, I understand the State Controller's Office may terminate my enrollment in the program. If any action taken by me results in nonacceptance of a direct deposit by the designated financial institution, I understand that the State assumes no responsibility for processing a supplemental salary or wage payment until the amount of the nonacceptance deposit is returned to the State by the financial institution.

100% of the net deposit will not be sent to a financial institution outside the jurisdiction of the United States.

SIGNATURE DocuSigned by:  Shruthi Srinivasan DATE: 10/6/2021

05E723D18FEE465...

SECTION D (To be completed by employee if **CANCEL box in Section A is checked)**

| | | |
|---|-----------|------|
| I hereby cancel my Direct Deposit authorization. | SIGNATURE | DATE |
|  | | |

SECTION E (To be completed by state agency or campus personnel/payroll office only)

| | | |
|---|--|-----------------------------------|
| 1. AGENCY/CAMPUS NAME | 2. AGENCY CODE | 3. UNIT |
| San José State University | | 260 |
| 4. REMARKS | 5. AUTHORIZED AGENCY/CAMPUS SIGNATURE | |
| <input type="checkbox"/> CHECK BOX IF SEMI-MONTHLY EMPLOYEE | I HEREBY CERTIFY THAT I AM THE DULY APPOINTED, QUALIFIED AND ACTING OFFICER OF THE HEREIN NAMED AGENCY/CAMPUS AND THAT, BEING SO AUTHORIZED, DO CERTIFY THAT THIS EMPLOYEE IS ELIGIBLE FOR DIRECT DEPOSIT. | |
| PRINTED NAME | | |
| SIGNATURE | | DATE RECEIVED IN EMPLOYING OFFICE |
| EMAIL ADDRESS | | MO. DAY YR. |
| <input type="checkbox"/> CHECK IF CALNET | | |

PLEASE READ THIS INFORMATION CAREFULLY

COMPLETION INSTRUCTIONS

1. To enroll in Direct Deposit, complete this form as follows:

General Instructions

- Complete Sections A, B and C if you are enrolling for the first time, re-enrolling after cancellation, or changing your existing Direct Deposit information.
- Complete Section A and D only if you are cancelling your enrollment.

Specific Instructions

- Section A — (Item 1) Type of Enrollment Action

New—Complete for new enrollment or re-enrollment after cancellation

Change—Complete to change type of account, financial institution or branch (routing number), or depositor account number

Cancel—Complete to cancel your Direct Deposit

- Section B — (Item 1) Indicate checking OR savings. Only one box must be checked. If left blank, will be processed as **checking**.

(Item 2) Enter Routing Number (cannot begin with a '5' and cannot exceed 9 digits)

(Item 3) Enter Depositor Number (cannot exceed 17 digits)

- Section C — According to National Clearing House Association Operating Rules, effective September 18, 2009, you are not allowed to forward 100% of your net payment to a financial institution outside of the United States (U.S.). If 100% of the net deposit is being sent outside the jurisdiction of the U.S., you are no longer allowed to participate in the Direct Deposit program and must cancel your enrollment. A paper warrant will be issued to you effective the month the cancellation is processed.

For new/change enrollments, please mark the box indicating you are aware of this requirement and are not sending 100% of the net deposit outside the jurisdiction of the U.S.

IMPORTANT: PLEASE VERIFY YOUR DEPOSITOR ACCOUNT NUMBER AND ROUTING NUMBER WITH YOUR FINANCIAL INSTITUTION.

2. Forward your completed form to your personnel/payroll office for completion of Section E.

3. Your first payment will be deposited into your designated account within 40 days after your form is received by the Controller's Office.

DIRECT DEPOSIT POSTING DATES

Funds for regular monthly or semi-monthly employees paid on the last day of the pay period should be available the first banking day after the end of the pay period. For example, if the pay period ends on a Wednesday, funds should be available on Thursday. If the pay period ends on a Friday, a weekend, or a holiday, funds should be available on the next banking day.

Funds for positive pay employees paid with a lag between the end of the pay period and pay day are available within two banking days after the issue date of the payment on the direct deposit earnings statement.

While most financial institutions post funds to accounts at the beginning of the bank business day, this is not a universal practice. Some institutions post funds in the afternoon instead of the morning. It is strongly recommended that you check with your financial institution to determine when your funds will be available.

CHANGING FINANCIAL INSTITUTION OR DEPOSITOR ACCOUNTS

Your Direct Deposit will continue to be deposited into your designated account at your financial institution until the State Controller's Office is notified that you wish to redesignate your account and/or your financial institution. To redesignate, complete and submit a new STD. 699 with the new information. **DO NOT CLOSE YOUR OLD ACCOUNT UNTIL YOUR FIRST PAYMENT IS DEPOSITED INTO YOUR NEWLY DESIGNATED ACCOUNT AND/OR FINANCIAL INSTITUTION.** Your first payment into your new account will be within 40 days after your form is received by the Controller's Office. You may receive a paper warrant during this period.

PRIVACY NOTICE

The Information Practices Act of 1977 (Civil Code Section 1798.17) and the Federal Privacy Act (Public Law 93-579) require that this notice be provided when collecting personal information from individuals. Information requested on this form is used by the State Controller's Office for the purposes of identification and enrollment processing. It is mandatory to furnish all information requested on this form except for financial institution name, address and branch number or name. Failure to provide the mandatory information may result in the enrollment action not being processed or being processed incorrectly.

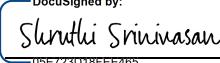
Legal references authorizing maintenance of this information include Government Code Sections 1151 and 1153, Sections 6011 and 6051 of the Internal Revenue Code, and Regulation 4, Section 404.1256, Code of Federal Regulations, under Section 218, Title II of the Social Security Act. Copies of the Enrollment Authorization are maintained in confidential files of the State Controller's Office for six years. Employees have the right of access to copies of their Enrollment Authorization forms upon request. The official responsible for maintenance of the forms is: Chief of Personnel/Payroll Operations Branch, State Controller's Office, P.O. Box 942850, Sacramento, California 94250-5878.

**Statement of Understanding of
The Family Educational Rights and Privacy Act
(Buckley Amendment)**

I understand that because of my employment with San José State University, I may have access to student educational, financial, and employment records that contain individually identifiable information, the disclosure of which is prohibited by the Family Educational rights and Privacy Act of 1974 (FERPA).

I acknowledge that I fully understand that disclosure by me of this information to any unauthorized person could subject me to criminal and civil penalties imposed by the FERPA law. I further acknowledge that any such willful or unauthorized disclosure also violates the University policy on privacy rights for students and could constitute just cause of disciplinary action including termination of my employment regardless of whether criminal or civil penalties are imposed.

By signing this document, I agree to keep all student records of all kinds, student information, and any student files confidential. I will not disclose any type of student information or records to any unauthorized person while working for San José State University, or after my employment at the University.

| | | | |
|--------------------|---|--------------------|------|
| Name: | Srinivasan (Last) | Shruthi (First) | (MI) |
| Signature: | <small>DocuSigned by:</small>  10/6/2021 | | |
| EmplID/Student ID: | 015952209 | | |

During the course of your employment with the University, you may have access to sensitive and or personal information regarding our students and employees. Information may include, but is not limited to, student loans or financial records, student academic records, and employee personnel history and files. Such information should be treated in a confidential manner and should not be part of any public or private conversation. With respect to these records and information, and all other confidential and proprietary SJSU information and records, the employee has read, understands, and agrees to the following:

1. I acknowledge the confidentiality of all student and employee information and records and other confidential and proprietary SJSU information and records. This information will not be revealed to or distributed to or discussed with anyone other than my supervisor and appropriate University officials. I have also read, understood, and signed the Buckley Amendment.
2. I will not attempt to alter, change, modify, add, or delete student or employee record information or University documents unless specifically instructed to do so by supervisor or appropriate University official.
3. Personal or identifying information about SJSU employees (such as name, address, telephone, number, performance reviews, and salaries) will not be released to unauthorized individuals or agencies, without the consent of the Associate Vice President for Human Resources or other appropriately designated University official.
4. I will access only information specified and authorized by my supervisor or appropriate University official. Access to information should be through normal departmental procedures for obtaining specific access to the information in written documents, computer files, student records, or other University information.
5. I understand that information acquired during the course of my work assignments may not be utilized for personal gain or benefit.
6. All procedures, creative work, written documents, records, and computer programs are created and documented according to University policies and procedures. These materials are considered the property of San José State University and are not for public disclosure or use. Faculty should refer to the respective collective bargaining agreement regarding intellectual property rights.

I understand that misuse of personal information or data obtained through my employment is a violation of these agreements and grounds for immediate disciplinary action, up to and including termination, and may also be subject to legal action.

| | | |
|--------------------|--|---------|
| Name: | Srinivasan | Shruthi |
| | (Last) | (First) |
| | DocuSigned by: | |
| Signature: |  <small>05ET2SD10FEE405...</small> | |
| EmplID/Student ID: | Date: 10/6/2021 | |
| 015952209 | | |



CSU FORM SSA-1945

STATEMENT CONCERNING YOUR EMPLOYMENT IN A JOB NOT COVERED BY SOCIAL SECURITY

EMPLOYEE AND CAMPUS INFORMATION

| | | |
|---|---------------------------|---------------|
| EMPLOYEE NAME (Last, First, Middle Initial) | | EMPLOYEE ID # |
| Srinivasan | Shruthi | 015952209 |
| CAMPUS | San José State University | DEPARTMENT |

Please be advised that your earnings from this position are not covered under Social Security. When you retire, or if you become disabled, you may receive a pension based on earnings from this position. If you do, and you are also entitled to a benefit from Social Security based on either your own work or the work of your husband or wife, or former husband or wife, your pension benefit may affect the amount of the Social Security Benefit you receive. Your Medicare benefits, however, will not be affected.

Under the Social Security law, there are two (2) ways your Social Security benefit amount may be affected:

1. Windfall Elimination Provision

Under the Windfall Elimination Provision, your Social Security retirement or disability benefit is figured using a modified formula when you are also entitled to a pension from a job where you did not pay Social Security tax. As a result, you will receive a lower Social Security benefit than if you were not entitled to a pension from this job.

For example, if you are age 62 in 2005, the maximum monthly reduction in your Social Security benefit as a result of this provision is \$313.50. This amount is updated annually. This provision reduces, but does not totally eliminate, your Social Security benefit.

2. Government Pension Offset Provision

Under the Government Pension Offset Provision, any Social Security spouse or widow(er) benefit to which you become entitled will be offset if you also receive a Federal, State, or local government pension based on work where you did not pay Social Security tax. The offset reduces the amount of your Social Security spouse or widow(er) benefit by two-thirds (2/3) of the amount of your pension.

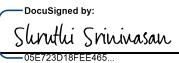
For example, if you get a monthly pension of \$600 based on earnings that are not covered under Social Security, two-thirds of that amount, \$400, is used to offset your Social Security spouse or widow(er) benefit. If you are eligible for a \$500 widow(er) benefit, you will receive \$100 per month from Social Security (\$500-\$400 = \$100). Even if your pension is high enough to totally offset your spouse or widow(er) Social Security benefit, you are still eligible for Medicare at age 65.

FOR ADDITIONAL INFORMATION

For more information, please refer to Social Security Publications **“Windfall Elimination Provision,” and “Government Pension Offset Provision.”** These publications, and additional pertinent information, including information about exceptions to each provision, are available at www.socialsecurity.gov. You may also call toll free at (800) 772-1213, or the TTY number at (800) 325-0778, or contact your local Social Security Office.

REQUIRED SIGNATURE

I certify that I have received CSU FORM SSA-1945 that contains information about the possible effects of the Windfall Elimination Provision and the Government Pension Offset Provision on my potential future Social Security benefits.

| | | |
|-----------------------|---|---------------------------|
| SIGNATURE OF EMPLOYEE | DocuSigned by:  Shruthi Srinivasan 05E723D18FEE405... | DATE 10/6/2021 |
| CAMPUS NAME | San José State University | EMPLOYER ID# 770414038 |



Executive Order 1083 – Mandated Reporter Information

CSU [Executive Order 1083](#) was recently revised to update the requirements for the mandated reporting of child abuse and neglect under the California Child Abuse and Neglect Reporting Act (CANRA). The revised Executive Order contains two reporting categories: General and Limited. A general description for each type of reporter is below. Attachments [A](#) & [B](#) of the Executive Order provide additional information about the designation of reporters and the reporting requirements for each.

Executive Order 1083 Attachment A Attachment B

General Reporters

General Reporters are required to report child abuse and neglect regardless of where the incident occurred. Employees considered General Reporters include (please note, when Staff is referenced, student employees are included):

- Athletic Administrators, Coaches and Staff
- Child Care/Day Care Administrators and Staff
- Employees who Staff Summer Camps, Workshops, or Clinics
- Employees who Provide Services for Children (e.g. Upward Bound)
- EOP Staff
- Orientation Staff
- Physicians, Nurses, Psychologists, Social Workers,
- Clinical Counselors, Therapists, etc.
- Residence Hall Staff
- Student Life Staff who Participate in Overnight Programs
- Summer Bridge Coordinators and Residential Staff
- Teaching Associates
- University Police and Department Staff

Limited Reporters

Limited Reporters are required to report only if the incident occurred on CSU property or at a CSU sponsored event. All other employees not referenced above, as well as all volunteers, are considered limited reporters.

Based on the information provided, which mandated reporter category do you fall under?

Limited Reporter

General Reporter

Scroll down to Executive Order 1083 Attachment D, and read prior to signing.

EmplID/Student ID: 015952209

**STATEMENT ACKNOWLEDGING REQUIREMENT
TO REPORT CHILD ABUSE AND NEGLECT
[USE FOR LIMITED REPORTERS ONLY]**

INSTRUCTION FOR HUMAN RESOURCES: Provide this form, as well as Attachments A and B of Executive Order 1083 Revised July 21, 2017, to employees who are identified as Limited Reporters*. Retain the completed form in the employee's official personnel file.

**Exception:* Non-Management Personnel Plan employees hired prior to January 1, 1985

California law **requires** certain people, known as "Mandated Reporters," to report known or suspected child abuse or neglect. You have been identified as a certain type of Mandated Reporter: a Limited Reporter under Penal Code § 11165.7(a)(41). As a Mandated Reporter, you are required by the law to sign this statement acknowledging your legal reporting obligations.

A copy of the relevant provisions of the law explaining the definition of "Mandated Reporter" (Penal Code § 11165.7), the reporting obligations (Penal Code § 11166), penalty for failure to report abuse or impeding report (Penal Code § 11166.01), the contents of the reports, and the confidentiality of the Mandated Reporter's identity (Penal Code § 11167) is attached.

Online training is available to you at <https://ds.calstate.edu/?svc=skillsoft> (under keyword search "Mandated Reporter").

While it is not required, we strongly encourage you to take the training.

WHEN REPORTING ABUSE IS REQUIRED

As a Limited Reporter, whenever in your professional capacity or within the scope of your employment you have knowledge of or observe a person under the age of 18 years whom you know or reasonably suspect has been the victim of child abuse or neglect **on CSU premises or at an official activity of, or program conducted by, the CSU**, you must report the suspected incident (Penal Code §§ 11166(a) and 11165.7(a)(41)).

PROCEDURE FOR REPORTING

To make a report, you **must** do the following:

- **Immediately, or as soon as practically possible**, contact by phone one of the following: police or sheriff's department (including campus police but not including a school district police or security department); a county probation department (if designated by the county to receive mandated reports); or the county welfare department (Child Protective Services or CPS).
- **Within 36 hours of receiving the information concerning the incident**: complete Form SS 8572 (available online at http://ag.ca.gov/childabuse/pdf/ss_8572.pdf) per the instructions (available online at http://ag.ca.gov/childabuse/pdf/8572_instruct.pdf); and send, fax or electronically transmit it to the agency that was contacted by phone (Penal Code § 11166(a)).

Names and contact information for agencies that can accept reports are available online at the following websites:

California State University Police Departments (by campus):

<http://calstate.edu/strategicinitiatives/UPD/contacts.shtml>

Child Protective Services (by county):

http://www.hwcws.cahwnet.gov/countyinfo/county_contacts/hotline_numbers.asp

For Sheriffs' Departments (by county):

<http://www.calsheriffs.org/sheriffs-offices.html>

Note: Reporting to a supervisor, a coworker, or other person is not a substitute for making a mandated report to one of the agencies listed above.

ABUSE AND NEGLECT THAT MUST BE REPORTED

Physical abuse, meaning physical injury other than by accidental means inflicted on a child (Penal Code § 11165.6).

Sexual assault, including sex acts with a child, intentional masturbation in the presence of a child, child molestation, and lewd or lascivious acts with a child under 14 years of age or with a child under 16 years of age if the other person is at least ten years older than the child (Penal Code § 11165.1(a)(b)).

Sexual exploitation, including acts relating to child pornography, child prostitution, or performances involving obscene sexual conduct by a child (Penal Code § 11165.1(c)).

Statutory rape involving sexual intercourse between a child under 16 years of age and a person 21 years of age or older, which is also a form of "sexual assault" (Penal Code § 11165.1(a)).

Neglect, meaning the negligent treatment or maltreatment of a child by a parent, guardian or caretaker under circumstances indicating harm or threatened harm to the child's health or welfare (Penal Code § 11165.2).

Willful harming or injuring or endangering a child, meaning a situation in which any person inflicts, or willfully causes or permits a child to suffer, unjustifiable physical pain or mental suffering, or causes or permits a child to be placed in a situation in which the child or child's health is endangered (Penal Code § 11165.3).

Unlawful corporal punishment, meaning a situation in which any person willfully inflicts upon a child cruel or inhuman corporal punishment or a physical injury (Penal Code § 11165.4).

WHAT IS NOT CHILD ABUSE OR NEGLECT?

The law does **not** consider the following child abuse or neglect for reporting purposes:

- Injuries caused by two children fighting during a mutual altercation (Penal Code § 11165.6)
- An injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his or her employment (Penal Code § 11165.6)

Executive Order 1083

Revised July 21, 2017

Attachment C

- Reasonable and necessary force used by public school officials to quell a disturbance threatening physical injury to person or damage to property, for self-defense, or to obtain possession of weapons or other dangerous objects under a child's control (Penal Code § 11165.4)
- Corporal punishment, unless it is cruel or inhumane or willfully inflicts a physical injury (Penal Code § 11165.4)
- Not receiving medical treatment for religious reasons (Penal Code § 11165.2(b))
- Acts performed for a valid medical purpose (Penal Code § 11165.1(b)(3))
- An informed and appropriate medical decision made by a parent or parent, guardian or caretaker after consultation with a physician who has examined the child (Penal Code § 11165.2(b))

IMMUNITY AND CONFIDENTIALITY OF REPORTER

Mandated Reporters cannot be held civilly or criminally liable for their reports. Instead, they enjoy immunity from prosecution for their reporting of suspected child abuse (Penal Code § 11172(a)). Both the identity of the person who reports and the report itself are confidential and disclosed only among appropriate agencies (Penal Code § 11167(d)).

PENALTY FOR FAILURE TO REPORT ABUSE OR IMPEDING REPORT

A Mandated Reporter who fails to make a required report of abuse, or any administrator or supervisor who impedes or inhibits a report, is guilty of a misdemeanor punishable by up to six months in jail, a fine of \$1,000, or both (Penal Code Section 11166(c) and Section 11166.01(a)). Where the abuse results in death or great bodily injury, the Mandated Reporter who fails to make a required report or administrator or supervisor who impeded or inhibited the report is subject to punishment of up to one year in jail, a fine of \$5,000, or both (Penal Code Section 11166.01(b)).

ACKNOWLEDGMENT

I acknowledge being provided with copies of Penal Code Sections 11165.7, 11166, 11166.01, and 11167. I acknowledge and understand my responsibility and legal obligation to report known or suspected child abuse or neglect in compliance with Penal Code Section 11166.

Employee's Name: _____ Dept.: _____

Signature: _____ Date: _____

Executive Order 1083

Revised July 21, 2017

Attachment D

**STATEMENT ACKNOWLEDGING REQUIREMENT
TO REPORT CHILD ABUSE AND NEGLECT
[USE FOR GENERAL REPORTERS ONLY]**

INSTRUCTION FOR HUMAN RESOURCES: Provide this form, as well as Attachments A and B of Executive Order 1083 Revised July 21, 2017, to employees who are identified as General Reporters*. Retain the completed form in the employee's official personnel file.

***Exception:** Non-Management Personnel Plan employees hired prior to January 1, 1985

California law **requires** certain people, known as "Mandated Reporters," to report known or suspected child abuse or neglect. You have been identified as a Mandated Reporter (General Reporter). As a General Reporter, you are required by the law to sign this statement acknowledging your legal reporting obligations.

A copy of the relevant provisions of the law explaining the definition of "Mandated Reporter" (Penal Code § 11165.7), the reporting obligations (Penal Code § 11166), penalty for failure to report abuse or impeding report (Penal Code § 11166.01), the contents of the reports, and the confidentiality of the Mandated Reporter's identity (Penal Code § 11167) is attached.

Online training is available to you at <https://ds.calstate.edu/?svc=skillsoft> (under keyword search "Mandated Reporter").

While it is not required, we strongly encourage you to take the training.

WHEN REPORTING ABUSE IS REQUIRED

As a Mandated Reporter (General Reporter), whenever in your professional capacity or within the scope of your employment you have knowledge of or observe a person under the age of 18 years whom you know or reasonably suspect has been the victim of child abuse or neglect, you must report the suspected incident, ***no matter where it occurred*** (Penal Code §§ 11166(a)).

PROCEDURE FOR REPORTING

To make a report, you **must** do the following:

- ***Immediately, or as soon as practically possible***, contact by phone one of the following: police or sheriff's department (including campus police, but not including a school district police or security department); a county probation department (if designated by the county to receive mandated reports); or the county welfare department (Child Protective Services or CPS).
- ***Within 36 hours of receiving the information concerning the incident***: complete Form SS 8572 (available online at http://ag.ca.gov/childabuse/pdf/ss_8572.pdf) per the instructions (available online at http://ag.ca.gov/childabuse/pdf/8572_instruct.pdf); and send, fax or electronically transmit it to the agency that was contacted by phone (Penal Code § 11166(a)).

Executive Order 1083

Revised July 21, 2017

Attachment D

Names and contact information for agencies that can accept reports are available online at the following websites:

California State University Police Departments (by campus):

<http://calstate.edu/strategicinitiatives/UPD/contacts.shtml>

Child Protective Services (by county):

http://www.hwcws.cahwnet.gov/countyinfo/county_contacts/hotline_numbers.asp

For Sheriffs' Departments (by county):

<http://www.calsheriffs.org/sheriffs-offices.html>

Note: Reporting to a supervisor, a coworker, or other person is not a substitute for making a mandated report to one of the agencies listed above.

ABUSE AND NEGLECT THAT MUST BE REPORTED

Physical abuse, meaning physical injury other than by accidental means inflicted on a child (Penal Code § 11165.6).

Sexual assault, including sex acts with a child, intentional masturbation in the presence of a child, child molestation, and lewd or lascivious acts with a child under 14 years of age or with a child under 16 years of age if the other person is at least ten years older than the child (Penal Code § 11165.1(a)(b)).

Sexual exploitation, including acts relating to child pornography, child prostitution, or performances involving obscene sexual conduct by a child (Penal Code § 11165.1(c)).

Statutory rape involving sexual intercourse between a child under 16 years of age and a person 21 years of age or older, which is also a form of "sexual assault" (Penal Code § 11165.1(a)).

Neglect, meaning the negligent treatment or maltreatment of a child by a parent, guardian or caretaker under circumstances indicating harm or threatened harm to the child's health or welfare (Penal Code § 11165.2).

Willful harming or injuring or endangering a child meaning a situation in which any person inflicts, or willfully causes or permits a child to suffer unjustifiable physical pain or mental suffering, or causes or permits a child to be placed in a situation in which the child or child's health is endangered (Penal Code § 11165.3).

Unlawful corporal punishment, meaning a situation in which any person willfully inflicts upon a child cruel and inhuman corporal punishment or a physical injury (Penal Code § 11165.4).

WHAT IS NOT CHILD ABUSE OR NEGLECT?

The law does **not** consider the following child abuse or neglect for reporting purposes:

- Injuries caused by two children fighting during a mutual altercation (Penal Code § 11165.6)
- An injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his or her employment (Penal Code § 11165.6)

Executive Order 1083

Revised July 21, 2017

Attachment D

- Reasonable and necessary force used by public school officials to quell a disturbance threatening physical injury to person or damage to property, for self-defense, or to obtain possession of weapons or other dangerous objects under a child's control (Penal Code § 11165.4)
- Corporal punishment, unless it is cruel or inhumane or willfully inflicts a physical injury (Penal Code § 11165.4)
- Not receiving medical treatment for religious reasons (Penal Code § 11165.2(b))
- Acts performed for a valid medical purpose (Penal Code § 11165.1(b)(3))
- An informed and appropriate medical decision made by a parent, guardian or caretaker after consultation with a physician who has examined the child (Penal Code § 11165.2(b))

IMMUNITY AND CONFIDENTIALITY OF REPORTER

Mandated Reporters cannot be held civilly or criminally liable for their reports. Instead, they enjoy immunity from prosecution for their reporting of suspected child abuse (Penal Code § 11172(a)). Both the identity of the person who reports and the report itself are confidential and disclosed only among appropriate agencies (Penal Code § 11167(d)).

PENALTY FOR FAILURE TO REPORT ABUSE OR IMPEDING REPORT

A Mandated Reporter who fails to make a required report of abuse, or any administrator or supervisor who impedes or inhibits a report, is guilty of a misdemeanor punishable by up to six months in jail, a fine of \$1,000, or both (Penal Code Section 11166(c) and Section 11166.01(a)). Where the abuse results in death or great bodily injury, the Mandated Reporter who fails to make a required report or administrator or supervisor who impeded or inhibited the report is subject to punishment of up to one year in jail, a fine of \$5,000, or both (Penal Code Section 11166.01(b)).

ACKNOWLEDGMENT

I acknowledge being provided with copies of Penal Code Sections 11165.7, 11166, 11166.01, and 11167. I acknowledge and understand my responsibility and legal obligation to report known or suspected child abuse or neglect in compliance with Penal Code Section 11166.

Shruthi

Employee's Name: Srinivasan Dept.: Computer Engineering Department

Signature: Shruthi Srinivasan Date: 10/6/2021

EmplID/Student ID: 015952209

DFEH



THE DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

THE MISSION OF THE DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING IS TO PROTECT THE PEOPLE OF CALIFORNIA FROM UNLAWFUL DISCRIMINATION IN EMPLOYMENT, HOUSING AND PUBLIC ACCOMMODATIONS, AND FROM THE PERPETRATION OF ACTS OF HATE VIOLENCE AND HUMAN TRAFFICKING.

CALIFORNIA LAW PROHIBITS WORKPLACE DISCRIMINATION & HARASSMENT

The California Department of Fair Employment and Housing (DFEH) enforces laws that protect you from illegal discrimination and harassment in employment based on your actual or perceived:

- ANCESTRY
- AGE (40 and above)
- COLOR
- DISABILITY (physical, mental, HIV and AIDS)
- GENETIC INFORMATION
- GENDER IDENTITY, GENDER EXPRESSION
- MARITAL STATUS
- MEDICAL CONDITION (genetic characteristics, cancer or a record or history of cancer)
- MILITARY OR VETERAN STATUS
- NATIONAL ORIGIN (includes language use and possession of a driver's license issued to persons unable to prove their presence in the United States is authorized under federal law)
- RACE (including, but not limited to, hair texture and protective hairstyles. Protective hairstyles includes, but is not limited to, such hairstyles as braids, locks, and twists)
- RELIGION (includes religious dress and grooming practices)
- SEX/GENDER (includes pregnancy, childbirth, breastfeeding and/or related medical conditions)
- SEXUAL ORIENTATION



CALIFORNIA LAW PROHIBITS WORKPLACE DISCRIMINATION & HARASSMENT

DFEH



THE CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT (GOVERNMENT CODE SECTIONS 12900 THROUGH 12996) AND ITS IMPLEMENTING REGULATIONS (CALIFORNIA CODE OF REGULATIONS, TITLE 2, SECTIONS 11000 THROUGH 11141):

- 1.** Prohibit harassment of employees, applicants, unpaid interns, volunteers, and independent contractors by any persons and require employers to take all reasonable steps to prevent harassment. This includes a prohibition against sexual harassment, gender harassment, harassment based on pregnancy, childbirth, breastfeeding and/or related medical conditions, as well as harassment based on all other characteristics listed above.
- 2.** Require that all employers provide information to each of their employees on the nature, illegality, and legal remedies that apply to sexual harassment. Employers may either develop their own publications, which must meet standards set forth in California Government Code section 12950, or use material from DFEH.
- 3.** Require employers with 5 or more employees and all public entities to provide training for all employees regarding the prevention of sexual harassment, including harassment based on gender identity, gender expression, and sexual orientation.
- 4.** Prohibit employers from limiting or prohibiting the use of any language in any workplace unless justified by business necessity. The employer must notify employees of the language restriction and consequences for violation. Also prohibits employers from discriminating against an applicant or employee because they possess a driver's license issued to a person who is unable to prove that their presence in the United States is authorized under federal law.
- 5.** Require employers to reasonably accommodate an employee, unpaid intern, or job applicant's religious beliefs and practices, including the wearing or carrying of religious clothing, jewelry or artifacts, and hair styles, facial hair, or body hair, which are part of an individual's observance of their religious beliefs.
- 6.** Require employers to reasonably accommodate employees or job applicants with disabilities to enable them to perform the essential functions of a job.
- 7.** Permit job applicants, unpaid interns, volunteers, and employees to file complaints with DFEH against an employer, employment agency, or labor union that fails to grant equal employment as required by law.
- 8.** Prohibit discrimination against any job applicant, unpaid intern, or employee in hiring, promotions, assignments, termination, or any term, condition, or privilege of employment.
- 9.** Require employers, employment agencies, and unions to preserve applications, personnel records, and employment referral records for a minimum of two years.
- 10.** Require employers to provide leaves of up to four months to employees disabled because of pregnancy, childbirth, or a related medical condition.
- 11.** Require an employer to provide reasonable accommodations requested by an employee, on the advice of their health care provider, related to their pregnancy, childbirth, or a related medical condition.
- 12.** Require employers of 20 or more persons to allow eligible employees to take up to 12 weeks leave in a 12-month period for the birth of a child or the placement of a child for adoption or foster care; also require employers of 50 or more persons to allow eligible employees to take up to 12 weeks leave in a 12-month period for an employee's own serious health condition or to care for a parent, spouse, or child with a serious health condition.
- 13.** Require employment agencies to serve all applicants equally, refuse discriminatory job orders, and prohibit employers and employment agencies from making discriminatory pre-hiring inquiries or publishing help-wanted advertisements that express a discriminatory hiring preference.
- 14.** Prohibit unions from discriminating in member admissions or dispatching members to jobs.
- 15.** Prohibit retaliation against a person who opposes, reports, or assists another person to oppose unlawful discrimination.

FILING A COMPLAINT

The law provides for remedies for individuals who experience prohibited discrimination or harassment in the workplace. These remedies include hiring, front pay, back pay, promotion, reinstatement, cease-and-desist orders, expert witness fees, reasonable attorney's fees and costs, punitive damages, and emotional distress damages.

Job applicants, unpaid interns, and employees: If you believe you have experienced discrimination or harassment you may file a complaint with DFEH. Independent contractors and volunteers: If you believe you have been harassed, you may file a complaint with DFEH.

Complaints must be filed within three years* of the last act of discrimination/harassment. For victims who are under the age of eighteen, not later than three years after the last act of discrimination/harassment or one year after the victim's eighteenth birthday, whichever is later.

To schedule an appointment, contact the Communication Center below.

If you have a disability that requires a reasonable accommodation, the DFEH can assist you by scribing your intake by phone or, for individuals who are Deaf or Hard of Hearing or have speech disabilities, through the California Relay Service (711), or you can contact us below.

DFEH is committed to providing access to our materials in an alternative format as a reasonable accommodation for people with disabilities when requested.

Government Code section 12950 and California Code of Regulations, title 2, section 11013, require all employers to post this document. It must be conspicuously posted in hiring offices, on employee bulletin boards, in employment agency waiting rooms, union halls, and other places employees gather. Any employer whose workforce at any facility or establishment consists of more than 10% of non-English speaking persons must also post this notice in the appropriate language or languages.

CONTACT US

Toll Free: (800) 884-1684

TTY: (800) 700-2320

contact.center@dfeh.ca.gov

www.dfeh.ca.gov

IMPORTANT LINK

Information Security Standards - Minimum requirements to implement the Information Security Program. Vulnerability Assessment and Management is the latest publication.

