

ORIGINAL

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FILED
Superior Court of California
County of Los Angeles

JUL 25 2016

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By Cristina Grijalva Deputy
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Attorneys for Petitioner John Doe

D86 Judge O'Donnell

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT

BS163736

JOHN DOE, an individual

Case No.

Petitioner,

PETITION FOR WRIT OF
MANDAMUS

v.

AINSLEY CARRY, Ed.D, in his
official capacity as Vice Provost for
Student Affairs; GRETCHEN
DAHLINGER MEANS, in her official
capacity as Title IX Coordinator;
PATRICK NOONAN, in his official
capacity as Senior Complaint
Investigator; UNIVERSITY OF
SOUTHERN CALIFORNIA, a
California corporation, and DOES 1 to
10 inclusive,

Respondent.

TO THE COURT AND RESPONDENTS AND THEIR ATTORNEYS

PETITIONER, an undergraduate student who recently completed his third
year of school at the University of Southern California petitions the court for a writ
of mandate under Code of Civ. Proc. § 1094.5, or alternatively, under Code of Civ.
Proc. § 1085, directed to Respondents in their official capacities in order to redress
the improper expulsion imposed by the University of Southern California's private

07/25/2016

CIT/COR: BS163736
LEA/DEF#: 1
RECEIPT: 08/19/2016
DATE PAID: 07/25/16
PAYMENT: \$425.00
RECEIVED
CASH: \$0.00
CHECK: \$425.00
CDD: \$0.00

1 Title IX sexual misconduct investigation process, with no hearing, no right to
2 counsel, no rules of evidence, no presumption of innocence, no right to possess
3 copies of witness statements and evidence, no right to confront witnesses against
4 him, and reliance on hearsay statements by witnesses.

5 By this verified Petition, Petitioner further alleges as follows:
6

7 **THE PARTIES**

8 1. Petitioner JOHN DOE was at all times relevant an undergraduate
9 student in his third year at the University of Southern California.

10 2. Respondent AINSLEY CARRY, Ed.D. is the Vice Provost for Student
11 Affairs of the University of Southern California delegated responsibility for student
12 discipline by USC's governing board of trustees and named herein is his official
13 capacity.

14 3. Respondent GRETCHEN DAHLINGER MEANS is the Executive
15 Director of USC's Office of Equity and Diversity and USC's Title IX Office, is
16 vested with the compliance with federal mandates related to equal opportunity,
17 non-discrimination, and harassment through USC's policies and governing board of
18 trustees and is named in her official capacity. Since 2000, Ms. Means has
19 developed her career as an attorney specializing in the prosecution of sexual assault
20 and other sex crimes for the San Diego District Attorney's Office and the U.S.
21 Marine Corps.

22 4. Respondent PATRICK NOONAN is a Senior Complaint Investigator
23 of USC's Office of Equity and Diversity and vested by USC's policy through
24 USC's governing board of trustees with the findings of fact in the Title IX
25 administrative action against Petitioner, and is named in his official capacity.

26 5. Respondent UNIVERSITY OF SOUTHERN CALIFORNIA
27 ("USC"), a California corporation formed November 15, 1895, operates as a
28 private, co-educational university located near downtown Los Angeles and is

1 governed by a self-perpetuating board of trustees which has approximately 55
2 voting members.

3
4 **RELEVANT NON-PARTIES**

5 6. Petitioner is informed and believes that non-party JANE ROE is also
6 an undergraduate student at USC and the reporting party in the underlying USC
7 Title IX investigation process at issue in this writ proceeding.

8 7. Petitioner uses the pseudonyms of "John Doe" and "Jane Roe" in his
9 Petition in order to preserve privacy in a matter that is sensitive and highly
10 personal, which outweighs the public's interest in knowing the parties' identities.
11 Use of the pseudonyms does not prejudice Respondents because the identities of
12 Petitioner and the Reporting Party Jane Roe are known to Respondents Ainsley
13 Carry, Gretchen Dahlinger Means, Patrick Noonan and the University of Southern
14 California. See, *Starbucks Corp. v. Superior Court* (2008) 68 Cal.App.4th 1436
15 ("The judicial use of 'Doe plaintiffs' to protect legitimate privacy rights has gained
16 wide currency, particularly given the rapidity and ubiquity of disclosures over the
17 World Wide Web"); see also *Doe v. City of Los Angeles* (2007) 42 Cal.4th 531;
18 *Johnson v. Superior Court* (2000) 80 Cal.App.4th 1050; *Roe v. Wade* (1973) 410
19 U.S. 113; *Doe v. Bolton* (1973) 410 U.S. 179; *Poe v. Ullman* (1961) 367 U.S. 497;
20 *In Does I thru XXIII v. Advanced Textile Corp.* (9th Cir. 2000) 214 F.3d 1058.

21 **JURISDICTION AND VENUE**

22 8. The Supreme Court, courts of appeal, superior courts, and their judges
23 have original jurisdiction in proceedings for extraordinary relief in the nature of
24 mandamus directed to any inferior tribunal, corporation, board, or person. Cal.
25 Const., art. VI, § 10; see Code Civ. Proc. § 1084 ("mandamus" synonymous with
26 "mandate"); Code Civ. Proc. § 1085.

1 9. Petitioner, an aggrieved university student, seeks by this Petition to
2 exhaust judicial remedies through this petition for writ of mandate following the
3 private University's appeal process, which is now final:
4

5 "The doctrine of exhaustion of judicial remedies precludes an action that
6 challenges the result of a quasi-judicial proceeding unless the plaintiff
7 first challenges the decision through a petition for writ of mandamus.
8 (*Johnson v. City of Loma Linda* (2000) 24 Cal.4th 61, 70.) Administrative
9 mandamus is available for review of "any final administrative order or
10 decision made as the result of a proceeding in which by law a hearing is
11 required to be given, evidence required to be taken, and discretion in the
12 determination of facts is vested in the inferior tribunal, corporation, board,
13 or officer" (Code Civ. Proc., § 1094.5, subd. (a).)
14

15 "The remedy of administrative mandamus is not limited to public
16 agencies; rather it applies to private organizations that provide for a
17 formal evidentiary hearing. (*Pomona College v. Superior Court* (1996) 45
18 Cal.App.4th 1716, 1722-1723 [§ 1094.5 applicable to private
19 universities].) Moreover, failure to exhaust administrative remedies is a
20 proper basis for demurrer. (*Id.* at pp. 1730-1731.)" *Gupta v. Stanford*
21 *University* (Cal. App. 6th Dist. 2004) 124 Cal. App. 4th 407, 411. (Code
22 Civ. Proc. § 1094.5 applied to the case of a student who was subject to
23 university disciplinary proceedings.)
24

25 10. The Superior Court for the County Los Angeles, the county where the
26 Respondent University of Southern California is located and Respondents Ainsley
27 Carry, Gretchen Dahlinger Means, and Patrick Noonan are employed in their
28 official capacities, is the proper court for the hearing of this action. Code Civ. Proc.
§ 395.

PROCEDURAL HISTORY

11 11. This case arises amidst a growing national controversy stemming from
12 the U.S. Dept. of Education's Office of Civil Rights' ("OCR") threats to withhold
13 federal education dollars in order to compel colleges and universities to address
14

1 so-called "sexual violence" on their campuses.¹ During the 2013-2014 academic
2 year, the U.S. Dept. of Education (the "Department") distributed \$134.75 Billion
3 Dollars (\$134,752,416,151) of financial aid to public and private colleges and
4 universities for students attending their schools.² The University of Southern
5 California, which is under investigation by OCR for mishandling Title IX sexual
6 misconduct cases,³ received \$592,499,443.00 during the 2013- 2014 academic year.
7 (Exhibit 3 attached hereto.) OCR's threatened withholding of federal funds puts
8 immense pressure on USC to treat male students accused of sexual misconduct with
9 a presumption of guilt and to simply expel the accused male student in order to
10 avoid jeopardizing the flow of hundreds of millions of federal education dollars.

11 12. In April 2011, OCR issued a "Dear Colleague" letter to provide
12 guidance to schools on their obligations to prevent and address sexual violence
13 under Title IX. Exhibit 1.⁴ (See also, "Questions and Answers on Title IX and

14 ¹ "This is an issue of political correctness run amok," according to Alan M. Dershowitz,
15 emeritus Harvard Law professor who was among twenty-eight Harvard Law School faculty
16 members asserting that new rules violate the due process rights of the accused. (See, *Rethink*
17 *Harvard's Sexual Harassment Policy* (Oct. 15, 2014), The Boston Globe.) "As teachers
18 responsible for educating our students about due process of law, the substantive law governing
19 discrimination and violence, appropriate administrative decision-making, and the rule of law
20 generally, we find the new sexual harassment policy inconsistent with many of the most basic
21 principles we teach." Id. See also, Richard Dormont, *Occidental Justice*, (April 2015) Esquire;
22 Teresa Watanabe, *More College Men Are Fighting Back Against Sexual Misconduct Cases* (June
23 7, 2014) Los Angeles Times.

24 ² Source: <https://studentaid.ed.gov/sa/about/data-center/student/title-iv>

25 ³ USC is one of 106 colleges and universities currently under investigation by the U.S.
26 Dept. Of Education for their handling of sexual violence cases. As April 1, 2015, 113 sexual
27 violence cases are under investigation at 106 postsecondary institutions in the United States.
28 Source: U.S. Dept. Education, Office of Civil Rights.

⁴ "Sexual violence" refers to physical sexual acts perpetrated against a person's will or
where a person is incapable of giving consent, including rape, sexual assault, sexual battery, sexual
abuse, and sexual coercion. All such acts of sexual violence are forms of sex discrimination
prohibited by Title IX. (Dear Colleague Letter, Exhibit 1, p. 1.) A school violates a student's rights
under Title IX regarding student-on-student sexual violence when the following conditions are
met: (1) the alleged conduct is sufficiently serious to limit or deny a student's ability to participate
in or benefit from the school's educational program, i.e. creates a hostile environment; and (2) the
school, upon notice, fails to take prompt and effective steps reasonably calculated to end the sexual

1 Sexual Violence," dated April 29, 2014, Exhibit 2.)⁵ The Dear Colleague letter
2 reiterates that under Title IX, all schools that receive federal funds must take
3 immediate and effective steps to respond to "sexual violence." Most notably, the
4 Dear Colleague letter required schools to adopt a relatively low burden of
5 proof-"more likely than not"- in cases involving sexual misconduct, including
6 sexual assault, and suggested that schools should focus more on victim advocacy.

7 13. In January 2014, the White House put further pressure on colleges and
8 universities to prevent and to police sexual violence on their campuses by creating a
9 task force of senior administration officials, including the U.S. Attorney General
10 and the secretaries of the Departments of Education, Health and Human Services
11 and Interior, to coordinate federal enforcement efforts.⁶

12 14. In February 2014, Catherine E. Lhamon, the Assistant Secretary of
13 Education who heads the OCR, told college officials attending a conference at the
14 University of Virginia that schools need to make "radical" change. According to the
15 Chronicle of Higher Education, college presidents suggested afterward that there
16 were "crisp marching orders from Washington."⁷ The Chronicle of Higher
17 Education noted that "Colleges face increasing pressure from survivors and the

18 _____
19 violence, eliminate the hostile environment, prevent its recurrence, and, as appropriate, remedy its
20 effects. (April 29, 2014, OCR Questions and Answers on Title IX and Sexual Violence, Exhibit 2,
sections A-1 and A-2.)