Responsible Use Policy - The principal concern of this policy is the effective and efficient use of information technology resources. All users must abide by this policy.

security.sjsu.edu

Information Technology Mission:

We are a cohesive group of IT professionals working collaboratively as a trusted and respected partner in the campus community to advance the University's mission.

Our Services:

We provide effective, efficient computing infrastructure and integrated technology services to maximize user collaboration while protecting university information resources.

Our Commitment:

We commit to providing technologies, services and resources that support an innovative, engaged learning community and enhance student success at SJSU.

Our Community:

We ask our customers about their needs, listen to their concerns, and deliver innovative solutions. We strive to make technology easier for people to use.

Our Excellence:

We believe that technology enriches the educational process. It transcends geographical and cultural boundaries to provide greater learning and teamwork experiences

Our Goal:

We seek to become and be known as innovation leaders in using technology to enhance learning and the educational process, in support of student success.



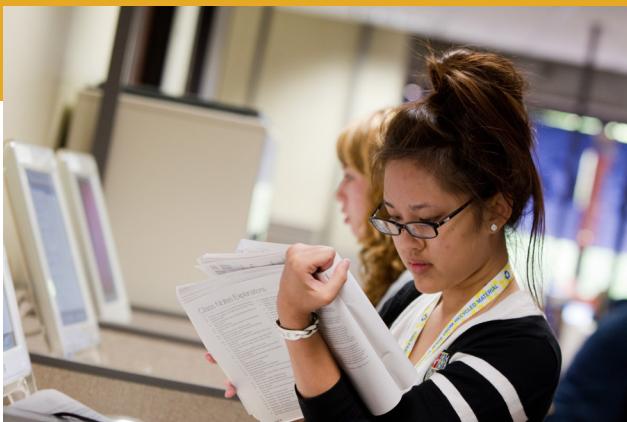
SJSU SAN JOSÉ STATE
UNIVERSITY

Information Security Office
Clark Hall 5th Floor
One Washington Square
San Jose, CA 95192-0046
Phone: 408-927-1705
Website: security.sjsu.edu
E-mail: security@sjsu.edu

Information Security Office

Information Technology Services

IMPORTANT INFORMATION SECURITY REMINDERS



WHAT DOES THE INFORMATION SECURITY OFFICE DO?

The Information Security Office is focused on ensuring the confidentiality, integrity and availability of SJSU's information assets. Maintaining the safety of information assets is vital to the educational, research and operational mission of SJSU. This is the place for you to find the tools and information to protect yourself, your computer, and help prevent the unauthorized access to or use of information.

The Information Security Office oversees SJSU's efforts to:

- Protect information assets and to comply with information-related laws, regulations and policies
- Promote quality and integrity of information security throughout the university
- Build a culture of information security

In today's world, everyone is responsible for Information Security. New threats are appearing every day and our daily lives are growing more interconnected. Information Security is now important no matter where you are or what device you are using. IT Services wants to remind you about several things you can do to help stay safe and secure.

- **Get Antivirus Protection:** Protecting your devices for viruses is a full time job. Antivirus isn't just for Windows PC's anymore; viruses exist for all makes and models! Visit SJSU Antivirus for links and information about all the latest virus trends. Better yet, it is the place where you can download Sophos Endpoint Protection for your Windows, Mac and Linux machines for free!
- **Look for the Lock:** In today's world 'spoofing'—or making a malicious web page appear to be the real deal—is all too commonplace. The Lock icon in your web browser's address bar means that the site you are visiting is who they say they are. Never put a user name or password into a web page that does not have the lock.
- **Think Before you Click:** If you're asked for your personal information (your name, your address or your password), take a careful look before proceeding. Are words misspelled? Is the URL in the address bar slightly off (for example, gmail.com vs. gmal.com)? Is the lock missing from your address bar? Chances are you are on a malicious site!
- **Keep your Passwords Safe:** Don't write down your passwords. Don't use the same password for all systems. Change your passwords regularly. Use long passwords. Don't use passwords that can be figured out by looking at your Facebook page. Use a Password Vault application; there are dozens of secure products available today.
- **Back up your important files:** No system is completely secure. It is important to have your files backed up and stored in a safe place, just in case.
- **Report lost, stolen or missing equipment:** Not only do we need to report this to University Police department but the Information Security Officer needs to know when any San Jose State University owned equipment goes missing, is lost or stolen.



HOW TO REPORT A SECURITY BREACH?

Act Immediately

Breaches are a serious matter and must be handled following a strict protocol.

If you know or suspect a breach has occurred involving sensitive information, it is important to contact the Information Security Office immediately.

The Information Security Office will help you:

- Identify and contain the breach
- Understand the laws and regulations regarding required reporting
- Assist you in adjusting your procedures to avoid future issues

HOW TO CONTACT THE INFORMATION SECURITY OFFICE

- E-mail: security@sjsu.edu
- Phone Business Hours: 408-924-1530
- Phone After Hours: 408-924-1705

The Labor Commissioner's Office

**EMPLOYERS MUST PROVIDE THIS INFORMATION TO NEW WORKERS
WHEN HIRED AND TO OTHER WORKERS WHO ASK FOR IT**

**RIGHTS OF VICTIMS OF DOMESTIC VIOLENCE,
SEXUAL ASSAULT AND STALKING**

Your Right to Take Time Off:

- You have the right to take time off from work to get help to protect you and your children's health, safety or welfare. You can take time off to get a restraining order or other court order.
- If your company has 25 or more workers, you can take time off from work to get medical attention or services from a domestic violence shelter, program or rape crisis center, psychological counseling, or receive safety planning related to domestic violence, sexual assault, or stalking.
- You may use available vacation, personal leave, accrued paid sick leave or compensatory time off for your leave unless you are covered by a union agreement that says something different. Even if you don't have paid leave, you still have the right to time off.
- In general, you don't have to give your employer proof to use leave for these reasons.
- If you can, you should tell your employer before you take time off. Even if you cannot tell your employer before, your employer cannot discipline you if you give proof explaining the reason for your absence within a reasonable time. Proof can be a police report, court order or doctor's or counselor's note or similar document.

Your Right to Reasonable Accommodation:

- You have the right to ask your employer for help or changes in your workplace to make sure you are safe at work. Your employer must work with you to see what changes can be made. Changes in the workplace may include putting in locks, changing your shift or phone number, transferring or reassigning you, or help with keeping a record of what happened to you. Your employer can ask you for a signed statement certifying that your request is for a proper purpose, and may also request proof showing your need for an accommodation. Your employer cannot tell your coworkers or anyone else about your request.

Your Right to Be Free from Retaliation and Discrimination:

Your employer cannot treat you differently or fire you because:

- You are a victim of domestic violence, sexual assault, or stalking.
- You asked for leave time to get help.
- You asked your employer for help or changes in the workplace to make sure you are safe at work.

You can file a complaint with the Labor Commissioner's Office against your employer if he/she retaliates or discriminates against you.

For more information, contact the California Labor Commissioner's Office. We can help you by phone at 213-897-6595, or you can find a local office on our website: www.dir.ca.gov/dlse/DistrictOffices.htm. If you do not speak English, we will provide an interpreter in your language at no cost to you. This Notice explains rights contained in California Labor Code sections 230 and 230.1. Employers may use this Notice or one substantially similar in content and clarity.

WHAT & WHEN TO REPORT

San José State University is committed to creating and sustaining an educational and working environment free of sexual harassment/discrimination, sexual misconduct, dating and domestic violence, and stalking. The Title IX policy and process regarding these prohibited forms of misconduct are set forth in [Executive Order 1097](#). If you experience any such misconduct, you are strongly encouraged to utilize the various on- and off-campus resources. Your safety and well-being are a top priority for the University. Incidents both on and off campus are covered by Title IX, which applies 365 days a year. The only requirement is that students who are on break/away from campus plan to return to SJSU. Note that there is no deadline for reporting a Title IX violation. You should immediately contact the Title IX Office at 408-924-7289 or titleix@sjsu.edu.

What to Report:

- Sexual Harassment/Discrimination
- Sexual Misconduct
- Stalking
- Dating/Domestic Violence (Interpersonal Violence)
- Retaliation for filing a Complaint regarding the above

Emergency reporting options – Contact Law Enforcement at 9-1-1 from campus Bluelight phones or at (408) 924-4222

WHAT ABOUT CONFIDENTIALITY AND RESOURCES?

The University will do its best to keep Title IX matters as private as possible. Here are the most common confidential and non-confidential people/offices on the University campus (see reverse page for contact info):

Not Confidential – duty to report to the Title IX Officer

- | | |
|------------------------|-------------------------------------|
| • Faculty | • University Police Department |
| • Staff | • PRIDE Center Staff |
| • Administrators | • Gender Equity Center Staff |
| • Residence Hall Staff | • Wellness & Health Promotion Staff |
| • Title IX Office | • Respondent Consultant |

Confidential – no duty to report to the Title IX Office (see reverse for exceptions)

- Survivor Advocate
- Counseling and Psychological Services
- Licensed medical professionals in the Student Wellness Center

RESOURCES

Experiencing sexual violence can be difficult and traumatizing to individuals. You are not alone, and there are confidential and non-confidential resources provided on and off campus. They can provide information about your rights and options, and support you through the process. See here: http://notalone.sjsu.edu/find_support/

WHAT HAPPENS ONCE A REPORT IS RECEIVED?

Title IX Office provides resources to a survivor/victim in all cases where the identity is known. In addition, the Title IX Office offers:

Complainant

- Explanation of process
- Explanation of Rights and Responsibilities
- Written information on CSU Policies
- Available Resources (including Survivor Advocate)
- Right to Advisor

Respondent

- Explanation of process
- Explanation of Rights and Responsibilities
- Written information of CSU Policies
- Available Resources (including Respondent Consultant)
- Right to Advisor

[Executive Order 1097](#) and [Executive Order 1098](#) provide the process for a Title IX formal or informal investigation. A Title IX investigation is independent from the criminal process. A survivor/victim may request a Title IX investigation, file a report with law enforcement or do both or neither.

ALWAYS REMEMBER: FOR EMERGENCY & URGENT MATTERS, CALL 911, 408-924-2222 OR 4-2222 from a campus phone

Student Resources & Reporting Options for: Sexual Harassment, Stalking, Dating/Domestic Violence, Retaliation or Sexual Misconduct

Confidential Resources

On Campus

SJSU Survivor Advocate

Monday – Friday: 9am -5pm (408) 924-7300

After hours: (800) 572-2782

Counseling & Psychological Services (CAPS)

(408) 924-5910

Student Health Center

(408) 924-6122

After hours nurse line: (866) 935-6347

Off Campus

YWCA Silicon Valley

Rape Crisis 24/7 Hotline: (650) 493-7273 OR (408) 287-3000

Domestic Violence 24/7 Hotline: (800) 572-2782

Next Door Solutions to Domestic Violence 24/7 Hotline

(408) 279-2962

Santa Clara Valley Medical Center Emergency Services

(408) 885-5000

This is the only nearby hospital that provides comprehensive sexual assault response services.

** Under CA law, if an incident involves a victim under the age of 18 years old, then all reporters, including confidential resources, are required to report the incident to law enforcement.*

**Under CA law, medical clinicians are required to report to law enforcement instances in which they observe physical injury caused by assaultive conduct.*

Non-Confidential Resources & Reporting Options

Title IX Officer

(408) 924-7289

Student Conduct & Ethical Development

(408) 924-5985

Office for Equal Opportunity and Employee Relations

(408) 924-2250

University Police Department

(408) 924-2222

Behavioral Intervention Team

(408) 924-6339

PRIDE Center

(408) 924-6157

Gender Equity Center

(408) 924-6500

University Ombudsperson

(408) 924-5995

Wellness & Health Promotion

Violence Prevention & Sexual Wellness

(408) 924-6112

Respondent Consultant

(408) 924-6303

Please see the University's Title IX webpage for more information: <http://notalone.sjsu.edu/>



WHISTLEBLOWER PROGRAM



YOU CAN REPORT IMPROPER ACTS

We are your confidential avenue for reporting improper activities by state agencies or employees. It is **your responsibility**, as a government employee, to report any type of fraud, waste, or abuse, which ultimately protects scarce state resources. It is also **your right** to be free from retaliation for doing so.

In 2020 alone, we received **1,340 allegations** of wrongdoing, most of which concerned waste of state funds, misuse of state resources, improper contracting, and time and attendance abuse. Whistleblower complaints through our office have triggered investigations revealing **\$581 million in wasteful spending**, such as:

- A state agency wasted as much as \$1.5 million by failing to provide notice of its intent to collect overpayments from recipients that they received as a result of salary advances made to them.
- An administrator violated state law by advertising his state experience on his private business' website and by preparing private tax returns for clients who had business permits with his agency.
- Two university employees spent an estimated 2,800 hours valued at more than \$103,000 performing secondary jobs while they were also being paid to do their university work.



WE INVESTIGATE COMPLAINTS

We report substantiated allegations to the head of the employing agency, the Legislature, and the Governor. In addition, we report some of the substantiated allegations to the general public, keeping confidential the identities of the state employees involved. You can view these reports on our website at:

www.auditor.ca.gov/reports/investigative

We refer substantiated violations of law to law enforcement agencies, as appropriate.



HOW TO REPORT

You have three ways to report information to us confidentially:

Call the Whistleblower Hotline at:

800-952-5665
916-322-2603 (Fax)

(Note: The hotline is staffed Monday through Friday, 8 a.m. to 5 p.m. However, callers may leave a brief recorded message during other hours.)

Mail information to:

Investigations
California State Auditor
P.O. Box 1019
Sacramento, CA 95812

Submit online to:

<http://www.auditor.ca.gov/hotline>



To view an informational webinar hosted by CalHR, visit:

<https://www.youtube.com/watch?v=9WFYlhJDOss>

Stay Connected



California State Auditor

FRAUD WASTE ABUSE

BE PART OF THE SOLUTION!

HELPFUL TIPS WHEN FILING A COMPLAINT



WHAT TO REPORT

Pursuant to Government Code section 8547.2, subdivision (c), improper acts **by a state agency or employee** that should be reported to the State Auditor include:

- Violations of state or federal law, including theft, fraud, or conflict of interest;
- Noncompliance with an executive order, Rule of Court, the *State Administrative Manual*, or the *State Contracting Manual*;
- Misuse or waste of state resources, including property or employee time;
- Gross misconduct, incompetence, or inefficiency.



WHAT WE CAN'T INVESTIGATE

We do not have the authority to investigate either violations of internal department policies or procedures or local government agencies and employees.



WE PROTECT YOUR IDENTITY

If you report an impropriety, you are protected by the Whistleblower Protection Act, which:

- Requires us to protect your identity (except from law enforcement);
- Prohibits intimidation, threats, or coercion by state employees that could interfere with your right to disclose improper governmental activities.

If you believe that you have been retaliated against for disclosing an improper governmental activity, you should report this immediately to one of the following agencies:

State and Court Employees

State Personnel Board
801 Capitol Mall, MS53
Sacramento, CA 95814

California State University Employees

Vice Chancellor of Human Resources
310 Golden Shore, Room 115
Long Beach, CA 90802

Or contact the appointed campus administrator.

University of California (UC) Employees

Contact the locally designated official for the UC facility at which you are employed. Visit www.ucop.edu for more information.

Prepare Before Filing

Gather your thoughts before filing a complaint and prepare yourself to answer the following questions:

- What is the improper activity?
- Who acted improperly?
- Where does that person work?
- How often and for how long has the activity been occurring?
- Why has it been allowed to continue?

Support What You Allege

We are unable to investigate allegations without support for your complaint. Therefore, please remember to include the following:

- Description of the evidence that proves what you are saying.
- Names and telephone numbers of knowledgeable witnesses.
- Copies of any documents you have in your possession that support your allegation. (Please do not submit original documents, as they cannot be returned.)

Consider Providing Contact Information

You have a right to file a complaint **anonymously**. However, we may not be able to investigate your complaint if we cannot talk to you to confirm the information you are providing or obtain additional information. Please remember that if you identify yourself to us, **we cannot reveal your identity to anyone else without your permission**, except to appropriate law enforcement personnel who are conducting a criminal investigation.

Keep Your Complaint Confidential

We investigate complaints as confidentially as possible to protect both your identity as a whistleblower and our ability to gather information without interference. To protect the confidentiality of your complaint, **we encourage you not to tell anyone that you filed a complaint with us**.

THE CALIFORNIA STATE UNIVERSITY
OFFICE OF THE CHANCELLOR



BAKERSFIELD

March 29, 2019

CHANNEL ISLANDS

CHICO

DOMINGUEZ HILLS

MEMORANDUM

EAST BAY

TO: CSU Presidents

FRESNO

FROM: Timothy P. White

FULLERTON

HUMBOLDT

LONG BEACH

LOS ANGELES

SUBJECT: Systemwide *Policy* Prohibiting Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking against Employees and Third Parties and Systemwide *Procedure* for Addressing Such Complaints by Employees and Third Parties
Executive Order 1096 (Revised March 29, 2019)

MARITIME ACADEMY

MONTEREY BAY

Attached is a copy of Executive Order 1096 (Revised March 29, 2019), which supersedes Executive Order 1096 (Revised October 5, 2016). This policy and procedure applies systemwide, in conjunction with Executive Order 1095 (Revised June 2, 2015) and 1098 (Revised March 29, 2019) and any superseding executive orders.

NORTHRIDGE

This executive order has been revised in response to a recent California court of appeal decision and includes an addendum that applies to cases where a student has been accused of sexual misconduct as defined by CSU policy.¹ **The addendum supersedes Article III.C.7-9 and Article IV of this executive order with respect to cases (i) alleging sexual misconduct by a student that, (ii) if substantiated, could result in a severe sanction (suspension or expulsion), and (iii) where credibility of any party or witness is central to the finding.**

POMONA

SACRAMENTO

SAN BERNARDINO

SAN DIEGO

SAN FRANCISCO

SAN JOSÉ

SAN LUIS OBISPO

SAN MARCOS

SONOMA

STANISLAUS

¹ See *John Doe v. Kegan Allee, Ph.D., et al.*, California Court of Appeal (January 2019): <http://www.courts.ca.gov/opinions/documents/B283406.PDF>.

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Complaints of student misconduct are governed by the following CSU policies.

| Alleged Misconduct | Applicable Policy |
|---|---|
| Sexual misconduct by student that could result in severe sanction (suspension or expulsion), where credibility is central to finding | Executive Order 1097 (Revised March 29, 2019) (except Article III.B.7-9 and Article IV) and Addendum -- Investigation and Hearing Process for Students Accused of Sexual Misconduct |
| Discrimination, harassment or retaliation based on protected status (including sexual misconduct by student that, if substantiated, would <u>not</u> result in suspension or expulsion) | Executive Order 1097 (Revised March 29, 2019) and Executive Order 1098 (Revised March 29, 2019) (Article IV) re sanctions process |
| All other student misconduct prohibited by CSU Standards for Student Conduct (5 California Code of Regulations, Section 41301) | Executive Order 1098 (Revised March 29, 2019) |

Complaints that are in process as of the effective date of this executive order will be processed in accordance with the *procedures* outlined herein, however utilizing the *policy and definitions* set forth in the executive order in place at the time of the alleged misconduct. A Complaint is “in process” if the time to appeal to the Chancellor’s Office under Executive Orders 1096 or 1098 has not expired.

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.

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

TPW/kn

Attachments

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

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

Executive Order: 1096 (Revised March 29, 2019)

Effective Date: March 29, 2019

Supersedes: Executive Order 1096 (Revised October 5, 2016)

Title: Systemwide *Policy* Prohibiting Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking against Employees and Third Parties and Systemwide *Procedure* for Addressing Such Complaints by Employees and Third Parties

[NOTE: ARTICLE III.C.7-9 AND ARTICLE IV OF THIS EXECUTIVE ORDER DO NOT APPLY IN CASES (I) ALLEGING SEXUAL MISCONDUCT BY A STUDENT THAT, (II) IF SUBSTANTIATED, COULD RESULT IN A SEVERE SANCTION (SUSPENSION OR EXPULSION), AND (III) WHERE CREDIBILITY OF ANY PARTY OR WITNESS IS CENTRAL TO THE FINDING. SEE ADDENDUM -- INVESTIGATION AND HEARING PROCESS – FOR STUDENTS ACCUSED OF SEXUAL MISCONDUCT.]

Article I. Policy Statement

The California State University (CSU) is committed to maintaining an inclusive community that values diversity and fosters tolerance and mutual respect. We embrace and encourage our community differences in Age, Disability (physical and mental), Gender (or sex), Gender Identity (including transgender), Gender Expression, Genetic Information, Marital Status, Medical Condition, Nationality, Race or Ethnicity (including color or ancestry), Religion (or Religious Creed), Sexual Orientation, and Veteran or Military Status, and other characteristics that make our community unique.² All individuals have the right to participate fully in CSU programs and activities free from Discrimination, Harassment, and Retaliation. The CSU prohibits Harassment of any kind, including Sexual Harassment, as well as Sexual Misconduct, Dating and Domestic Violence, and Stalking. Such misconduct violates University policy and may also violate state or federal law.

All sexual activity between members of the CSU community must be based on Affirmative Consent. Engaging in any sexual activity without first obtaining Affirmative Consent to the specific sexual activity is Sexual Misconduct and constitutes a violation of this policy, whether or not the sexual activity violates any civil or criminal law.

² Key capitalized terms are defined at Article VI of this Executive Order. Please see that Article for the full definitions. Terms contained within this policy and procedure are intended to be gender neutral.

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This policy is established in compliance with the California Equity in Higher Education Act, Title IX of the Education Amendments of 1972, 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) (VAWA) under its Campus Sexual Violence Elimination Act provision (Campus SaVE Act), Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, and the Age Discrimination Act of 1975, among other applicable state and federal laws.

A. Prohibited Conduct. The CSU prohibits:

1. Discrimination, including Harassment, because of any Protected Status: i.e., Age, Disability (physical or mental), Gender (or sex), Gender Identity (including transgender), Gender Expression, Genetic Information, Marital Status, Medical Condition, Nationality, Race or Ethnicity (including color or ancestry), Religion (or Religious Creed), Sexual Orientation, sex stereotype, and Veteran or Military Status;
2. Retaliation for exercising rights under this policy, opposing Discrimination or Harassment because of a Protected Status, or for participating in any manner in any related investigation or proceeding;
3. Dating and Domestic Violence, and Stalking;
4. Sexual Misconduct of any kind, which includes sexual activity engaged in without Affirmative Consent; and,
5. Employees from entering into a consensual relationship with any Student or Employee over whom they exercise direct or otherwise significant academic, administrative, supervisory, evaluative, counseling, or extracurricular authority. See Article I. F.

The University shall respond promptly and effectively to all complaints of Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking, and shall take appropriate action to prevent, correct, and discipline conduct that violates this policy. This Executive Order is intended to protect the rights and privacy of both the Complainant and the Respondent, as well as other involved individuals.

Employees and Students who are found to have violated this policy shall be subject to discipline commensurate with the violation. If Employee discipline is warranted, it shall be administered in a manner consistent with applicable collective bargaining agreements, CSU policies, and legal requirements. Student discipline shall be administered in accordance with 5 Cal. Code Regs. § 41301 and Executive Order 1098, or any superseding executive order, if applicable.

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- B. Discrimination.** The CSU strives to be free of all forms of Discrimination, including Harassment, because of a Protected Status. It is CSU policy that no person shall be excluded from participation in, or be denied the benefits of, any CSU program or activity because of any Protected Status.
- C. Retaliation.** Retaliation against a person for exercising any rights under this policy or for opposing Discrimination or Harassment because of a Protected Status, Sexual Misconduct, Dating or Domestic Violence, or Stalking, or for participating in any manner in any policy-related investigation or proceeding is prohibited.

No victim or witness in related investigations or proceedings will be subject to disciplinary sanctions by the University for related violations of conduct policies occurring at or near the time of the incident unless the University determines the violation was egregious, including but not limited to plagiarism, cheating, academic dishonesty or conduct that places the health and safety of any other person at risk.

- D. Dating and Domestic Violence, and Stalking.** The CSU prohibits Dating and Domestic Violence, and Stalking. Dating and Domestic Violence, and Stalking are often based on Gender. CSU prohibits all such misconduct whether or not it is based on Gender.
- E. Sexual Misconduct.** All sexual activity between members of the CSU community must be based on Affirmative Consent. Engaging in any sexual activity without first obtaining Affirmative Consent to the specific activity constitutes Sexual Misconduct and is a violation of this policy, whether or not the conduct violates any civil or criminal law.

Sexual Misconduct is a form of Sexual Harassment and may create a sexually hostile environment that affects access to or participation in CSU programs and activities. CSU prohibits all such conduct whether or not it also amounts to Sexual Harassment.

Sexual activity includes but is not limited to kissing, touching intimate body parts, fondling, intercourse, penetration of any body part, and oral sex.

Affirmative Consent means an informed, affirmative, conscious, voluntary, and mutual agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure Affirmative Consent has been obtained from the other participant(s) to engage in the sexual activity. Lack of protest or resistance does not mean Affirmative Consent, nor does silence mean Affirmative Consent. Affirmative Consent must be voluntary, and given without coercion, force, threats or intimidation.

The existence of a dating or social relationship between those involved, or the fact of past sexual activities between them, should never by itself be assumed to be an indicator of Affirmative Consent. A request for someone to use a condom or birth control does not, in and of itself, constitute Affirmative Consent.

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Affirmative Consent can be withdrawn or revoked. Consent to one form of sexual activity (or one sexual act) does not constitute consent to other forms of sexual activity. Consent given to sexual activity on one occasion does not constitute consent on another occasion. There must always be mutual and affirmative consent to engage in sexual activity. Consent must be ongoing throughout a sexual activity and can be revoked at any time, including after penetration. Once consent is withdrawn or revoked, the sexual activity must stop immediately.

Affirmative Consent cannot be given by a person who is incapacitated. A person is unable to consent when asleep, unconscious or incapacitated due to the influence of drugs, alcohol or medication so that the person could not understand the fact, nature or extent of the sexual activity. A person is incapacitated if the person lacks the physical and/or mental ability to make informed, rational decisions.

Whether an intoxicated person (as a result of using alcohol or other drugs) is incapacitated depends on the extent to which the alcohol or other drugs impact the person's decision-making ability, awareness of consequences, and ability to make informed judgments. A person's own intoxication or incapacitation from drugs or alcohol does not diminish that person's responsibility to obtain Affirmative Consent before engaging in sexual activity.

A person with a medical or mental disability may also lack the capacity to give consent.

Sexual activity with a minor (a person under 18 years old) is not consensual, because a minor is considered incapable of giving consent due to age.

It shall not be a valid excuse that a person affirmatively consented to the sexual activity if the Respondent knew or reasonably should have known that the person was unable to consent to the sexual activity under any of the following circumstances:

- The person was asleep or unconscious;
- The person was incapacitated due to the influence of drugs, alcohol or medication, so that the person could not understand the fact, nature or extent of the sexual activity;
- The person was unable to communicate due to a mental or physical condition.

It shall not be a valid excuse that the Respondent believed that the person consented to the sexual activity under either of the following circumstances:

- The Respondent's belief in Affirmative Consent arose from the intoxication or recklessness of the Respondent;
- The Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the person affirmatively consented.

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- F. Consensual Relationships.** Consensual relationship means a sexual or romantic relationship between two persons who voluntarily enter into such a relationship. While sexual and/or romantic relationships between members of the University community may begin as consensual, they may evolve into situations that lead to Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence, or Stalking subject to this policy.

A CSU Employee shall not enter into a consensual relationship with a Student or Employee over whom that employee exercises or influences direct or otherwise significant academic, administrative, supervisory, evaluative, counseling, or extracurricular authority. In the event such a relationship already exists, each Campus shall develop a procedure to reassign such authority to avoid violations of this policy.

This prohibition does not limit the right of an Employee to make a recommendation on personnel matters concerning a family or household member where the right to make recommendations on such personnel matters is explicitly provided for in the applicable collective bargaining agreement or MPP/confidential personnel plan.

- G. Reasonable Accommodations.** The CSU will provide reasonable accommodations to qualified individuals with a Disability. Reasonable accommodations will be determined by the Campus following an interactive process with those involved to identify the nature and extent of the restrictions and the appropriate accommodation.
- H. Duty to Report.** Except as provided below, any Employee who knows or has reason to know of allegations or acts that violate this policy shall promptly inform the DHR Administrator or Title IX Coordinator. These Employees are required to disclose all information, including the names of the Parties, even where the person has requested anonymity. The DHR Administrator or Title IX Coordinator will determine whether such confidentiality is appropriate given the circumstances of each such incident.

Employees Who Do Not Have A Duty to Report:

1. The following Employees are not required to report any information about an incident of Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence, or Stalking to the DHR Administrator or Title IX Coordinator:
 - a. Physicians; psychotherapists; professional licensed counselors; licensed clinical social workers, and clergy who work on or off Campus, acting solely in those roles or capacities as part of their employment, in the provision of medical or mental health treatment or counseling (*and those who act under their supervision, including all individuals who work or volunteer in these centers and offices*); and
 - b. Sexual assault and domestic violence counselors and advocates who work or volunteer on or off Campus in sexual assault centers, victim advocacy offices,

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women's centers, gender equity centers, and health centers and who are acting solely in that role (*including those who act in that role under their supervision, along with non-professional counselors or advocates who work or volunteer in sexual assault centers, victim advocacy offices, women's centers or health centers*).

- c. A CSU employee/union representative is not required to report a possible violation of this Executive Order 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.
2. University police are **not** required to report any **personally-identifiable information** about a victim of certain sex offenses,³ **if the victim requests confidentiality of identity**, but must report all known facts of the incident, including the identity of the perpetrator (if known), to the Title IX Coordinator.

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 medical services are provided for a ***physical condition*** to a patient/victim who the practitioner 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 inflicted upon a victim where the injury is the result of assaultive or abusive conduct.⁴ This exception does ***not*** apply to sexual assault and domestic violence counselors and advocates. Health care practitioners should explain this limited exception to victims, if applicable.

Additionally, under California law, ***all*** 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.⁵ These professionals will explain this limited exception to victims, if applicable.

³ See Cal. Penal Code § 293; Cal. Gov. Code § 6254(f)(2). “The name of a victim of any crime defined by Section 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.”

⁴ Assultive 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.

⁵ See Cal. Penal Code §§ 11164-11174.3; see also CSU Executive Order 1083 or any superseding executive order.

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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;⁶ or, (2) to the court if compelled by court order or subpoena in a criminal proceeding related to the Sexual Misconduct, Dating or Domestic Violence, or Stalking incident.⁷ If applicable, these professionals will explain this limited exception to victims.

Article II. Policy Implementation, Training and Communication

Each Campus president shall designate a DHR Administrator and Title IX Coordinator who shall be responsible for the implementation of and compliance with this policy. The DHR Administrator is responsible for the implementation of and compliance with this policy with respect to all Discrimination, Harassment and Retaliation matters except those involving Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking. The DHR Administrator is responsible for publicizing this Executive Order, developing Campus training policies consistent with this Executive Order, conducting training, and establishing an administrative structure consistent with this Executive Order that facilitates the prevention and elimination of Discrimination, Harassment, and Retaliation. The Title IX Coordinator is responsible for the implementation of, and compliance with this policy with respect to Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking. The Title IX Coordinator is responsible for publicizing this Executive Order, developing Campus training policies consistent with this Executive Order, conducting training, and establishing an administrative structure consistent with this Executive Order that facilitates the prevention and elimination of Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking. Each Campus shall make the contact information for the DHR Administrator and Title IX Coordinator available to all members of the Campus community as well as Third Parties. The contact information shall be updated as necessary.

To prevent Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking, and to encourage reporting of such conduct, training shall be provided by each Campus to all Employees, including Faculty unit employees and student assistants. Such training shall be mandatory for all employees within twelve months of the effective date of this Executive Order, and on an annual basis thereafter. New employees shall receive training within six months of their initial hiring. Such training shall explain, but not be limited to: what constitutes Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking under applicable law; the rights and responsibilities of each Employee relating to Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking including the duty to report and exceptions; the protection against Retaliation for Employees who report Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking; the procedure provided in this

⁶ See Cal. Evid. Code § 1024.

⁷ See Cal. Evid. Code § 1035.4.

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Executive Order for filing, investigating and resolving a Complaint; and the option and method for filing Complaints with external government agencies such as the Department of Fair Employment and Housing (DFEH) and the Equal Employment Opportunity Commission (EEOC).

Under Cal. Govt. Code § 12950.1, each Campus shall provide supervisory Employees at least two hours of interactive Sexual Harassment training within six months of the Employee's assignment to a supervisory position and every two years thereafter. Each Campus shall maintain documentation of the delivery and completion of these trainings. For detailed guidance regarding the definition of "supervisor" and the implementation of this training, Campuses shall consult Coded Memoranda HR 2005-35 and other applicable policies.

The requirements for training to promote awareness of CSU policies against Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking are set forth in Executive Order 1095.

This Executive Order shall be made readily available and distributed on an annual basis to all Students and Employees, utilizing multiple media for communication, including email, Student orientations and catalogs, new Employee orientations, Campus websites and publications, and the webpages for the offices of Equity and Diversity, Student Affairs, Student Judicial Affairs, Disabled Student Services, Auxiliary Service Organizations, Academic Affairs, Extended Education, Athletics, Residential Life, and Human Resources.

Each Campus shall also distribute a copy of the Department of Fair Employment and Housing information sheet on sexual harassment (Form DFEH-185, or any superseding document) to all Employees utilizing multiple media for communication, including email and webpages. In addition, each Campus shall post the DFEH poster on employment discrimination (Form DFEH-162, or any superseding document) in prominent and accessible locations on Campus where other employment notices regarding rules, regulations and procedures are posted.

Article III. Campus Procedure for Responding to Complaints

[NOTE: ARTICLE III.C.7-9 OF THIS EXECUTIVE ORDER DOES NOT APPLY IN CASES (I) ALLEGING SEXUAL MISCONDUCT BY A STUDENT THAT, (II) IF SUBSTANTIATED, COULD RESULT IN A SEVERE SANCTION (SUSPENSION OR EXPULSION), AND (III) WHERE CREDIBILITY OF ANY PARTY OR WITNESS IS CENTRAL TO THE FINDING. SEE ADDENDUM -- INVESTIGATION AND HEARING PROCESS – FOR STUDENTS ACCUSED OF SEXUAL MISCONDUCT.

This procedure provides individuals a process to address alleged violations of this policy by the CSU, a CSU Employee, a Student, or a Third Party. Whenever a Campus determines that the allegation(s) are outside the scope of this policy, the Campus shall promptly notify the individual in writing. All Complaints and related investigations against Respondents who are sworn University public safety officers shall be governed by this policy, the applicable collective bargaining agreement, and by the Public Safety Officers Procedural Bill of Rights Act

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(POBR).⁸ The campus DHR Administrator or Title IX Coordinator shall work with the campus Chief of Police, or designee, to investigate Complaints against sworn public safety officers. Consultation with the Office of General Counsel is recommended.

A. Who May Use This Procedure: The individuals listed below may use the procedure in this Executive Order to address Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence, or Stalking.

- 1. Employees.** Non-represented Employees and Employees in bargaining units whose collective bargaining agreements have incorporated this Executive Order may use the procedure described in this Executive Order to address Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence, or Stalking by the CSU, another Employee, a Student, or a Third Party.
- 2. Employees who are covered by a grievance procedure in a collective bargaining agreement.** Employees who are covered by a collective bargaining agreement that provides a grievance procedure for raising allegations of Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence, or Stalking shall use the grievance procedure specified in their collective bargaining agreement.
- 3. Applicants for employment.** Applicants for employment may use the procedure outlined in this Executive Order to address Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence, or Stalking that occurred during their application process.
- 4. Student employees.** At times, a person may be employed by the CSU and also be a Student. If an allegation of Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence, or Stalking arose out of the person's status as a Student and not their status as an Employee, the allegations shall be handled under Executive Order 1097 (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) or a superseding executive order. An allegation arising out of the person's University work environment (while they are acting as an Employee) shall be handled under this Executive Order.
- 5. Third Parties.** Allegations of Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence, or Stalking by Third Parties against the CSU, an Employee, or a Student shall be investigated and resolved in accordance with the procedure outlined in this Executive Order.

The University will respond to all Complaints and will take appropriate action to prevent, correct, and discipline conduct that violates this policy. To report alleged violations, an

⁸ See Cal. Govt. Code §§ 3300-13.

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individual may submit a formal written Complaint to the DHR Administrator (Discrimination, Harassment, and Retaliation) or Title IX Coordinator (Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking). The date of receipt shall be deemed to be the Complaint filing date. The DHR Administrator/Title IX Coordinator shall offer reasonable accommodations to individuals who are unable to submit a Complaint because of a qualified Disability.

Complaints should be brought forward as soon as possible after the conduct occurs. While there is no stated timeframe for making a Complaint, prompt reporting will better enable the Campus to respond to the Complaint, determine the relevant issues, and provide an appropriate Remedy and/or action. All incidents should be reported even if a significant amount of time has passed. However, delaying a report or Complaint may impede the University's ability to conduct an investigation or take appropriate remedial actions.

The Campus will respond to all reports of alleged violations of this policy, whether or not the report is submitted as a written Complaint. However, the response may be limited if information contained in the report is insufficient to verify violation(s) of this Executive Order.

- B. Campus Early Resolution Process.** Complainants who believe they have experienced Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence, or Stalking under this policy may initiate the Early Resolution process prior to, or instead of, filing a Complaint. The purpose of the Early Resolution process is to explore whether the Complainant's concern(s) can be resolved by the Campus without an investigation.

This Executive Order neither prevents nor requires the use of the Early Resolution process. Under no circumstance shall a Complainant be required to use the Early Resolution process to address prohibited behaviors. It is not appropriate for a Complainant to be required to "work out the problem" directly or mediate with the Respondent. Mediation cannot be used, even on a voluntary basis, to resolve Sexual Misconduct, Dating or Domestic Violence, or Stalking Complaints. In other matters, where voluntary mediation is requested, no meeting between the Complainant and the Respondent should occur without involvement by appropriate Campus administrators, including the DHR Administrator or Title IX Coordinator.

Where the allegations involve Sexual Misconduct, Dating or Domestic Violence, or Stalking, the Complainant shall be advised to immediately file a Complaint under Article III, C.

- 1. To initiate the Early Resolution Process.** The Complainant should contact the Campus DHR Administrator (Discrimination, Harassment, or Retaliation) or Title IX Coordinator (Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating or

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Domestic Violence, or Stalking) who shall promptly meet with the Complainant to discuss his or her concern(s) and possible resolutions as appropriate.

Complainants shall be informed about the range of possible outcomes, including Interim Remedies or disciplinary actions that might be taken against the Respondent, and information about the procedures leading to such outcomes.

2. **Participation in the Early Resolution Process.** Participation is voluntary. It may include an inquiry into the facts, but does not include an investigation. Means for resolution shall be flexible. Resolution options include but are not limited to discussions with the Parties, a resolution facilitated by the DHR Administrator or Title IX Coordinator, separating the Parties, referring one or both of the Parties to counseling programs, an agreement between Campus and the Respondent regarding disciplinary action, conducting targeted preventive educational and training programs or providing Remedies to persons harmed by violations of this policy.

The Campus shall attempt to resolve the Complainant's concern(s) quickly and effectively. The DHR Administrator or Title IX Coordinator shall meet with the Complainant, the Respondent, and any other persons or witnesses they may determine to be necessary.

3. **Final Early Resolution.** If resolution is reached, a written record of the resolution shall be documented and maintained in accordance with applicable Campus recordkeeping policies. The matter shall be considered closed.

Where the Respondent is a Student, the DHR Administrator/Title IX Coordinator shall inform the Student Conduct Administrator of the outcome of the Early Resolution process, including any Interim Remedies afforded to the Complainant. Where the Respondent is an Employee, Human Resources or Academic Affairs shall be informed as appropriate.

If resolution is not reached, the Campus shall promptly notify the Complainant and, where applicable, the Respondent in writing that the Early Resolution process is terminated, and the termination effective date. The DHR Administrator/Title IX Coordinator shall also determine whether the matter is appropriate for investigation, and so notify the parties in writing. The Complainant shall be provided written notification of the right to file a Complaint pursuant to Article III, C.

4. **Confidentiality.** Other than consulting with their respective Advisors, both the Complainant and the Respondent shall keep the details of the Early Resolution process confidential until the process is concluded. If the matter is not resolved and an investigation is conducted, the Complainant and the Respondent shall maintain confidentiality until the conclusion of the Campus investigation and CO Appeal Review process, if any.

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- 5. Termination of Early Resolution Process.** The Complainant shall be notified that the Complainant or the Campus may at any time elect to terminate the Early Resolution process. In that event, the DHR Administrator/Title IX Coordinator shall promptly notify the Complainant and the Respondent in writing that the Early Resolution process has terminated, the effective date thereof, and inform the Complainant of the right to file a Complaint pursuant to Article III, C. The DHR Administrator/Title IX Coordinator shall also determine whether the matter is appropriate for investigation, and so notify the parties in writing.

- C. Campus Investigation Process.** Campuses will investigate Complaints of Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence, or Stalking unless an Early Resolution is reached, whether or not a written Complaint is submitted. The DHR Administrator/Title IX Coordinator will determine whether to open an investigation after making a preliminary inquiry into the allegations. An investigation may not be warranted where the reported information is insufficient. These determinations will be documented in writing by the DHR Administrator/Title IX Coordinator, and maintained in accordance with systemwide records retention policies.

In cases where the Complainant does not want to pursue an investigation, the DHR Administrator/Title IX Coordinator should inform the Complainant that the ability to take corrective action may be limited. The Campus may determine that circumstances warrant initiating an investigation even if a Complaint has not been filed and independent of the intent or wishes of the Complainant. In cases involving Sexual Misconduct, Dating or Domestic Violence, or Stalking, when determining whether to go forward with an investigation, the Title IX Coordinator should consider the seriousness of the allegation(s), the age of the Complainant, whether there have been other Complaints against the Respondent, and the risk to the Campus community if the Respondent's alleged conduct remains unaddressed. These determinations will be documented in writing by the DHR Administrator/Title IX Coordinator, and maintained in accordance with systemwide records retention policies.

- 1. Filing a Complaint.** Any Employee or Third Party may file a Complaint reporting Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence, or Stalking under this policy subject to the following exceptions:

- a. Complaints of Student employees that arise out of their status as a Student. Such Complaints shall be governed by Executive Order 1097 or any superseding executive order.
- b. Complaints against a president shall be filed with the Chancellor's Office (CO). However, Complaints against a president shall be processed by the Campus if the president's role in the alleged incident was limited to a decision on a recommendation made by another administrator, and the president had no other substantial involvement in the matter.

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- c. For Complaints against CO employees, the responsibilities identified in this Executive Order as those of the president are the responsibilities of the chancellor. Complaints that involve allegations against the chancellor or a member of the Board of Trustees shall be referred to the chair or vice chair of the Board and the CO Title IX Coordinator for processing and investigation.
2. **Complaint Requirements.** The Complainant may submit a written Complaint to the DHR Administrator or Title IX Coordinator. The date the Complaint is received in the appropriate office shall be deemed to be the Complaint filing date. The DHR Administrator/Title IX Coordinator shall offer reasonable accommodations to Complainants who are unable to submit a written Complaint because of a qualified Disability.

The Complainant may complete the attached “CSU Complaint Form” or, in the alternative, submit a written signed statement containing the following information:

- a. The Complainant’s full name, address (including email address) and telephone number(s);
- b. The name of the Respondent and job title, position or Student status, if known;
- c. The Protected Status that is the basis for any alleged Discrimination, Harassment, or Retaliation, the Respondent’s activity that is the basis for the alleged Retaliation, or whether Dating or Domestic Violence, or Stalking is alleged;
- d. A clear, concise statement of the facts that constitute the allegations including pertinent date(s) and sufficient information to identify any individuals who may provide relevant information during the course of any investigation;
- e. A statement verifying that the information provided is true and accurate to the best of the Complainant’s knowledge;
- f. The day, month and year of the Complainant’s most recent employment or the day, month and year in which the Complainant applied for employment with the University;
- g. The full name, address and telephone number of the Complainant’s Advisor, if any;
- h. The specific harm resulting from the allegations;
- i. The specific remedy sought;

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- j. The Complainant's signature; and,
 - k. The date on which the Complaint is submitted.
3. **Intake interview.** The DHR Administrator or Title IX Coordinator shall meet with the Complainant as soon as possible, but no later than **10 Working Days** after the Complaint was received. The Complainant shall be available for and attend this meeting.
 - a. The meeting shall serve as the initial intake interview with the Complainant and will:
 - (i) Explain the investigation procedure and timelines and answer any questions about them;
 - (ii) Inform the Complainant of rights and options under this Executive Order, including the right to have an Advisor throughout the process;
 - (iii) Provide the opportunity for the Complainant to complete and sign a Complaint form, if not already done; and,
 - (iv) Discuss reasonable Interim Remedies, as appropriate.
 - b. In cases alleging Sexual Misconduct, Dating or Domestic Violence, or Stalking, the Title IX Coordinator shall also:
 - (i) Inform the Complainant of the right to file a criminal complaint;
 - (ii) Offer to assist the Complainant with filing a criminal complaint;
 - (iii) Assure the Complainant that such filing will not significantly delay the Campus investigation;
Advise the Complainant of available resources such as the Campus police, Campus Sexual Assault Victim's Advocate, student health service center or psychological counseling center; and
 - (iv) Provide *written* information, as directed under Executive Order 1095, to any Complainant who makes a report to the Campus of Sexual Misconduct, Dating or Domestic Violence, or Stalking.
 - c. Prior to or during the initial interview with the Respondent, the DHR Administrator or Title IX Coordinator shall:

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- (i) Explain the investigation procedure and timelines and answer any questions about them;
(ii) Inform the Respondent of rights and options under this Executive Order, including the right to have an Advisor throughout the process;
(iii) Provide the Respondent with a copy of this Executive Order;
(iv) Provide the Respondent with a description of the Complainant's allegations against the Respondent;
(v) Provide the Respondent a full opportunity to respond to the allegations, including scheduling other meeting(s), accepting documentary evidence, and accepting Respondent's list of potential witnesses; and,
(vi) Discuss any Interim Remedies, as appropriate.
4. **Advisor.** The Complainant and the Respondent may elect to be accompanied by an Advisor to any meeting or interview regarding the Complaint. (See definition in Article VI.)
5. **Confidentiality.** Information regarding the Complaint may be shared on a "need to know" basis with other Campus Employees, and with law enforcement (with the Complainant's written consent), except for some limited exceptions. (See Executive Order 1095.) The DHR Administrator and/or Title IX Coordinator shall endeavor to honor any request for confidentiality; however, the DHR Administrator and/or Title IX Coordinator shall also weigh requests for confidentiality against the University's duty to provide a safe and nondiscriminatory environment for all members of the Campus community. **Confidentiality, therefore, cannot be ensured.**

The Title IX Coordinator receives all Complainant requests for confidentiality involving cases of Sexual Misconduct, Dating or Domestic Violence, or Stalking, and determines if the request can be honored under the facts and circumstances of the particular case. (See Executive Order 1095.)
6. **Complaint Accepted for Investigation.** The DHR Administrator or Title IX Coordinator will review all written Complaints and the information received during the intake interview with the Complainant. If the DHR Administrator or Title IX Coordinator determines that the Complaint falls within the scope of this Executive Order, the Complainant will be notified within **10 Working Days** that the Complaint has been accepted for investigation and the timeline for completion of the investigation.

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If the DHR Administrator or Title IX Coordinator determines the Complainant has failed to state a Complaint within the scope of this Executive Order, the Complainant will be provided with written notice of this determination with **10 Working Days**. The DHR Administrator or Title IX Coordinator will also inform the Complainant that if additional information is provided, the Complaint will be reviewed again. The DHR Administrator or Title IX Coordinator will maintain a record of the Complaint and the reasons the Complaint was deemed not within the scope of this Executive Order.

The DHR Administrator or Title IX Coordinator shall determine whether the Complaint should be processed through another Campus office or University procedure available to the Complainant. If appropriate, the DHR Administrator or Title IX Coordinator shall direct the Complainant to that procedure as soon as possible.

7. **Investigation Procedure.** The DHR Administrator or Title IX Coordinator shall promptly investigate the Complaint or assign this task to another Investigator on a case-by-case basis. If assigned to another Investigator, the DHR Administrator or Title IX Coordinator shall monitor, supervise, and oversee all such delegated tasks, including reviewing all investigation draft reports before they are final to ensure that the investigation was sufficient, appropriate, impartial, and in compliance with this Executive Order.

The Complainant and the Respondent shall have equal opportunities to present relevant witnesses and evidence in connection with the investigation. Upon inquiry, the Complainant and Respondent shall be advised of the status of the investigation.

Before reaching a final conclusion or issuing a final investigation report, the Investigator shall have: a) advised the Parties or have offered to do so, verbally or in writing, of any evidence upon which the findings will be based; and, b) given the Parties an opportunity to respond to the evidence, including presenting further relevant evidence, information or arguments that could affect the outcome. The Investigator will not reach a final conclusion or issue an investigation report until giving careful consideration to any such relevant evidence, information or arguments provided by the Parties. The Investigator retains discretion and authority to determine relevance.

The investigation shall be completed no later than **60 Working Days** after the intake interview, unless the timeline has been extended pursuant to Article V. E. The timeline should not be extended for a period longer than an additional **30 Working Days** from the original due date.

On occasion, a criminal investigation may be initiated by a law enforcement agency over the same allegations that are reported in a Complaint filed under this policy. A pending (Campus or local) police investigation is a separate investigation and it does

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not relieve a Campus of its responsibility to timely investigate Complaints under this policy. Thus, a Campus may not wait until the conclusion of a police investigation to commence its own investigation. Although it may be necessary to temporarily delay the investigation while the police are gathering evidence, once notified that the police have completed the fact gathering portion of their investigation, the Campus must promptly resume and complete its own investigation. In cases involving Sexual Misconduct, Dating or Domestic Violence, or Stalking, see the “Coordination with Criminal Investigations and Proceedings” section of Executive Order 1095.

8. **Investigation Report.** Within the investigation period stated above, the Investigator shall prepare an investigation report. The report shall include a summary of the allegations, the investigation process, the Preponderance of the Evidence standard, a detailed description of the evidence considered, and appropriate findings. Relevant exhibits and documents, if any, shall be attached to the written report. The report shall be promptly provided to the DHR Administrator or Title IX Coordinator, if applicable. The DHR Administrator or Title IX Coordinator shall review the investigation report to assure compliance with this Executive Order before proceeding further.
9. **Notice of Investigation Outcome.** Within **10 Working Days** of issuance of the final investigation report, the DHR Administrator or Title IX Coordinator shall notify the Complainant and Respondent in writing of the outcome of the investigation. The Notice shall include a summary of the allegations, the investigative process, the Preponderance of the Evidence standard, the evidence considered, the findings of fact, a determination as to whether this Executive Order was violated, and if so, any Remedies to be afforded to the Complainant. The notice shall advise the Complainant and Respondent of their right to file an appeal under this Executive Order and to request a copy of the final investigation report with exhibits/attachments, if any, redacted as appropriate. The Notice shall be delivered to the Parties in a manner which guarantees delivery within **2 Working Days** (email delivery is acceptable).

Where a Complaint is made against a Student and this Executive Order is found to have been violated, the DHR Administrator or Title IX Coordinator shall also notify the Campus Student Conduct Administrator of the investigation outcome, and provide a copy of the investigation report. Where the Respondent is an Employee, Human Resources or Academic/Faculty Affairs shall be notified and provided a copy of the investigation report.

Article IV. Appeal Review - Office of the Chancellor (CO)

[NOTE: ARTICLE IV OF THIS EXECUTIVE ORDER DOES NOT APPLY IN CASES (I) ALLEGING SEXUAL MISCONDUCT BY A STUDENT THAT, (II) IF SUBSTANTIATED, COULD RESULT IN A SEVERE SANCTION (SUSPENSION OR EXPULSION), AND (III) WHERE CREDIBILITY OF ANY PARTY OR WITNESS IS CENTRAL TO THE FINDING. SEE ADDENDUM -- INVESTIGATION AND HEARING PROCESS – FOR STUDENTS ACCUSED OF SEXUAL MISCONDUCT.

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- A. Filing an Appeal to the CO.** Any Complainant or Respondent who is not satisfied with a Campus investigation outcome may file an appeal with the CO no later than **10 Working Days** after the date of the Notice of Investigation Outcome.
- B. Written Appeal.** The appeal shall be in writing and shall be based only on one or more of the appeal issues listed below:
 1. The investigation outcome is unsupported by the evidence, based on the Preponderance of the Evidence standard;
 2. Prejudicial procedural errors impacted the investigation outcome to such a degree that the investigation did not comply with this Executive Order; or
 3. New evidence not available at the time of the investigation.
- C. Issues and Evidence on Appeal.** The issues and evidence raised on appeal shall be limited to those raised and identified during the investigation, unless new evidence becomes available after the Campus investigation process and is made part of the appeal by the appealing party. The CO may conduct an interview, at the CO's discretion, with the appealing party to clarify the written appeal. Appeals shall be addressed to:

Equal Opportunity and Whistleblower Compliance Unit
Systemwide Human Resources
Office of the Chancellor
401 Golden Shore, 4th Floor
Long Beach, California 90802
eo-wbappeals@calstate.edu
- D. Acknowledgement of Appeal.** The CO shall provide prompt written acknowledgement of the receipt of the appeal to the appealing party, and will provide written notification of the appeal to the other party and the Campus DHR Administrator or Title IX Coordinator.
- E. Reasonable Accommodation.** The CO will provide reasonable accommodation(s) to any party or witness in the appeal process with a qualified Disability upon request by the person needing the accommodation. A reasonable accommodation may include an extension under these procedures. The timeframe for the CO Appeal Response will automatically be adjusted for the time needed, if any, to provide reasonable accommodation(s).
- F. Scope of CO Review.** The CO review will not involve a new investigation by the CO and will not consider evidence that was not introduced during the Campus investigation, unless the new evidence was not available at the time of the Campus investigation process. The CO may make reasonable inquiries to determine if the new evidence could

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have affected the investigation determination. If the CO review determines the investigation should be reopened to cure any defects in the investigation and/or consider new evidence introduced for the first time on appeal (that could have affected the investigation determination), the investigation will be remanded back to the Campus and the investigation reopened at the Campus level.

- G. Reopening a Campus Investigation.** The CO will return the matter to the Campus and will specify in writing the timeline by which a reopened investigation must be completed. The CO will notify the Parties of the reopening of the investigation and the timeline for completion of the reopened investigation. The Campus will complete the reopened investigation and provide the CO with an amended investigation report. The Campus will also provide the Parties with amended Notices of Investigation Outcome, and such Notices will provide the Parties the opportunity to appeal any new or amended findings, in accordance with this Executive Order. Upon receipt of the amended investigation report, the CO will contact the appealing party to determine whether that party wishes to continue with the appeal.
- H. Timeline.** The CO shall respond to the appealing party no later than **30 Working Days** after receipt of the written appeal unless the timeline has been extended as specified in Article V. E below.
- I. CO Appeal Response.** The CO Appeal Response shall include a summary of the issues raised on appeal, a summary of the evidence considered, the Preponderance of the Evidence standard, and the determination(s) reached regarding the issue(s) identified within the written appeal. A copy of the final CO Appeal Response shall be forwarded to the Complainant and Respondent, as well as the Campus DHR Administrator or Title IX Coordinator.

The CO Appeal Response is final and concludes the Complaint and CO review process under this Executive Order.

Article V. General Provisions for Campus Investigation/CO Appeal Review

- A. Impartial Investigations.** All investigations and reviews shall be conducted impartially and in good faith.
- B. Cooperation in an Investigation.** Students and Employees are required to cooperate with the investigation and other processes set forth in this Executive Order, including but not limited to, attending meetings, being forthright and honest during the process, and keeping confidential the existence and details of the investigation/review. If a Complainant and/or Respondent refuse to cooperate, the CSU may draw all reasonable inferences and conclusions on the basis of all available evidence and conclude the investigation/review.

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- C. False Allegations Prohibited.** A Complainant shall proceed with a Complaint in good faith. A Complainant who knowingly and intentionally files a false Complaint or any individual who is determined to have provided false statements or information during the investigation/appeal review shall be subject to discipline in accordance with applicable collective bargaining agreements, CSU policies, and legal requirements (e.g., Education Code Section 89530 et seq.). Such disciplinary action shall not be deemed to be Retaliation.
- D. Input into the Investigation.** Both the Complainant and Respondent shall have the right to identify witnesses and other evidence for consideration; however, the CSU shall decide what evidence is relevant and significant to the issues raised.
- E. Timelines and Extensions.** The timeline for the procedures contained within this Executive Order may be extended for any reason deemed to be legitimate by the Campus Investigator/CO Appeal reviewer or by mutual agreement of the Parties. The timelines stated within this Executive Order will be automatically adjusted for a reasonable time period that should not exceed an additional **30 Working Days** for a Campus investigation or an additional **30 Working Days** for a reopened Campus investigation under Article IV. The Complainant and Respondent shall receive written notification of any period of extension.
- F. Delivery.** When submitting a Complaint or issuing any notices required by this Executive Order, personal delivery, overnight delivery services, electronic mail, or certified mail may be used. If personal delivery is used, a proof of service shall be prepared attesting to the calendar date of delivery, which will establish the date of filing or response. If certified mail delivery is used, the postmark shall establish the date of filing or response. Electronic communications must be sent to the designated CSU or Campus e-mail address unless the intended recipient has specified a different address. Electronic communications will be deemed received on the date sent.
- G. Investigation Not Warranted.** In the event that a Campus determines an investigation is not warranted, the reasons for that decision shall be reduced to writing and retained by the Campus according to appropriate record retention policies.
- H. Information Requests.** Where it is necessary for the Complainant or Respondent to have access to specific information for the purpose of filing a Complaint or CO Appeal, the Complainant or Respondent shall make a written request for such information to the Campus. The Complainant or Respondent shall have access to information within the policies, procedures and laws governing confidentiality and privacy that are relevant to any issue raised in the Complaint. This provision does not authorize a Complainant or Respondent access to the personnel files of another without the written consent of that person.
- I. Employee Rights.** Nothing contained herein is intended or should be construed to interfere with an Employee's right to consult with a representative.

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- J. Release Time.** Taking into account campus operational needs, CSU shall provide the Complainant and Advisor, if any, reasonable release time for preparing and presenting the Complaint upon their request.

Taking into account campus operational needs, CSU shall provide Unit 3 and 4 Complainants and any Advisor (who is in the same bargaining unit) with reasonable release time for preparing and presenting the Complaint upon request. Taking into account campus operational needs, CSU shall provide to any Advisor to Unit 3 or 4 Respondents reasonable release time for the purposes of providing advice to the Respondent under this Executive Order, where both the Respondent and Advisor are in the same bargaining unit.

- K. External Remedies.** A Complainant may choose to pursue remedies with outside government agencies at any time without waiting for the conclusion of the CSU Complaint process under this Executive Order.

Article VI. Definitions

For purposes of this Executive Order, the following definitions apply:

- A. Adverse Action** means an action that has a substantial and material adverse effect on the Complainant's employment or ability to participate in a University program or activity free from Discrimination, Harassment or Retaliation. Minor or trivial actions or conduct not reasonably likely to do more than anger or upset a Complainant does not constitute an Adverse Action.
- B. Advisor:** The Complainant and the Respondent may each elect to be accompanied by an Advisor to any meeting or interview regarding the allegations. The Advisor may be anyone, including a union representative from the Complainant's or Respondent's collective bargaining unit, an attorney, or, in the case of the Complainant, a Sexual Assault Victim's Advocate, provided the Advisor is not a person with information relevant to the allegations who may be interviewed by the Investigator during the investigation. The Advisor may not answer questions regarding the subject matter of the investigation for the Complainant or the Respondent. However, the Advisor may observe and consult with the Complainant or Respondent and take appropriate action to ensure that the investigation does not violate applicable laws, policies, or collective bargaining agreements.
- C. Affirmative Consent** means an informed, affirmative, conscious, voluntary, and mutual agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that Affirmative Consent has been obtained from the other participant(s) to engage in the sexual activity. Lack of protest or resistance does not mean consent nor does silence mean consent.

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Affirmative Consent can be withdrawn or revoked. Affirmative Consent cannot be given by a person who is incapacitated.

A person with a medical or mental Disability may also lack the capacity to give consent.

Sexual activity with a minor (under 18 years old) is never consensual because a minor is considered incapable of giving legal consent due to age.

See Article I. E. for more information.

- D.** **Age**, with respect to employment discrimination, refers to the chronological age of any individual who has reached his or her 40th birthday.⁹ With respect to discrimination in non-employment programs and activities, Age means how old a person is, or the number of years from the date of a person's birth.¹⁰ Age based stereotype refers to generalized opinions about matters including the qualifications, job performance, health, work habits, and productivity of individuals over forty.

Age is a Protected Status.

- E.** **Calendar Days** are defined as Monday through Sunday and include official holidays.
- F.** **California State University (CSU)** means the 23 Campus system of the California State University, including the CO.
- G.** **Campus or University** means any of the 23 Campuses of the CSU or the CO.
- H.** **CO Appeal Response** refers to the decision provided to the Complainant and the Respondent upon completion of the appeal process provided under Article IV.
- I.** **Complainant** means an individual who is eligible to file a Complaint or report a violation of this policy. See Article III. A for a description of those eligible to file a Complaint. It also includes any person who is reported to have experienced a violation of this policy in cases where some other person has made a report on that person's behalf. A Complainant may also be referred to as a party to the Complaint.
- J.** **Complaint** means a report of a violation of this policy or a written communication that complies with Article III. C. 2 alleging Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence, or Stalking, against the CSU, an Employee, a Student, or a Third Party.
- K.** **Dating Violence** is abuse committed by a person who is or has been in a social or dating relationship of a romantic or intimate nature with the victim.¹¹ This may include someone

⁹ See Cal. Gov. Code § 12926(b).

¹⁰ See 34 C.F.R. 110.3

¹¹ See Cal. Penal Code § 13700 (b).

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the victim just met; i.e., at a party, introduced through a friend, or on a social networking website. For purposes of this definition, “abuse” means intentionally or recklessly causing or attempting to cause bodily injury or placing another person in reasonable apprehension of imminent serious bodily injury to self, or another. Abuse does not include non-physical, emotional distress or injury.

L. DHR (Discrimination, Harassment, and Retaliation) Administrator means the Management Personnel Plan (MPP) Employee at each Campus who is designated to administer this Executive Order and coordinate compliance with the laws prohibiting Discrimination, Harassment and Retaliation. The DHR Administrator may delegate tasks to one or more designees, provided that any designee shall be a MPP Employee or an external consultant, and the DHR Administrator retains overall responsibility and authority. **MPP Employee** means an employee who has been designated as a “management” or “supervisory” employee under the provisions of the Higher Education Employer-Employee Relations Act.¹² The Campus president may assign the roles of the DHR Administrator and Title IX Coordinator to the same person. The names of, and contact information for the DHR Administrator and Title IX Coordinator shall be made readily available to the Campus community and Third Parties as described in Article II.

M. Disability, as defined in California Government Code § 12926 and the federal Americans with Disabilities Act (ADA), 2008 Amendments, means:

1. Having a physical or mental condition that limits a major life activity. “Limits” means making the achievement of a major life activity difficult. “Limits” is determined without regard to mitigating measures such as medications, assistive devices, prosthetics, or reasonable accommodations, unless the mitigating measure itself limits a major life activity. A “major life activity” is broadly construed and includes physical, mental, and social activities (such as walking, talking, seeing, hearing) and working; or
2. Having a known history of a qualifying impairment; or
3. Being regarded or treated as having or having had a qualifying impairment; or
4. Being regarded or treated as having or having had such an impairment that has no presently disabling effects but may become a qualifying impairment in the future.

Disability includes HIV and AIDS. Disability is a Protected Status.

N. Discipline means any disciplinary action taken to correct a violation of the prohibitions against Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking set forth in this Executive Order. Discipline for Employees includes, but is not limited to, suspension, demotion and termination of employment. Discipline for Students includes, but is not limited to, probation, suspension and expulsion. Suspension of one academic year or more, expulsion, withdrawal in lieu of suspension or expulsion, and withdrawal with pending misconduct investigation or

¹² See Cal. Code Regs. Title 5 § 42720 et seq.

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disciplinary proceeding shall be entered on the Student's transcript permanently without exception; this requirement cannot be waived in connection with any settlement agreement. See the definition of Remedies below.