21 ⁵ The "Dear Colleague Letter" and the "Questions and Answers" are neither federal law nor
22 federal regulations but have been determined by the Department to be "significant guidance
23 document" under the Office of Management and Budget's Final Bulletin for Agency Good
24 Guidance Practices, 72 Fed. Reg. 3432 (Jan. 25, 2007). Exhibit 1, p. 1, Exhibit 2, p. 1.); see
25 <https://www.notalone.gov/schools/> which lists "Advocacy/Survivor Services Organizations" for
alleged victims and survivors of sexual violence, but no resources for students accused of sexual
violence.

26 ⁶ Jackie Calmes, *Obama Seeks to Raise Awareness of Rape on Campus* (January 22, 2014)
27 New York Times; Jason Felch and Larry Gordon, *Federal Task Force to Target Campus Sexual
Assaults* (January 22, 2014) Los Angeles Times.

28 ⁷ *Colleges Are Reminded of Federal Eye on Handling of Sexual-Assault Cases*, Chronicle
of Higher Education, February 11, 2014.

1 federal government to improve the campus climate."⁸ In the same article, the
2 Chronicle noted that different standards were applied to men and women: "Under
3 current interpretations of colleges' legal responsibilities, if a female student alleges
4 sexual assault by a male student after heavy drinking, he may be suspended or
5 expelled, even if she appeared to be a willing participant and never said no. That is
6 because in heterosexual cases, colleges typically see the male student as the one
7 physically able to initiate sex, and therefore responsible for gaining the woman's
8 consent."

9 15. Not surprisingly, cases of false sexual misconduct allegations have
10 been reported, such as Rolling Stone's article on "Jackie" an alleged rape victim at
11 the University of Virginia.⁹ Also discredited, Columbia University student Emma
12 Sulkowicz, who spent her final year at Columbia toting a mattress to protest the
13 university's supposed failure to punish her alleged rapist.¹⁰ Ms. Sulkowicz even
14 became something of a spokesperson for rape victims and was invited to attend the
15 State of the Union address with Sen. Kirsten Gillibrand (D-New York). Then there
16 are the discredited claims of Erica Kinsman and of Kamilah Willingham, who had
17

18 ⁸ *Presumed Guilty: College men accused of rape say the scales are tipped against them*,
19 *Chronicle of Higher Education*, September 1, 2014.

20 ⁹ *A Rape on Campus* by Sabrina Erdely was published in the December 4, 2014 issue of
21 Rolling Stone. The article has since been retracted by the publisher. After other journalists
22 investigated the article's claims and found significant discrepancies, Rolling Stone issued multiple
23 apologies for the story. Columbia Journalism Review featured the article in "The Worst
24 Journalism of 2014."

25 ¹⁰ Emma Sulkowicz waited seven months to report her allegations to Columbia University.
26 After investigation by the university and law enforcement, Paul Nungesser, the accused student,
27 was cleared of the charges. Ms. Sulkowicz tried to get other women to accuse Mr. Nungesser of
28 sexual assault, but Columbia University found him not responsible for those claims as well. On
April 23, 2015, Mr. Nungesser sued Columbia University for being complicit in allowing the
harassment from his accuser, which "significantly damaged, if not effectively destroyed Paul
Nungesser's college experience, his reputation, his emotional well-being and his future career
prospects." The lawsuit includes dozens of Facebook messages between the two former friends
and many declarations of Ms. Sulkowicz's love for Mr. Nungesser before and after the alleged
rape.

1 been featured in the movie, "The Hunting Ground."¹¹ In "An Open Letter to
2 Higher Education about Sexual Violence" from Brett A. Sokolow, Esq. and The
3 NCHERM Group Partners, May 27th, 2014, Mr. Sokolow provides examples of
4 sexual misconduct cases where the college or university is holding the male student
5 accountable in spite of the evidence-or the lack thereof-"because they think they are
6 supposed to, and that doing so is what OCR wants."¹² Exhibit 5, pp. 4-5. Finally,
7 numerous rights organizations have spoken out on the issue, including the
8 Foundation for Individual Freedom in Education, <https://www.thefire.org/>, the
9 National Coalition For Men Carolinas (NCFMC), <http://www.ncfmcarolinas.com/>,
10 Stop Abusive and Violent Environments (SAVE) <http://www.saveservices.org/>, and
11 twenty-eight Harvard Law School faculty members asserting that new rules violate
12 the due process rights of the accused.

13 **FACTUAL BACKGROUND**

14 **A. USC'S TITLE IX SEXUAL MISCONDUCT POLICY.**

15 16. In response to OCR's guidance and the pending investigation into
16 USC's prior mishandling of sexual misconduct complaints, USC has adopted
17 procedures that lack the most basic elements of fairness and due process, that are
18 overwhelmingly stacked against accused male students, and are in no way required
19 by Title IX law nor any regulation. For instance:
20
21

22
23 ¹¹ See, Ivan B. K. Levingston, Film *'The Hunting Ground' Misrepresents Harvard Sexual*
24 *Assault Statistics* (March 26, 2015), The Harvard Crimson; Emily Yoff, *How The Hunting Ground*
25 *Blurs the Truth*, (June 1, 2015) Slate; Asche Schow, *The continuing collapse of 'The Hunting*
Ground,' a campus sexual assault propaganda film, (June 3, 2015) Washington Examiner.

26 ¹² The NCHERM Group, the largest higher education specific law practice in the country,
27 has worked with 3,000 higher education clients in the past 15 years, and frequently represents
28 universities being investigated by the Department of Education, Office for Civil Rights (OCR).
The NCHERM Group are the founders of ATIXA, a membership association of more than 1,400
campus Title IX coordinators and investigators, that produces training materials and seminars,
publications, and conferences.

07/25/2016

- (1) USC places the responsibility for the investigation, prosecution, fact-finding, and issuance of sanctions for each sexual misconduct complaint in the hands of a single individual – a “Title IX Investigator” – who acts as police, prosecutor, and judge.
- (2) USC conducts no evidentiary hearing at all, relying instead upon the Title IX Investigator to reach his own conclusions without a hearing, based upon his own review of the interviews and evidence gathered as part of his own investigation.
- (3) USC does not provide the accused students with the witness statements and other evidence so that the accused student has a reasonable opportunity to respond;
- (4) USC employs investigators who are not licensed as private investigators in the State of California, and who do not have the background or experience to competently conduct sexual misconduct investigations.
- (5) The accused male student is denied any opportunity to examine, confront, or challenge the witnesses against him in any manner, either directly or indirectly.
- (6) The accused male student may have an attorney present when meeting with the USC Title IX Investigator, but the attorney must keep silent and may not actively participate, and cannot act as spokesperson or advocate for the accused in the Title IX process and may not take notes during the meeting.
- (7) The Title IX Investigator’s conclusions and sanctions are subject to administrative appellate review to an anonymous Student Behavior Appeals Panel. USC does not disclose the identity, training, nor qualifications of the members of the Student Behavior Appeals Panel, nor the Panel’s rules and manner of deliberation.
- (8) The USC Student Conduct Code calls for a “fair, thorough, neutral and impartial investigation” of alleged

1 sexual misconduct, however, due to the politicization of
2 efforts to address sexual violence on college campuses,
3 and the threatened of loss of federal funding, USC Title
4 IX personnel act more as advocates for women and focus
5 on validating the initial allegations of sexual misconduct,
6 rather than arriving at a fair and impartial determination of
7 the facts.

- 8 (9) USC generally refers to complainants as victims and
9 survivors and offers the complaining students significant
10 resources, and no support for accused male students. (See,
11 Exhibit 4.)

12 17. In this case, USC Title IX Investigator Patrick Noonan conducted the
13 investigation, made factual findings based on his own investigation, and
14 adjudicated a determination of responsibility or guilt for Student Conduct Code
15 violations based on his own findings. Mr. Noonan's background is in labor and
16 employment law, and before coming to USC, Mr. Noonan worked at Ohio State
17 University in the Office of Human Resources as the interim affirmative action
18 coordinator and the Office of Legal Affairs as a labor and employment law fellow.
19 Having no previous investigation experience, Mr. Noonan is neither qualified nor
20 equipped to provide a "fair, thorough, neutral and impartial investigation" of
21 alleged incidents of sexual misconduct.¹³ (USC Student Conduct Code, 6, § 17.03
22 Procedural Rights, subd. D.)

23 ¹³Under California's statutory scheme for regulating the conduct and qualifications of
24 private investigators, Business and Professions Code sections 7523(a) provides that, "No person
25 shall engage in the business of a private investigator... unless that person has applied for and
26 received a license to engage in that business pursuant to this chapter." Section 7521 describes the
27 activities that make a person a private investigator: "[A] person...who, for any consideration
28 whatsoever...agrees to make, or makes, any investigation for the purposes of obtaining,
information with reference to...(b) The identity, habits, conduct, business, occupation, honesty,
integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement,
whereabouts, affiliations, associations, transactions, acts, reputation, or character of any person;
...(e) Securing evidence to be used before any court, board, officer, or investigating committee."

1 18. As a result of USC's Title IX sexual misconduct process, Petitioner's
2 right to attend USC has been extinguished. He has lost tuition paid to USC, and his
3 ability to continue his higher education at another school is all but impossible, as a
4 permanent mark of expulsion has been placed on his academic transcript. All of
5 this has occurred without a hearing, with no right to counsel, with no rules of
6 evidence, with no right to confront the witnesses against him, and with no
7 evidentiary support.

8
9 **B. THE OCTOBER 14, 2015 ENCOUNTER AND TITLE IX**
10 **INVESTIGATION**

11 19. The underlying Title IX investigation concerns just one of several
12 instances of sexual activity between John Doe and Jane Roe before and after
13 October 14, 2015.

14 20. Petitioner and Jane Roe first became acquainted when they attended an
15 overseas program during the summer between their sophomore and junior years at
16 the University of Southern California. When they returned to USC in the Fall
17 semester of 2015, they began pursuing a romantic relationship; however, Petitioner
18 expressly told Jane Roe he did not want to be in an exclusive relationship with her.

19 21. Jane Roe told Petitioner that she was sexually inexperienced when they
20 began dating. Although they participated in consensual sexual activity with each
21 other, they were initially unable to complete sexual intercourse.

22 22. On October 14, 2015, Petitioner and Jane Roe unsuccessfully
23 attempted to engage in sexual intercourse for the third occasion. Ms. Roe arrived at
24 Petitioner's fraternity house voluntarily after midnight; they kissed and cuddled on
25 Petitioner's bed; then Ms. Roe and Petitioner undressed each other, and because the
26 prior two sexual encounters had been painful for Ms. Roe, Petitioner suggested they
27 apply lubricant before attempting intercourse again, and Ms. Roe agreed.