- O. Discrimination** means Adverse Action taken against an Employee or Third Party by the CSU, a CSU employee or a Student, because of a Protected Status.
- P. Domestic Violence** is abuse committed against someone who is a current or former spouse; current or former cohabitant; someone with whom the Respondent has a child; someone with whom the Respondent has or had a dating or engagement relationship; or a person similarly situated under California domestic or family violence law. Cohabitant means two unrelated persons living together for a substantial period of time, resulting in some permanency of relationship. It does not include roommates who do not have a romantic, intimate, or sexual relationship. Factors that may determine whether persons are cohabiting include, but are not limited to: (1) sexual relations between the Parties while sharing the same living quarters; (2) sharing of income or expenses; (3) joint use or ownership of property; (4) whether the Parties hold themselves out as spouses; (5) the continuity of the relationship; and, (6) the length of the relationship. For purposes of this definition, "abuse" means intentionally or recklessly causing or attempting to cause bodily injury or placing another person in reasonable apprehension of imminent serious bodily injury to self, or another.¹³ Abuse does not include non-physical, emotional distress or injury.
- Q. Employee** means a person legally holding a position in the CSU. This term includes full-time, part-time, permanent, tenured, probationary, temporary, intermittent, casual, and per-diem positions. This term does not include auxiliary or foundation Employees or other Third Parties.¹⁴
- R. Gender** means sex, and includes Gender Identity, Gender Expression, and transgender. It also includes sex stereotyping.¹⁵

Sex includes, but is not limited to, pregnancy, childbirth, breastfeeding or any related medical condition(s).¹⁶

Gender Identity means a person's identification as male, female, a gender different from the person's sex at birth, or transgender.

Gender Expression means a person's gender-related appearance or behavior whether or not stereotypically associated with the person's assigned sex at birth.

¹³ See Cal. Penal Code § 13700(b) and Cal. Family Code § 6211.

¹⁴ See Cal. Code Regs. Title 5 § 42700(h).

¹⁵ See Cal. Govt. Code § 12926(r).

¹⁶ See Cal. Gov. Code § 12926(r); 34 C.F. R. 106.40

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Sex stereotype means an assumption about a person's appearance or behavior or about an individual's ability or inability to perform certain kinds of work based on a myth, social expectation, or generalization about the individual's sex.

Transgender is a general term that refers to a person whose gender identity differs from the person's sex at birth. A transgender person may or may not have a gender expression that is different from the social expectations of the sex assigned at birth. A transgender person may or may not identify as transsexual.

Gender is a Protected Status.

S. Genetic Information means¹⁷:

- The person's genetic tests.
- The genetic tests of the person's family members.
- The manifestation of a disease or disorder in the person's family members.
- Any request for, or receipt of genetic services, or participation in clinical research
- that includes genetic services, by a person or any person's family member.
- Genetic Information does not include information about the sex or age of any person.

Genetic Information is a Protected Status.

T. Harassment means unwelcome conduct engaged in because of a Complainant's Protected Status and:

- Submission to, or rejection of, the conduct is made a term or condition of the Complainant's employment; *or*
- Submission to or rejection of such conduct by the Complainant is used as the basis or threatened to be used as the basis for employment actions or decision affecting the Complainant; *or*
- The conduct is sufficiently severe or pervasive that its effect, whether or not intended, could be considered by a reasonable person in the shoes of the Complainant, and is in fact considered by the Complainant, as intimidating, hostile or offensive.

Harassment includes, but is not limited to, verbal harassment (e.g., epithets, derogatory comments, or slurs), physical harassment (e.g., assault, impeding or blocking movement,

¹⁷ See Cal. Govt. Code § 12926(g).

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or any physical interference with normal work or movement), and visual forms of harassment (e.g., derogatory posters, cartoons, drawings, symbols, or gestures.)

- U. Investigator** means the person tasked by a Campus with investigating a Complaint. All Investigators shall receive annual training regarding such issues as the laws governing Discrimination, Harassment and Retaliation; Title IX and VAWA/Campus SaVE Act; as well as other related state and federal laws prohibiting Discrimination, Harassment and Retaliation based on Gender or Sex, including Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking; Complainant, Respondent, Employee, and witness privacy rights; and the Family Educational Rights and Privacy Act of 1974 (FERPA). For matters involving Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating or Domestic Violence, or Stalking, the Investigator shall also receive annual training on how to conduct an investigation process that protects the safety of the Complainant(s) and the University community. (See also Executive Order 1095 regarding required training for Sexual Harassment and Sexual Misconduct investigations.)

If delegated, the DHR Administrator or the Title IX Coordinator (for Complaints alleging Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating or Domestic Violence, or Stalking) shall monitor, supervise, and oversee the investigation to ensure that it is conducted in accordance with the standards, procedures and timelines set forth in this policy.

The Investigator shall not be within the administrative control or authority of any Respondent CSU Employee. The Investigator may be the DHR Administrator, the Title IX Coordinator, or their designee, provided that any designee shall be a MPP Employee or an external consultant.

- V. Marital Status** means an individual's state of marriage, non-marriage, divorce or dissolution, separation, widowhood, annulment, or other marital state.¹⁸

Marital Status is a Protected Status.

- W. Medical Condition** means either of the following:

1. Any health impairment related to or associated with a diagnosis of cancer or a record or history of cancer; or
2. Genetic characteristics. For purposes of this section, "genetic characteristics" means either of the following:
 - a. Any scientifically or medically identifiable gene or chromosome, or combination or alteration thereof, that is known to be a cause of a disease or

¹⁸ See 2 Cal. Code Regs. §11053,

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disorder in a person or offspring, or that is determined to be associated with a statistically increased risk of development of a disease or disorder, and that is presently not associated with any symptoms of any disease or disorder; or

- b. Inherited characteristics that may derive from the individual or family member, that are known to be a cause of a disease or disorder in a person or offspring, or that are determined to be associated with a statistically increased risk of development of a disease or disorder, and that are presently not associated with any symptoms of any disease or disorder.¹⁹

Medical Condition is a Protected Status.

- X.** **Nationality** includes citizenship, country of origin, and national origin.²⁰ It also includes language use restrictions and holding or presenting a driver's license issued under section 12801.9 of the Vehicle Code.

Nationality is a Protected Status.

- Y.** **Parties** to a Complaint are the Complainant(s) and the Respondent(s).

- Z.** **Preponderance of the Evidence** means the greater weight of the evidence; i.e., that the evidence on one side outweighs, preponderates over, or is more than, the evidence on the other side. The Preponderance of the Evidence is the applicable standard for demonstrating facts and reaching conclusions in an investigation conducted pursuant to this Executive Order.

- AA.** **Protected Status** includes Age, Disability (physical or mental), Gender (or sex), Genetic Information, Gender Identity (including transgender), Gender Expression, Marital Status, Medical Condition, Nationality, Race or Ethnicity (including color or ancestry), Religion or Religious Creed, Sexual Orientation, and Veteran or Military Status.

- BB.** **Race or Ethnicity** includes ancestry, color, ethnic group identification, and ethnic background.²¹ Race or Ethnicity is a Protected Status.

- CC.** **Religion or Religious Creed** includes all aspects of religious belief, observance, and practice, including religious dress and grooming practices, and includes agnosticism and atheism. Religious dress and grooming practices, such as wearing religious clothing, head or face covering, jewelry, and artifacts, are part of a Complainant's religious observance or belief.²² Religion or Religious Creed is a Protected Status.

¹⁹ See Cal. Govt. Code § 12926 (i).

²⁰ See Cal. Govt. Code § 12926(o).

²¹ See Cal. Govt. Code § 12926(o).

²² See Cal. Govt. Code § 12926(q).

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- DD.** **Remedies** means actions taken to correct allegations and/or reported violations of Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence, or Stalking as set forth in this Executive Order. Remedies can include Discipline or other corrective action.

Interim Remedies shall be offered prior to the conclusion of an investigation in order to immediately stop any wrong-doing and/or reduce or eliminate any negative impact, when appropriate. Persons reporting that they have been the victim of Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating or Domestic Violence, or Stalking must be provided reasonable and available Interim Remedies, if requested, regardless of whether the person chooses to report the conduct to Campus police or local law enforcement, and regardless of whether an investigation is conducted under this Executive Order. Examples may include offering the option of psychological counseling services, changes to work area, work assignments, or supervisory reporting relationship, or any measure as appropriate to stop further alleged harm until an investigation is concluded or a resolution is reached. The Title IX Coordinator shall assist and provide the Complainant with reasonable Remedies as requested throughout the reporting, investigation, appeal, and disciplinary processes, and thereafter.

- EE.** **Respondent** means the CSU, a CSU Employee, a Student, or a Third Party who is alleged to have violated this Executive Order.

- FF.** **Retaliation** means Adverse Action taken against a person because the person has or is believed to have:

1. Exercised rights under this Executive Order;
2. Reported or opposed conduct which was reasonably and in good faith believed to be in violation of this Executive Order;
3. Assisted or participated in a policy-related investigation/proceeding regardless of whether the Complaint was substantiated; or,
4. Assisted someone in reporting or opposing a violation of this Executive Order, or assisted someone in reporting or opposing Retaliation under this Executive Order.

Retaliation may occur whether or not there is a power or authority differential between the individuals involved.

- GG.** **Sexual Assault Victim's Advocate** refers to Employees or third party professionals appointed to support Complainants reporting Sexual Misconduct. They must be certified and have received specialized training to provide advice and assistance, including, but not limited to, the provision of information about available options in the Complaint, law enforcement, legal, and medical processes, and with emotional and decision making support. Sexual Assault Victim Advocates may serve as the Complainant's Advisor and

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assist in seeking services. They are committed to maintain the highest possible level of confidentiality permissible under state and federal law in their communications with the persons they assist.²³ Sexual Assault Victim's Advocates are appointed based on experience and demonstrated ability to effectively provide services to victims/survivors/Complainants. (See Executive Order 1095 for more detailed information.)

- HH. Sexual Harassment**, a form of Sex Discrimination, is unwelcome verbal, nonverbal or physical conduct of a sexual nature that includes but is not limited to sexual advances, requests for sexual favors, any other conduct of a sexual nature, offering employment benefits or giving preferential treatment in exchange for sexual favors, or indecent exposure, where:
1. Submission to, or rejection of, the conduct by the Complainant is explicitly or implicitly used as the basis for any decision affecting a term or condition of the Complainant's employment, or an employment decision; **or**
 2. The conduct is sufficiently severe, persistent or pervasive that its effect, whether or not intended, could be considered by a reasonable person in the shoes of the Complainant, and is in fact considered by the Complainant, as creating an intimidating, hostile or offensive environment.

Sexual Harassment could include being forced to engage in unwanted sexual contact in exchange for a raise or promotion; being subjected to video exploitation or a campaign of sexually explicit graffiti; or frequently being exposed to unwanted images of a sexual nature in the work environment.

Sexual Harassment also includes acts of verbal, non-verbal or physical aggression, intimidation or hostility based on Gender or sex-stereotyping, even if those acts do not involve conduct of a sexual nature.

This policy covers unwelcome conduct of a sexual nature. While romantic, sexual, intimate, personal or social relationships between members of the University community may begin as consensual, they may evolve into situations that lead to Sexual Harassment or Sexual Misconduct, including Dating or Domestic Violence, or Stalking, subject to this policy.

Claiming that the conduct was not motivated by sexual desire is not a defense to a complaint of harassment based on Gender.

- II. Sexual Misconduct:** All sexual activity between members of the CSU community must be based on Affirmative Consent. Engaging in any sexual activity without first obtaining

²³ See Cal. Evid. Code §§ 1035.2 and 1035.4.

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Affirmative Consent to the specific activity is Sexual Misconduct, whether or not the conduct violates any civil or criminal law.

Sexual activity includes, but is not limited to, kissing, touching intimate body parts, fondling, intercourse, penetration of any body part, and oral sex. It also includes any unwelcome physical sexual acts, such as unwelcome sexual touching, Sexual Assault, Sexual Battery, Rape, and Dating Violence. Sexual Misconduct may include using physical force, violence, threat, or intimidation, ignoring the objections of the other person, causing the other person's intoxication or incapacitation through the use of drugs or alcohol, or taking advantage of the other person's incapacitation (including voluntary intoxication) to engage in sexual activity. Men as well as women can be victims of these forms of Sexual Misconduct. Sexual activity with a minor is never consensual when the Complainant is under 18 years old, because the minor is considered incapable of giving legal consent due to age.

1. **Sexual Assault** is a form of Sexual Misconduct and is an attempt, coupled with the ability, to commit a violent injury on the person of another because of that person's Gender or sex.²⁴
2. **Sexual Battery** is a form of Sexual Misconduct and is any willful and unlawful use of force or violence upon the person of another because of that person's Gender or sex as well as touching an intimate part of another person against that person's will and for the purpose of sexual arousal, gratification, or abuse.²⁵
3. **Rape** is a form of Sexual Misconduct and is non-consensual sexual intercourse that may also involve the use of threat of force, violence, or immediate and unlawful bodily injury or threats of future retaliation and duress. Any sexual penetration, however slight, is sufficient to constitute Rape. Sexual acts including intercourse are considered non-consensual when a person is incapable of giving consent because the person is incapacitated from alcohol and/or drugs, is under 18 years old, or if a mental disorder or developmental or physical Disability renders a person incapable of giving consent. The Respondent's relationship to the person (such as family member, spouse, friend, acquaintance or stranger) is irrelevant. (See complete definition of Affirmative Consent above.)²⁶
4. **Acquaintance Rape** is a form of Sexual Misconduct committed by an individual known to the victim. This includes a person the victim may have just met; i.e., at a party, introduced through a friend, or on a social networking website. (See above for definition of Rape.)

²⁴ See Cal. Penal Code § 240.

²⁵ See Cal. Penal Code § 242.

²⁶ See Cal. Penal Code §§ 261-263.

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- JJ.** **Sexual Orientation** means one's preference in sexual partners and includes heterosexuality, homosexuality, or bisexuality.²⁷
Sexual Orientation is a Protected Status.
- KK.** **Stalking** means engaging in a repeated Course of Conduct directed at a specific person that would cause a Reasonable Person to fear for the safety of self or others' safety or to suffer Substantial Emotional Distress.²⁸ For purposes of this definition:
- 1. Course of Conduct** means two or more acts, including but not limited to, acts in which the stalker directly, indirectly, or through Third Parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property;
 - 2. Reasonable Person** means a reasonable person under similar circumstances and with the same Protected Status(es) as the Complainant;
 - 3. Substantial Emotional Distress** means significant mental suffering or anguish that may, but does not necessarily require medical or other professional treatment or counseling.
- LL.** **Student** means an applicant for admission to the CSU, an admitted CSU Student, an enrolled CSU Student, a CSU extended education Student, a CSU Student between academic terms, a CSU graduate awaiting a degree, a CSU student currently serving a suspension or interim suspension, and a CSU Student who withdraws from the University while a disciplinary matter (including investigation) is pending.
- MM.** **Third Party** means a person other than an Employee or a Student. Examples include employees of auxiliary organizations²⁹, unpaid interns, volunteers, independent contractors, vendors, and their employees, and visitors.
- NN.** **Title IX** means Title IX of the Education Amendments of 1972.
- OO.** **Title IX Coordinator** means the Campus MPP Employee appointed by the Campus president to coordinate compliance with Title IX; VAWA/Campus SaVE Act; and other related state and federal laws prohibiting Discrimination, Harassment and Retaliation based on Gender or sex, including Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence and Stalking. (See Executive Order 1095.)
- PP.** **VAWA** means the Violence Against Women Reauthorization Act of 2013 (which amends the Jeanne Clery Disclosure of Campus Crimes Statistics Act, commonly known

²⁷ See Cal. Govt. Code § 12926(s).

²⁸ See Cal. Penal Code § 646.9

²⁹ See 5 Cal. Code Regs. § 42406.

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as the Clery Act) (20 U.S.C. 1092(f)), under its Campus Sexual Violence Elimination Act provision (Campus SaVE Act).

- QQ.** **Veteran or Military Status** means service in the uniformed services. Veteran or Military Status may be a Protected Status.
- RR.** **Working Days** are defined as Monday through Friday, excluding all official holidays or Campus closures at the Campus where the Complaint originated or at the CO where an Appeal is reviewed.

Addendum: Investigation and Hearing Process – For Students Accused of Sexual Misconduct

Attachments: CSU Complaint Form

CSU Executive Order 1096 Procedure Timeline



Timothy P. White, Chancellor

Dated: March 29, 2019

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 1096, Revised (*Systemwide Policy Prohibiting Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking against Employees and Third Parties and Systemwide Procedure for Addressing Such Complaints by Employees and Third Parties*), dated October 5, 2016
- Executive Order 1096 (*Systemwide Policy Prohibiting Discrimination, Harassment and Retaliation Against Employees and Third Parties and Procedure for Handling Discrimination, Harassment and Retaliation Allegations by Employees and Third Parties*), dated June 23, 2015
- Executive Order 1096 (*Systemwide Policy Prohibiting Discrimination, Harassment and Retaliation Against Employees and Third Parties and Procedure for Handling Discrimination, Harassment and Retaliation Allegations by Employees and Third Parties*), dated June 3, 2014

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- Executive Order 1089 (*Systemwide Policy Prohibiting Discrimination, Harassment and Retaliation Against Employees and Third Parties and Procedures for Handling Discrimination, Harassment and Retaliation Allegations by Employees and Third Parties*), dated October 23, 2013
- HR/EEO 2011-01 (*Handling Employee Allegations of Discrimination, Harassment and Retaliation*), dated January 27, 2011
- Executive Order 928 (*Systemwide Complaint Procedure for Discrimination, Harassment and Retaliation Complaints for Employees Not Eligible to File a Complaint or Grievance Under a Collective Bargaining Agreement or Whose Collective Bargaining Agreement Incorporates CSU Systemwide Complaint Procedure*), dated January 6, 2005
- Executive Order 927 (*Systemwide Policy Prohibiting Harassment in Employment and Retaliation for Reporting Harassment or Participation in a Harassment Investigation*), dated January 6, 2005
- Executive Order 883 (*Systemwide Guidelines for Nondiscrimination and Affirmative Action Programs in Employment*), dated October 31, 2003
- Executive Order 774 (*Systemwide Guidelines for Nondiscrimination and Affirmative Action Programs in Employment*), dated May 17, 2001
- Executive Order 675 (*Systemwide Complaint Procedure for Discrimination Complaints for Employees Not Eligible to File a Discrimination Complaint or Grievance Under a Collective Bargaining Agreement*), dated January 19, 1998
- Executive Order 419 (*Systemwide Grievance Procedure - Discrimination Complaints for Employees Not Covered by Existing Regulation*), dated July 1, 1983
- Executive Order 345 (*Prohibition of Sexual Harassment*), dated June 1, 1981
- Executive Order 340 (*Systemwide Guidelines for Nondiscrimination and Affirmative Action Program in Employment*), dated February 27, 1981

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**ADDENDUM TO CSU EXECUTIVE ORDERS
1096, 1097 & 1098 (Revised March 29, 2019)**

**INVESTIGATION AND HEARING PROCESS – FOR STUDENTS
ACCUSED OF SEXUAL MISCONDUCT**

This Addendum, entitled “Investigation and Hearing Process — For Students Accused of Sexual Misconduct,” **supersedes Article III.C.7-9 and Article IV of California State University Executive Order 1096 (Revised October 5, 2016); Article III.B.7-9 and Article IV of California State University Executive Order 1097 (Revised October 5, 2016); and Article IV of California State University Executive Order 1098 (Revised June 23, 2015), and applies to Complaints alleging Sexual Misconduct committed by a Student Respondent.**³⁰

Article I. Scope of this Addendum

This Addendum **supersedes** the existing investigation and resolution process under Article III.C.7-9 and Article IV of EO 1096 (Revised March 29, 2019); Article III.B.7-9 and Article IV of EO 1097 (Revised March 29, 2019); and Article IV of EO 1098 (Revised March 29, 2019) (sanctions) for cases (i) alleging Sexual Misconduct by a Student that, (ii) if substantiated, could result in a severe sanction (suspension or expulsion), **and** (iii) where credibility of any Party or witness is central to the finding.³¹ Allegations of other misconduct set forth in the same Complaint that arise out of the same facts and/or incidents will also be investigated and resolved (including sanctions) in accordance with this Addendum.

Article II. Investigation Procedure

The Title IX Coordinator will either promptly investigate the Complaint or assign this task to another Investigator. If assigned to another Investigator, the Title IX Coordinator will monitor, supervise, and oversee all such delegated tasks, including reviewing all investigation draft reports before they are final to ensure that the investigation is sufficient, appropriate, impartial, and in compliance with the relevant Executive Order, including this Addendum.

At the onset of the investigation, the Title IX Coordinator will simultaneously provide both Parties a Notice of Investigation. The Notice of Investigation will include:

1. a summary of the Complaint (e.g., “who,” “what,” “when,” and “where”);

³⁰ Capitalized terms are defined in this Addendum and in CSU Executive Order 1096 (*Systemwide Policy Prohibiting Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking against Employees and Third Parties and Systemwide Procedure for Addressing Such Complaints by Employees and Third Parties*) and CSU Executive Order 1097 (*Systemwide Policy Prohibiting Discrimination, Harassment and Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking against Students and Systemwide Procedure for Addressing Such Complaints by Students*).

³¹ In most Sexual Misconduct cases, credibility will be central to the finding. Therefore, Parties should presume that this Addendum applies to all matters alleging Sexual Misconduct.

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2. a copy of, or internet link to, the relevant Executive Order, including this Addendum;
3. a description of the investigation and resolution procedure (including the right to hearing and appeal);
4. the estimated timeline for completion of the investigation;
5. a description of the University's policy against Retaliation; and
6. information about the Parties' right to an Advisor. The Complainant and Respondent will have equal opportunities to present relevant witnesses and evidence in connection with the investigation and at any hearing. Upon request, the Complainant and Respondent will be advised of the status of the investigation. If new allegations are raised during the investigation that are materially different from those described in the Notice of Investigation, a revised Notice of Investigation will be issued to the Parties.

Article III. Evidence

A. Gathering of Evidence. The Investigator will take reasonable steps to gather all relevant evidence from the Parties, other witnesses or other sources. The Investigator will document the steps taken to gather evidence, even when those efforts are not successful.

The Investigator will notify the Parties in writing that they may:

1. submit documentary information to the Investigator;
2. submit a list of potential witnesses to the Investigator; and/or
3. request that the Investigator attempt to collect documents and other information that are not reasonably accessible to the requesting Party.

B. Basis for Declining Request. The Investigator may decline a Party's request to gather information if:

1. the request seeks information about the Complainant's sexual history with anyone other than the Respondent (unless such evidence about the Complainant's sexual behavior is offered to prove that someone other than the Respondent committed the alleged misconduct, or if the evidence concerns specific incidents of the Complainant's sexual behavior with respect to the Respondent and is offered to prove consent);
2. the request seeks information about the Respondent's sexual history with anyone other than the Complainant unless such information is used to prove motive or pattern of conduct;

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3. the request seeks information that is unreasonably duplicative of evidence in the Investigator's possession;
4. the Investigator determines that the information is not relevant to disputed issues;
5. the request seeks information that can be reasonably and adequately obtained by the requesting Party from other independent or publicly available sources;
6. the burden of obtaining the information is likely to substantially outweigh the benefit that the evidence bears on a disputed issue; or
7. the requested information can be reasonably obtained through other means less likely to intrude on a person's privacy.

In determining the relevance of evidence, consent to one form of sexual activity (or one sexual act) does not constitute consent to other forms of sexual activity, and consent given to sexual activity on one occasion does not constitute consent on another occasion.

Article IV. Review of Evidence

Before issuing a final investigation report (Final Investigation Report), the Investigator will share with the Complainant and Respondent a preliminary report of the evidence, along with all relevant evidence gathered as described above (Preliminary Investigation Report), redacted if and to the extent required by law. The Preliminary Investigation Report will: (a) describe the allegations; (b) identify the material facts – undisputed and disputed – with explanations as to why any material fact is disputed; and (c) describe the evidence presented and considered.

The Investigator may use discretion in determining how to provide access to the Preliminary Investigation Report with the Parties in light of the particular circumstances and any Party or witness privacy concerns. The Preliminary Investigation Report will also identify any evidence offered by the Parties or any other witnesses that the Investigator concluded is not relevant to a material disputed fact, and will briefly explain why it is not relevant. Such evidence need not be attached to the report, but will be available for reasonable review upon request during the review of evidence process.

This process is collectively referred to as the "Review of Evidence."

Each Party will be given a reasonable opportunity to respond to the list of disputed facts and evidence and ask questions. In particular, each Party may:

1. meet again with the Investigator;
2. identify additional disputed facts;
3. respond to the evidence in writing;

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4. request that the Investigator ask specific questions to the other Party and other witnesses;
5. identify additional witnesses; and
6. request that the Investigator gather additional evidence.

The Investigator will share with the Parties the answers to questions posed during the Review of Evidence. If additional disputed material facts are identified or relevant evidence is gathered, it will be included in the Preliminary Investigation Report (or in a separate addendum) and shared with all Parties, who will be given a reasonable opportunity to respond to the new evidence and ask questions. The Investigator determines when it is appropriate to conclude the Review of Evidence.

Article V. Investigation Report, Pre-Hearing Disposition, and Scheduling of Hearing

1. The Final Investigation Report will include all of the information included in the Preliminary Investigation Report as well as additional relevant evidence received during the Review of Evidence. Any relevant documentary or other tangible evidence provided by the Parties or witnesses, or otherwise gathered by the Investigator will be attached to the Final Investigation Report as exhibits or otherwise made available for reasonable review by the Parties and at the hearing. Evidence offered by the Parties or any other witnesses that the Investigator concluded is not relevant to a material disputed fact will also be accessible to the Hearing Officer during the hearing.
2. Absent good cause (of which the Parties will receive written notice): (i) the investigation should be concluded within **90 Working Days** from the date that Notice of Investigation is provided to the Parties; and (ii) the Final Investigation Report should be completed and provided to the Parties within **10 Working Days** after the Review of Evidence has concluded. Any extensions will be granted, and notice to the Parties given, as set forth in Article V. E. of EO 1096 and EO 1097.
3. If assigned to another Investigator, the Title IX Coordinator will monitor, supervise, and oversee all delegated tasks, including reviewing all draft reports before they are finalized to ensure that the investigation was sufficient, appropriate, impartial, and in compliance with the relevant Executive Order, including this Addendum.
4. Within **10 Working Days** after the Parties have been provided the Final Investigation Report, the Parties will be informed of the timelines that will apply to the pre-hearing and hearing processes described in Article VII below.

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Article VI. Early Resolution³²

If the Title IX Coordinator or either Party believes that it may be possible to resolve the Complaint in a prompt, fair, and reasonable manner without a hearing, the Title IX Coordinator may suggest that the Parties consider an Early Resolution subject to the following:

1. both Parties must agree to engage in the Early Resolution process;
2. any agreed-upon remedies and disciplinary sanctions will have the force and effect of sanctions imposed following a Hearing;
3. the terms of any resolution must be memorialized in writing and signed by the Parties and the Title IX Coordinator; and
4. the resolution will be final and not appealable by either Party.

Article VII. Pre-Hearing and Hearing Processes

1. The Student Conduct Administrator, Title IX Coordinator, or other appropriate Administrator (Hearing Coordinator) will be responsible for coordinating the hearing process. The Hearing Coordinator's duties will include: scheduling the hearing; notifying witnesses of the hearing; ensuring that the Hearing Officer is provided with appropriate materials including a copy of the report and any exhibits; coordinating videoconferencing (if necessary); and securing a location for the hearing. The Hearing Coordinator will also act as liaison between the Parties and the Hearing Officer on procedural matters.
2. The Parties will be given written notice of the date, time, and location of the hearing as well as the identity of the Hearing Officer. Notification of the hearing will be sent to the designated CSU campus e-mail address, unless the recipient has specifically requested in writing to the Hearing Coordinator that notice be given to a different e-mail address. Communications will be deemed received on the date sent. The hearing will not be set sooner than **15 Working Days** after the date of notice of hearing.
3. Timelines:

Hearing Officer

Any objections to an appointed Hearing Officer will be made in writing to the Hearing Coordinator within **5 Working Days** after notice of the identity of the Hearing Officer has been provided.

The objection must be based on an actual conflict of interest. A conflict of interest exists if the Hearing Officer has a personal relationship with one of the

³² The Early Resolution process is available at any time prior to the issuance of the Hearing Officer's Report.

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Parties or witnesses or has demonstrated actual bias towards a Party or witness. The fact that a Hearing Officer has previously served as a Hearing Officer in university proceedings will not constitute a conflict of interest. The Hearing Coordinator will determine if a conflict of interest exists. In that event, the Parties will be notified in writing of the name of the new Hearing Officer. The date for the hearing may need to be rescheduled. Any objection to the new Hearing Officer will be made in accordance with this section.

Hearing Process

No later than **10 Working Days** before the hearing, each Party will:

- a. Provide to the Hearing Coordinator the name of, and contact information for, the Party's advisor and support person (if any);
- b. Make any requests to the Hearing Coordinator to consolidate pending cases for hearing;
- c. Provide to the Hearing Coordinator a proposed witness list that includes the names of, and current contact information for, that Party's proposed witnesses as well as an explanation of the relevance of each proposed witness's testimony and the disputed issue to which the witness's testimony relates. Absent extenuating circumstances, such witnesses should have been identified to the investigator during the investigation process, and referenced in the investigation report.

The Hearing Officer will make all determinations regarding pre-hearing matters, including witness participation and questions, and will promptly notify the Hearing Coordinator who, in turn, will promptly notify the Parties.

No later than **5 Working Days** before the hearing, the Hearing Coordinator will:

- a. Share a final witness list with the Parties.
- b. Notify each witness of the date, time and location of the hearing. Witnesses will be instructed to attend the hearing and to promptly direct any questions or concerns about their attendance at the hearing to the Hearing Coordinator.

No later than **5 Working Days** prior to the hearing, the Parties will submit a list of proposed questions to the Hearing Coordinator.

No later than **3 Working Days** before the hearing, the Parties will submit to the Hearing Coordinator any: (i) objections to, or questions about, the witness list or

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(ii) requests for permission to participate in the hearing remotely or out of the physical presence of the other Party. All communications will be in writing.

No later than **1 Working Day** before the hearing, the Hearing Officer will resolve all pending requests regarding participation at the hearing. The Hearing Coordinator will give prompt notice to the Parties (and witnesses) as appropriate.

The hearing is closed to all persons except the Parties; the Parties' respective Advisors; one support person per Party; appropriate witnesses while they are testifying; the Student Conduct Administrator; Title IX Coordinator; Hearing Officer; and Hearing Coordinator. A CSU administrator may also be present, but will not participate in the hearing. Campus police or a security officer may also be present if deemed appropriate or necessary by the Vice President for Student Affairs, Hearing Coordinator or Hearing Officer. The University will take reasonable steps to instruct witnesses employed by the University to attend the hearing, and to arrange for such witnesses to be available to attend, provided that such employee witnesses are timely identified to the Hearing Coordinator in accordance with this Executive Order.

4. The University will instruct Student witnesses to attend the hearing, provided that such Student witnesses are timely identified to the Hearing Coordinator in accordance with this Executive Order. Students who fail to comply may be subject to discipline, depending on the circumstances. The University will take reasonable steps to accommodate Student witnesses including arranging for them to be excused from class attendance, if necessary.
5. The hearing will commence with an overview of the hearing process given by the Hearing Officer, after which the Parties will be given an opportunity to ask questions about the hearing process. Generally, the Investigator or the Title IX Coordinator (if not the Investigator) will be the first witness and will describe the complaint, investigation process, and summarize the evidence. Each Party will be given an opportunity to make an opening statement that will last no longer than 10 minutes. The Advisor and any support person are not permitted to make the opening statement or speak during the hearing. The Parties will not make closing statements.
6. The Hearing Officer may ask questions of the Complainant, Respondent, Investigator, any University official (e.g., Title IX Coordinator or Student Conduct Administrator), and any witness.
 - a. The Complainant and Respondent may be present at all times during the hearing unless the Hearing Officer determines that a Party should be excused for extraordinary circumstances.
 - b. As set forth above, the Parties will give the Hearing Coordinator a written list of any questions that they would like the Hearing Officer to ask the witnesses. The

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Parties may also propose follow-up questions to the Hearing Officer during the hearing, at appropriate times designated by the Hearing Officer.

- c. The Hearing Officer will ask the questions proposed by the Parties except for questions that:
 - i. seek information about the Complainant's sexual history with anyone other than the Respondent (unless such evidence about the Complainant's sexual behavior is offered to prove that someone other than the Respondent committed the alleged misconduct);
 - ii. seek information about the Respondent's sexual history with anyone other than the Complainant, unless such information is used to prove motive or pattern of conduct;
 - iii. seek information that is unreasonably duplicative of evidence in the Hearing Officer's possession; or
 - iv. the Hearing Officer determines are not relevant to material disputed issues, are argumentative or harassing or unduly intrude on a witness's privacy.
 - d. The Hearing Officer has discretion to modify or change the wording of a question proposed by a Party (for example, when a question is unclear or inappropriate in tone) as long as the substance of the question is preserved.
 - e. The Parties will address any questions, concerns or objections about a question (or line of questioning) to the Hearing Officer who will use their discretion to resolve any issues consistent with the Executive Order. Advisors may not speak on behalf of a Party.
 - f. Formal rules of evidence applied in courtroom proceedings (e.g., California Evidence Code) do not apply in the hearing. All information that responsible persons are accustomed to rely upon in the conduct of serious affairs is considered.
7. Hearsay may be considered, but will only be given the weight appropriate under all of the circumstances, with due consideration given to the importance of credibility assessment. Absent extenuating circumstances, the Hearing Officer will not rely on prior statements made by the Parties or witnesses during the investigation whose credibility is central to the determination unless those Parties or witnesses make themselves available for examination by the Hearing Officer.

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8. The Hearing Officer will not, prior to preparing the Hearing Officer's Report (described below), have substantive communications about the facts of the case with either Party or the Investigator unless in the presence of both Parties and a University official (e.g., Hearing Coordinator, Title IX Coordinator or Student Conduct Administrator).
9. New evidence not reasonably available at the time of the investigation to the Party seeking to introduce the evidence may be considered in the Hearing Officer's discretion.
10. The Hearing Officer will make an official audio recording of the hearing. The recording is University property. No other recording of the hearing is permitted. The audio recording will be retained by the Hearing Coordinator or designee in accordance with the Campus records/information retention and disposition schedule.
11. If either Party fails to appear at the hearing without good cause the hearing will nevertheless proceed. Whether good cause exists is determined by the Hearing Officer.
12. The Respondent will not be found to have violated University policy solely because the Respondent failed to appear at the hearing. Nor will the Respondent be found not to have violated the University policy solely because a Complainant or other witness failed to appear at the hearing.
13. Abusive or otherwise disorderly behavior that causes a material disruption is not tolerated. The Hearing Officer may eject or exclude anyone (including either Party, their advisors, and support persons) whose behavior causes a material disruption.
14. The Hearing Officer controls the hearing, is responsible for maintaining order during the hearing, and makes whatever rulings are necessary to ensure a fair hearing. The Hearing Officer's decisions in this regard are final.
15. Where there is more than one Respondent or Complainant in connection with a single occurrence or related multiple occurrences, the Hearing Officer and the Parties may agree to a single hearing. A Party may request consolidation with other cases, or the Student Conduct Administrator may initiate the consolidation (subject to FERPA and other applicable privacy laws). All such requests will be made in accordance with timelines set forth in this section. The Hearing Officer makes consolidation decisions, which are subject to review by the Vice President of Student Affairs or designee.

Article VIII. Standard of Proof, Report, and Hearing Officer's Report

1. After the hearing, the Hearing Officer will make findings of fact and conclusions about whether the Respondent violated University Policy (Hearing Officer's Report). The standard of proof the Hearing Officer will use is whether each allegation is substantiated by a Preponderance of the Evidence. The Title IX Coordinator will review the Hearing Officer's Report to ensure compliance with this Executive Order. The Hearing Coordinator will transmit the Hearing Officer's Report promptly to the Parties, the Title

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Revised March 29, 2019
Addendum

IX Coordinator, and the Student Conduct Administrator, usually within **10 Working Days** of the close of the hearing. If no violation is found, the president (or designee) will also be notified.

2. If a violation is found, within **5 Working Days** of receiving such finding the Parties may submit to the Hearing Coordinator an impact statement or other statement regarding discipline that is no more than 2000 words in length. The document is an opportunity for the Parties to suggest disciplinary outcomes and to provide information that they believe is important for the Hearing Officer to consider. The Student Conduct Administrator and/or Title IX Coordinator may also submit a written statement regarding aggravating and mitigating factors, including whether the Respondent was previously found to have violated the Student Code of Conduct.
3. Within **5 Working Days** after receiving and considering any impact or other statements submitted by the Parties and other statements described above, the Hearing Officer will submit the Hearing Officer's Report to the president (or designee), including recommended sanctions (as defined in EO 1098) if a Respondent has been determined to have violated University policy. The Hearing Officer's Report will attach the Investigation Report and will include:
 - a. the factual allegations and alleged policy violations;
 - b. the Preponderance of the Evidence standard;
 - c. the evidence considered including an analysis of the credibility of the Parties and witnesses, when credibility assessments are required to resolve factual disputes;
 - d. any material evidence identified by the Parties or witnesses that the Hearing Officer determined was not relevant (or duplicative) and the reason why the evidence was not considered to be relevant;
 - e. a list of all questions proposed by the Parties at the hearing, and if any questions were not asked, why;
 - f. a summary of the procedural issues raised by the Parties before or during the hearing;
 - g. the factual findings and the evidence on which the factual findings are based;
 - h. to the extent that the factual findings required a determination concerning of the relative credibility or lack of credibility of the Parties or witnesses, an explanation as to how that determination was reached; and
 - i. a determination of whether the Executive Order was violated and an analysis of the basis for that determination.

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Article IX. Final Decision/Notification

In cases where the Hearing Officer has found a violation of policy, the president (or designee) will review the Investigation Report and the Hearing Officer's Report and issue a decision concerning the appropriate sanction within **10 Working Days** of receipt of the Hearing Officer's Report.

1. The president may impose the recommended sanctions, adopt a different sanction or sanctions, or reject sanctions altogether. If the president adopts a sanction other than what is recommended by the Hearing Officer, the president must set forth the reasons in the Decision Letter.
2. The president will simultaneously send the Decision Letter electronically to the Respondent and Complainant at the University-assigned or other primary e-mail address linked to their University accounts.³³ The decision will also be sent to the Student Conduct Administrator and the Hearing Officer.
3. The Decision Letter will include:
 - a. the outcome of the hearing, including any sanction imposed, and the name of the Respondent(s);
 - b. a copy of the Hearing Officer's Report, redacted as appropriate or as otherwise required by law; and
 - c. notice of the Complainant's and Respondent's right to appeal to the CO.
4. The president will also send the Decision Letter to the Title IX Coordinator so that they may determine whether any additional Remedies (or other supportive measure) will be afforded or undertaken in order to maintain a safe and nondiscriminatory University environment.
5. Unless the CO notifies the campus and Parties that an appeal has been filed, the president's sanction decision becomes final **11 Working Days** after the date of the Decision Letter.

³³ The copy of the Decision Letter issued to the Complainant will be redacted as to findings regarding conduct that does not constitute a "crime of violence," Sexual Misconduct, Dating Violence, Domestic Violence, or Stalking (34 C.F.R. § 99.31 et seq.).

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Article X. Appeal of Decision

A. Filing an Appeal to the CO. Any Complainant or Respondent who is not satisfied with a Campus hearing outcome may file an appeal with the CO no later than **10 Working Days** after the date of the Decision Letter.

B. Written Appeal. The appeal will be in writing and will be based only on one or more of the appeal issues listed below:

1. The hearing outcome is not supported by substantial evidence (in other words, there was no reasonable basis for such findings or conclusions);
2. Prejudicial procedural errors impacted the hearing outcome to such a degree that the hearing did not comply with this Executive Order;
3. New evidence that was not reasonably available at the time of the hearing and would have affected the Hearing Officer's decision about whether the Respondent violated CSU policy; or
4. The sanction(s) imposed constituted an abuse of discretion based on the substantiated conduct.

C. Issues and Evidence on Appeal. The issues and evidence raised on appeal will be limited to those raised and identified during the hearing, unless new evidence becomes available after the Campus hearing process and is made part of the appeal by the appealing party. The CO may conduct an interview, at the CO's discretion, with the appealing party and/or the Campus to clarify the written appeal. Appeals will be addressed to:

Equal Opportunity and Whistleblower Compliance Unit
Systemwide Human Resources
Office of the Chancellor
401 Golden Shore, 4th Floor
Long Beach, California 90802
eo-wbappeals@calstate.edu

D. Acknowledgement of Appeal. The CO will provide prompt written acknowledgement of the receipt of the appeal to the appealing Party, and will provide prompt written notification of the appeal, including a copy of the appeal, to the non-appealing Party and the Campus Title IX Coordinator. The notice will include the right of the non-appealing Party and the Campus to provide a response to the appeal within **10 Working Days** of the date of the notice.

E. Reasonable Accommodation. The CO will provide reasonable accommodations to any Party or witness in the appeal process with a qualified Disability upon request by the person needing the accommodation. A reasonable accommodation may include an extension under these

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procedures. The timeframe for the CO Appeal Response will automatically be adjusted for the time needed, if any, to provide reasonable accommodations.

F. Scope of CO Review. The CO review will not involve a new hearing by the CO and will not consider evidence that was not introduced during the Campus hearing, unless the new evidence was not reasonably available at the time of the Campus hearing process. The CO may make reasonable inquiries to determine if the new evidence could have affected the hearing determination. If the CO review determines the hearing should be reopened to cure any defects in the hearing and/or consider new evidence introduced for the first time on appeal (that could have affected the hearing determination), the matter will be remanded back to the Campus and the hearing reopened at the Campus level. Under very limited circumstances, the CO can reverse the Hearing Officer's decision, provided that the factual findings remain intact.

G. Reopening a Campus Hearing. The CO will return the matter to the Campus and will specify in writing the timeline by which a reopened hearing must be completed. The CO will simultaneously notify the Parties of the reopening of the hearing and the timeline for completion of the reopened hearing. The Campus will complete the reopened hearing and provide the CO with an amended Hearing Officer's Report. The Campus will also provide the Parties with amended Notices of Hearing Outcome, and such Notices will provide the Parties the opportunity to appeal any new or amended findings, in accordance with this Executive Order. Upon receipt of the amended hearing report, the CO will contact the appealing party to determine whether that Party wishes to continue with the appeal.

H. Reversal by CO. If the hearing outcome (determination regarding policy violation) is not supported by the facts as determined by the Hearing Officer, the CO may vacate and reverse the Hearing Officer's decision, but only with respect to whether University policy was violated.

I. Timeline. The CO will respond to the appealing Party no later than **30 Working Days** after receipt of the written appeal unless the timeline has been extended as specified in Article V, E. of EO 1096 and 1097.

J. CO Appeal Response. The CO Appeal Response will include a summary of the issues raised on appeal, a summary of the evidence considered, the scope of review, and the determination(s) reached regarding the issue(s) identified within the written appeal. A copy of the final CO Appeal Response will be forwarded to the Complainant and Respondent, as well as the Campus Title IX Coordinator. The CO Appeal Response is final and concludes the Complaint and CO review process under this Executive Order.

K. Notifications to the Parties. The Complainant and the Respondent will be simultaneously informed, in writing, whenever there is a change to the outcome of the proceedings (findings and/or sanctions).



COMPLAINT FORM

Instructions: This complaint form is for use by individuals who are eligible to file a complaint of Discrimination, Harassment, Sexual Misconduct, Dating or Domestic Violence or Stalking under Executive Order 1097. Please fill in all of the information requested below as completely as possible and attach additional pages to this form, if necessary.

CSU Campus Work Phone Last Name First Name MI Cell Phone Mailing Address Home Phone City Best time to call: AM/PM State Zip Code E-mail

What is your relationship with the California State University campus listed above?

Current Employee? Yes No Former Employee? Yes No Last date of employment

An Applicant for employment? Yes No A Third Party? Yes No
 Please specify your relationship with the University:

Was Early Resolution sought? Yes No If yes, with whom: Date

Indicate the type(s) of complaint being filed: Discrimination Harassment Retaliation
 Sexual Misconduct Dating Violence Domestic Violence Stalking

If you are filing a Discrimination or Harassment complaint, indicate the Protected Status(es) that was/were the basis(es) of the alleged Discrimination or Harassment (Please select all that apply):

| | | | |
|---|---|--|--|
| <input type="checkbox"/> Race/Color | <input type="checkbox"/> Religion | <input type="checkbox"/> Sexual Orientation | <input type="checkbox"/> Medical Condition |
| <input type="checkbox"/> National Origin/Ancestry | <input type="checkbox"/> Gender / Sex | <input type="checkbox"/> Disability | <input type="checkbox"/> Genetic Information |
| <input type="checkbox"/> Marital Status | <input type="checkbox"/> Gender Identity/Expression | <input type="checkbox"/> Military/Veteran Status | <input type="checkbox"/> Age |

If you are filing a Retaliation complaint, indicate the activity(ies) you engaged in that was/were the basis(es) for the alleged Retaliation.

COMPLAINT FORM

1. Identify the Respondent(s) against whom your complaint is made. For each Respondent, provide the identifying information requested below.

| Respondent's name: | Relationship/Association with the campus: | Relationship/Association to you: |
|--------------------|---|----------------------------------|
| | | |
| | | |
| | | |

2. Describe the incident(s) or event(s), date(s), time(s), and location(s) giving rise to your complaint.

3. Describe the specific harm you have suffered resulting from the incident(s).

4. What did you or others do to try to resolve the issue? What was the outcome?

5. Identify individuals who may have observed or witnessed the incident(s) that you described.

| | | | | | |
|------------------------|------------|----|--------------------------|------------|--|
| Last Name | First Name | MI | <input type="checkbox"/> | Telephone | |
| Position/ Job Title | | | | Cell Phone | |
| E-mail | | | | Telephone | |
| Last Name | First Name | MI | <input type="checkbox"/> | Cell Phone | |
| Position/ Job Title | | | | E-mail | |
| E-mail | | | | Telephone | |

COMPLAINT FORM

6. Do you have any documents or electronic communications (including text messages or email) that support your complaint?

Yes No (Please list and attach a copy.)

7. Do you have any physical evidence (such as photographs, videos, blood tests or rape kits) that support your complaint? (Please describe.)

8. Describe the outcome(s) you expect from filing your complaint. Be as specific as possible.

You may elect to have an Advisor present at meeting(s) and/or interview(s) which may be a Sexual Assault Victim's Advocate. If you indicate you will have an Advisor, you are authorizing that individual to accompany you to any meeting(s) and/or interview(s) regarding this complaint. The role of the Advisor is limited to observing and consulting with you.

9. If you will be accompanied by an Advisor, please provide the name and telephone number.

Last Name

First Name

MI

Telephone

Cell Phone

CERTIFICATION

I certify that the information given in this complaint is true and correct to the best of my knowledge or belief.

Print name of Complainant

Signature of Complainant

Date

For University Use Only: Date Complaint Received _____ Signature _____

Executive Order 1096 Procedure Timeline

Executive Order 1096 provides a systemwide procedure for handling allegations of Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking by certain individuals (see Article III C. 1. Filing a Complaint.) Below is a summary of the Executive Order 1096 procedure timeline. For a full understanding and complete text, please consult Executive Order 1096.

- **Immediately following an act/action/incident that falls under Executive Order 1096** or as soon as possible thereafter, Complainants who believe they are or may have been victims of Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence or Stalking, may initiate the **Article III. Campus Procedure for Responding to Complaints** to receive information about the procedures that exist for resolving such matters. All incidents should be reported even if a significant amount of time has passed. However, delaying a report or Complaint may impede the ability to conduct an investigation or take appropriate remedial actions.

For the purpose of this Executive Order, Working Days are defined as Monday through Friday, excluding all official holidays or Campus closures at the Campus where the Complaint originated or at the Chancellor's Office (CO) where the Complaint Appeal is reviewed.

- **Within ten (10) Working Days after receipt of a Complaint**, an intake interview shall be conducted with the Complainant.
- **Within ten (10) Working Days** after reviewing all written Complaints and the information received during the intake interview, the Discrimination/Harassment/Retaliation (DHR) Administrator or Title IX Coordinator will notify the Complainant that the Complaint has been accepted for investigation and the timeline for completion of the investigation. If the DHR Administrator or Title IX Coordinator determines the Complainant has failed to state a Complaint within the scope of this Executive Order, s/he will provide the Complainant with written notice of this determination within **ten (10) Working Days**. The DHR Administrator or Title IX Coordinator will also inform the Complainant that if additional information is provided, the Complaint will be reviewed again.
- **Within sixty (60) Working Days after the intake interview**, the Investigator shall complete the investigation, write and submit an investigation report to the campus designated DHR Administrator or Title IX Coordinator. If this timeline is extended pursuant to Article V. E, it shall not be extended for a period longer than an additional **thirty (30)** Working Days from the original due date.
- **Within ten (10) Working Days of receiving the investigation report**, the DHR Administrator or Title IX Coordinator shall review the investigation report and notify the Parties in writing of the investigation outcome. If the DHR Administrator or Title IX Coordinator performed the investigation, s/he shall notify the Parties in writing of the investigation outcome within **ten (10) Working Days** of completing the investigation report. The Notice shall indicate whether or not this Executive Order was violated and the Complainant's and Respondent's right to file an Appeal under this policy.

Executive Order 1096 Procedure Timeline

- **Within ten (10) Working Days after the date of the Notice of Investigation Outcome**, the Complainant may file a written appeal with the CO.
- **Within thirty (30) Working Days after receipt of the written Appeal**, the CO designee shall respond to the appealing party, unless the timeline has been extended pursuant to Article IV. G or Article V. E. A separate notification shall be provided to the non-appealing party, indicating whether or not the allegations were substantiated on Appeal by a Preponderance of the Evidence.
- **Closure.** The CO Appeal Response is final and concludes the Complaint and Appeal process under this Executive Order.

Pursuant to EO 1096, Article V. E, the timelines noted above may be extended as follows:

The timeline for the procedures contained within this Executive Order may be extended for any reason deemed to be legitimate by the Campus investigator/CO Appeal reviewer or by mutual agreement of the Parties. The timelines stated within this Executive Order will be automatically adjusted for a reasonable time period that should not exceed an additional **thirty (30) Working Days** for a Campus investigation or an additional **thirty (30) Working Days** for a reopened Campus investigation under Article IV. The Complainant and Respondent shall receive written notification of any period of extension.

***Note that for matters that fall under the scope of the 2019 Addendum, these timelines are not applicable. Please contact your campus Title IX Coordinator for additional guidance.

THE CALIFORNIA STATE UNIVERSITY
OFFICE OF THE CHANCELLOR



BAKERSFIELD

March 29, 2019

CHANNEL ISLANDS

CHICO

DOMINGUEZ HILLS

MEMORANDUM

EAST BAY

TO: CSU Presidents
FROM: Timothy P. White
Chancellor

FRESNO

FULLERTON

HUMBOLDT

LONG BEACH

LOS ANGELES

MARITIME ACADEMY

MONTEREY BAY

NORTHRIDGE

POMONA

SACRAMENTO

SAN BERNARDINO

SAN DIEGO

SAN FRANCISCO

SAN JOSÉ

SAN LUIS OBISPO

SAN MARCOS

SONOMA

STANISLAUS

SUBJECT: Systemwide *Policy* Prohibiting Discrimination, Harassment and Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking against Students and Systemwide *Procedure* for Addressing Such Complaints by Students
Executive Order 1097 (Revised March 29, 2019)

Attached is a copy of Executive Order 1097 (Revised March 29, 2019), which supersedes Executive Order 1097 (Revised October 5, 2016). This policy and procedure applies systemwide, in conjunction with Executive Orders 1095 (Revised June 2, 2015) and 1098 (Revised March 29, 2019) and any superseding executive orders.

This executive order has been revised in response to a recent California court of appeal decision, and includes an addendum that applies to cases where a student has been accused of sexual misconduct as defined by CSU policy.¹ The **addendum** supersedes **Article III.B.7-9 and Article IV of this executive order with respect to cases (i) alleging sexual misconduct by a student that, (ii) if substantiated, could result in a severe sanction (suspension or expulsion), and (iii) where credibility of any party or witness is central to the finding.**

¹ See *John Doe v. Kegan Allee, Ph.D., et al.*, California Court of Appeal (January 2019): <http://www.courts.ca.gov/opinions/documents/B283406.PDF>.

Executive Order 1097
Revised March 29, 2019

Complaints of student misconduct are governed by the following CSU policies.

| Alleged Misconduct | Applicable Policy |
|---|---|
| Sexual misconduct by student that could result in severe sanction (suspension or expulsion), where credibility is central to finding | Executive Order 1097 (Revised March 29, 2019) (except Article III.B.7-9 and Article IV) and Addendum -- Investigation and Hearing Process for Students Accused of Sexual Misconduct |
| Discrimination, harassment or retaliation based on protected status (including sexual misconduct by student that, if substantiated, would <u>not</u> result in suspension or expulsion) | Executive Order 1097 (Revised March 29, 2019) and Executive Order 1098 (Revised March 29, 2019) (Article IV) re sanctions process |
| All other student misconduct prohibited by CSU Standards for Student Conduct (5 California Code of Regulations, Section 41301) | Executive Order 1098 (Revised March 29, 2019) |

Complaints that are in process as of the effective date of this executive order will be processed in accordance with the *procedures* outlined herein, however utilizing the *policy and definitions* set forth in the executive order in place at the time of the alleged misconduct. A Complaint is “in process” if the time to appeal to the Chancellor’s Office under Executive Orders 1097 or 1098 has not expired.

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.

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

TPW/kn

Attachments

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

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Revised March 29, 2019

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

Executive Order: 1097 (Revised March 29, 2019)

Effective Date: March 29, 2019

Supersedes: Executive Order 1097 (Revised October 5, 2016)

Title: Systemwide *Policy* Prohibiting Discrimination, Harassment and Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking against Students and Systemwide *Procedure* for Addressing Such Complaints by Students

[NOTE: ARTICLE III.B.7-9 AND ARTICLE IV OF THIS EXECUTIVE ORDER DO NOT APPLY IN CASES (I) ALLEGING SEXUAL MISCONDUCT BY A STUDENT THAT, (II) IF SUBSTANTIATED, COULD RESULT IN A SEVERE SANCTION (SUSPENSION OR EXPULSION), AND (III) WHERE CREDIBILITY OF ANY PARTY OR WITNESS IS CENTRAL TO THE FINDING. SEE ADDENDUM -- INVESTIGATION AND HEARING PROCESS – FOR STUDENTS ACCUSED OF SEXUAL MISCONDUCT.]

Article I. Policy Statement

The California State University (CSU) is committed to maintaining an inclusive community that values diversity and fosters tolerance and mutual respect. We embrace and encourage our community differences in Age, Disability (physical and mental), Gender (or sex), Gender Identity (including transgender), Gender Expression, Genetic Information, Marital Status, Medical Condition, Nationality, Race or Ethnicity (including color or ancestry), Religion (or Religious Creed), Sexual Orientation, and Veteran or Military Status, and other characteristics that make our community unique.² All Students have the right to participate fully in CSU programs and activities free from Discrimination, Harassment, and Retaliation. The CSU prohibits Harassment of any kind, including Sexual Harassment, as well as Sexual Misconduct, Dating and Domestic Violence, and Stalking. Such misconduct violates University policy and may also violate state or federal law.

All sexual activity between members of the CSU community must be based on Affirmative Consent. Engaging in any sexual activity without first obtaining Affirmative Consent to the specific sexual activity is Sexual Misconduct and constitutes a violation of this policy, whether or not the sexual activity violates any civil or criminal law.

² Key capitalized terms are defined at Article VI of this Executive Order. Please see that Article for the full definitions. Terms contained within this policy and procedure are intended to be gender neutral.

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Revised March 29, 2019

This policy is established in compliance with the California Equity in Higher Education Act, Title IX of the Education Amendments of 1972, 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) (VAWA) under its Campus Sexual Violence Elimination Act provision (Campus SaVE Act), Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, and the Age Discrimination Act of 1975, among other applicable state and federal laws.

A. Prohibited Conduct. The CSU prohibits:

1. Discrimination, including Harassment, because of any Protected Status: i.e., age, Disability (physical and mental), Gender (or sex), Gender Identity (including transgender), Gender Expression, Genetic Information, Marital Status, Medical Condition, Nationality, Race or Ethnicity (including color or ancestry), Religion (or Religious Creed), Sexual Orientation, sex stereotype, and Veteran or Military Status;
2. Retaliation for exercising rights under this policy, opposing Discrimination or Harassment because of a Protected Status, or for participating in any manner in any related investigation or proceeding;
3. Dating and Domestic Violence, and Stalking;
4. Sexual Misconduct of any kind, which includes sexual activity engaged in without Affirmative Consent; and,
5. Employees from entering into a consensual relationship with any Student over whom they exercise direct or otherwise significant academic, administrative, supervisory, evaluative, counseling, or extracurricular authority. See Article I. F.

The University shall respond promptly and effectively to all complaints of Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking, and shall take appropriate action to prevent, correct, and discipline conduct that violates this policy. This Executive Order is intended to protect the rights and privacy of both the Complainant and the Respondent, as well as other involved individuals.

Employees and Students who are found to have violated this policy shall be subject to discipline commensurate to the violation. If Employee discipline is warranted, it shall be administered in a manner consistent with applicable collective bargaining agreements, CSU policies, and legal requirements. Student discipline shall be administered in accordance with 5 Cal. Code Regs. § 41301 and Executive Order 1098, or any superseding executive order.

B. Discrimination. The CSU strives to be free of all forms of Discrimination, including Harassment, because of a Protected Status. It is CSU policy that no Student shall be

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excluded from participation in, or be denied the benefits of, any CSU program or activity because of any Protected Status.

- C. Retaliation.** Retaliation against a Student for exercising any rights under this policy or for opposing Discrimination or Harassment because of a Protected Status, Sexual Misconduct, Dating and Domestic Violence, and Stalking, or for participating in any manner in any policy-related investigation or proceeding is prohibited.

No victim or witness in related investigations or proceedings will be subject to disciplinary sanctions by the University for related violations of conduct policies occurring at or near the time of the incident unless the University determines the violation was egregious, including but not limited to plagiarism, cheating, academic dishonesty or conduct that places the health and safety of any other person at risk.

- D. Dating and Domestic Violence, and Stalking.** The CSU prohibits Dating and Domestic Violence, and Stalking. Dating and Domestic Violence, and Stalking are often based on Gender. CSU prohibits all such misconduct whether or not it is based on Gender.

- E. Sexual Misconduct.** All sexual activity between members of the CSU community must be based on Affirmative Consent. Engaging in any sexual activity without first obtaining Affirmative Consent to the specific activity constitutes Sexual Misconduct and is a violation of this policy, whether or not the conduct violates any civil or criminal law.

Sexual Misconduct is a form of Sexual Harassment and may create a sexually hostile environment that affects access to or participation in CSU programs and activities. CSU prohibits all such conduct whether or not it also amounts to Sexual Harassment.

Sexual activity includes but is not limited to kissing, touching intimate body parts, fondling, intercourse, penetration of any body part, and oral sex.

Affirmative Consent means an informed, affirmative, conscious, voluntary, and mutual agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure Affirmative Consent has been obtained from the other participant(s) to engage in the sexual activity. Lack of protest or resistance does not mean Affirmative Consent, nor does silence mean Affirmative Consent. Affirmative Consent must be voluntary, and given without coercion, force, threats or intimidation.

The existence of a dating or social relationship between those involved, or the fact of past sexual activities between them, should never by itself be assumed to be an indicator of Affirmative Consent. A request for someone to use a condom or birth control does not, in and of itself, constitute Affirmative Consent.

Affirmative Consent can be withdrawn or revoked. Consent to one form of sexual activity (or one sexual act) does not constitute consent to other forms of sexual activity. Consent given to sexual activity on one occasion does not constitute consent on another occasion. There must always be mutual and affirmative consent to engage in sexual activity.

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Consent must be ongoing throughout a sexual activity and can be revoked at any time, including after penetration. Once consent is withdrawn or revoked, the sexual activity must stop immediately.

Affirmative Consent cannot be given by a person who is incapacitated. A person is unable to consent when asleep, unconscious or incapacitated due to the influence of drugs, alcohol or medication so that the person could not understand the fact, nature or extent of the sexual activity. A person is incapacitated if the person lacks the physical and/or mental ability to make informed, rational decisions.

Whether an intoxicated person (as a result of using alcohol or other drugs) is incapacitated depends on the extent to which the alcohol or other drugs impact the person's decision-making ability, awareness of consequences, and ability to make informed judgments. A person's own intoxication or incapacitation from drugs or alcohol does not diminish that person's responsibility to obtain Affirmative Consent before engaging in sexual activity.

A person with a medical or mental disability may also lack the capacity to give consent.

Sexual activity with a minor (a person under 18 years old) is not consensual, because a minor is considered incapable of giving consent due to age.

It shall not be a valid excuse that a person affirmatively consented to the sexual activity if the Respondent knew or reasonably should have known that the person was unable to consent to the sexual activity under any of the following circumstances:

- The person was asleep or unconscious;
- The person was incapacitated due to the influence of drugs, alcohol or medication, so that the person could not understand the fact, nature or extent of the sexual activity;
- The person was unable to communicate due to a mental or physical condition.

It shall not be a valid excuse that the Respondent believed that the person consented to the sexual activity under either of the following circumstances:

- The Respondent's belief in Affirmative Consent arose from the intoxication or recklessness of the Respondent;
- The Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the person affirmatively consented.

F. Consensual Relationships. Consensual relationship means a sexual or romantic relationship between two persons who voluntarily enter into such a relationship. While

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sexual and/or romantic relationships between members of the University community may begin as consensual, they may evolve into situations that lead to Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence, or Stalking subject to this policy.

A CSU Employee shall not enter into a consensual relationship with a Student or Employee over whom that employee exercises or influences direct or otherwise significant academic, administrative, supervisory, evaluative, counseling, or extracurricular authority. In the event such a relationship already exists, each Campus shall develop a procedure to reassign such authority to avoid violations of this policy.

This prohibition does not limit the right of an Employee to make a recommendation on personnel matters concerning a family or household member where the right to make recommendations on such personnel matters is explicitly provided for in the applicable collective bargaining agreement or MPP/confidential personnel plan.

- G. Reasonable Accommodations.** The CSU will provide reasonable accommodations to qualified individuals with a Disability. Reasonable accommodations will be determined by the Campus following an interactive process with those involved to identify the nature and extent of the restrictions and the appropriate accommodation.
- H. Duty to Report.** Except as provided below, any Employee who knows or has reason to know of allegations or acts that violate this policy shall promptly inform the DHR Administrator or Title IX Coordinator. These Employees are required to disclose all information including the names of the Parties, even where the person has requested anonymity. The DHR Administrator or Title IX Coordinator will determine whether such confidentiality is appropriate given the circumstances of each such incident.

Employees Who Do Not Have A Duty to Report:

1. The following Employees are not required to report any information about an incident of Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence, or Stalking to the DHR Administrator or Title IX Coordinator:
 - a. Physicians; psychotherapists; professional licensed counselors; licensed clinical social workers, and clergy who work on or off Campus, acting solely in those roles or capacities as part of their employment, in the provision of medical or mental health treatment or counseling (*and those who act under their supervision, including all individuals who work or volunteer in these centers and offices*); and
 - b. 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, and health centers and who are acting solely in that role (*including those who act in that role under their supervision, along with non-professional counselors or advocates who work or volunteer in sexual assault*

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centers, victim advocacy offices, women's centers, gender equity centers, or health centers) in the provision of counseling or advocacy services.

- c. A CSU employee/union representative is not required to report a possible violation of this Executive Order 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.
- 2. University police are **not** required to report any **personally-identifiable information** about a victim of certain sex offenses,³ **if the victim requests confidentiality of identity**, but must report all known facts of the incident, including the identity of the perpetrator (if known), to the Title IX Coordinator.

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 medical services are provided for a ***physical condition*** to a patient/victim who the practitioner 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 inflicted upon a victim where the injury is the result of assaultive or abusive conduct.⁴ This exception does **not** apply to sexual assault and domestic violence counselors and advocates. Health care practitioners should explain this limited exception to victims, if applicable.

Additionally, under California law, ***all*** 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.⁵ These professionals will explain this limited exception to victims, 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

³ See Cal. Penal Code § 293; Cal. Gov. Code § 6254(f)(2)(“The name of a victim of any crime defined by Section 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.”)

⁴ Assultive 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.

⁵ See Cal. Penal Code §§ 11164-11174.3; see also CSU Executive Order 1083 or any superseding executive order.

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prevent the threatened danger;⁶ or, (2) to the court if compelled by court order or subpoena in a criminal proceeding related to the Sexual Misconduct, Dating or Domestic Violence, or Stalking incident.⁷ If applicable, these professionals will explain this limited exception to victims.

- I. Grade Appeals.** Grade appeals that allege Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence, or Stalking shall proceed concurrently: (i) under Campus procedures per Executive Order 1037 or any superseding executive order; and (ii) under this Executive Order. However, the Campus grade appeal procedure shall be placed in abeyance until such time as the Campus investigation and any appeal process under Article IV of this Executive Order have concluded. The final determination under this Executive Order regarding whether a violation occurred shall be provided to the Campus grade appeal committee. The committee shall be bound by such determination when considering the grade appeal request under Executive Order 1037.