28 23. When they began having sex, Petitioner realized it was still painful for
Ms. Roe because she would say, "Ouch," and he would pause briefly. Petitioner

1 was not able to insert his penis into Ms. Roe's vagina. At no point did Petitioner
2 use force or restrain Ms. Roe in any way. When the intercourse became too painful
3 for Ms. Roe, she pushed herself away and did say, "Let's stop." At that point,
4 Petitioner stopped. At no other point did Ms. Roe give any indication other than
5 consent to all aspects of their sexual activity.

6 24. After they stopped, they began cuddling and kissing, and became
7 increasingly physical. Again, Petitioner and Jane Roe attempted unsuccessfully to
8 have intercourse, but again, Ms. Roe indicated she wanted to stop, and Petitioner
9 complied. Petitioner fell asleep after their second attempt to have intercourse that
10 night.

11 25. After the October 14, 2016 encounter, Petitioner and Jane Roe
12 continued to have a sexual relationship, including successful sexual intercourse
13 several weeks later. Petitioner continued to state that he did not want to be in an
14 exclusive relationship with Ms. Roe.

15 26. Ms. Roe ended the relationship in November of 2015 when she
16 suspected Petitioner of having a relationship with another girl.

17 27. In December of 2015, Ms. Roe began threatening to report Petitioner
18 to USC's Title IX authorities for sexual assault for the attempted sexual intercourse
19 on October 14, 2015, but not for any later or earlier sexual activity with John Doe.

20 28. Around February 1, 2016, Ms. Roe requested that Petitioner be
21 expelled from his fraternity. She told the president of Petitioner's fraternity that if
22 he were to leave, she would not file a Title IX complaint against him. Petitioner
23 had previously been warned that Title IX investigations at USC were performed
24 with conspicuous bias against accused males, so he moved out of his fraternity
25 house on March 1, 2016 to resolve the issue peacefully and avoid unwarranted
disciplinary action.

26 29. On March 3, 2016, Petitioner filed a formal Discrimination Complaint
27 with the University against Ms. Roe for harassment, threats, and stalking. Exhibit 6.
28 Ms. Roe persistently asked Petitioner to continue their relationship after he made it

1 clear he did not want a relationship with her and threatened to report Petitioner to
2 the Title IX office for allegedly assaulting her. Petitioner asked that "I only want
3 for this harassment to stop and for Ms. [Roe] to not have any contact with me and
4 not to attempt to contact me through my friends." To date, USC has done nothing
5 to address Petitioner's complaint.

6 30. On March 22, 2016 Petitioner was notified that USC had initiated a
7 Title IX investigation against him. Exhibit 7.

8 31. Patrick Noonan was assigned to conduct the Title IX investigation
9 against Petitioner. On April 7, 2016, Petitioner met with Mr. Noonan, but he
10 refused to provide Petitioner any details about Ms. Roe's accusation. Petitioner
11 elected not to make any further statement beyond his March 3, 2016 complaint.

12 32. During the Administrative Review process, Mr. Noonan conducted
13 interviews with Petitioner and Ms. Roe, along with 18 student witnesses, all of
14 whom were identified by Ms. Roe. Mr. Noonan did not investigate or asked
15 questions of any witness about Petitioner's March 3, 2016 complaint, that Ms. Roe
16 asked Petitioner to continue their relationship after he had made it clear he did not
17 want a relationship with her, or her threats to report Petitioner to the Title IX office.

18 33. On May 10, 2016, Petitioner met again with Mr. Noonan for
19 approximately three hours to review summaries of notes Mr. Noonan had taken
20 during his interviews with witnesses. During the meeting, Petitioner learned that
21 Mr. Noonan does not take verbatim notes of the questions he asks and the responses
22 of any witnesses, so there are no actual witness statements, just a summary of what
23 Mr. Noonan believes is important.

24 34. Petitioner also submitted 17 pages of approximately 1,000 text
25 messages and 252 pages of Facebook messages between Petitioner and Jane Roe.
26 Petitioner asked for a copy of the evidence and Mr. Noonan said that it was USC's
27 policy not to provide the evidence until after the investigation was concluded.

28 35. Petitioner's advisor, attorney Mark Hathaway, was allowed to be
present during the meeting, but not allowed to speak. Mr. Noonan also instructed

1 Petitioner's attorney/advisor that he was not allowed to take notes of any kind
2 during the meeting.

3 36. On May 20, Mr. Noonan completed his Summary Administrative
4 Review of Ms. Roe's claims. In conclusion, Mr. Noonan stated his personal opinion
5 that there was "sufficient evidence that Respondent knew or reasonably should have
6 known that Complainant did not consent to the sexual penetration on October 14,
7 2015." Exhibit 8.

8 37. On June 3, 2016, two members of a five member Student Equity
9 Review Panel reviewed the Summary Administrative Review documents and
10 assigned sanctions. The two review panel members, who are unidentified, decided
11 permanent expulsion with a permanent notation of expulsion to appear on the
12 student's academic transcript were the proper sanctions. See, Exhibit 8.

13 38. On June 7, 2016, Petitioner was notified via email by Mr. Noonan
14 about the results of the Administrative Review and the Student Equity Review
15 Panel's decision regarding sanctions. Exhibit 9. Petitioner was also informed he
16 could submit an appeal to the Student Behavior Appeals Panel by June 21, 2016 at
17 12:00 p.m.

18 39. Petitioner subsequently had a phone conversation with Mr. Noonan,
19 Title IX Director Gretchen Dahlinger Means, his advisor Mark Hathaway and Mr.
20 Hathaway's associate Jenna Eyrich on June 7, 2016 to address the appeal procedure
21 and any questions regarding the appeal process. At the conclusion of the
22 conference call, Ms. Means and Mr. Noonan did not disconnect from call and began
23 to immediately make derogatory statements concerning Petitioner and his advisors.
24 Ms. Means said, "Who do those motherfuckers think they are?" And, "That
25 question is totally inappropriate. Does that college motherfucker know who I am?"
26 Both Ms. Means and Mr. Noonan referred to Petitioner and his advisors as
27 "motherfuckers." Ms. Means also said, "Do they think I'm fucking stupid?" Mr.
28 Noonan and Ms. Means then described Jane Roe as a "catch" and "so cute and
intelligent." Ms. Means further remarked, "What was she doing with that?"

1 referring to Petitioner. Both Ms. Means and Mr. Noonan laughed about Petitioner.
2 Ms. Means and Mr. Noonan then apparently noticed that the conference call was
3 still connected and hung up the call. On June 14, 2016, Mr. Hathaway emailed and
4 faxed a letter to Ainsley Carry expressing his concerns regarding Ms. Means'
5 remarks and the prevalent gender bias in USC's investigation. Exhibit 10. Mr.
6 Carry confirmed receipt of Mr. Hathaway's letter on June 17, 2016. Exhibit 11.

7 40. Later on June 7, 2016, Mr. Noonan provided Petitioner supporting
8 documents on USC's file-sharing website, OneHub, to help Petitioner prepare his
9 appeal. However, Petitioner was not permitted to download, share, or print these
10 documents.

11 41. Between June 9, 2016 and June 14, 2016, the OneHub documents were
12 inexplicably removed from the file-sharing website.

13 42. In spite of not having access to the Title IX process documents for five
14 days, Petitioner timely filed his appeal to the Student Behavioral Appeals Panel on
15 June 21, 2016. Exhibit 12. The same day, Gretchen Dahlinger Means emailed and
16 faxed a letter to Mr. Hathaway defending her statements made on the June 7, 2016
17 conference call and accusing the Petitioner of submitting evidence that was
18 materially altered during the investigation. Exhibit 13. Mr. Hathaway responded to
19 Ms. Means' letter on June 30, 2016. Exhibit 14. The Petitioner submitted this
20 correspondence to the Title IX appeals officer on July 8, 2016 as supplemental
21 evidence to his appeal that new evidence of gender bias had become available to
22 alter the decision. Exhibit 15.

23 43. On July 18, 2016, USC's Student Behavioral Appeals Panel rejected
24 Petitioner's administrative appeal and upheld the sanction of expulsion, effective
25 June 7, 2016. Exhibit 16. On July 19, 2016, Ainsley Carry, USC's Vice President of
26 Student Affairs, informed Petitioner, "This decision is final and binding on all
27 parties involved, and there is no further avenue of appeal." Exhibit 17.

28 **C. RESPONDENTS' ACTIONS AND DECISION ARE INVALID**

1 44. On information and belief, Respondents' actions, sanctions, and
2 decision are invalid under Code Civ. Proc. § 1094.5 and, alternatively, Code Civ.
3 Proc. § 1085, for the following reasons:

- 4 (1) Respondent failed to grant Petitioner a fair hearing, or any hearing at
5 all;
6 (2) Respondent committed a prejudicial abuse of discretion, in that
7 Respondent failed to proceed in the manner required by law;
8 (3) Respondent's decision is not supported by the findings; and
9 (4) Respondent's findings are not supported by the evidence.

10 45. Respondent's actions and decision deprive Petitioner of fundamental
11 vested rights; therefore, the reviewing court must exercise its independent judgment
12 to reweigh the evidence pursuant to Code Civ. Proc. § 1094.5(c).

13
14 **D. PRESUMPTION OF CORRECTNESS DOES NOT APPLY TO**
15 **PRIVATE PARTY.**

16 46. Respondents are the University of Southern California's Vice President
17 for Student Affairs, Title IX Direct, and Senior Complaint Investigator, and the
18 University of Southern California, which is a private corporation and not an
19 administrative or public agency entitled to the "official duty presumption" of
20 correctness under Code Civ. Proc. § 1094.5. The notion that an administrative
21 decision is be presumed correct is based on the "official duty presumption" in Evid.
22 Code § 664, which states, "It is presumed that official duty has been regularly
23 performed."

24 "The findings of a board where formal hearings are held should and do
25 come before the courts with a strong presumption in their favor based
26 primarily on the [rebuttable] presumption contained in section 1963, sub
27 section 15, of the Code of Civil Procedure [currently Evidence Code
28 section 664] 'That official duty has been regularly performed.' Obviously,
considerable weight should be given to the findings of experienced
administrative bodies made after a full and formal hearing, especially in
cases involving technical and scientific evidence."

1 *Fukuda v. City of Angels* (1999) 20 Cal. 4th 805, 812 citing *Drummey*
2 *v. State Board of Funeral Directors & Embalmers* (1939) 13 Cal. 2d
3 75, 86.

4 47. Although Code Civ. Proc. § 1094.5 has been made applicable to
5 faculty tenure and student disciplinary matters conducted by private colleges and
6 universities, the "official duty presumption" set forth in Evid. Code § 664 has not
7 been made applicable to such private entities or private parties. Respondents serve
8 USC's financial and institutional interests, not the interests of the public nor the
9 People of the State of California and Respondents are not entitled to the "official
10 duty presumption" in Evid. Code § 664.

11
12 **E. DOCTRINE OF JUDICIAL NON-INTERVENTION DOES NOT**
13 **APPLY.**

14 48. The doctrine of judicial nonintervention into the academic affairs of
15 schools does not apply in instances of non-academic affairs, such as this Title IX
16 investigation and hearing process for alleged violation of USC's misconduct policy.
17 See *Banks v. Dominican College* (Cal. App. 1st Dist. 1995) 35 Cal. App. 4th 1545;
18 *Paulsen v. Golden Gate University* (1979) 25 Cal. 3d 803.