Article II. Policy Implementation and Communication

Each Campus president shall designate a DHR Administrator and Title IX Coordinator who shall be responsible for the implementation of and compliance with this policy. The DHR Administrator is responsible for the implementation of and compliance with this policy with respect to all Discrimination, Harassment and Retaliation matters except those involving Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking. The DHR Administrator is responsible for publicizing this Executive Order, developing Campus training policies consistent with this Executive Order, conducting training, and establishing an administrative structure consistent with this Executive Order that facilitates the prevention and elimination of Discrimination, Harassment, and Retaliation. The Title IX Coordinator is responsible for the implementation of, and compliance with this policy with respect to Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking. The Title IX Coordinator is responsible for publicizing this Executive Order, developing Campus training policies consistent with this Executive Order, conducting training, and establishing an administrative structure consistent with this Executive Order that facilitates the prevention and elimination of Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking. Each Campus shall make the contact information for the DHR Administrator and Title IX Coordinator available to all members of the Campus community as well as Third Parties. The contact information shall be updated as necessary.

The requirements for training to promote awareness of CSU policies against Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking are set forth in Executive Order 1095.

This Executive Order shall be made readily available and distributed on an annual basis to all Students and Employees utilizing multiple media for communication, including email, Student

⁶ See Cal. Evid. Code § 1024.

⁷ See Cal. Evid. Code § 1035.4.

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orientations and catalogs, new Employee orientations, Campus websites and publications, and the webpages for the offices of Equity and Diversity, Student Affairs, Student Judicial Affairs, Disabled Student Services, Auxiliary Service Organizations, Academic Affairs, Extended Education, Athletics, Residential Life, and Human Resources.

Article III. Campus Procedure for Responding to Complaints

[NOTE: ARTICLE III.B. 7-9 OF THIS EXECUTIVE ORDER DOES NOT APPLY IN CASES (I) ALLEGING SEXUAL MISCONDUCT BY A STUDENT THAT, (II) IF SUBSTANTIATED, COULD RESULT IN A SEVERE SANCTION (SUSPENSION OR EXPULSION), AND (III) WHERE CREDIBILITY OF ANY PARTY OR WITNESS IS CENTRAL TO THE FINDING. SEE ADDENDUM -- INVESTIGATION AND HEARING PROCESS – FOR STUDENTS ACCUSED OF SEXUAL MISCONDUCT.

This procedure provides Students a process to address alleged violations of this policy by the CSU, a CSU Employee, another Student, or a Third Party. Whenever a Campus determines that the allegation(s) are outside the scope of this policy, the Campus shall promptly notify the Student in writing. All Complaints and related investigations against Respondents who are sworn University public safety officers shall be governed by this policy, the applicable collective bargaining agreement, and by the Public Safety Officers Procedural Bill of Rights Act (POBR).⁸ The campus DHR Administrator/Title IX Coordinator shall work with the campus Chief of Police, or designee, to investigate Complaints against sworn public safety officers. Consultation with the Office of General Counsel is recommended.

The University will respond to all Complaints and will take appropriate action to prevent, correct, and discipline conduct that violates this policy. To report alleged violations, a Student may submit a formal written Complaint to the DHR Administrator (Discrimination, Harassment, and Retaliation) or Title IX Coordinator (Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking). The date of receipt shall be deemed to be the Complaint filing date. The DHR Administrator/Title IX Coordinator shall offer reasonable accommodations to Students who are unable to submit a Complaint because of a qualified Disability.

Complaints should be brought forward as soon as possible after the conduct occurs. While there is no stated timeframe for making a Complaint, prompt reporting will better enable the Campus to respond to the Complaint, determine the relevant issues, and provide an appropriate remedy and/or action. All incidents should be reported even if a significant amount of time has passed. However, delaying a report or Complaint may impede the ability to conduct an investigation or take appropriate remedial actions.

Alleged victims and witnesses should not be deterred from reporting any incidents of Sexual Misconduct, Dating or Domestic Violence, or Stalking out of a concern that they might be disciplined for related violations of drug, alcohol, or other University policies. The University's primary concern is the safety of the Campus community; therefore, a person who participates as a Complainant or witness in investigations or proceedings involving Sexual Misconduct, Dating

⁸ See Cal. Govt. Code §§3300-13.

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or Domestic Violence, or Stalking shall not be subject to discipline for related violations of the Student Conduct Code at or near the time of the incident unless the University determines the violation was egregious, including but not limited to plagiarism, cheating, academic dishonesty, or conduct that places the health and safety of another person at risk.

The Campus will respond to all reports of alleged violations of this policy, whether or not the report is submitted as a formal written Complaint. However, the response may be limited if information contained in the report is insufficient to verify violation(s) of this Executive Order.

- A. Campus Early Resolution Process.** Complainants who believe they have experienced Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence, or Stalking under this policy may initiate the Early Resolution process prior to, or instead of, filing a Complaint. The purpose of the Early Resolution process is to explore whether the Complainant's concern can be resolved by the Campus without an investigation.

This Executive Order neither prevents nor requires the use of the Early Resolution process. Under no circumstance shall a Complainant be required to use the Early Resolution process to address prohibited behaviors. It is not appropriate for a Complainant to be required to "work out the problem" directly or mediate with the Respondent. Mediation cannot be used, even on a voluntary basis, to resolve Sexual Misconduct, Dating or Domestic Violence, or Stalking Complaints. In other matters, where voluntary mediation is requested, no meeting between the Complainant and the Respondent should occur without involvement by appropriate Campus administrators, including the DHR Administrator or Title IX Coordinator.

Where the allegations involve Sexual Misconduct, Dating or Domestic Violence, or Stalking, the Complainant shall be advised to immediately file a Complaint under Article III, B.

- 1. To initiate the Early Resolution Process.** The Complainant should contact the Campus DHR Administrator (Discrimination, Harassment, or Retaliation) or Title IX Coordinator (Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence and Stalking) who shall promptly meet with the Complainant to discuss his or her concern and possible resolutions as appropriate.

Complainants shall be informed about the range of possible outcomes, including Interim Remedies or disciplinary actions that might be taken against the Respondent, and information about the procedures leading to such outcomes.

- 2. Participation in the Early Resolution Process.** Participation is voluntary. It may include an inquiry into the facts, but does not include an investigation. Means for resolution shall be flexible. Resolution options include but are not limited to discussions with the Parties, a resolution facilitated by the DHR Administrator or Title IX Coordinator, separating the Parties, referring one or both of the Parties to counseling programs, an agreement between Campus and the Respondent regarding

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disciplinary action, conducting targeted preventive educational and training programs or providing Remedies to persons harmed by violations of this policy.

The Campus shall attempt to resolve the Complainant's concern(s) quickly and effectively. The DHR Administrator or Title IX Coordinator shall meet with the Complainant, the Respondent, and any other persons or witnesses they may determine to be necessary.

3. **Final Early Resolution.** If resolution is reached, a written record of the resolution shall be documented and maintained in accordance with applicable Campus recordkeeping policies. The matter shall be considered closed.

Where the Respondent is another Student, the DHR Administrator/Title IX Coordinator shall inform the Student Conduct Administrator of the outcome of the Early Resolution process, including any Interim Remedies afforded to the Complainant. Where the Respondent is an Employee, Human Resources or Academic Affairs shall be informed as appropriate.

If resolution is not reached, the Campus shall promptly notify the Complainant and, where applicable, the Respondent in writing that the Early Resolution process is terminated, and the termination effective date. The DHR Administrator/Title IX Coordinator shall also determine whether the matter is appropriate for investigation, and so notify the parties in writing. The Complainant shall be provided written notification of the right to file a Complaint pursuant to Article III, B. 1.

4. **Confidentiality.** Other than consulting with their respective Advisors, both the Complainant and the Respondent shall keep the details of the Early Resolution process confidential until the process is concluded. If the matter is not resolved and an investigation is conducted, the Complainant and the Respondent shall maintain confidentiality until the conclusion of the Campus investigation and CO Appeal Review process, if any.
5. **Termination of Early Resolution Process.** The Complainant shall be notified that the Complainant or the Campus may at any time elect to terminate the Early Resolution process. In that event, the DHR Administrator/Title IX Coordinator shall promptly notify the Complainant and the Respondent in writing that the Early Resolution process has terminated, the effective date thereof, and inform the Complainant of the right to file a Complaint pursuant to Article III, B. 1. The DHR Administrator/Title IX Coordinator shall also determine whether the matter is appropriate for investigation, and so notify the parties in writing.

- B. Campus Investigation Process.** Campuses will investigate Complaints of Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence, or Stalking unless an Early Resolution is reached, whether or not a formal written Complaint is submitted. The DHR Administrator/Title IX Coordinator will determine whether to open an investigation after making a preliminary inquiry into the

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allegations. An investigation may not be warranted where the reported information is insufficient. These determinations will be documented in writing by the DHR Administrator/Title IX Coordinator, and maintained in accordance with systemwide records retention policies.

In cases where the Complainant does not want to pursue an investigation, the DHR Administrator/Title IX Coordinator should inform the Complainant that the ability to take corrective action may be limited. The Campus may determine that circumstances warrant initiating an investigation even if a Complaint has not been filed and independent of the intent or wishes of the Complainant. In cases involving Sexual Misconduct, Dating or Domestic Violence, or Stalking, when determining whether to go forward with an investigation, the Title IX Coordinator should consider the seriousness of the allegation(s), the age of the Complainant, whether there have been other Complaints against the Respondent, and the risk to the Campus community if the Respondent's alleged conduct remains unaddressed. These determinations will be documented in writing by the DHR Administrator/Title IX Coordinator, and maintained in accordance with systemwide records retention policies.

- 1. Filing a Complaint.** Any Student may file a Complaint reporting Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence, or Stalking under this policy subject to the following exceptions:
 - a. Complaints of Student employees that arise out of their employment. Such Complaints shall be governed by Executive Order 1096, or any superseding executive order.
 - b. Complaints by a Student about his/her academic adjustments and/or accommodations to a Campus's educational program related to his/her qualified Disability. Such inquiries and Complaints shall be directed to the Campus Director, Disabled Student Services (DSS), and shall be governed by CSU Coded Memorandum AA 2014-08, or any superseding policy.
 - c. Complaints against a president shall be filed with the Chancellor's Office (CO). However, Complaints against a president shall be processed by the Campus if the president's role in the alleged incident was limited to a decision on a recommendation made by another administrator, and the president had no other substantial involvement in the matter.
 - d. For Complaints against CO employees, the responsibilities identified in this Executive Order as those of the president are the responsibilities of the chancellor. Complaints that involve allegations against the chancellor or a member of the Board of Trustees shall be referred to the chair or vice chair of the Board and the CO Title IX Coordinator for processing and investigation.
- 2. Complaint Requirements.** The Complainant may submit a written Complaint to the DHR Administrator or Title IX Coordinator. The date the Complaint is received in

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the appropriate office shall be deemed to be the Complaint filing date. The DHR Administrator/Title IX Coordinator shall offer reasonable accommodations to Complainants who are unable to submit a written Complaint because of a qualified Disability.

The Complainant may complete the attached “CSU Student Complaint Form” or, in the alternative, submit a written signed statement containing the following information:

- a. The Complainant’s full name, address (including email address) and telephone number(s);
 - b. The name of the Respondent and job title, position or Student status, if known;
 - c. The Protected Status that is the basis for any alleged Discrimination, Harassment, or Retaliation, the Respondent’s activity that is the basis for the alleged Retaliation, or whether Dating or Domestic Violence, or Stalking is alleged;
 - d. A clear, concise statement of the facts that constitute the allegations including pertinent date(s) and sufficient information to identify any individuals who may provide relevant information during the course of any investigation;
 - e. A statement verifying that the information provided is true and accurate to the best of the Complainant’s knowledge;
 - f. The term and year of the Complainant’s most recent active academic status or the term and year in which the Complainant sought admission to the University;
 - g. The full name, address and telephone number of the Complainant’s Advisor, if any;
 - h. The specific harm resulting from the allegations;
 - i. The specific remedy sought;
 - j. The Complainant’s signature; and,
 - k. The date on which the Complaint is submitted.
3. **Intake interview.** The DHR Administrator or Title IX Coordinator shall meet with the Complainant as soon as possible, but no later than **10 Working Days** after the Complaint was received. The Complainant shall be available for and attend this meeting.

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- a. The meeting shall serve as the initial intake interview with the Complainant and will:
 - (i) Explain the investigation procedure and timelines and answer any questions about them;
 - (ii) Inform the Complainant of rights and options under this Executive Order, including the right to have an Advisor throughout the process;
 - (iii) Provide the opportunity for the Complainant to complete and sign a Complaint form, if not already done; and,
 - (iv) Discuss Interim Remedies, as appropriate.
- b. In cases alleging Sexual Misconduct, Dating or Domestic Violence, or Stalking, the Title IX Coordinator shall also:
 - (i) Inform the Complainant of the right to file a criminal complaint;
 - (ii) Offer to assist the Complainant with filing a criminal complaint;
 - (iii) Assure the Complainant that such filing will not significantly delay the Campus investigation;
 - (iv) Advise the Complainant of available resources such as the Campus police, Campus Sexual Assault Victim's Advocate, student health service center or psychological counseling center; and
 - (v) Provide **written** information, as directed under Executive Order 1095, to any Student who makes a report to the Campus of Sexual Misconduct, Dating or Domestic Violence, or Stalking.
- c. Prior to or during the initial interview with the Respondent, the DHR Administrator or Title IX Coordinator shall:
 - (i) Explain the investigation procedure and timelines and answer any questions about them;
 - (ii) Inform the Respondent of rights and options under this Executive Order, including the right to have an Advisor throughout the process;
 - (iii) Provide the Respondent with a copy of this Executive Order;
 - (iv) Provide the Respondent with a description of the Complainant's allegations against the Respondent;

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- (v) Provide the Respondent a full opportunity to respond to the allegations, including scheduling other meeting(s), accepting documentary evidence, and accepting Respondent's list of potential witnesses; and,
 - (vi) Discuss any Interim Remedies, as appropriate.
4. **Advisor.** The Complainant and the Respondent may elect to be accompanied by an Advisor to any meeting or interview regarding the Complaint. (See definition in Article VI.)
5. **Confidentiality.** Information regarding the Complaint may be shared on a "need to know" basis with other Campus Employees, and with law enforcement (with the Complainant's written consent), except for some limited exceptions. (See Executive Order 1095.) The DHR Administrator and/or Title IX Coordinator shall endeavor to honor any request for confidentiality; however, the DHR Administrator and/or Title IX Coordinator shall also weigh requests for confidentiality against the University's duty to provide a safe and nondiscriminatory environment for all members of the Campus community. **Confidentiality, therefore, cannot be ensured.**

The Title IX Coordinator receives all Complainant requests for confidentiality involving cases of Sexual Misconduct, Dating or Domestic Violence, or Stalking, and determines if the request can be honored under the facts and circumstances of the particular case. (See Executive Order 1095.)

6. **Complaint Accepted for Investigation.** The DHR Administrator or Title IX Coordinator will review all written Complaints and the information received during the intake interview with the Complainant. If the DHR Administrator or Title IX Coordinator determines that the Complaint falls within the scope of this Executive Order, the Complainant will be notified within **10 Working Days** that the Complaint has been accepted for investigation and the timeline for completion of the investigation.

If the DHR Administrator or Title IX Coordinator determines the Complainant has failed to state a Complaint within the scope of this Executive Order, the Complainant will be provided with written notice of this determination within **10 Working Days**. The DHR Administrator or Title IX Coordinator will also inform the Complainant that if additional information is provided, the Complaint will be reviewed again. The DHR Administrator or Title IX Coordinator will maintain a record of the Complaint and the reasons the Complaint was deemed not within the scope of this Executive Order.

The DHR Administrator or Title IX Coordinator shall determine whether the Complaint should be processed through another Campus office or University procedure available to the Complainant. If appropriate, the DHR Administrator or

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Title IX Coordinator shall direct the Complainant to that procedure as soon as possible.

7. **Investigation Procedure.** The DHR Administrator or Title IX Coordinator shall promptly investigate the Complaint or assign this task to another Investigator on a case-by-case basis. If assigned to another Investigator, the DHR Administrator or Title IX Coordinator shall monitor, supervise, and oversee all such delegated tasks, including reviewing all investigation draft reports before they are final to ensure that the investigation was sufficient, appropriate, impartial, and in compliance with this Executive Order.

The Complainant and the Respondent shall have equal opportunities to present relevant witnesses and evidence in connection with the investigation. Upon inquiry, the Complainant and Respondent shall be advised of the status of the investigation.

Before reaching a final conclusion or issuing a final investigation report, the Investigator shall have: a) advised the Parties, or have offered to do so, verbally or in writing, of any evidence upon which the findings will be based; and, b) given the Parties an opportunity to respond to the evidence, including presenting further relevant evidence, information or arguments that could affect the outcome. The Investigator will not reach a final conclusion or issue an investigation report until giving careful consideration to any such relevant evidence, information or arguments provided by the Parties. The Investigator retains discretion and authority to determine relevance.

The investigation shall be completed no later than **60 Working Days** after the intake interview, unless the timeline has been extended pursuant to Article V. E. The timeline should not be extended for a period longer than an additional **30 Working Days** from the original due date.

On occasion, a criminal investigation may be initiated by a law enforcement agency over the same allegations that are reported in a Complaint filed under this policy. A pending (Campus or local) police investigation is a separate investigation and it does not relieve a Campus of its responsibility to timely investigate Complaints under this policy. Thus, a Campus may not wait until the conclusion of a police investigation to commence its own investigation. Although it may be necessary to temporarily delay the investigation while the police are gathering evidence, once notified that the police have completed the fact gathering portion of their investigation, the Campus must promptly resume and complete its own investigation. In cases involving Sexual Misconduct, Dating or Domestic Violence, or Stalking, see the “Coordination with Criminal Investigations and Proceedings” section of Executive Order 1095.

8. **Investigation Report.** Within the investigation period stated above, the Investigator shall prepare an investigation report. The report shall include a summary of the allegations, the investigation process, the Preponderance of the Evidence standard, a detailed description of the evidence considered, and appropriate findings. Relevant

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exhibits and documents, if any, shall be attached to the written report. The report shall be promptly provided to the DHR Administrator or Title IX Coordinator, if applicable. The DHR Administrator or Title IX Coordinator shall review the investigation report to assure compliance with this Executive Order before proceeding further.

9. **Notice of Investigation Outcome.** Within **10 Working Days** of issuance of the final investigation report, the DHR Administrator or Title IX Coordinator shall notify the Complainant and Respondent in writing of the outcome of the investigation. The notice shall include a summary of the allegations, the investigative process, the Preponderance of the Evidence standard, the evidence considered, the findings of fact, a determination as to whether this Executive Order was violated, and if so, any Remedies to be afforded to the Complainant (such as an order that the Accused not contact the Complainant). The notice shall advise the Complainant and Respondent of their right to file an appeal under this Executive order and to request a copy of the final investigation report with exhibits/attachments, if any, redacted as appropriate. The Notice shall be delivered to the Parties in a manner which guarantees delivery within **2 Working Days** (email delivery is acceptable). Where a Complaint is made against another Student and this Executive Order is found to have been violated, the DHR Administrator or Title IX Coordinator shall also notify the Campus Student Conduct Administrator of the investigation outcome, and provide a copy of the investigation report. Where the Respondent is an Employee, Human Resources or Academic/Faculty Affairs shall be notified and provided a copy of the investigation report.

Article IV. Appeal Review - Office of the Chancellor (CO)

[NOTE: ARTICLE IV OF THIS EXECUTIVE ORDER DOES NOT APPLY IN CASES (I) ALLEGING SEXUAL MISCONDUCT BY A STUDENT THAT, (II) IF SUBSTANTIATED, COULD RESULT IN A SEVERE SANCTION (SUSPENSION OR EXPULSION), AND (III) WHERE CREDIBILITY OF ANY PARTY OR WITNESS IS CENTRAL TO THE FINDING. SEE ADDENDUM -- INVESTIGATION AND HEARING PROCESS – FOR STUDENTS ACCUSED OF SEXUAL MISCONDUCT.

- A. **Filing an Appeal to the CO.** Any Complainant or Respondent who is not satisfied with a Campus investigation outcome may file an appeal with the CO no later than **10 Working Days** after the date of the Notice of Investigation Outcome.
- B. **Written Appeal.** The appeal shall be in writing and shall be based only on one or more of the appeal issues listed below:
 1. The investigation outcome is unsupported by the evidence, based on the Preponderance of the Evidence standard;
 2. Prejudicial procedural errors impacted the investigation outcome to such a degree that the investigation did not comply with this Executive Order; or

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3. New evidence not available at the time of the investigation.

- C. Issues and Evidence on Appeal.** The issues and evidence raised on appeal shall be limited to those raised and identified during the investigation, unless new evidence becomes available after the Campus investigation process and is made part of the appeal by the appealing party. The CO may conduct an interview, at the CO's discretion, with the appealing party to clarify the written appeal. Appeals shall be addressed to:

Equal Opportunity and Whistleblower Compliance Unit
Systemwide Human Resources
Office of the Chancellor
401 Golden Shore, 4th Floor
Long Beach, California 90802
eo-wbappeals@calstate.edu

- D. Acknowledgement of Appeal.** The CO shall provide prompt written acknowledgement of the receipt of the appeal to the appealing party, and will provide written notification of the appeal to the other party and the Campus DHR Administrator or Title IX Coordinator.

- E. Reasonable Accommodation.** The CO will provide reasonable accommodation(s) to any party or witness in the appeal process with a qualified Disability upon request by the person needing the accommodation. A reasonable accommodation may include an extension under these procedures. The timeframe for the CO Appeal Response will automatically be adjusted for the time needed, if any, to provide reasonable accommodation(s).

- F. Scope of CO Review.** The CO review will not involve a new investigation by the CO and will not consider evidence that was not introduced during the Campus investigation, unless the new evidence was not available at the time of the Campus investigation process. The CO may make reasonable inquiries to determine if the new evidence could have affected the investigation determination. If the CO review determines the investigation should be reopened to cure any defects in the investigation and/or consider new evidence introduced for the first time on appeal (that could have affected the investigation determination), the investigation will be remanded back to the Campus and the investigation reopened at the Campus level.

- G. Reopening a Campus Investigation.** The CO will return the matter to the Campus and will specify in writing the timeline by which a reopened investigation must be completed. The CO will notify the Parties of the reopening of the investigation and the timeline for completion of the reopened investigation. The Campus will complete the reopened investigation and provide the CO with an amended investigation report. The Campus will also provide the Parties with amended Notices of Investigation Outcome, and such Notices will provide the Parties the opportunity to appeal any new or amended findings, in accordance with this Executive Order. Upon receipt of the amended investigation report, the CO will contact the appealing party to determine whether that party wishes to continue with the appeal.

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- H. Timeline.** The CO shall respond to the appealing party no later than **30 Working Days** after receipt of the written appeal unless the timeline has been extended as specified in Article V, E. below.
- I. CO Appeal Response.** The CO Appeal Response shall include a summary of the issues raised on appeal, a summary of the evidence considered, the Preponderance of the Evidence standard, and the determination(s) reached regarding the issue(s) identified within the written appeal. A copy of the final CO Appeal Response shall be forwarded to the Complainant and Respondent, as well as the Campus DHR Administrator or Title IX Coordinator.

The CO Appeal Response is final and concludes the Complaint and CO review process under this Executive Order.

Article V. General Provisions for Campus Investigation/CO Appeal Review

- A. Impartial Investigations.** All investigations and reviews shall be conducted impartially and in good faith.
- B. Cooperation in an Investigation.** Students and Employees are required to cooperate with the investigation and other processes set forth in this Executive Order, including but not limited to, attending meetings, being forthright and honest during the process, and keeping confidential the existence and details of the investigation/review. If a Complainant and/or Respondent refuse to cooperate, the CSU may draw all reasonable inferences and conclusions on the basis of all available evidence and conclude the investigation/review.
- C. False Allegations Prohibited.** A Complainant shall proceed with a Complaint in good faith. A Complainant who knowingly and intentionally files a false Complaint or any individual who is determined to have provided false statements or information during the investigation/appeal review shall be subject to discipline. Such disciplinary action shall not be deemed to be Retaliation.
- D. Input into the Investigation.** Both the Complainant and Respondent shall have the right to identify witnesses and other evidence for consideration; however, the CSU shall decide what evidence is relevant and significant to the issues raised.
- E. Timelines and Extensions.** The timeline for the procedures contained within this Executive Order may be extended for any reason deemed to be legitimate by the Campus Investigator/CO Appeal reviewer or by mutual agreement of the Parties. The timelines stated within this Executive Order will be automatically adjusted for a reasonable time period that should not exceed an additional **30 Working Days** for a Campus investigation or an additional **30 Working Days** for a reopened Campus investigation under Article IV. The Complainant and Respondent shall receive written notification of any period of extension.

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- F. Delivery.** When submitting a Complaint or issuing any notices required by this Executive Order, personal delivery, overnight delivery services, electronic mail, or certified mail may be used. If personal delivery is used, a proof of service shall be prepared attesting to the calendar date of delivery, which will establish the date of filing or response. If certified mail delivery is used, the postmark shall establish the date of filing or response. Electronic communications must be sent to the designated CSU or Campus e-mail address unless the intended recipient has specified a different address. Electronic communications will be deemed received on the date sent.
- G. Investigation Not Warranted.** In the event that a Campus determines an investigation is not warranted, the reasons for that decision shall be reduced to writing and retained by the Campus according to appropriate record retention policies.
- H. Information Requests.** Where it is necessary for the Complainant or Respondent to have access to specific information for the purpose of filing a Complaint or CO Appeal, the Complainant or Respondent shall make a written request for such information to the Campus. The Complainant or Respondent shall have access to information within the policies, procedures and laws governing confidentiality and privacy that are relevant to any issue raised in the Complaint. This provision does not authorize a Complainant or Respondent access to the personnel files of another without the written consent of that person.

Article VI. Definitions

For purposes of this Executive Order, the following definitions apply:

- A. Adverse Action** means an action that has a substantial and material adverse effect on the Complainant's ability to participate in a University program or activity free from Discrimination, Harassment or Retaliation. Minor or trivial actions or conduct not reasonably likely to do more than anger or upset a Complainant does not constitute an Adverse Action.
- B. Advisor:** The Complainant and the Respondent may each elect to be accompanied by an Advisor to any meeting or interview regarding the allegations. The Advisor may be anyone, including a union representative from the Complainant's or Respondent's collective bargaining unit, an attorney, or, in the case of the Complainant, a Sexual Assault Victim's Advocate, provided the Advisor is not a person with information relevant to the allegations who may be interviewed by the Investigator during the investigation. The Advisor may not answer questions regarding the subject matter of the investigation for the Complainant or the Respondent. However, the Advisor may observe and consult with the Complainant or Respondent and take appropriate action to ensure that the investigation does not violate applicable laws, policies, or collective bargaining agreements.

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- C.** **Affirmative Consent** means an informed, affirmative, conscious, voluntary, and mutual agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that Affirmative Consent has been obtained from the other participant(s) to engage in the sexual activity. Lack of protest or resistance does not mean consent nor does silence mean consent.

Affirmative Consent can be withdrawn or revoked. Affirmative Consent cannot be given by a person who is incapacitated.

A person with a medical or mental Disability may also lack the capacity to give consent.

Sexual activity with a minor (under 18 years old) is never consensual because a minor is considered incapable of giving legal consent due to age.

See Article I, E. for more information.

- D.** **Age**, with respect to employment discrimination, refers to the chronological age of any individual who has reached his or her 40th birthday.⁹ With respect to discrimination in non-employment programs and activities, Age means how old a person is, or the number of years from the date of a person's birth.¹⁰ Age based stereotype refers to generalized opinions about matters including the qualifications, job performance, health, work habits, and productivity of individuals over forty.

Age is a Protected Status.

- E.** **Calendar Days** are defined as Monday through Sunday and include official holidays.
- F.** **California State University (CSU)** means the 23 Campus system of the California State University, including the CO.
- G.** **Campus or University** means any of the 23 Campuses of the CSU or the CO.
- H.** **CO Appeal Response** refers to the decision provided to the Complainant and the Respondent upon completion of the appeal process provided under Article IV.
- I.** **Complainant** means an individual who is eligible to file a Complaint or to report a violation of this policy. See Article III. B. 1 for a description of those eligible to file a Complaint. It also includes any person who is reported to have experienced a violation of this policy in cases where some other person has made a report on that person's behalf. A Complainant may also be referred to as a party to the Complaint.
- J.** **Complaint** means a report of a violation of this policy or a written communication that complies with Article III. B. 2 alleging Discrimination, Harassment, Retaliation, Sexual

⁹ See Cal. Gov. Code § 12926(b).

¹⁰ See 34 C.F.R. 110.3

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Misconduct, Dating or Domestic Violence, or Stalking, against the CSU, an Employee, another Student, or a Third Party.

- K.** **Dating Violence** is abuse committed by a person who is or has been in a social or dating relationship of a romantic or intimate nature with the victim.¹¹ This may include someone the victim just met; i.e., at a party, introduced through a friend, or on a social networking website. For purposes of this definition, “abuse” means intentionally or recklessly causing or attempting to cause bodily injury or placing another person in reasonable apprehension of imminent serious bodily injury to self or another. Abuse does not include non-physical, emotional distress or injury.
- L.** **DHR (Discrimination, Harassment, and Retaliation) Administrator** means the Management Personnel Plan (MPP) Employee at each Campus who is designated to administer this Executive Order and coordinate compliance with the laws prohibiting Discrimination, Harassment and Retaliation. The DHR Administrator may delegate tasks to one or more designees, provided that any designee shall be a MPP Employee or an external consultant, and the DHR Administrator retains overall responsibility and authority. **MPP Employee** means an employee who has been designated as a “management” or “supervisory” employee under the provisions of the Higher Education Employer-Employee Relations Act.¹² The Campus president may assign the roles of the DHR Administrator and Title IX Coordinator to the same person. The names of, and contact information for the DHR Administrator and Title IX Coordinator shall be made readily available to the Campus community and Third Parties as described in Article II.
- M.** **Disability**, as defined in California Education Code §66260.5, Government Code § 12926 and the federal Americans with Disabilities Act (ADA), 2008 Amendments, means:
1. Having a physical or mental condition that limits a major life activity. “Limits” means making the achievement of a major life activity difficult. “Limits” is determined without regard to mitigating measures such as medications, assistive devices, prosthetics, or reasonable accommodations, unless the mitigating measure itself limits a major life activity. A “major life activity” is broadly construed and includes physical, mental, and social activities (such as walking, talking, seeing, hearing) and working; or
 2. Having a known history of a qualifying impairment; or
 3. Being regarded or treated as having or having had a qualifying impairment; or
 4. Being regarded or treated as having or having had such an impairment that has no presently disabling effects but may become a qualifying impairment in the future.

Disability includes HIV and AIDS. Disability is a Protected Status.

¹¹ See Cal. Penal Code § 13700 (b).

¹² See Cal. Code Regs. Title 5 § 42720 et seq.

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- N.** **Discipline** means any disciplinary action taken to correct a violation of the prohibitions against Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking set forth in this Executive Order. Discipline for Employees includes but is not limited to suspension, demotion, and termination of employment. Discipline for Students includes but is not limited to probation, suspension, and expulsion. Suspension of one academic year or more, expulsion, withdrawal in lieu of suspension or expulsion, and withdrawal with pending misconduct investigation or disciplinary proceeding shall be entered on the Student's transcript permanently without exception; this requirement cannot be waived in connection with any settlement agreement. See the definition of Remedies below.
- O.** **Discrimination** means Adverse Action taken against a Student by the CSU, a CSU employee, or another Student because of a Protected Status.
- P.** **Domestic Violence** is abuse committed against someone who is a current or former spouse; current or former cohabitant; someone with whom the Respondent has a child; someone with whom the Respondent has or had a dating or engagement relationship; or a person similarly situated under California domestic or family violence law. Cohabitant means two unrelated persons living together for a substantial period of time, resulting in some permanency of relationship. It does not include roommates who do not have a romantic, intimate, or sexual relationship. Factors that may determine whether persons are cohabiting include, but are not limited to: (1) sexual relations between the Parties while sharing the same living quarters; (2) sharing of income or expenses; (3) joint use or ownership of property; (4) whether the Parties hold themselves out as spouses; (5) the continuity of the relationship; and, (6) the length of the relationship. For purposes of this definition, "abuse" means intentionally or recklessly causing or attempting to cause bodily injury or placing another person in reasonable apprehension of imminent serious bodily injury to self, or another.¹³ Abuse does not include non-physical, emotional distress or injury.
- Q.** **Employee** means a person legally holding a position in the CSU. This term includes full-time, part-time, permanent, tenured, probationary, temporary, intermittent, casual, and per-diem positions. This term does not include auxiliary or foundation Employees or other Third Parties.¹⁴
- R.** **Gender** means sex, and includes Gender Identity, Gender Expression, and transgender. It also includes sex stereotyping.¹⁵

Sex includes, but is not limited to pregnancy, childbirth, breastfeeding or any related medical conditions.¹⁶

¹³ See Cal. Penal Code § 13700(b) and Cal. Family Code § 6211.