19
20 **F. USC'S ADMINISTRATIVE ACTION MAY NOT BE SUBJECT**
21 **TO WRIT OF MANDATE.**

22 49. Petitioner seeks to exhaust judicial remedies through this Petition for
23 Writ of Mandate following exhaustion of USC's appeal process; however, USC's
24 Title IX administrative action may not be appropriate for judicial review by
25 administrative mandamus. Generally, administrative mandamus is available for
26 review of "any final administrative order or decision made as the result of a
27 proceeding in which by law a hearing is required to be given, evidence required to
28 be taken, and discretion in the determination of facts is vested in the inferior
tribunal, corporation, board, or officer..." Code Civ. Proc., § 1094.5, subd. (a).

1 50. Respondent USC's administrative determination, however, was not
2 made as the result of a proceeding in which an evidentiary hearing is required by
3 law or by USC's own policies. Thus, Petitioner may have exhausted his
4 administrative remedies through his appeal to USC's Behavioral Appeals Panel and
5 is not required to further pursue judicial remedies through writ of mandamus.

6 51. Unlike the disciplinary procedure at issue in *Gupta v. Stanford*
7 *University* (Cal.App.6th Dist. 2004) 124 Cal.App.4th 407, USC's internal Title IX
8 policies do not require a formal evidentiary hearing, nor does Title IX, nor does the
9 guidance from the U.S. Department of Education, Office of Civil Rights, require an
10 evidentiary hearing. Exhibit 1 and Exhibit 2.

11
12 52. On information and belief, relevant evidence is available which was
13 improperly excluded or unavailable during USC's Title IX disciplinary process.
14 Petitioner will seek leave to offer such evidence before the reviewing court at the
15 hearing on this Petition.

16 53. Petitioner has exhausted all administrative remedies available to him as
17 of the date of filing this Petition.

18 54. Petitioner has no plain, speedy and adequate remedy in the ordinary
19 course of law.

20 55. Petitioner is obligated to pay an attorney for legal services to prosecute
21 this action. Petitioner may be entitled to recover attorney's fees as provided in Code
22 Civ. Proc. § 1021.5 if Petitioner prevails in the within action.

23 56. Names of certain students have been redacted as necessary to protect
24 identifying information.

25 57. Attached hereto as Exhibit 1 is a true and correct copy of the "Dear
26 Colleague" letter issued by the Office of Civil Rights in April 2011.

27 58. Attached hereto as Exhibit 2 is a true and correct copy of "Questions
28 and Answers on Title IX and Sexual Violence," dated April 29, 2014, also issued by
the Office of Civil Rights.

1 59. The U.S. Department of Education records show that \$134.75 Billion
2 Dollars (\$134,752,416,151) was disbursed by the U.S. Dept. of Education for
3 financial student aid during the 2013 - 2014 school year.

4 <https://studentaid.ed.gov/sa/about/data-center/student/title-iv>.

5 60. Attached hereto as Exhibit 3 is a true and correct copy of a summary of
6 U.S. Dept. of Education disbursements to USC for the period from the 2013 -2014
7 academic year through December 31, 2015 taken from the records of U.S. Dept. of
8 Education's Financial Student Aid office online information website at
9 <https://studentaid.ed.gov/sa/about/data-center/student/title-iv>.

10 61. Attached hereto as Exhibit 4 is a true and correct copy of USC's
11 2015-2016 SCampus (Student Conduct Code & Policies) and the current Title IX
12 Misconduct Policy.

13 62. Attached hereto as Exhibit 5 is a true and correct copy of An Open
14 Letter to Higher Education about Sexual Violence from Brett A. Sokolow, Esq. and
15 The NCHERM Group Partners, May 27th, 2014.

16 63. Attached hereto as Exhibit 6 is a true and correct copy of the
17 Discrimination Complaint form Petitioner submitted to USC's Office of Equity and
18 Diversity against Jane Roe on March 3, 2016.

19 64. Attached hereto as Exhibit 7 is a true and correct copy of the Notice of
20 Investigation issued to Petitioner by Patrick Noonan on March 22, 2016 regarding
21 the initiation of Jane Roe's Title IX complaint.

22 65. Attached hereto as Exhibit 8 is a true and correct copy of the Summary
23 Administrative Review written by Title IX Investigator Patrick Noonan on May 20,
24 2016 and the designated sanction of expulsion issued on June 3, 2016.

25 66. Attached hereto as Exhibit 9 is a true and correct copy of the written
26 notification of the decision resulting from the Summary Administrative Review
27 issued to Petitioner by Patrick Noonan on June 7, 2016.

28 67. Attached hereto as Exhibit 10 is a true and correct copy of a letter
faxed and emailed by Mark M. Hathaway, Esq. to Dr. Ainsley Carry on June 14,

1 2016 regarding the derogatory statements made by Gretchen Dahlinger Means and
2 Patrick Noonan on June 7, 2016.

3 68. Attached hereto as Exhibit 11 is a true and correct copy of Dr. Ainsley
4 Carry's confirmation of receipt of Mr. Hathaway's June 14, 2016 letter.

5 69. Attached hereto as Exhibit 12 is a true and correct copy of Petitioner's
6 appeal to the Student Behavior Appeals Panel timely submitted on June 21, 2016.

7 70. Attached hereto as Exhibit 13 is a true and correct copy of Gretchen
8 Dahlinger Means' response to Mr. Hathaway's June 14, 2016 letter faxed and
9 emailed to Mr. Hathaway on June 21, 2016.

10 71. Attached hereto as Exhibit 14 is a true and correct copy of Mr.
11 Hathaway's response to Ms. Means' June 21, 2016 letter, faxed and emailed to Ms.
12 Means on June 30, 2016.

13 72. Attached hereto as Exhibit 15 is a true and correct copy of Petitioner's
14 submission of supplemental evidence in support of his appeal on July 8, 2016.

15 73. Attached hereto as Exhibit 16 is a true and correct copy of the Student
16 Behavior Appeal Panel Recommendation issued July 18, 2016 in response to
17 Petitioner's appeal.

18 74. Attached hereto as Exhibit 17 is a true and correct copy of a letter from
19 Ainsley Carry notifying Petitioner of the rejection of his appeal and the approval of
20 the sanction of expulsion on July 19, 2016.

21 75. Petitioner has requested the Administrative Record from Respondents
22 and the Administrative Record of Respondents' Title IX disciplinary process against
23 Petitioner will be submitted and made a part of this Petition as soon as Respondents
24 provide the Administrative Record.

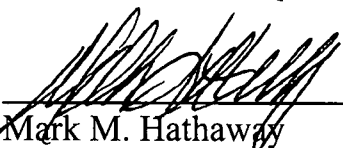
25 WHEREFORE, Petitioner prays the court for judgment as follows:

26 1. For an alternative writ of mandate directing Respondents to set aside
27 the findings and sanctions issued against Petitioner, or to show cause why a
28 peremptory writ of mandate to the same effect should not be issued;

- 1 2. For a peremptory writ of mandate directing Respondents to set aside
2 their findings and sanctions against Petitioner;
3 4. For reasonable attorney's fees and litigation expenses as permitted by
4 statute, in addition to any other relief granted or costs awarded;
5 5. For all costs of suit incurred in this proceeding; and
6 6. For such other and further relief as the court deems proper.

7
8 WERKSMAN JACKSON
9 HATHAWAY & QUINN LLP

10 Dated: July 25, 2016

11 
12 _____
13 Mark M. Hathaway
14 Attorneys for Petitioner John Doe
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07/25/2016

Exhibit 1

07/25/2016



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

April 4, 2011

Dear Colleague:

Education has long been recognized as the great equalizer in America. The U.S. Department of Education and its Office for Civil Rights (OCR) believe that providing all students with an educational environment free from discrimination is extremely important. The sexual harassment of students, including sexual violence, interferes with students' right to receive an education free from discrimination and, in the case of sexual violence, is a crime.

Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §§ 1681 *et seq.*, and its implementing regulations, 34 C.F.R. Part 106, prohibit discrimination on the basis of sex in education programs or activities operated by recipients of Federal financial assistance. Sexual harassment of students, which includes acts of sexual violence, is a form of sex discrimination prohibited by Title IX. In order to assist recipients, which include school districts, colleges, and universities (hereinafter "schools" or "recipients") in meeting these obligations, this letter¹ explains that the requirements of Title IX pertaining to sexual harassment also cover sexual violence, and lays out the specific Title IX requirements applicable to sexual violence.² Sexual violence, as that term is used in this letter, refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol. An individual also may be unable to give consent due to an intellectual or other disability. A number of different acts fall into the category of sexual violence, including rape,

¹ The Department has determined that this Dear Colleague Letter is a "significant guidance document" under the Office of Management and Budget's Final Bulletin for Agency Good Guidance Practices, 72 Fed. Reg. 3432 (Jan. 25, 2007), available at:

http://www.whitehouse.gov/sites/default/files/omb/assets/regulatory_matters_pdf/012507_good_guidance.pdf. OCR issues this and other policy guidance to provide recipients with information to assist them in meeting their obligations, and to provide members of the public with information about their rights, under the civil rights laws and implementing regulations that we enforce. OCR's legal authority is based on those laws and regulations. This letter does not add requirements to applicable law, but provides information and examples to inform recipients about how OCR evaluates whether covered entities are complying with their legal obligations. If you are interested in commenting on this guidance, please send an e-mail with your comments to OCR@ed.gov, or write to us at the following address: Office for Civil Rights, U.S. Department of Education, 400 Maryland Avenue, SW, Washington, DC 20202.

² Use of the term "sexual harassment" throughout this document includes sexual violence unless otherwise noted. Sexual harassment also may violate Title IV of the Civil Rights Act of 1964 (42 U.S.C. § 2000c), which prohibits public school districts and colleges from discriminating against students on the basis of sex, among other bases. The U.S. Department of Justice enforces Title IV.

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The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

sexual assault, sexual battery, and sexual coercion. All such acts of sexual violence are forms of sexual harassment covered under Title IX.

The statistics on sexual violence are both deeply troubling and a call to action for the nation. A report prepared for the National Institute of Justice found that about 1 in 5 women are victims of completed or attempted sexual assault while in college.³ The report also found that approximately 6.1 percent of males were victims of completed or attempted sexual assault during college.⁴ According to data collected under the Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act (Clery Act), 20 U.S.C. § 1092(f), in 2009, college campuses reported nearly 3,300 forcible sex offenses as defined by the Clery Act.⁵ This problem is not limited to college. During the 2007-2008 school year, there were 800 reported incidents of rape and attempted rape and 3,800 reported incidents of other sexual batteries at public high schools.⁶ Additionally, the likelihood that a woman with intellectual disabilities will be sexually assaulted is estimated to be significantly higher than the general population.⁷ The Department is deeply concerned about this problem and is committed to ensuring that all students feel safe in their school, so that they have the opportunity to benefit fully from the school's programs and activities.

This letter begins with a discussion of Title IX's requirements related to student-on-student sexual harassment, including sexual violence, and explains schools' responsibility to take immediate and effective steps to end sexual harassment and sexual violence. These requirements are discussed in detail in OCR's *Revised Sexual Harassment Guidance* issued in 2001 (*2001 Guidance*).⁸ This letter supplements the *2001 Guidance* by providing additional guidance and practical examples regarding the Title IX requirements as they relate to sexual violence. This letter concludes by discussing the proactive efforts schools can take to prevent sexual harassment and violence, and by providing examples of remedies that schools and OCR may use to end such conduct, prevent its recurrence, and address its effects. Although some examples contained in this letter are applicable only in the postsecondary context, sexual

³ CHRISTOPHER P. KREBS ET AL., THE CAMPUS SEXUAL ASSAULT STUDY: FINAL REPORT xiii (Nat'l Criminal Justice Reference Serv., Oct. 2007), available at <http://www.ncjrs.gov/pdffiles1/nij/grants/221153.pdf>. This study also found that the majority of campus sexual assaults occur when women are incapacitated, primarily by alcohol. *Id.* at xviii.

⁴ *Id.* at 5-5.

⁵ U.S. Department of Education, Office of Postsecondary Education, Summary Crime Statistics (data compiled from reports submitted in compliance with the Clery Act), available at <http://www2.ed.gov/admins/lead/safety/criminal2007-09.pdf>. Under the Clery Act, forcible sex offenses are defined as any sexual act directed against another person, forcibly and/or against that person's will, or not forcibly or against the person's will where the victim is incapable of giving consent. Forcible sex offenses include forcible rape, forcible sodomy, sexual assault with an object, and forcible fondling. 34 C.F.R. Part 668, Subpt. D, App. A.

⁶ SIMONE ROBERTS ET AL., INDICATORS OF SCHOOL CRIME AND SAFETY: 2010 at 104 (U.S. Dep't of Educ. & U.S. Dep't of Justice, Nov. 2010), available at <http://nces.ed.gov/pubs2011/2011002.pdf>.

⁷ ERIKA HARRELL & MICHAEL R. RAND, CRIME AGAINST PEOPLE WITH DISABILITIES, 2008 (Bureau of Justice Statistics, U.S. Dep't of Justice, Dec. 2010), available at <http://bjs.ojp.usdoj.gov/content/pub/pdf/capd08.pdf>.

⁸ The *2001 Guidance* is available on the Department's Web site at <http://www2.ed.gov/about/offices/list/ocr/docs/shguide.pdf>. This letter focuses on peer sexual harassment and violence. Schools' obligations and the appropriate response to sexual harassment and violence committed by employees may be different from those described in this letter. Recipients should refer to the *2001 Guidance* for further information about employee harassment of students.

07/25/2016

harassment and violence also are concerns for school districts. The Title IX obligations discussed in this letter apply equally to school districts unless otherwise noted.

Title IX Requirements Related to Sexual Harassment and Sexual Violence

Schools' Obligations to Respond to Sexual Harassment and Sexual Violence

Sexual harassment is unwelcome conduct of a sexual nature. It includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual violence is a form of sexual harassment prohibited by Title IX.⁹

As explained in OCR's *2001 Guidance*, when a student sexually harasses another student, the harassing conduct creates a hostile environment if the conduct is sufficiently serious that it interferes with or limits a student's ability to participate in or benefit from the school's program. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment, particularly if the harassment is physical. Indeed, a single or isolated incident of sexual harassment may create a hostile environment if the incident is sufficiently severe. For instance, a single instance of rape is sufficiently severe to create a hostile environment.¹⁰

Title IX protects students from sexual harassment in a school's education programs and activities. This means that Title IX protects students in connection with all the academic, educational, extracurricular, athletic, and other programs of the school, whether those programs take place in a school's facilities, on a school bus, at a class or training program

⁹ Title IX also prohibits gender-based harassment, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping, even if those acts do not involve conduct of a sexual nature. The Title IX obligations discussed in this letter also apply to gender-based harassment. Gender-based harassment is discussed in more detail in the *2001 Guidance*, and in the 2010 Dear Colleague letter on Harassment and Bullying, which is available at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf>.

¹⁰ See, e.g., *Jennings v. Univ. of N.C.*, 444 F.3d 255, 268, 274 n.12 (4th Cir. 2006) (acknowledging that while not an issue in this case, a single incident of sexual assault or rape could be sufficient to raise a jury question about whether a hostile environment exists, and noting that courts look to Title VII cases for guidance in analyzing Title IX sexual harassment claims); *Vance v. Spencer Cnty. Pub. Sch. Dist.*, 231 F.3d 253, 259 n.4 (6th Cir. 2000) ("[w]ithin the context of Title IX, a student's claim of hostile environment can arise from a single incident" (quoting *Doe v. Sch. Admin. Dist. No. 19*, 66 F. Supp. 2d 57, 62 (D. Me. 1999))); *Soper v. Hoben*, 195 F.3d 845, 855 (6th Cir. 1999) (explaining that rape and sexual abuse "obviously qualify[ed] as...severe, pervasive, and objectively offensive sexual harassment"); see also *Berry v. Chi. Transit Auth.*, 618 F.3d 688, 692 (7th Cir. 2010) (in the Title VII context, "a single act can create a hostile environment if it is severe enough, and instances of uninvited physical contact with intimate parts of the body are among the most severe types of sexual harassment"); *Turner v. Saloon, Ltd.*, 595 F.3d 679, 686 (7th Cir. 2010) (noting that "[o]ne instance of conduct that is sufficiently severe may be enough," which is "especially true when the touching is of an intimate body part" (quoting *Jackson v. Cnty. of Racine*, 474 F.3d 493, 499 (7th Cir. 2007))); *McKinnis v. Crescent Guardian, Inc.*, 189 F. App'x 307, 310 (5th Cir. 2006) (holding that "the deliberate and unwanted touching of [a plaintiff's] intimate body parts can constitute severe sexual harassment" in Title VII cases (quoting *Harvill v. Westward Commc'ns, L.L.C.*, 433 F.3d 428, 436 (5th Cir. 2005))).

07/25/2016

sponsored by the school at another location, or elsewhere. For example, Title IX protects a student who is sexually assaulted by a fellow student during a school-sponsored field trip.¹¹

If a school knows or reasonably should know about student-on-student harassment that creates a hostile environment, Title IX requires the school to take immediate action to eliminate the harassment, prevent its recurrence, and address its effects.¹² Schools also are required to publish a notice of nondiscrimination and to adopt and publish grievance procedures. Because of these requirements, which are discussed in greater detail in the following section, schools need to ensure that their employees are trained so that they know to report harassment to appropriate school officials, and so that employees with the authority to address harassment know how to respond properly. Training for employees should include practical information about how to identify and report sexual harassment and violence. OCR recommends that this training be provided to any employees likely to witness or receive reports of sexual harassment and violence, including teachers, school law enforcement unit employees, school administrators, school counselors, general counsels, health personnel, and resident advisors.

Schools may have an obligation to respond to student-on-student sexual harassment that initially occurred off school grounds, outside a school's education program or activity. If a student files a complaint with the school, regardless of where the conduct occurred, the school must process the complaint in accordance with its established procedures. Because students often experience the continuing effects of off-campus sexual harassment in the educational setting, schools should consider the effects of the off-campus conduct when evaluating whether there is a hostile environment on campus. For example, if a student alleges that he or she was sexually assaulted by another student off school grounds, and that upon returning to school he or she was taunted and harassed by other students who are the alleged perpetrator's friends, the school should take the earlier sexual assault into account in determining whether there is a sexually hostile environment. The school also should take steps to protect a student who was assaulted off campus from further sexual harassment or retaliation from the perpetrator and his or her associates.

Regardless of whether a harassed student, his or her parent, or a third party files a complaint under the school's grievance procedures or otherwise requests action on the student's behalf, a school that knows, or reasonably should know, about possible harassment must promptly investigate to determine what occurred and then take appropriate steps to resolve the situation. As discussed later in this letter, the school's Title IX investigation is different from any law enforcement investigation, and a law enforcement investigation does not relieve the school of its independent Title IX obligation to investigate the conduct. The specific steps in a school's

¹¹ Title IX also protects third parties from sexual harassment or violence in a school's education programs and activities. For example, Title IX protects a high school student participating in a college's recruitment program, a visiting student athlete, and a visitor in a school's on-campus residence hall. Title IX also protects employees of a recipient from sexual harassment. For further information about harassment of employees, see *2001 Guidance* at n.1.

¹² This is the standard for administrative enforcement of Title IX and in court cases where plaintiffs are seeking injunctive relief. See *2001 Guidance* at ii-v, 12-13. The standard in private lawsuits for monetary damages is actual knowledge and deliberate indifference. See *Davis v. Monroe Cnty. Bd. of Ed.*, 526 U.S. 629, 643, 648 (1999).

investigation will vary depending upon the nature of the allegations, the age of the student or students involved (particularly in elementary and secondary schools), the size and administrative structure of the school, and other factors. Yet as discussed in more detail below, the school's inquiry must in all cases be prompt, thorough, and impartial. In cases involving potential criminal conduct, school personnel must determine, consistent with State and local law, whether appropriate law enforcement or other authorities should be notified.¹³

Schools also should inform and obtain consent from the complainant (or the complainant's parents if the complainant is under 18 and does not attend a postsecondary institution) before beginning an investigation. If the complainant requests confidentiality or asks that the complaint not be pursued, the school should take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation. If a complainant insists that his or her name or other identifiable information not be disclosed to the alleged perpetrator, the school should inform the complainant that its ability to respond may be limited.¹⁴ The school also should tell the complainant that Title IX prohibits retaliation, and that school officials will not only take steps to prevent retaliation but also take strong responsive action if it occurs.

As discussed in the *2001 Guidance*, if the complainant continues to ask that his or her name or other identifiable information not be revealed, the school should evaluate that request in the context of its responsibility to provide a safe and nondiscriminatory environment for all students. Thus, the school may weigh the request for confidentiality against the following factors: the seriousness of the alleged harassment; the complainant's age; whether there have been other harassment complaints about the same individual; and the alleged harasser's rights to receive information about the allegations if the information is maintained by the school as an "education record" under the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g; 34 C.F.R. Part 99.¹⁵ The school should inform the complainant if it cannot ensure confidentiality. Even if the school cannot take disciplinary action against the alleged harasser because the complainant insists on confidentiality, it should pursue other steps to limit the effects of the alleged harassment and prevent its recurrence. Examples of such steps are discussed later in this letter.

Compliance with Title IX, such as publishing a notice of nondiscrimination, designating an employee to coordinate Title IX compliance, and adopting and publishing grievance procedures, can serve as preventive measures against harassment. Combined with education and training programs, these measures can help ensure that all students and employees recognize the

¹³ In states with mandatory reporting laws, schools may be required to report certain incidents to local law enforcement or child protection agencies.

¹⁴ Schools should refer to the *2001 Guidance* for additional information on confidentiality and the alleged perpetrator's due process rights.