¹⁴ See Cal. Code Regs. Title 5 § 42700(h).

¹⁵ See Cal. Educ. Code § 66260.7 and Cal. Gov. Code §12926(r).

¹⁶ See Cal. Gov. Code §12926®; 34 C.F.R. 106.4

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Gender Identity means a person's identification as male, female, a gender different from the person's sex at birth or transgender.

Gender Expression means a person's gender-related appearance or behavior whether or not stereotypically associated with the person's assigned sex at birth.

Sex stereotype means an assumption about a person's appearance or behavior or about an individual's ability or inability to perform certain kinds of work based on a myth, social expectation, or generalization about the individual's sex.

Transgender is a general term that refers to a person whose gender identity differs from the person's sex at birth. A transgender person may or may not have a gender expression that is different from the social expectation of the sex assigned at birth. A transgender person may or may not identify as transsexual.

Gender is a Protected Status.

S. Genetic Information means¹⁷:

- The Student's genetic tests.
- The genetic tests of the Student's family members.
- The manifestation of a disease or disorder in the Student's family members.
- Any request for, or receipt of genetic services, or participation in clinical research that includes genetic services, by a Student or any Student's family member.
- Genetic Information does not include information about any Student's sex or age.

Genetic Information is a Protected Status.

T. Harassment means unwelcome conduct, based on the Complainant's Protected Status, that is sufficiently severe, persistent or pervasive that its effect, whether or not intended, could be considered by a reasonable person in the shoes of the Complainant, and is in fact considered by the Complainant, as limiting her/his ability to participate in or benefit from the services, activities or opportunities offered by the University.

U. Investigator means the person tasked by a Campus with investigating a Complaint. All Investigators shall receive annual training regarding such issues as the laws governing Discrimination, Harassment and Retaliation; Title IX and VAWA/Campus SaVE Act; as well as other related state and federal laws prohibiting Discrimination, Harassment and Retaliation based on Gender or Sex, including Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking; Complainant,

¹⁷ See Cal. Gov. Code §12926(g).

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Respondent, Employee, and witness privacy rights; and the Family Educational Rights and Privacy Act of 1974 (FERPA). For matters involving Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating or Domestic Violence or Stalking, the Investigator shall also receive annual training on how to conduct an investigation process that protects the safety of the Complainant(s) and the University community. (See also Executive Order 1095 regarding required training for Sexual Harassment and Sexual Misconduct investigations.)

If delegated, the DHR Administrator or the Title IX Coordinator (for Complaints alleging Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating or Domestic Violence, or Stalking) shall monitor, supervise, and oversee the investigation to ensure that it is conducted in accordance with the standards, procedures and timelines set forth in this policy.

The Investigator shall not be within the administrative control or authority of any Respondent CSU Employee. The Investigator may be the DHR Administrator, the Title IX Coordinator, or their designee, provided that any designee shall be an MPP Employee or an external consultant.

V. **Marital Status** means an individual's state of marriage, non-marriage, divorce or dissolution, separation, widowhood, annulment, or other marital state.¹⁸ Marital Status is a Protected Status.

W. **Medical Condition** means either of the following:

1. Any health impairment related to or associated with a diagnosis of cancer or a record or history of cancer; or
2. Genetic characteristics. For purposes of this section, "genetic characteristics" means either of the following:
 - a. Any scientifically or medically identifiable gene or chromosome, or combination or alteration thereof, that is known to be a cause of a disease or disorder in a person or offspring, or that is determined to be associated with a statistically increased risk of development of a disease or disorder, and that is presently not associated with any symptoms of any disease or disorder; or
 - b. Inherited characteristics that may derive from the individual or family member, that are known to be a cause of a disease or disorder in a person or offspring, or that are determined to be associated with a statistically increased risk of development of a disease or disorder, and that are presently not associated with any symptoms of any disease or disorder.¹⁹

¹⁸ See 2 Cal. Code Regs §11053.

¹⁹ See Cal. Govt. Code § 12926 (i).

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Medical Condition is a Protected Status.

- X.** **Nationality** includes citizenship, country of origin, and national origin. It also includes language use restrictions and holding or presenting a driver's license issued under section 12801.9 of the Vehicle Code.

Nationality is a Protected Status.²⁰

- Y.** **Parties** to a Complaint are the Complainant(s) and the Respondent(s).

- Z.** **Preponderance of the Evidence** means the greater weight of the evidence; i.e., that the evidence on one side outweighs, preponderates over, or is more than, the evidence on the other side. The Preponderance of the Evidence is the applicable standard for demonstrating facts and reaching conclusions in an investigation conducted pursuant to this Executive Order.

- AA.** **Protected Status** includes Age, Disability (physical or mental), Gender (or sex), Genetic Information, Gender Identity (including transgender), Gender Expression, Marital Status, Medical Condition, Nationality, Race or Ethnicity (including color or ancestry), Religion or Religious Creed, Sexual Orientation, and Veteran or Military Status.

- BB.** **Race or Ethnicity** includes ancestry, color, ethnic group identification, and ethnic background.

Race or Ethnicity is a Protected Status.²¹

- CC.** **Religion** or Religious Creed and includes all aspects of religious belief, observance, and practice, including religious dress and grooming practices, and includes agnosticism and atheism. Religious dress and grooming practices, such as wearing religious clothing, head or face covering, jewelry, and artifacts, are part of a Complainant's religious observance or belief.²²

Religion or Religious Creed is a Protected Status.

- DD.** **Remedies** mean actions taken to correct allegations and/or reported violations of Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence or Stalking as set forth in this Executive Order. Remedies can include Discipline or other corrective action.

Interim Remedies shall be offered prior to the conclusion of an investigation in order to immediately stop any wrong-doing and/or reduce or eliminate any negative impact, when appropriate. Persons reporting that they have been the victim of Sex Discrimination,

²⁰ See Cal. Educ. Code § 66261.3.

²¹ See Cal. Educ. Code § 66261.7.

²² See Cal. Educ. Code § 66262.

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Sexual Harassment, Sexual Misconduct, Dating or Domestic Violence or Stalking must be provided reasonable and available Interim Remedies, if requested, regardless of whether the person chooses to report the conduct to Campus police or local law enforcement, and regardless of whether an investigation is conducted under this Executive Order. Examples may include offering the option of psychological counseling services, changes to academic or living situations, completing a course and/or courses online (if otherwise appropriate), academic tutoring, arranging for the re-taking of a class or withdrawal from a class without penalty, and/or any measure as appropriate to stop further alleged harm until an investigation is concluded or a resolution is reached. The Title IX Coordinator shall assist and provide the Complainant with reasonable Remedies as requested throughout the reporting, investigation, appeal, and disciplinary processes, and thereafter.

- EE.** **Respondent** means the CSU, a CSU Employee, another Student, or a Third Party who is alleged to have violated this Executive Order.
- FF.** **Retaliation** means Adverse Action taken against a Student because the Student has or is believed to have:
1. Exercised rights under this Executive Order;
 2. Reported or opposed conduct which was reasonably and in good faith believed to be in violation of this Executive Order;
 3. Assisted or participated in a policy-related investigation/proceeding regardless of whether the Complaint was substantiated; or,
 4. Assisted someone in reporting or opposing a violation of this Executive Order, or assisted someone in reporting or opposing Retaliation under this Executive Order.

Retaliation may occur whether or not there is a power or authority differential between the individuals involved.

- GG.** **Sexual Assault Victim's Advocate** refers to Employees or third party professionals appointed to support Complainants reporting Sexual Misconduct. They must be certified and have received specialized training to provide advice and assistance, including but not limited to the provision of information about available options in the Complaint, law enforcement, legal, and medical processes, and with emotional and decision making support. Sexual Assault Victim's Advocates may serve as the Complainant's Advisor and assist in seeking services. They are committed to maintain the highest possible level of confidentiality permissible under state and federal law in their communications with the persons they assist.²³ Sexual Assault Victim's Advocates are appointed based on experience and demonstrated ability to effectively provide services to

²³ See Cal. Evid. Code §§ 1035.2 and 1035.4.

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victims/survivors/Complainants. See Executive Order 1095 for more detailed information.

HH. Sexual Harassment, a form of Sex Discrimination, is unwelcome verbal, nonverbal or physical conduct of a sexual nature that includes but is not limited to sexual advances, requests for sexual favors, and any other conduct of a sexual nature where:

1. Submission to, or rejection of, the conduct is explicitly or implicitly used as the basis for any decision affecting a Complainant's academic status or progress, or access to benefits and services, honors, programs, or activities available at or through the University; **or**
2. The conduct is sufficiently severe, persistent or pervasive that its effect, whether or not intended, could be considered by a reasonable person in the shoes of the Complainant, and is in fact considered by the Complainant, as limiting his or her ability to participate in or benefit from the services, activities or opportunities offered by the University; **or**
3. The conduct is sufficiently severe, persistent or pervasive that its effect, whether or not intended, could be considered by a reasonable person in the shoes of the Complainant, and is in fact considered by the Complainant, as creating an intimidating, hostile or offensive environment.

Sexual Harassment could include being forced to engage in unwanted sexual contact as a condition of membership in a student organization; being subjected to video exploitation or a campaign of sexually explicit graffiti; or frequently being exposed to unwanted images of a sexual nature in a classroom that are unrelated to the coursework.

Sexual Harassment also includes acts of verbal, non-verbal or physical aggression, intimidation or hostility based on Gender or sex-stereotyping, even if those acts do not involve conduct of a sexual nature.

This policy covers unwelcome conduct of a sexual nature. While romantic, sexual, intimate, personal or social relationships between members of the University community may begin as consensual, they may evolve into situations that lead to Sexual Harassment or Sexual Misconduct, including Dating or Domestic Violence, or Stalking, subject to this policy.

Claiming that the conduct was not motivated by sexual desire is not a defense to a complaint of harassment based on Gender.

II. Sexual Misconduct: All sexual activity between members of the CSU community must be based on Affirmative Consent. Engaging in any sexual activity without first obtaining Affirmative Consent to the specific activity is Sexual Misconduct, whether or not the conduct violates any civil or criminal law.

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Sexual activity includes, but is not limited to, kissing, touching intimate body parts, fondling, intercourse, penetration of any body part, and oral sex. It also includes any unwelcome physical sexual acts, such as unwelcome sexual touching, Sexual Assault, Sexual Battery, Rape, and Dating Violence. Sexual Misconduct may include using physical force, violence, threat, or intimidation, ignoring the objections of the other person, causing the other person's intoxication or incapacitation through the use of drugs or alcohol, or taking advantage of the other person's incapacitation (including voluntary intoxication) to engage in sexual activity. Men as well as women can be victims of these forms of Sexual Misconduct. Sexual activity with a minor is never consensual when the Complainant is under 18 years old, because the minor is considered incapable of giving legal consent due to age.

1. **Sexual Assault** is a form of Sexual Misconduct and is an attempt, coupled with the ability, to commit a violent injury on the person of another because of that person's Gender or sex.²⁴
2. **Sexual Battery** is a form of Sexual Misconduct and is any willful and unlawful use of force or violence upon the person of another because of that person's Gender or sex as well as touching an intimate part of another person against that person's will and for the purpose of sexual arousal, gratification, or abuse.²⁵
3. **Rape** is a form of Sexual Misconduct and is non-consensual sexual intercourse that may also involve the use of threat of force, violence, or immediate and unlawful bodily injury or threats of future retaliation and duress. Any sexual penetration, however slight, is sufficient to constitute Rape. Sexual acts including intercourse are considered non-consensual when a person is incapable of giving consent because s/he is incapacitated from alcohol and/or drugs, is under 18 years old, or if a mental disorder or developmental or physical Disability renders a person incapable of giving consent. The Respondent's relationship to the person (such as family member, spouse, friend, acquaintance or stranger) is irrelevant. (See complete definition of Affirmative Consent above.)²⁶
4. **Acquaintance Rape** is a form of Sexual Misconduct committed by an individual known to the victim. This includes a person the victim may have just met; i.e., at a party, introduced through a friend, or on a social networking website. (See above for definition of Rape.)

- JJ.** **Sexual Orientation** means one's preference in sexual partners and includes heterosexuality, homosexuality or bisexuality.²⁷ Sexual Orientation is a Protected Status

²⁴ See Cal. Penal Code § 240.

²⁵ See Cal. Penal Code § 242.

²⁶ See Cal. Penal Code §§ 261-263.

²⁷ See Cal. Educ. Code § 66262.7.

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- KK.** **Stalking** means engaging in a repeated Course of Conduct directed at a specific person that would cause a Reasonable Person to fear for the safety of self or others' safety or to suffer Substantial Emotional Distress.²⁸ For purposes of this definition:
1. **Course of Conduct** means two or more acts, including but not limited to, acts in which the stalker directly, indirectly, or through Third Parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property;
 2. **Reasonable Person** means a reasonable person under similar circumstances and with the same Protected Status(es) as the Complainant;
 3. **Substantial Emotional Distress** means significant mental suffering or anguish that may, but does not necessarily require medical or other professional treatment or counseling.
- LL.** **Student** means an applicant for admission to the CSU, an admitted CSU Student, an enrolled CSU Student, a CSU extended education Student, a CSU Student between academic terms, a CSU graduate awaiting a degree, a CSU student currently serving a suspension or interim suspension, and a CSU Student who withdraws from the University while a disciplinary matter (including investigation) is pending.
- MM.** **Third Party** means a person other than an Employee or a Student. Examples include employees of auxiliary organizations²⁹, unpaid interns, volunteers, independent contractors, vendors, and their employees, and visitors.
- NN.** **Title IX** means Title IX of the Education Amendments of 1972.
- OO.** **Title IX Coordinator** means the Campus MPP Employee appointed by the Campus president to coordinate compliance with Title IX; VAWA/Campus SaVE Act; and other related state and federal laws prohibiting Discrimination, Harassment and Retaliation based on Gender or sex, including Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence and Stalking. (See Executive Order 1095.)
- PP.** **VAWA** means the Violence Against Women Reauthorization Act of 2013 (which amends the Jeanne Clery Disclosure of Campus Crimes Statistics Act, commonly known as the Clery Act) (20 U.S.C. 1092(f)), under its Campus Sexual Violence Elimination Act provision (Campus SaVE Act).
- QQ.** **Veteran or Military Status** means service in the uniformed services. Veteran or Military Service may be a Protected Status.

²⁸ See Cal. Penal Code § 646.9

²⁹ See 5 Cal. Code Regs. § 42406.

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- RR.** **Working Days** are defined as Monday through Friday, excluding all official holidays or Campus closures at the Campus where the Complaint originated or at the CO where an Appeal is reviewed.

Addendum: Investigation and Hearing Process – For Students Accused of Sexual Misconduct

Attachments: CSU Student Complaint Form

CSU Student Complaint Procedure Timeline



Timothy P. White, Chancellor

Dated: March 29, 2019

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 1097, Revised (*Systemwide Policy Prohibiting Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking against Employees and Third Parties and Systemwide Procedure for Addressing Such Complaints by Employees and Third Parties*), dated October 5, 2016
- Executive Order 1097 (*Systemwide Policy Prohibiting Discrimination, Harassment and Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking Against Students and Systemwide Procedure for Addressing Such Complaints by Students*), dated June 23, 2015
- Executive Order 1097 (*Systemwide Policy Prohibiting Discrimination, Harassment and Retaliation Against Students and Systemwide Procedure for Handling Discrimination, Harassment and Retaliation Complaints by Students*), dated June 3, 2014
- Executive Order 1074 (*Systemwide Policy Prohibiting Discrimination, Harassment and Retaliation Against Students and Systemwide Procedure for Handling Discrimination, Harassment and Retaliation Complaints by Students*), dated April 6, 2012
- Executive Order 1045 (*Systemwide Policy Prohibiting Discrimination, Harassment, and Retaliation Against Students and Applicants for Admission AND Systemwide Procedure for Handling Discrimination, Harassment and Retaliation Complaints by Students and Applicants for Admission Against the CSU and/or CSU Employees*), dated March 1, 2010

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**ADDENDUM TO CSU EXECUTIVE ORDERS
1096, 1097 & 1098 (Revised March 29, 2019)**

**INVESTIGATION AND HEARING PROCESS – FOR STUDENTS
ACCUSED OF SEXUAL MISCONDUCT**

This Addendum, entitled “Investigation and Hearing Process — For Students Accused of Sexual Misconduct,” **supersedes Article III.C.7-9 and Article IV of California State University Executive Order 1096 (Revised October 5, 2016); Article III.B.7-9 and Article IV of California State University Executive Order 1097 (Revised October 5, 2016); and Article IV of California State University Executive Order 1098 (Revised June 23, 2015)**, and applies to Complaints alleging Sexual Misconduct committed by a Student Respondent.³⁰

Article I. Scope of this Addendum

This Addendum **supersedes** the existing investigation and resolution process under Article III.C.7-9 and Article IV of EO 1096 (Revised March 29, 2019); Article III.B.7-9 and Article IV of EO 1097 (Revised March 29, 2019); and Article IV of EO 1098 (Revised March 29, 2019) (sanctions) for cases (i) alleging Sexual Misconduct by a Student that, (ii) if substantiated, could result in a severe sanction (suspension or expulsion), **and** (iii) where credibility of any Party or witness is central to the finding.³¹ Allegations of other misconduct set forth in the same Complaint that arise out of the same facts and/or incidents will also be investigated and resolved (including sanctions) in accordance with this Addendum.

Article II. Investigation Procedure

The Title IX Coordinator will either promptly investigate the Complaint or assign this task to another Investigator. If assigned to another Investigator, the Title IX Coordinator will monitor, supervise, and oversee all such delegated tasks, including reviewing all investigation draft reports before they are final to ensure that the investigation is sufficient, appropriate, impartial, and in compliance with the relevant Executive Order, including this Addendum.

At the onset of the investigation, the Title IX Coordinator will simultaneously provide both Parties a Notice of Investigation. The Notice of Investigation will include:

1. a summary of the Complaint (e.g., “who,” “what,” “when,” and “where”);

³⁰ Capitalized terms are defined in this Addendum and in CSU Executive Order 1096 (*Systemwide Policy Prohibiting Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking against Employees and Third Parties and Systemwide Procedure for Addressing Such Complaints by Employees and Third Parties*) and CSU Executive Order 1097 (*Systemwide Policy Prohibiting Discrimination, Harassment and Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking against Students and Systemwide Procedure for Addressing Such Complaints by Students*).

³¹ In most Sexual Misconduct cases, credibility will be central to the finding. Therefore, Parties should presume that this Addendum applies to all matters alleging Sexual Misconduct.

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2. a copy of, or internet link to, the relevant Executive Order, including this Addendum;
3. a description of the investigation and resolution procedure (including the right to hearing and appeal);
4. the estimated timeline for completion of the investigation;
5. a description of the University's policy against Retaliation; and
6. information about the Parties' right to an Advisor. The Complainant and Respondent will have equal opportunities to present relevant witnesses and evidence in connection with the investigation and at any hearing. Upon request, the Complainant and Respondent will be advised of the status of the investigation. If new allegations are raised during the investigation that are materially different from those described in the Notice of Investigation, a revised Notice of Investigation will be issued to the Parties.

Article III. Evidence

A. Gathering of Evidence. The Investigator will take reasonable steps to gather all relevant evidence from the Parties, other witnesses or other sources. The Investigator will document the steps taken to gather evidence, even when those efforts are not successful.

The Investigator will notify the Parties in writing that they may:

1. submit documentary information to the Investigator;
2. submit a list of potential witnesses to the Investigator; and/or
3. request that the Investigator attempt to collect documents and other information that are not reasonably accessible to the requesting Party.

B. Basis for Declining Request. The Investigator may decline a Party's request to gather information if:

1. the request seeks information about the Complainant's sexual history with anyone other than the Respondent (unless such evidence about the Complainant's sexual behavior is offered to prove that someone other than the Respondent committed the alleged misconduct, or if the evidence concerns specific incidents of the Complainant's sexual behavior with respect to the Respondent and is offered to prove consent);
2. the request seeks information about the Respondent's sexual history with anyone other than the Complainant unless such information is used to prove motive or pattern of conduct;

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3. the request seeks information that is unreasonably duplicative of evidence in the Investigator's possession;
4. the Investigator determines that the information is not relevant to disputed issues;
5. the request seeks information that can be reasonably and adequately obtained by the requesting Party from other independent or publicly available sources;
6. the burden of obtaining the information is likely to substantially outweigh the benefit that the evidence bears on a disputed issue; or
7. the requested information can be reasonably obtained through other means less likely to intrude on a person's privacy.

In determining the relevance of evidence, consent to one form of sexual activity (or one sexual act) does not constitute consent to other forms of sexual activity, and consent given to sexual activity on one occasion does not constitute consent on another occasion.

Article IV. Review of Evidence

Before issuing a final investigation report (Final Investigation Report), the Investigator will share with the Complainant and Respondent a preliminary report of the evidence, along with all relevant evidence gathered as described above (Preliminary Investigation Report), redacted if and to the extent required by law. The Preliminary Investigation Report will: (a) describe the allegations; (b) identify the material facts – undisputed and disputed – with explanations as to why any material fact is disputed; and (c) describe the evidence presented and considered.

The Investigator may use discretion in determining how to provide access to the Preliminary Investigation Report with the Parties in light of the particular circumstances and any Party or witness privacy concerns. The Preliminary Investigation Report will also identify any evidence offered by the Parties or any other witnesses that the Investigator concluded is not relevant to a material disputed fact, and will briefly explain why it is not relevant. Such evidence need not be attached to the report, but will be available for reasonable review upon request during the review of evidence process.

This process is collectively referred to as the “Review of Evidence.”

Each Party will be given a reasonable opportunity to respond to the list of disputed facts and evidence and ask questions. In particular, each Party may:

1. meet again with the Investigator;
2. identify additional disputed facts;
3. respond to the evidence in writing;

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4. request that the Investigator ask specific questions to the other Party and other witnesses;
5. identify additional witnesses; and
6. request that the Investigator gather additional evidence.

The Investigator will share with the Parties the answers to questions posed during the Review of Evidence. If additional disputed material facts are identified or relevant evidence is gathered, it will be included in the Preliminary Investigation Report (or in a separate addendum) and shared with all Parties, who will be given a reasonable opportunity to respond to the new evidence and ask questions. The Investigator determines when it is appropriate to conclude the Review of Evidence.

Article V. Investigation Report, Pre-Hearing Disposition, and Scheduling of Hearing

1. The Final Investigation Report will include all of the information included in the Preliminary Investigation Report as well as additional relevant evidence received during the Review of Evidence. Any relevant documentary or other tangible evidence provided by the Parties or witnesses, or otherwise gathered by the Investigator will be attached to the Final Investigation Report as exhibits or otherwise made available for reasonable review by the Parties and at the hearing. Evidence offered by the Parties or any other witnesses that the Investigator concluded is not relevant to a material disputed fact will also be accessible to the Hearing Officer during the hearing.
2. Absent good cause (of which the Parties will receive written notice): (i) the investigation should be concluded within **90 Working Days** from the date that Notice of Investigation is provided to the Parties; and (ii) the Final Investigation Report should be completed and provided to the Parties within **10 Working Days** after the Review of Evidence has concluded. Any extensions will be granted, and notice to the Parties given, as set forth in Article V. E. of EO 1096 and EO 1097.
3. If assigned to another Investigator, the Title IX Coordinator will monitor, supervise, and oversee all delegated tasks, including reviewing all draft reports before they are finalized to ensure that the investigation was sufficient, appropriate, impartial, and in compliance with the relevant Executive Order, including this Addendum.
4. Within **10 Working Days** after the Parties have been provided the Final Investigation Report, the Parties will be informed of the timelines that will apply to the pre-hearing and hearing processes described in Article VII below.

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Article VI. Early Resolution³²

If the Title IX Coordinator or either Party believes that it may be possible to resolve the Complaint in a prompt, fair, and reasonable manner without a hearing, the Title IX Coordinator may suggest that the Parties consider an Early Resolution subject to the following:

1. both Parties must agree to engage in the Early Resolution process;
2. any agreed-upon remedies and disciplinary sanctions will have the force and effect of sanctions imposed following a Hearing;
3. the terms of any resolution must be memorialized in writing and signed by the Parties and the Title IX Coordinator; and
4. the resolution will be final and not appealable by either Party.

Article VII. Pre-Hearing and Hearing Processes

1. The Student Conduct Administrator, Title IX Coordinator, or other appropriate Administrator (Hearing Coordinator) will be responsible for coordinating the hearing process. The Hearing Coordinator's duties will include: scheduling the hearing; notifying witnesses of the hearing; ensuring that the Hearing Officer is provided with appropriate materials including a copy of the report and any exhibits; coordinating videoconferencing (if necessary); and securing a location for the hearing. The Hearing Coordinator will also act as liaison between the Parties and the Hearing Officer on procedural matters.
2. The Parties will be given written notice of the date, time, and location of the hearing as well as the identity of the Hearing Officer. Notification of the hearing will be sent to the designated CSU campus e-mail address, unless the recipient has specifically requested in writing to the Hearing Coordinator that notice be given to a different e-mail address. Communications will be deemed received on the date sent. The hearing will not be set sooner than **15 Working Days** after the date of notice of hearing.
3. Timelines:

Hearing Officer

Any objections to an appointed Hearing Officer will be made in writing to the Hearing Coordinator within **5 Working Days** after notice of the identity of the Hearing Officer has been provided.

The objection must be based on an actual conflict of interest. A conflict of interest exists if the Hearing Officer has a personal relationship with one of the Parties or witnesses or has demonstrated actual bias towards a Party or witness.

³² The Early Resolution process is available at any time prior to the issuance of the Hearing Officer's Report.

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The fact that a Hearing Officer has previously served as a Hearing Officer in university proceedings will not constitute a conflict of interest. The Hearing Coordinator will determine if a conflict of interest exists. In that event, the Parties will be notified in writing of the name of the new Hearing Officer. The date for the hearing may need to be rescheduled. Any objection to the new Hearing Officer will be made in accordance with this section.

Hearing Process

No later than **10 Working Days** before the hearing, each Party will:

- a. Provide to the Hearing Coordinator the name of, and contact information for, the Party's advisor and support person (if any);
- b. Make any requests to the Hearing Coordinator to consolidate pending cases for hearing;
- c. Provide to the Hearing Coordinator a proposed witness list that includes the names of, and current contact information for, that Party's proposed witnesses as well as an explanation of the relevance of each proposed witness's testimony and the disputed issue to which the witness's testimony relates. Absent extenuating circumstances, such witnesses should have been identified to the investigator during the investigation process, and referenced in the investigation report.

The Hearing Officer will make all determinations regarding pre-hearing matters, including witness participation and questions, and will promptly notify the Hearing Coordinator who, in turn, will promptly notify the Parties.

No later than **5 Working Days** before the hearing, the Hearing Coordinator will:

- a. Share a final witness list with the Parties.
- b. Notify each witness of the date, time and location of the hearing. Witnesses will be instructed to attend the hearing and to promptly direct any questions or concerns about their attendance at the hearing to the Hearing Coordinator.

No later than **5 Working Days** prior to the hearing, the Parties will submit a list of proposed questions to the Hearing Coordinator.

No later than **3 Working Days** before the hearing, the Parties will submit to the Hearing Coordinator any: (i) objections to, or questions about, the witness list or (ii) requests for permission to participate in the hearing remotely or out of the physical presence of the other Party. All communications will be in writing.

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No later than **1 Working Day** before the hearing, the Hearing Officer will resolve all pending requests regarding participation at the hearing. The Hearing Coordinator will give prompt notice to the Parties (and witnesses) as appropriate.

The hearing is closed to all persons except the Parties; the Parties' respective Advisors; one support person per Party; appropriate witnesses while they are testifying; the Student Conduct Administrator; Title IX Coordinator; Hearing Officer; and Hearing Coordinator. A CSU administrator may also be present, but will not participate in the hearing. Campus police or a security officer may also be present if deemed appropriate or necessary by the Vice President for Student Affairs, Hearing Coordinator or Hearing Officer. The University will take reasonable steps to instruct witnesses employed by the University to attend the hearing, and to arrange for such witnesses to be available to attend, provided that such employee witnesses are timely identified to the Hearing Coordinator in accordance with this Executive Order.

4. The University will instruct Student witnesses to attend the hearing, provided that such Student witnesses are timely identified to the Hearing Coordinator in accordance with this Executive Order. Students who fail to comply may be subject to discipline, depending on the circumstances. The University will take reasonable steps to accommodate Student witnesses including arranging for them to be excused from class attendance, if necessary.
5. The hearing will commence with an overview of the hearing process given by the Hearing Officer, after which the Parties will be given an opportunity to ask questions about the hearing process. Generally, the Investigator or the Title IX Coordinator (if not the Investigator) will be the first witness and will describe the complaint, investigation process, and summarize the evidence. Each Party will be given an opportunity to make an opening statement that will last no longer than 10 minutes. The Advisor and any support person are not permitted to make the opening statement or speak during the hearing. The Parties will not make closing statements.
6. The Hearing Officer may ask questions of the Complainant, Respondent, Investigator, any University official (e.g., Title IX Coordinator or Student Conduct Administrator), and any witness.
 - a. The Complainant and Respondent may be present at all times during the hearing unless the Hearing Officer determines that a Party should be excused for extraordinary circumstances.
 - b. As set forth above, the Parties will give the Hearing Coordinator a written list of any questions that they would like the Hearing Officer to ask the witnesses. The Parties may also propose follow-up questions to the Hearing Officer during the hearing, at appropriate times designated by the Hearing Officer.

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- c. The Hearing Officer will ask the questions proposed by the Parties except for questions that:
 - i. seek information about the Complainant's sexual history with anyone other than the Respondent (unless such evidence about the Complainant's sexual behavior is offered to prove that someone other than the Respondent committed the alleged misconduct);
 - ii. seek information about the Respondent's sexual history with anyone other than the Complainant, unless such information is used to prove motive or pattern of conduct;
 - iii. seek information that is unreasonably duplicative of evidence in the Hearing Officer's possession; or
 - iv. the Hearing Officer determines are not relevant to material disputed issues, are argumentative or harassing or unduly intrude on a witness's privacy.
 - d. The Hearing Officer has discretion to modify or change the wording of a question proposed by a Party (for example, when a question is unclear or inappropriate in tone) as long as the substance of the question is preserved.
 - e. The Parties will address any questions, concerns or objections about a question (or line of questioning) to the Hearing Officer who will use their discretion to resolve any issues consistent with the Executive Order. Advisors may not speak on behalf of a Party.
 - f. Formal rules of evidence applied in courtroom proceedings (e.g., California Evidence Code) do not apply in the hearing. All information that responsible persons are accustomed to rely upon in the conduct of serious affairs is considered.
7. Hearsay may be considered, but will only be given the weight appropriate under all of the circumstances, with due consideration given to the importance of credibility assessment. Absent extenuating circumstances, the Hearing Officer will not rely on prior statements made by the Parties or witnesses during the investigation whose credibility is central to the determination unless those Parties or witnesses make themselves available for examination by the Hearing Officer.
 8. The Hearing Officer will not, prior to preparing the Hearing Officer's Report (described below), have substantive communications about the facts of the case with either Party or the Investigator unless in the presence of both Parties and a University official (e.g., Hearing Coordinator, Title IX Coordinator or Student Conduct Administrator).

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9. New evidence not reasonably available at the time of the investigation to the Party seeking to introduce the evidence may be considered in the Hearing Officer's discretion.
10. The Hearing Officer will make an official audio recording of the hearing. The recording is University property. No other recording of the hearing is permitted. The audio recording will be retained by the Hearing Coordinator or designee in accordance with the Campus records/information retention and disposition schedule.
11. If either Party fails to appear at the hearing without good cause the hearing will nevertheless proceed. Whether good cause exists is determined by the Hearing Officer.
12. The Respondent will not be found to have violated University policy solely because the Respondent failed to appear at the hearing. Nor will the Respondent be found not to have violated the University policy solely because a Complainant or other witness failed to appear at the hearing.
13. Abusive or otherwise disorderly behavior that causes a material disruption is not tolerated. The Hearing Officer may eject or exclude anyone (including either Party, their advisors, and support persons) whose behavior causes a material disruption.
14. The Hearing Officer controls the hearing, is responsible for maintaining order during the hearing, and makes whatever rulings are necessary to ensure a fair hearing. The Hearing Officer's decisions in this regard are final.
15. Where there is more than one Respondent or Complainant in connection with a single occurrence or related multiple occurrences, the Hearing Officer and the Parties may agree to a single hearing. A Party may request consolidation with other cases, or the Student Conduct Administrator may initiate the consolidation (subject to FERPA and other applicable privacy laws). All such requests will be made in accordance with timelines set forth in this section. The Hearing Officer makes consolidation decisions, which are subject to review by the Vice President of Student Affairs or designee.