¹⁵ For example, the alleged harasser may have a right under FERPA to inspect and review portions of the complaint that directly relate to him or her. In that case, the school must redact the complainant's name and other identifying information before allowing the alleged harasser to inspect and review the sections of the complaint that relate to him or her. In some cases, such as those where the school is required to report the incident to local law enforcement or other officials, the school may not be able to maintain the complainant's confidentiality.

nature of sexual harassment and violence, and understand that the school will not tolerate such conduct. Indeed, these measures may bring potentially problematic conduct to the school's attention before it becomes serious enough to create a hostile environment. Training for administrators, teachers, staff, and students also can help ensure that they understand what types of conduct constitute sexual harassment or violence, can identify warning signals that may need attention, and know how to respond. More detailed information and examples of education and other preventive measures are provided later in this letter.

Procedural Requirements Pertaining to Sexual Harassment and Sexual Violence

Recipients of Federal financial assistance must comply with the procedural requirements outlined in the Title IX implementing regulations. Specifically, a recipient must:

- (A) Disseminate a notice of nondiscrimination;¹⁶
- (B) Designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under Title IX;¹⁷ and
- (C) Adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee sex discrimination complaints.¹⁸

These requirements apply to all forms of sexual harassment, including sexual violence, and are important for preventing and effectively responding to sex discrimination. They are discussed in greater detail below. OCR advises recipients to examine their current policies and procedures on sexual harassment and sexual violence to determine whether those policies comply with the requirements articulated in this letter and the *2001 Guidance*. Recipients should then implement changes as needed.

(A) Notice of Nondiscrimination

The Title IX regulations require that each recipient publish a notice of nondiscrimination stating that the recipient does not discriminate on the basis of sex in its education programs and activities, and that Title IX requires it not to discriminate in such a manner.¹⁹ The notice must state that inquiries concerning the application of Title IX may be referred to the recipient's Title IX coordinator or to OCR. It should include the name or title, office address, telephone number, and e-mail address for the recipient's designated Title IX coordinator.

The notice must be widely distributed to all students, parents of elementary and secondary students, employees, applicants for admission and employment, and other relevant persons. OCR recommends that the notice be prominently posted on school Web sites and at various

¹⁶ 34 C.F.R. § 106.9.

¹⁷ *Id.* § 106.8(a).

¹⁸ *Id.* § 106.8(b).

¹⁹ *Id.* § 106.9(a).

locations throughout the school or campus and published in electronic and printed publications of general distribution that provide information to students and employees about the school's services and policies. The notice should be available and easily accessible on an ongoing basis.

Title IX does not require a recipient to adopt a policy specifically prohibiting sexual harassment or sexual violence. As noted in the *2001 Guidance*, however, a recipient's general policy prohibiting sex discrimination will not be considered effective and would violate Title IX if, because of the lack of a specific policy, students are unaware of what kind of conduct constitutes sexual harassment, including sexual violence, or that such conduct is prohibited sex discrimination. OCR therefore recommends that a recipient's nondiscrimination policy state that prohibited sex discrimination covers sexual harassment, including sexual violence, and that the policy include examples of the types of conduct that it covers.

(B) Title IX Coordinator

The Title IX regulations require a recipient to notify all students and employees of the name or title and contact information of the person designated to coordinate the recipient's compliance with Title IX.²⁰ The coordinator's responsibilities include overseeing all Title IX complaints and identifying and addressing any patterns or systemic problems that arise during the review of such complaints. The Title IX coordinator or designee should be available to meet with students as needed. If a recipient designates more than one Title IX coordinator, the notice should describe each coordinator's responsibilities (e.g., who will handle complaints by students, faculty, and other employees). The recipient should designate one coordinator as having ultimate oversight responsibility, and the other coordinators should have titles clearly showing that they are in a deputy or supporting role to the senior coordinator. The Title IX coordinators should not have other job responsibilities that may create a conflict of interest. For example, serving as the Title IX coordinator and a disciplinary hearing board member or general counsel may create a conflict of interest.

Recipients must ensure that employees designated to serve as Title IX coordinators have adequate training on what constitutes sexual harassment, including sexual violence, and that they understand how the recipient's grievance procedures operate. Because sexual violence complaints often are filed with the school's law enforcement unit, all school law enforcement unit employees should receive training on the school's Title IX grievance procedures and any other procedures used for investigating reports of sexual violence. In addition, these employees should receive copies of the school's Title IX policies. Schools should instruct law enforcement unit employees both to notify complainants of their right to file a Title IX sex discrimination complaint with the school in addition to filing a criminal complaint, and to report incidents of sexual violence to the Title IX coordinator if the complainant consents. The school's Title IX coordinator or designee should be available to provide assistance to school law enforcement unit employees regarding how to respond appropriately to reports of sexual violence. The Title IX coordinator also should be given access to school law enforcement unit investigation notes

²⁰ *Id.* § 106.8(a).

and findings as necessary for the Title IX investigation, so long as it does not compromise the criminal investigation.

(C) Grievance Procedures

The Title IX regulations require all recipients to adopt and publish grievance procedures providing for the prompt and equitable resolution of sex discrimination complaints.²¹ The grievance procedures must apply to sex discrimination complaints filed by students against school employees, other students, or third parties.

Title IX does not require a recipient to provide separate grievance procedures for sexual harassment and sexual violence complaints. Therefore, a recipient may use student disciplinary procedures or other separate procedures to resolve such complaints. Any procedures used to adjudicate complaints of sexual harassment or sexual violence, including disciplinary procedures, however, must meet the Title IX requirement of affording a complainant a prompt and equitable resolution.²² These requirements are discussed in greater detail below. If the recipient relies on disciplinary procedures for Title IX compliance, the Title IX coordinator should review the recipient's disciplinary procedures to ensure that the procedures comply with the prompt and equitable requirements of Title IX.²³

Grievance procedures generally may include voluntary informal mechanisms (e.g., mediation) for resolving some types of sexual harassment complaints. OCR has frequently advised recipients, however, that it is improper for a student who complains of harassment to be required to work out the problem directly with the alleged perpetrator, and certainly not without appropriate involvement by the school (e.g., participation by a trained counselor, a trained mediator, or, if appropriate, a teacher or administrator). In addition, as stated in the *2001 Guidance*, the complainant must be notified of the right to end the informal process at any time and begin the formal stage of the complaint process. Moreover, in cases involving allegations of sexual assault, mediation is not appropriate even on a voluntary basis. OCR recommends that recipients clarify in their grievance procedures that mediation will not be used to resolve sexual assault complaints.

²¹ *Id.* § 106.8(b). Title IX also requires recipients to adopt and publish grievance procedures for employee complaints of sex discrimination.

²² These procedures must apply to all students, including athletes. If a complaint of sexual violence involves a student athlete, the school must follow its standard procedures for resolving sexual violence complaints. Such complaints must not be addressed solely by athletics department procedures. Additionally, if an alleged perpetrator is an elementary or secondary student with a disability, schools must follow the procedural safeguards in the Individuals with Disabilities Education Act (at 20 U.S.C. § 1415 and 34 C.F.R. §§ 300.500-300.519, 300.530-300.537) as well as the requirements of Section 504 of the Rehabilitation Act of 1973 (at 34 C.F.R. §§ 104.35-104.36) when conducting the investigation and hearing.

²³ A school may not absolve itself of its Title IX obligations to investigate and resolve complaints of sexual harassment or violence by delegating, whether through express contractual agreement or other less formal arrangement, the responsibility to administer school discipline to school resource officers or "contract" law enforcement officers. See 34 C.F.R. § 106.4.

07/25/2016

Prompt and Equitable Requirements

As stated in the *2001 Guidance*, OCR has identified a number of elements in evaluating whether a school's grievance procedures provide for prompt and equitable resolution of sexual harassment complaints. These elements also apply to sexual violence complaints because, as explained above, sexual violence is a form of sexual harassment. OCR will review all aspects of a school's grievance procedures, including the following elements that are critical to achieve compliance with Title IX:

- Notice to students, parents of elementary and secondary students, and employees of the grievance procedures, including where complaints may be filed;
- Application of the procedures to complaints alleging harassment carried out by employees, other students, or third parties;
- Adequate, reliable, and impartial investigation of complaints, including the opportunity for both parties to present witnesses and other evidence;
- Designated and reasonably prompt time frames for the major stages of the complaint process;
- Notice to parties of the outcome of the complaint;²⁴ and
- An assurance that the school will take steps to prevent recurrence of any harassment and to correct its discriminatory effects on the complainant and others, if appropriate.

As noted in the *2001 Guidance*, procedures adopted by schools will vary in detail, specificity, and components, reflecting differences in the age of students, school sizes and administrative structures, State or local legal requirements, and past experiences. Although OCR examines whether all applicable elements are addressed when investigating sexual harassment complaints, this letter focuses on those elements where our work indicates that more clarification and explanation are needed, including:

(A) Notice of the grievance procedures

The procedures for resolving complaints of sex discrimination, including sexual harassment, should be written in language appropriate to the age of the school's students, easily understood, easily located, and widely distributed. OCR recommends that the grievance procedures be prominently posted on school Web sites; sent electronically to all members of the school community; available at various locations throughout the school or campus; and summarized in or attached to major publications issued by the school, such as handbooks, codes of conduct, and catalogs for students, parents of elementary and secondary students, faculty, and staff.

(B) Adequate, Reliable, and Impartial Investigation of Complaints

OCR's work indicates that a number of issues related to an adequate, reliable, and impartial investigation arise in sexual harassment and violence complaints. In some cases, the conduct

²⁴ "Outcome" does not refer to information about disciplinary sanctions unless otherwise noted. Notice of the outcome is discussed in greater detail in Section D below.

may constitute both sexual harassment under Title IX and criminal activity. Police investigations may be useful for fact-gathering; but because the standards for criminal investigations are different, police investigations or reports are not determinative of whether sexual harassment or violence violates Title IX. Conduct may constitute unlawful sexual harassment under Title IX even if the police do not have sufficient evidence of a criminal violation. In addition, a criminal investigation into allegations of sexual violence does not relieve the school of its duty under Title IX to resolve complaints promptly and equitably.

A school should notify a complainant of the right to file a criminal complaint, and should not dissuade a victim from doing so either during or after the school's internal Title IX investigation. For instance, if a complainant wants to file a police report, the school should not tell the complainant that it is working toward a solution and instruct, or ask, the complainant to wait to file the report.

Schools should not wait for the conclusion of a criminal investigation or criminal proceeding to begin their own Title IX investigation and, if needed, must take immediate steps to protect the student in the educational setting. For example, a school should not delay conducting its own investigation or taking steps to protect the complainant because it wants to see whether the alleged perpetrator will be found guilty of a crime. Any agreement or Memorandum of Understanding (MOU) with a local police department must allow the school to meet its Title IX obligation to resolve complaints promptly and equitably. Although a school may need to delay temporarily the fact-finding portion of a Title IX investigation while the police are gathering evidence, once notified that the police department has completed its gathering of evidence (not the ultimate outcome of the investigation or the filing of any charges), the school must promptly resume and complete its fact-finding for the Title IX investigation.²⁵ Moreover, nothing in an MOU or the criminal investigation itself should prevent a school from notifying complainants of their Title IX rights and the school's grievance procedures, or from taking interim steps to ensure the safety and well-being of the complainant and the school community while the law enforcement agency's fact-gathering is in progress. OCR also recommends that a school's MOU include clear policies on when a school will refer a matter to local law enforcement.

As noted above, the Title IX regulation requires schools to provide equitable grievance procedures. As part of these procedures, schools generally conduct investigations and hearings to determine whether sexual harassment or violence occurred. In addressing complaints filed with OCR under Title IX, OCR reviews a school's procedures to determine whether the school is using a preponderance of the evidence standard to evaluate complaints. The Supreme Court has applied a preponderance of the evidence standard in civil litigation involving discrimination under Title VII of the Civil Rights Act of 1964 (Title VII), 42 U.S.C. §§ 2000e *et seq.* Like Title IX,

²⁵ In one recent OCR sexual violence case, the prosecutor's office informed OCR that the police department's evidence gathering stage typically takes three to ten calendar days, although the delay in the school's investigation may be longer in certain instances.

07/25/2016

Title VII prohibits discrimination on the basis of sex.²⁶ OCR also uses a preponderance of the evidence standard when it resolves complaints against recipients. For instance, OCR's Case Processing Manual requires that a noncompliance determination be supported by the preponderance of the evidence when resolving allegations of discrimination under all the statutes enforced by OCR, including Title IX.²⁷ OCR also uses a preponderance of the evidence standard in its fund termination administrative hearings.²⁸ Thus, in order for a school's grievance procedures to be consistent with Title IX standards, the school must use a preponderance of the evidence standard (*i.e.*, it is more likely than not that sexual harassment or violence occurred). The "clear and convincing" standard (*i.e.*, it is highly probable or reasonably certain that the sexual harassment or violence occurred), currently used by some schools, is a higher standard of proof. Grievance procedures that use this higher standard are inconsistent with the standard of proof established for violations of the civil rights laws, and are thus not equitable under Title IX. Therefore, preponderance of the evidence is the appropriate standard for investigating allegations of sexual harassment or violence.

Throughout a school's Title IX investigation, including at any hearing, the parties must have an equal opportunity to present relevant witnesses and other evidence. The complainant and the alleged perpetrator must be afforded similar and timely access to any information that will be used at the hearing.²⁹ For example, a school should not conduct a pre-hearing meeting during which only the alleged perpetrator is present and given an opportunity to present his or her side of the story, unless a similar meeting takes place with the complainant; a hearing officer or disciplinary board should not allow only the alleged perpetrator to present character witnesses at a hearing; and a school should not allow the alleged perpetrator to review the complainant's

²⁶ See, e.g., *Desert Palace, Inc. v. Costa*, 539 U.S. 90, 99 (2003) (noting that under the "conventional rule of civil litigation," the preponderance of the evidence standard generally applies in cases under Title VII); *Price Waterhouse v. Hopkins*, 490 U.S. 228, 252-55 (1989) (approving preponderance standard in Title VII sex discrimination case) (plurality opinion); *id.* at 260 (White, J., concurring in the judgment); *id.* at 261 (O'Connor, J., concurring in the judgment). The 2001 Guidance noted (on page vi) that "[w]hile *Gebser* and *Davis* made clear that Title VII agency principles do not apply in determining liability for money damages under Title IX, the *Davis* Court also indicated, through its specific references to Title VII caselaw, that Title VII remains relevant in determining what constitutes hostile environment sexual harassment under Title IX." See also *Jennings v. Univ. of N.C.*, 482 F.3d 686, 695 (4th Cir. 2007) ("We look to case law interpreting Title VII of the Civil Rights Act of 1964 for guidance in evaluating a claim brought under Title IX.").

²⁷ OCR's Case Processing Manual is available on the Department's Web site, at <http://www2.ed.gov/about/offices/list/ocr/docs/ocrspm.html>.

²⁸ The Title IX regulations adopt the procedural provisions applicable to Title VI of the Civil Rights Act of 1964. See 34 C.F.R. § 106.71 ("The procedural provisions applicable to Title VI of the Civil Rights Act of 1964 are hereby adopted and incorporated herein by reference."). The Title VI regulations apply the Administrative Procedure Act to administrative hearings required prior to termination of Federal financial assistance and require that termination decisions be "supported by and in accordance with the reliable, probative and substantial evidence." 5 U.S.C. § 556(d). The Supreme Court has interpreted "reliable, probative and substantial evidence" as a direction to use the preponderance standard. See *Steadman v. SEC*, 450 U.S. 91, 98-102 (1981).

²⁹ Access to this information must be provided consistent with FERPA. For example, if a school introduces an alleged perpetrator's prior disciplinary records to support a tougher disciplinary penalty, the complainant would not be allowed access to those records. Additionally, access should not be given to privileged or confidential information. For example, the alleged perpetrator should not be given access to communications between the complainant and a counselor or information regarding the complainant's sexual history.

07/25/2016

statement without also allowing the complainant to review the alleged perpetrator's statement.

While OCR does not require schools to permit parties to have lawyers at any stage of the proceedings, if a school chooses to allow the parties to have their lawyers participate in the proceedings, it must do so equally for both parties. Additionally, any school-imposed restrictions on the ability of lawyers to speak or otherwise participate in the proceedings should apply equally. OCR strongly discourages schools from allowing the parties personally to question or cross-examine each other during the hearing. Allowing an alleged perpetrator to question an alleged victim directly may be traumatic or intimidating, thereby possibly escalating or perpetuating a hostile environment. OCR also recommends that schools provide an appeals process. If a school provides for appeal of the findings or remedy, it must do so for both parties. Schools must maintain documentation of all proceedings, which may include written findings of facts, transcripts, or audio recordings.

All persons involved in implementing a recipient's grievance procedures (e.g., Title IX coordinators, investigators, and adjudicators) must have training or experience in handling complaints of sexual harassment and sexual violence, and in the recipient's grievance procedures. The training also should include applicable confidentiality requirements. In sexual violence cases, the fact-finder and decision-maker also should have adequate training or knowledge regarding sexual violence.³⁰ Additionally, a school's investigation and hearing processes cannot be equitable unless they are impartial. Therefore, any real or perceived conflicts of interest between the fact-finder or decision-maker and the parties should be disclosed.

Public and state-supported schools must provide due process to the alleged perpetrator. However, schools should ensure that steps taken to accord due process rights to the alleged perpetrator do not restrict or unnecessarily delay the Title IX protections for the complainant.

(C) Designated and Reasonably Prompt Time Frames

OCR will evaluate whether a school's grievance procedures specify the time frames for all major stages of the procedures, as well as the process for extending timelines. Grievance procedures should specify the time frame within which: (1) the school will conduct a full investigation of the complaint; (2) both parties receive a response regarding the outcome of the complaint; and (3) the parties may file an appeal, if applicable. Both parties should be given periodic status updates. Based on OCR experience, a typical investigation takes approximately 60 calendar days following receipt of the complaint. Whether OCR considers complaint resolutions to be timely, however, will vary depending on the complexity of the investigation and the severity and extent of the harassment. For example, the resolution of a complaint involving multiple incidents with multiple complainants likely would take longer than one involving a single incident that

³⁰ For instance, if an investigation or hearing involves forensic evidence, that evidence should be reviewed by a trained forensic examiner.

occurred in a classroom during school hours with a single complainant.

(D) Notice of Outcome

Both parties must be notified, in writing, about the outcome of both the complaint and any appeal,³¹ *i.e.*, whether harassment was found to have occurred. OCR recommends that schools provide the written determination of the final outcome to the complainant and the alleged perpetrator concurrently. Title IX does not require the school to notify the alleged perpetrator of the outcome before it notifies the complainant.

Due to the intersection of Title IX and FERPA requirements, OCR recognizes that there may be confusion regarding what information a school may disclose to the complainant.³² FERPA generally prohibits the nonconsensual disclosure of personally identifiable information from a student's "education record." However, as stated in the *2001 Guidance*, FERPA permits a school to disclose to the harassed student information about the sanction imposed upon a student who was found to have engaged in harassment when the sanction directly relates to the harassed student. This includes an order that the harasser stay away from the harassed student, or that the harasser is prohibited from attending school for a period of time, or transferred to other classes or another residence hall.³³ Disclosure of other information in the student's "education record," including information about sanctions that do not relate to the harassed student, may result in a violation of FERPA.

Further, when the conduct involves a crime of violence or a non-forcible sex offense,³⁴ FERPA permits a postsecondary institution to disclose to the alleged victim the final results of a

³¹ As noted previously, "outcome" does not refer to information about disciplinary sanctions unless otherwise noted.

³² In 1994, Congress amended the General Education Provisions Act (GEPA), of which FERPA is a part, to state that nothing in GEPA "shall be construed to affect the applicability of title VI of the Civil Rights Act of 1964, title IX of Education Amendments of 1972, title V of the Rehabilitation Act of 1973, the Age Discrimination Act, or other statutes prohibiting discrimination, to any applicable program." 20 U.S.C. § 1221(d). The Department interprets this provision to mean that FERPA continues to apply in the context of Title IX enforcement, but if there is a direct conflict between the requirements of FERPA and the requirements of Title IX, such that enforcement of FERPA would interfere with the primary purpose of Title IX to eliminate sex-based discrimination in schools, the requirements of Title IX override any conflicting FERPA provisions. *See 2001 Guidance* at vii.

³³ This information directly relates to the complainant and is particularly important in sexual harassment cases because it affects whether a hostile environment has been eliminated. Because seeing the perpetrator may be traumatic, a complainant in a sexual harassment case may continue to be subject to a hostile environment if he or she does not know when the perpetrator will return to school or whether he or she will continue to share classes or a residence hall with the perpetrator. This information also directly affects a complainant's decision regarding how to work with the school to eliminate the hostile environment and prevent its recurrence. For instance, if a complainant knows that the perpetrator will not be at school or will be transferred to other classes or another residence hall for the rest of the year, the complainant may be less likely to want to transfer to another school or change classes, but if the perpetrator will be returning to school after a few days or weeks, or remaining in the complainant's classes or residence hall, the complainant may want to transfer schools or change classes to avoid contact. Thus, the complainant cannot make an informed decision about how best to respond without this information.

³⁴ Under the FERPA regulations, crimes of violence include arson; assault offenses (aggravated assault, simple assault, intimidation); burglary; criminal homicide (manslaughter by negligence); criminal homicide (murder and

07/25/2016

disciplinary proceeding against the alleged perpetrator, regardless of whether the institution concluded that a violation was committed.³⁵ Additionally, a postsecondary institution may disclose to anyone—not just the alleged victim—the final results of a disciplinary proceeding if it determines that the student is an alleged perpetrator of a crime of violence or a non-forcible sex offense, and, with respect to the allegation made, the student has committed a violation of the institution's rules or policies.³⁶

Postsecondary institutions also are subject to additional rules under the Clery Act. This law, which applies to postsecondary institutions that participate in Federal student financial aid programs, requires that "both the accuser and the accused must be informed of the outcome"³⁷ of any institutional disciplinary proceeding brought alleging a sex offense.³⁸ Compliance with this requirement does not constitute a violation of FERPA. Furthermore, the FERPA limitations on redisclosure of information do not apply to information that postsecondary institutions are required to disclose under the Clery Act.³⁹ Accordingly, postsecondary institutions may not require a complainant to abide by a nondisclosure agreement, in writing or otherwise, that would prevent the redisclosure of this information.