Article VIII. Standard of Proof, Report, and Hearing Officer's Report

1. After the hearing, the Hearing Officer will make findings of fact and conclusions about whether the Respondent violated University Policy (Hearing Officer's Report). The standard of proof the Hearing Officer will use is whether each allegation is substantiated by a Preponderance of the Evidence. The Title IX Coordinator will review the Hearing Officer's Report to ensure compliance with this Executive Order. The Hearing Coordinator will transmit the Hearing Officer's Report promptly to the Parties, the Title IX Coordinator, and the Student Conduct Administrator, usually within **10 Working Days** of the close of the hearing. If no violation is found, the president (or designee) will also be notified.

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2. If a violation is found, within **5 Working Days** of receiving such finding the Parties may submit to the Hearing Coordinator an impact statement or other statement regarding discipline that is no more than 2000 words in length. The document is an opportunity for the Parties to suggest disciplinary outcomes and to provide information that they believe is important for the Hearing Officer to consider. The Student Conduct Administrator and/or Title IX Coordinator may also submit a written statement regarding aggravating and mitigating factors, including whether the Respondent was previously found to have violated the Student Code of Conduct.
3. Within **5 Working Days** after receiving and considering any impact or other statements submitted by the Parties and other statements described above, the Hearing Officer will submit the Hearing Officer's Report to the president (or designee), including recommended sanctions (as defined in EO 1098) if a Respondent has been determined to have violated University policy. The Hearing Officer's Report will attach the Investigation Report and will include:
 - a. the factual allegations and alleged policy violations;
 - b. the Preponderance of the Evidence standard;
 - c. the evidence considered including an analysis of the credibility of the Parties and witnesses, when credibility assessments are required to resolve factual disputes;
 - d. any material evidence identified by the Parties or witnesses that the Hearing Officer determined was not relevant (or duplicative) and the reason why the evidence was not considered to be relevant;
 - e. a list of all questions proposed by the Parties at the hearing, and if any questions were not asked, why;
 - f. a summary of the procedural issues raised by the Parties before or during the hearing;
 - g. the factual findings and the evidence on which the factual findings are based;
 - h. to the extent that the factual findings required a determination concerning of the relative credibility or lack of credibility of the Parties or witnesses, an explanation as to how that determination was reached; and
 - i. a determination of whether the Executive Order was violated and an analysis of the basis for that determination.

Article IX. Final Decision/Notification

In cases where the Hearing Officer has found a violation of policy, the president (or designee) will review the Investigation Report and the Hearing Officer's Report and issue a decision

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concerning the appropriate sanction within **10 Working Days** of receipt of the Hearing Officer's Report.

1. The president may impose the recommended sanctions, adopt a different sanction or sanctions, or reject sanctions altogether. If the president adopts a sanction other than what is recommended by the Hearing Officer, the president must set forth the reasons in the Decision Letter.
2. The president will simultaneously send the Decision Letter electronically to the Respondent and Complainant at the University-assigned or other primary e-mail address linked to their University accounts.³³ The decision will also be sent to the Student Conduct Administrator and the Hearing Officer.
3. The Decision Letter will include:
 - a. the outcome of the hearing, including any sanction imposed, and the name of the Respondent(s);
 - b. a copy of the Hearing Officer's Report, redacted as appropriate or as otherwise required by law; and
 - c. notice of the Complainant's and Respondent's right to appeal to the CO.
4. The president will also send the Decision Letter to the Title IX Coordinator so that they may determine whether any additional Remedies (or other supportive measure) will be afforded or undertaken in order to maintain a safe and nondiscriminatory University environment.
5. Unless the CO notifies the campus and Parties that an appeal has been filed, the president's sanction decision becomes final **11 Working Days** after the date of the Decision Letter.

Article X. Appeal of Decision

A. Filing an Appeal to the CO. Any Complainant or Respondent who is not satisfied with a Campus hearing outcome may file an appeal with the CO no later than **10 Working Days** after the date of the Decision Letter.

B. Written Appeal. The appeal will be in writing and will be based only on one or more of the appeal issues listed below:

³³ The copy of the Decision Letter issued to the Complainant will be redacted as to findings regarding conduct that does not constitute a "crime of violence," Sexual Misconduct, Dating Violence, Domestic Violence, or Stalking (34 C.F.R. § 99.31 et seq.).

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1. The hearing outcome is not supported by substantial evidence (in other words, there was no reasonable basis for such findings or conclusions);
2. Prejudicial procedural errors impacted the hearing outcome to such a degree that the hearing did not comply with this Executive Order;
3. New evidence that was not reasonably available at the time of the hearing and would have affected the Hearing Officer's decision about whether the Respondent violated CSU policy; or
4. The sanction(s) imposed constituted an abuse of discretion based on the substantiated conduct.

C. Issues and Evidence on Appeal. The issues and evidence raised on appeal will be limited to those raised and identified during the hearing, unless new evidence becomes available after the Campus hearing process and is made part of the appeal by the appealing party. The CO may conduct an interview, at the CO's discretion, with the appealing party and/or the Campus to clarify the written appeal. Appeals will be addressed to:

Equal Opportunity and Whistleblower Compliance Unit
Systemwide Human Resources
Office of the Chancellor
401 Golden Shore, 4th Floor
Long Beach, California 90802
eo-wbappeals@calstate.edu

D. Acknowledgement of Appeal. The CO will provide prompt written acknowledgement of the receipt of the appeal to the appealing Party, and will provide prompt written notification of the appeal, including a copy of the appeal, to the non-appealing Party and the Campus Title IX Coordinator. The notice will include the right of the non-appealing Party and the Campus to provide a response to the appeal within **10 Working Days** of the date of the notice.

E. Reasonable Accommodation. The CO will provide reasonable accommodations to any Party or witness in the appeal process with a qualified Disability upon request by the person needing the accommodation. A reasonable accommodation may include an extension under these procedures. The timeframe for the CO Appeal Response will automatically be adjusted for the time needed, if any, to provide reasonable accommodations.

F. Scope of CO Review. The CO review will not involve a new hearing by the CO and will not consider evidence that was not introduced during the Campus hearing, unless the new evidence was not reasonably available at the time of the Campus hearing process. The CO may make reasonable inquiries to determine if the new evidence could have affected the hearing determination. If the CO review determines the hearing should be reopened to cure any defects in the hearing and/or consider new evidence introduced for the first time on appeal (that could have affected the hearing determination), the matter will be remanded back to the Campus and the

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hearing reopened at the Campus level. Under very limited circumstances, the CO can reverse the Hearing Officer's decision, provided that the factual findings remain intact.

G. Reopening a Campus Hearing. The CO will return the matter to the Campus and will specify in writing the timeline by which a reopened hearing must be completed. The CO will simultaneously notify the Parties of the reopening of the hearing and the timeline for completion of the reopened hearing. The Campus will complete the reopened hearing and provide the CO with an amended Hearing Officer's Report. The Campus will also provide the Parties with amended Notices of Hearing Outcome, and such Notices will provide the Parties the opportunity to appeal any new or amended findings, in accordance with this Executive Order. Upon receipt of the amended hearing report, the CO will contact the appealing party to determine whether that Party wishes to continue with the appeal.

H. Reversal by CO. If the hearing outcome (determination regarding policy violation) is not supported by the facts as determined by the Hearing Officer, the CO may vacate and reverse the Hearing Officer's decision, but only with respect to whether University policy was violated.

I. Timeline. The CO will respond to the appealing Party no later than **30 Working Days** after receipt of the written appeal unless the timeline has been extended as specified in Article V, E. of EO 1096 and EO 1097.

J. CO Appeal Response. The CO Appeal Response will include a summary of the issues raised on appeal, a summary of the evidence considered, the scope of review, and the determination(s) reached regarding the issue(s) identified within the written appeal. A copy of the final CO Appeal Response will be forwarded to the Complainant and Respondent, as well as the Campus Title IX Coordinator. The CO Appeal Response is final and concludes the Complaint and CO review process under this Executive Order.

K. Notifications to the Parties. The Complainant and the Respondent will be simultaneously informed, in writing, whenever there is a change to the outcome of the proceedings (findings and/or sanctions).

STUDENT COMPLAINT FORM

Executive Order 1097 provides students a systemwide *procedure* to file complaints alleging violations of the California State University (CSU) systemwide *policy* prohibiting Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence or Stalking against students by the CSU, Employees, other Students, or Third Parties. **Please fill in all of the information requested below as completely as possible and attach additional pages to this form, if necessary.**

| | | | | | | | | |
|-----------------|----------------------|------------|----------------------|------------|--------------------------|----------------------|--------------------------|-------|
| CSU Campus | <input type="text"/> | | | Work Phone | <input type="text"/> | | | |
| Last Name | <input type="text"/> | First Name | <input type="text"/> | MI | <input type="checkbox"/> | Cell Phone | <input type="text"/> | |
| Mailing Address | <input type="text"/> | | | | Home Phone | <input type="text"/> | | |
| City | <input type="text"/> | | | | Best time to call: | | <input type="checkbox"/> | AM/PM |
| State | <input type="text"/> | Zip Code | <input type="text"/> | E-mail | | <input type="text"/> | | |

Currently a CSU Student? Yes No Last CSU Registration Date

Currently a CSU Applicant? Yes No Last CSU Application Date

Was Early Resolution sought? Yes No If yes, with whom: Date

Indicate the type(s) of complaint being filed: Discrimination Harassment Retaliation
 Sexual Misconduct Dating Violence Domestic Violence Stalking

If you are filing a Discrimination or Harassment complaint, indicate the protected status(es) that was/were the basis(es) of the alleged Discrimination or Harassment. (Please select all that apply):

| | | | |
|---|---|--|--|
| <input type="checkbox"/> Race/Color | <input type="checkbox"/> Religion | <input type="checkbox"/> Sexual Orientation | <input type="checkbox"/> Medical Condition |
| <input type="checkbox"/> National Origin/Ancestry | <input type="checkbox"/> Gender/Sex | <input type="checkbox"/> Disability | <input type="checkbox"/> Genetic Information |
| <input type="checkbox"/> Marital Status | <input type="checkbox"/> Gender Identity/Expression | <input type="checkbox"/> Military/Veteran Status | <input type="checkbox"/> Age |

If you are filing a Retaliation complaint, indicate the activity(ies) you engaged in that was/were the basis(es) for the alleged Retaliation.

STUDENT COMPLAINT FORM

1. Identify the Respondent(s) against whom your complaint is made. For each Respondent, provide the identifying information requested below. Attach additional pages to this form if necessary.

| Respondent(s) name: | Relationship/Association with the campus: | Relationship/Association to you: |
|---------------------|---|----------------------------------|
| | | |
| | | |
| | | |

2. Describe the incident(s) or event(s), date(s), time(s), and location(s) giving rise to your complaint.

Attach additional pages to this form, if necessary.

3. Describe the specific harm you have suffered resulting from the incident(s). Attach additional pages to this form, if necessary.

4. What did you or others do to try to resolve the complaint? What was the outcome?

STUDENT COMPLAINT FORM

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Attachment A

5. Identify individuals who may have observed or witnessed the incident(s) that you described.

| | | | | | | | |
|------------------------|----------------------|------------|----------------------|----|----------------------|------------|----------------------|
| Last Name | <input type="text"/> | First Name | <input type="text"/> | MI | <input type="text"/> | Telephone | <input type="text"/> |
| Position/ Job Title | <input type="text"/> | | | | | Cell Phone | <input type="text"/> |
| E-mail | <input type="text"/> | | | | | Telephone | <input type="text"/> |
| Last Name | <input type="text"/> | First Name | <input type="text"/> | MI | <input type="text"/> | Cell Phone | <input type="text"/> |
| Position/ Job Title | <input type="text"/> | | | | | Cell Phone | <input type="text"/> |
| E-mail | <input type="text"/> | | | | | Telephone | <input type="text"/> |

6. Do you have any documents or electronic communications (including text messages or email) that support your complaint?

Yes No **(Please list and attach a copy.)**

7. Do you have any physical evidence (such as photographs, videos, blood tests or rape kits) that support your complaint? (Please describe)

8. Describe the outcome(s) you expect from filing your complaint. Be as specific as possible.

You may elect to have an Advisor present at meeting(s) and/or interview(s) which may be a Sexual Assault Victim's Advocate. If you indicate you will have an Advisor, you are authorizing that individual to accompany you to any meeting(s) and/or interview(s) regarding this complaint. The role of the Advisor is limited to observing and consulting with you.

9. If you will be accompanied by an Advisor, provide the name and telephone number.

| | | | | | | | |
|-----------|----------------------|------------|----------------------|----|----------------------|------------|----------------------|
| Last Name | <input type="text"/> | First Name | <input type="text"/> | MI | <input type="text"/> | Telephone | <input type="text"/> |
| | | | | | | Cell Phone | <input type="text"/> |

CERTIFICATION

I certify that the information given in this complaint is true and correct to the best of my knowledge or belief.

Print Name of Student

Date

Signature of Student

For University Use Only: Date Complaint Received Signature

CSU Student Complaint Procedure Timeline

Pursuant to Executive Order (EO) 1097, a “Student”, defined as an applicant for admission to the CSU, an admitted CSU Student, an enrolled CSU Student, a CSU extended education Student, a CSU Student between academic terms, a CSU graduate awaiting a degree, a CSU Student currently serving a suspension or interim suspension, and a CSU Student who withdraws from the University while a disciplinary matter (including investigation) is pending, may file a Complaint related to Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence or Stalking.

- **Immediately following an act/action/incident that falls under Executive Order 1097** or as soon as possible thereafter, Students who believe they are or may have been victims of Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence or Stalking, may initiate the **Article III. Campus Procedure for Responding to Complaints** to receive information about the procedures that exist for resolving such matters. All incidents should be reported even if a significant amount of time has passed. However, delaying a report or Complaint may impede the ability to conduct an investigation or take appropriate remedial actions.

For the purpose of this Executive Order, Working Days are defined as Monday through Friday, excluding all official holidays or Campus closures at the Campus where the Complaint originated or at the Chancellor’s Office (CO) where the Complaint Appeal is reviewed.

- **Within ten (10) Working Days after receipt of a Complaint**, an intake interview shall be conducted with the Complainant.
- **Within ten (10) Working Days** after reviewing all written Complaints and the information received during the intake interview, the Discrimination/Harassment/Retaliation (DHR) Administrator or Title IX Coordinator will notify the Complainant that the Complaint has been accepted for investigation and the timeline for completion of the investigation. If the DHR Administrator or Title IX Coordinator determines the Complainant has failed to state a Complaint within the scope of this Executive Order, s/he will provide the Complainant with written notice of this determination within **ten (10) Working Days**. The DHR Administrator or Title IX Coordinator will also inform the Complainant that if additional information is provided, the Complaint will be reviewed again.
- **Within sixty (60) Working Days after the intake interview**, the Investigator shall complete the investigation, write and submit an investigation report to the campus designated DHR Administrator or Title IX Coordinator. If this timeline is extended pursuant to Article V. E, it shall not be extended for a period longer than an additional **thirty (30)** Working Days from the original due date.
- **Within ten (10) Working Days of receiving the investigation report**, the DHR Administrator or Title IX Coordinator shall review the investigation report and notify the Parties in writing of the investigation outcome. If the DHR Administrator or Title IX Coordinator performed the investigation, s/he shall notify the Parties in writing of the investigation outcome within **ten (10) Working Days** of completing the investigation report. The Notice shall indicate whether or not this Executive Order was violated and the Complainant’s and Respondent’s right to file an Appeal under this policy.

CSU Student Complaint Procedure Timeline

- **Within ten (10) Working Days after the date of the Notice of Investigation Outcome**, the Student may file a written Appeal with the CO.
- **Within thirty (30) Working Days after receipt of the written Appeal**, the CO designee shall respond to the appealing party, unless the timeline has been extended pursuant to Article IV. G. or Article V. E. A separate notification shall be provided to the non-appealing party, indicating whether or not the allegations were substantiated on Appeal by a Preponderance of the Evidence.
- **Closure.** The CO Appeal Response is final and concludes the Complaint and Appeal process under this Executive Order.

Pursuant to EO 1097 Article V. E, the timelines noted above may be extended as follows:

The timeline for the procedures contained within this Executive Order may be extended for any reason deemed to be legitimate by the Campus investigator/CO Appeal reviewer or by mutual agreement of the Parties. The timelines stated within this Executive Order will be automatically adjusted for a reasonable time period that should not exceed an additional **thirty (30) Working Days** for a Campus investigation or an additional **thirty (30) Working Days** for a reopened Campus investigation under Article IV. The Complainant and Respondent shall receive written notification of any period of extension.

***Note that for matters that fall under the scope of the 2019 Addendum, these timelines are not applicable. Please contact your campus Title IX Coordinator for additional guidance.



Facilities Development &
Operations
Environmental Health & Safety

San Jose State University
One Washington Square
San Jose, CA 95192-0010

TEL: 408-924-1990
FAX: 408-924-1785

Special Notice to Employees About Asbestos on Campus

Environmental Health & Safety

Matt Nymeyer, M.S.
Director,
Environmental Health & Safety

Certified Safety Professional
Registered Environmental Health
Specialist

matt.nymeyer@sjsu.edu

www.sjsu.edu/fdo/departments/ehs/

powering SILICON VALLEY

The California State University:

Chancellor's Office, Bakersfield,
Channel Islands, Chico, Dominguez Hills,
East Bay, Fresno, Fullerton, Humboldt,
Long Beach, Los Angeles, Maritime
Academy, Monterey Bay, Northridge,
Pomona, Sacramento, San Bernardino,
San Diego, San Francisco, San Jose, San
Louis Obispo, San Marcos, Sonoma,
Stanislaus

All SJSU employees must be notified of the presence of asbestos-containing materials (ACM) in campus buildings pursuant to the requirements of the California Health and Safety Code Section 25915. The University continues to survey locations for the presence of asbestos-containing material as the need arises. Asbestos fibers are commonly found in thermal system insulation, fireproofing and fire doors, roofing materials, floor tiles, laboratory bench tops, spray-on acoustic, drywall taping compound, insulation, mastics, and various other materials.

Please note that any building constructed prior to 1981 is presumed to contain asbestos in the above-mentioned materials unless sampling and analysis demonstrates otherwise.

There is no health risk associated with intact, encapsulated asbestos containing materials in good condition. Asbestos fibers are only a health hazard if they become airborne in sufficient quantity. Environmental Health and Safety (EH&S) and Facilities Management prohibit actions that may disturb ACM. Do not break, drill, cut, sand, abrade or remove anything that may be considered an asbestos containing material. Only persons who have been trained and certified are authorized to perform work that may disturb ACM. This type of work is strictly regulated and work controls must be put in place to prevent occupant and worker exposure.

If you observe any asbestos (or suspected asbestos) materials that have been damaged, report the condition immediately to your supervisor or campus Environmental Health and Safety. Do not disturb damaged asbestos debris or materials. If you have any questions about identifying a material that may contain asbestos, contact the EH&S office before you disturb the material(s).

On the back of this page is a list of the buildings presumed to contain asbestos based on their age or where materials have been tested and found to contain asbestos.

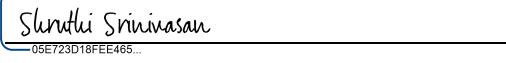
| Buildings Presumed to Contain Asbestos based on age and/or materials testing | | |
|--|---|--|
| Administration Floor tiles, pipe insulation, mastic, wall plaster | Engineering Building Floor tiles, pipe insulation, mastic, wall plaster, fire doors | Science Building Floor tiles, ceiling materials, pipe insulation, wall plaster |
| Art Floor tiles, pipe insulation, mastic, wall plaster | Faculty Office Building Floor tiles, pipe insulation, mastic, wall plaster | South Parking Facility No data |
| Boccardo Business Complex Pipe insulation, ceiling materials, fire doors | Health Building Floor tiles, pipe insulation, mastic, wall plaster | Spartan Complex Floor tiles, insulation, ceiling materials |
| Business Tower Floor tiles, pipe insulation, mastic | Hugh Gillis Hall Floor tiles, pipe insulation, mastic, wall plaster | Spartan Memorial Floor tiles |
| Central Classroom Building Floor tiles, pipe insulation, mastic, wall plaster | Industrial Studies Floor tiles, pipe insulation, mastic, wall plaster | Sweeney Hall Floor tiles, mastic, insulation |
| Central Plant Boilers, insulation, plaster | IRC Richard B Lewis Pipe insulation, floor tile | Tower Hall Floor tiles, mastic, insulation, wall plaster |
| Computer Center Pipe insulation, wall plaster | Joe West Hall Floor tiles, pipe insulation, mastic, wall plaster | Washburn Hall Insulation |
| Dining Commons Pipe insulation | MacQuarrie Hall Ceiling materials, fire proofing, wall plaster | Washington Square Hall Insulation |
| Dudley Moorhead Hall Floor tiles, mastic, pipe insulation, wall plaster | Morris Dailey Auditorium No data | Yoshihiro Uchida Hall No data |
| Duncan Hall Floor tiles, mastic, pipe insulation, wall plaster, fire proofing, ceiling materials | Music Building Floor tiles, pipe insulation, mastic, wall plaster | |
| Dwight Bentel Hall Mastic | North Parking Facility No data | |

*Note: This list is representative, but not exhaustive. Not all materials have been identified or tested. Consult with EHS before disturbing any materials in these buildings.

Policy Acknowledgement

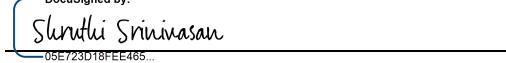
I have received a copy of the policies and procedures listed below. I agree to abide by them and I understand that it is my responsibility to be familiar with and conform to the procedures contained in these policies. I understand that I must abide by the rules and requirements contained in the policies with regard to the reporting of harassment, including the obligation to report violations of the policies and not to retaliate against anyone for exercising his/her rights under these policies.

- California Fair Employment and Housing Act
- Information Security
- Rights of Victims of Domestic Violence, Sexual Assault and Stalking
- Title IX - Student
- California State Auditor Whistleblower Program
- EO 1096 and EO 1097

| | | | |
|--------------------|--|--------------------|------|
| Name: | Srinivasan (Last) | Shruthi (First) | (MI) |
| Signature: | <small>DocuSigned by:</small>  05E723D18FEE465... | | |
| EmplID/Student ID: | 10/6/2021 | | |
| 015952209 | | | |

I-9 Compliance

Verification of identity and employment authorization is mandated by the Immigration Reform and Control Act of 1986 (IRCA) before every employee can begin work. You must complete and sign Form I-9 Section 1 no later than the effective date of your appointment. Please email university-personnel@sjsu.edu to initiate your I-9. You will need to provide original documents upon request. A list of acceptable documents can be found on the last page of Form I-9.

| | | | |
|--------------------|--|--------------------|------|
| Name: | Srinivasan (Last) | Shruthi (First) | (MI) |
| Signature: |  10/6/2021 | | |
| EmplID/Student ID: | 015952209 | | |



Employment Eligibility Verification
Department of Homeland Security
U.S. Citizenship and Immigration Services

USCIS
Form I-9
 OMB No. 1615-0047
 Expires 10/31/2022

► **START HERE:** Read instructions carefully before completing this form. The instructions must be available, either in paper or electronically, during completion of this form. Employers are liable for errors in the completion of this form.

ANTI-DISCRIMINATION NOTICE: It is illegal to discriminate against work-authorized individuals. Employers **CANNOT** specify which document(s) an employee may present to establish employment authorization and identity. The refusal to hire or continue to employ an individual because the documentation presented has a future expiration date may also constitute illegal discrimination.

Section 1. Employee Information and Attestation (*Employees must complete and sign Section 1 of Form I-9 no later than the first day of employment, but not before accepting a job offer.*)

| | | | | | |
|---|--|----------------|---|--|-----------------------------|
| Last Name (<i>Family Name</i>) | First Name (<i>Given Name</i>) | Middle Initial | Other Last Names Used (<i>if any</i>) | | |
| Address (<i>Street Number and Name</i>) | | Apt. Number | City or Town | | State |
| Date of Birth (<i>mm/dd/yyyy</i>) | U.S. Social Security Number <div style="display: flex; justify-content: space-around; align-items: center;"> </div> | | Employee's E-mail Address | | Employee's Telephone Number |

I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.

I attest, under penalty of perjury, that I am (check one of the following boxes):

| | |
|--|--|
| <input type="checkbox"/> 1. A citizen of the United States <input type="checkbox"/> 2. A noncitizen national of the United States (<i>See instructions</i>) <input type="checkbox"/> 3. A lawful permanent resident (<i>Alien Registration Number/USCIS Number</i>): _____ <input type="checkbox"/> 4. An alien authorized to work until (expiration date, if applicable, <i>mm/dd/yyyy</i>): _____ <div style="margin-left: 20px;">Some aliens may write "N/A" in the expiration date field. (<i>See instructions</i>)</div> | <div style="border: 1px solid black; padding: 5px; font-size: 0.8em;"> Aliens authorized to work must provide only one of the following document numbers to complete Form I-9: <i>An Alien Registration Number/USCIS Number OR Form I-94 Admission Number OR Foreign Passport Number.</i> </div> |
| 1. Alien Registration Number/USCIS Number: _____ OR 2. Form I-94 Admission Number: _____ OR 3. Foreign Passport Number: _____ <div style="margin-left: 20px;">Country of Issuance: _____</div> | |
| <div style="border: 1px solid black; padding: 2px; font-size: 0.8em; margin-bottom: 5px;"> QR Code - Section 1 <i>Do Not Write In This Space</i> </div> | |

| | |
|-----------------------|------------------------------------|
| Signature of Employee | Today's Date (<i>mm/dd/yyyy</i>) |
|-----------------------|------------------------------------|

Preparer and/or Translator Certification (check one):

I did not use a preparer or translator. A preparer(s) and/or translator(s) assisted the employee in completing Section 1.
(Fields below must be completed and signed when preparers and/or translators assist an employee in completing Section 1.)

I attest, under penalty of perjury, that I have assisted in the completion of Section 1 of this form and that to the best of my knowledge the information is true and correct.

| | |
|---|------------------------------------|
| Signature of Preparer or Translator | Today's Date (<i>mm/dd/yyyy</i>) |
| Last Name (<i>Family Name</i>) _____ First Name (<i>Given Name</i>) _____ | |
| Address (<i>Street Number and Name</i>) _____ City or Town _____ State _____ ZIP Code _____ | |

STOP *Employer Completes Next Page* **STOP**



Employment Eligibility Verification

Department of Homeland Security
U.S. Citizenship and Immigration Services

USCIS

Form I-9

OMB No. 1615-0047

Expires 10/31/2022

Section 2. Employer or Authorized Representative Review and Verification

(Employers or their authorized representative must complete and sign Section 2 within 3 business days of the employee's first day of employment. You must physically examine one document from List A OR a combination of one document from List B and one document from List C as listed on the "Lists of Acceptable Documents.")

| Employee Info from Section 1 | Last Name (Family Name) | First Name (Given Name) | M.I. | Citizenship/Immigration Status |
|--|---------------------------------------|---------------------------------------|------|--|
| List A Identity and Employment Authorization OR List B Identity AND List C Employment Authorization | | | | |
| Document Title | Document Title | Document Title | | |
| Issuing Authority | Issuing Authority | Issuing Authority | | |
| Document Number | Document Number | Document Number | | |
| Expiration Date (if any) (mm/dd/yyyy) | Expiration Date (if any) (mm/dd/yyyy) | Expiration Date (if any) (mm/dd/yyyy) | | |
| Document Title | Additional Information | | | QR Code - Sections 2 & 3 Do Not Write In This Space |
| Issuing Authority | | | | |
| Document Number | | | | |
| Expiration Date (if any) (mm/dd/yyyy) | | | | |
| Document Title | | | | |
| Issuing Authority | | | | |
| Document Number | | | | |
| Expiration Date (if any) (mm/dd/yyyy) | | | | |

Certification: I attest, under penalty of perjury, that (1) I have examined the document(s) presented by the above-named employee, (2) the above-listed document(s) appear to be genuine and to relate to the employee named, and (3) to the best of my knowledge the employee is authorized to work in the United States.

The employee's first day of employment (mm/dd/yyyy): _____ *(See instructions for exemptions)*

| | | | | | |
|--|--|---|--|--|----------|
| Signature of Employer or Authorized Representative | | Today's Date (mm/dd/yyyy) | Title of Employer or Authorized Representative | | |
| Last Name of Employer or Authorized Representative | | First Name of Employer or Authorized Representative | | Employer's Business or Organization Name | |
| Employer's Business or Organization Address (Street Number and Name) | | | City or Town | | State |
| | | | | | ZIP Code |

Section 3. Reverification and Rehires (To be completed and signed by employer or authorized representative.)

| | | | |
|-----------------------------|-------------------------|----------------|-----------------------------------|
| A. New Name (if applicable) | | | B. Date of Rehire (if applicable) |
| Last Name (Family Name) | First Name (Given Name) | Middle Initial | Date (mm/dd/yyyy) |

C. If the employee's previous grant of employment authorization has expired, provide the information for the document or receipt that establishes continuing employment authorization in the space provided below.

| | | |
|----------------|-----------------|---------------------------------------|
| Document Title | Document Number | Expiration Date (if any) (mm/dd/yyyy) |
|----------------|-----------------|---------------------------------------|

I attest, under penalty of perjury, that to the best of my knowledge, this employee is authorized to work in the United States, and if the employee presented document(s), the document(s) I have examined appear to be genuine and to relate to the individual.

| | | |
|--|---------------------------|---|
| Signature of Employer or Authorized Representative | Today's Date (mm/dd/yyyy) | Name of Employer or Authorized Representative |
|--|---------------------------|---|

LISTS OF ACCEPTABLE DOCUMENTS

All documents must be UNEXPIRED

Employees may present one selection from List A
or a combination of one selection from List B and one selection from List C.

| LIST A Documents that Establish Both Identity and Employment Authorization | OR | LIST B Documents that Establish Identity | AND | LIST C Documents that Establish Employment Authorization |
|---|----|--|-----|--|
| <p>1. U.S. Passport or U.S. Passport Card</p> <p>2. Permanent Resident Card or Alien Registration Receipt Card (Form I-551)</p> <p>3. Foreign passport that contains a temporary I-551 stamp or temporary I-551 printed notation on a machine-readable immigrant visa</p> <p>4. Employment Authorization Document that contains a photograph (Form I-766)</p> <p>5. For a nonimmigrant alien authorized to work for a specific employer because of his or her status:</p> <p>a. Foreign passport; and</p> <p>b. Form I-94 or Form I-94A that has the following:</p> <p>(1) The same name as the passport; and</p> <p>(2) An endorsement of the alien's nonimmigrant status as long as that period of endorsement has not yet expired and the proposed employment is not in conflict with any restrictions or limitations identified on the form.</p> <p>6. Passport from the Federated States of Micronesia (FSM) or the Republic of the Marshall Islands (RMI) with Form I-94 or Form I-94A indicating nonimmigrant admission under the Compact of Free Association Between the United States and the FSM or RMI</p> | | <p>1. Driver's license or ID card issued by a State or outlying possession of the United States provided it contains a photograph or information such as name, date of birth, gender, height, eye color, and address</p> <p>2. ID card issued by federal, state or local government agencies or entities, provided it contains a photograph or information such as name, date of birth, gender, height, eye color, and address</p> <p>3. School ID card with a photograph</p> <p>4. Voter's registration card</p> <p>5. U.S. Military card or draft record</p> <p>6. Military dependent's ID card</p> <p>7. U.S. Coast Guard Merchant Mariner Card</p> <p>8. Native American tribal document</p> <p>9. Driver's license issued by a Canadian government authority</p> <p>For persons under age 18 who are unable to present a document listed above:</p> <p>10. School record or report card</p> <p>11. Clinic, doctor, or hospital record</p> <p>12. Day-care or nursery school record</p> | | <p>1. A Social Security Account Number card, unless the card includes one of the following restrictions:</p> <p>(1) NOT VALID FOR EMPLOYMENT</p> <p>(2) VALID FOR WORK ONLY WITH INS AUTHORIZATION</p> <p>(3) VALID FOR WORK ONLY WITH DHS AUTHORIZATION</p> <p>2. Certification of report of birth issued by the Department of State (Forms DS-1350, FS-545, FS-240)</p> <p>3. Original or certified copy of birth certificate issued by a State, county, municipal authority, or territory of the United States bearing an official seal</p> <p>4. Native American tribal document</p> <p>5. U.S. Citizen ID Card (Form I-197)</p> <p>6. Identification Card for Use of Resident Citizen in the United States (Form I-179)</p> <p>7. Employment authorization document issued by the Department of Homeland Security</p> |

Examples of many of these documents appear in the Handbook for Employers (M-274).

Refer to the instructions for more information about acceptable receipts.