Steps to Prevent Sexual Harassment and Sexual Violence and Correct its Discriminatory Effects on the Complainant and Others

Education and Prevention

In addition to ensuring full compliance with Title IX, schools should take proactive measures to prevent sexual harassment and violence. OCR recommends that all schools implement preventive education programs and make victim resources, including comprehensive victim services, available. Schools may want to include these education programs in their (1) orientation programs for new students, faculty, staff, and employees; (2) training for students who serve as advisors in residence halls; (3) training for student athletes and coaches; and (4) school assemblies and "back to school nights." These programs should include a

non-negligent manslaughter); destruction, damage or vandalism of property; kidnapping/abduction; robbery; and forcible sex offenses. Forcible sex offenses are defined as any sexual act directed against another person forcibly or against that person's will, or not forcibly or against the person's will where the victim is incapable of giving consent. Forcible sex offenses include rape, sodomy, sexual assault with an object, and forcible fondling. Non-forcible sex offenses are incest and statutory rape. 34 C.F.R. Part 99, App. A.

³⁵ 34 C.F.R. § 99.31(a)(13). For purposes of 34 C.F.R. §§ 99.31(a)(13)-(14), disclosure of "final results" is limited to the name of the alleged perpetrator, any violation found to have been committed, and any sanction imposed against the perpetrator by the school. 34 C.F.R. § 99.39.

³⁶ 34 C.F.R. § 99.31(a)(14).

³⁷ For purposes of the Clery Act, "outcome" means the institution's final determination with respect to the alleged sex offense and any sanctions imposed against the accused. 34 C.F.R. § 668.46(b)(11)(vi)(B).

³⁸ 34 C.F.R. § 668.46(b)(11)(vi)(B). Under the Clery Act, forcible sex offenses are defined as any sexual act directed against another person forcibly or against that person's will, or not forcibly or against the person's will where the person is incapable of giving consent. Forcible sex offenses include forcible rape, forcible sodomy, sexual assault with an object, and forcible fondling. Non-forcible sex offenses include incest and statutory rape. 34 C.F.R. Part 668, Subpt. D, App. A.

³⁹ 34 C.F.R. § 99.33(c).

07/25/2016

discussion of what constitutes sexual harassment and sexual violence, the school's policies and disciplinary procedures, and the consequences of violating these policies.

The education programs also should include information aimed at encouraging students to report incidents of sexual violence to the appropriate school and law enforcement authorities. Schools should be aware that victims or third parties may be deterred from reporting incidents if alcohol, drugs, or other violations of school or campus rules were involved.⁴⁰ As a result, schools should consider whether their disciplinary policies have a chilling effect on victims' or other students' reporting of sexual violence offenses. For example, OCR recommends that schools inform students that the schools' primary concern is student safety, that any other rules violations will be addressed separately from the sexual violence allegation, and that use of alcohol or drugs never makes the victim at fault for sexual violence.

OCR also recommends that schools develop specific sexual violence materials that include the schools' policies, rules, and resources for students, faculty, coaches, and administrators. Schools also should include such information in their employee handbook and any handbooks that student athletes and members of student activity groups receive. These materials should include where and to whom students should go if they are victims of sexual violence. These materials also should tell students and school employees what to do if they learn of an incident of sexual violence. Schools also should assess student activities regularly to ensure that the practices and behavior of students do not violate the schools' policies against sexual harassment and sexual violence.

Remedies and Enforcement

As discussed above, if a school determines that sexual harassment that creates a hostile environment has occurred, it must take immediate action to eliminate the hostile environment, prevent its recurrence, and address its effects. In addition to counseling or taking disciplinary action against the harasser, effective corrective action may require remedies for the complainant, as well as changes to the school's overall services or policies. Examples of these actions are discussed in greater detail below.

Title IX requires a school to take steps to protect the complainant as necessary, including taking interim steps before the final outcome of the investigation. The school should undertake these steps promptly once it has notice of a sexual harassment or violence allegation. The school should notify the complainant of his or her options to avoid contact with the alleged perpetrator and allow students to change academic or living situations as appropriate. For instance, the school may prohibit the alleged perpetrator from having any contact with the complainant pending the results of the school's investigation. When taking steps to separate the complainant and alleged perpetrator, a school should minimize the burden on the

⁴⁰ The Department's Higher Education Center for Alcohol, Drug Abuse, and Violence Prevention (HEC) helps campuses and communities address problems of alcohol, other drugs, and violence by identifying effective strategies and programs based upon the best prevention science. Information on HEC resources and technical assistance can be found at www.higheredcenter.org.

complainant, and thus should not, as a matter of course, remove complainants from classes or housing while allowing alleged perpetrators to remain. In addition, schools should ensure that complainants are aware of their Title IX rights and any available resources, such as counseling, health, and mental health services, and their right to file a complaint with local law enforcement.⁴¹

Schools should be aware that complaints of sexual harassment or violence may be followed by retaliation by the alleged perpetrator or his or her associates. For instance, friends of the alleged perpetrator may subject the complainant to name-calling and taunting. As part of their Title IX obligations, schools must have policies and procedures in place to protect against retaliatory harassment. At a minimum, schools must ensure that complainants and their parents, if appropriate, know how to report any subsequent problems, and should follow-up with complainants to determine whether any retaliation or new incidents of harassment have occurred.

When OCR finds that a school has not taken prompt and effective steps to respond to sexual harassment or violence, OCR will seek appropriate remedies for both the complainant and the broader student population. When conducting Title IX enforcement activities, OCR seeks to obtain voluntary compliance from recipients. When a recipient does not come into compliance voluntarily, OCR may initiate proceedings to withdraw Federal funding by the Department or refer the case to the U.S. Department of Justice for litigation.

Schools should proactively consider the following remedies when determining how to respond to sexual harassment or violence. These are the same types of remedies that OCR would seek in its cases.

Depending on the specific nature of the problem, remedies for the complainant might include, but are not limited to:⁴²

- providing an escort to ensure that the complainant can move safely between classes and activities;
- ensuring that the complainant and alleged perpetrator do not attend the same classes;
- moving the complainant or alleged perpetrator to a different residence hall or, in the case of an elementary or secondary school student, to another school within the district;
- providing counseling services;
- providing medical services;
- providing academic support services, such as tutoring;

⁴¹ The Clery Act requires postsecondary institutions to develop and distribute a statement of policy that informs students of their options to notify proper law enforcement authorities, including campus and local police, and the option to be assisted by campus personnel in notifying such authorities. The policy also must notify students of existing counseling, mental health, or other student services for victims of sexual assault, both on campus and in the community. 20 U.S.C. §§ 1092(f)(8)(B)(v)-(vi).

⁴² Some of these remedies also can be used as interim measures before the school's investigation is complete.

- arranging for the complainant to re-take a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the complainant's academic record; and
- reviewing any disciplinary actions taken against the complainant to see if there is a causal connection between the harassment and the misconduct that may have resulted in the complainant being disciplined.⁴³

Remedies for the broader student population might include, but are not limited to:

Counseling and Training

- offering counseling, health, mental health, or other holistic and comprehensive victim services to all students affected by sexual harassment or sexual violence, and notifying students of campus and community counseling, health, mental health, and other student services;
- designating an individual from the school's counseling center to be "on call" to assist victims of sexual harassment or violence whenever needed;
- training the Title IX coordinator and any other employees who are involved in processing, investigating, or resolving complaints of sexual harassment or sexual violence, including providing training on:
 - the school's Title IX responsibilities to address allegations of sexual harassment or violence
 - how to conduct Title IX investigations
 - information on the link between alcohol and drug abuse and sexual harassment or violence and best practices to address that link;
- training all school law enforcement unit personnel on the school's Title IX responsibilities and handling of sexual harassment or violence complaints;
- training all employees who interact with students regularly on recognizing and appropriately addressing allegations of sexual harassment or violence under Title IX; and
- informing students of their options to notify proper law enforcement authorities, including school and local police, and the option to be assisted by school employees in notifying those authorities.

Development of Materials and Implementation of Policies and Procedures

- developing materials on sexual harassment and violence, which should be distributed to students during orientation and upon receipt of complaints, as well as widely posted throughout school buildings and residence halls, and which should include:
 - what constitutes sexual harassment or violence
 - what to do if a student has been the victim of sexual harassment or violence
 - contact information for counseling and victim services on and off school grounds
 - how to file a complaint with the school
 - how to contact the school's Title IX coordinator

⁴³ For example, if the complainant was disciplined for skipping a class in which the harasser was enrolled, the school should review the incident to determine if the complainant skipped the class to avoid contact with the harasser.

- what the school will do to respond to allegations of sexual harassment or violence, including the interim measures that can be taken
- requiring the Title IX coordinator to communicate regularly with the school's law enforcement unit investigating cases and to provide information to law enforcement unit personnel regarding Title IX requirements;⁴⁴
- requiring the Title IX coordinator to review all evidence in a sexual harassment or sexual violence case brought before the school's disciplinary committee to determine whether the complainant is entitled to a remedy under Title IX that was not available through the disciplinary committee;⁴⁵
- requiring the school to create a committee of students and school officials to identify strategies for ensuring that students:
 - know the school's prohibition against sex discrimination, including sexual harassment and violence
 - recognize sex discrimination, sexual harassment, and sexual violence when they occur
 - understand how and to whom to report any incidents
 - know the connection between alcohol and drug abuse and sexual harassment or violence
 - feel comfortable that school officials will respond promptly and equitably to reports of sexual harassment or violence;
- issuing new policy statements or other steps that clearly communicate that the school does not tolerate sexual harassment and violence and will respond to any incidents and to any student who reports such incidents; and
- revising grievance procedures used to handle sexual harassment and violence complaints to ensure that they are prompt and equitable, as required by Title IX.

School Investigations and Reports to OCR

- conducting periodic assessments of student activities to ensure that the practices and behavior of students do not violate the school's policies against sexual harassment and violence;
- investigating whether any other students also may have been subjected to sexual harassment or violence;
- investigating whether school employees with knowledge of allegations of sexual harassment or violence failed to carry out their duties in responding to those allegations;
- conducting, in conjunction with student leaders, a school or campus "climate check" to assess the effectiveness of efforts to ensure that the school is free from sexual harassment and violence, and using the resulting information to inform future proactive steps that will be taken by the school; and

⁴⁴ Any personally identifiable information from a student's education record that the Title IX coordinator provides to the school's law enforcement unit is subject to FERPA's nondisclosure requirements.

⁴⁵ For example, the disciplinary committee may lack the power to implement changes to the complainant's class schedule or living situation so that he or she does not come in contact with the alleged perpetrator.

- submitting to OCR copies of all grievances filed by students alleging sexual harassment or violence, and providing OCR with documentation related to the investigation of each complaint, such as witness interviews, investigator notes, evidence submitted by the parties, investigative reports and summaries, any final disposition letters, disciplinary records, and documentation regarding any appeals.

Conclusion

The Department is committed to ensuring that all students feel safe and have the opportunity to benefit fully from their schools' education programs and activities. As part of this commitment, OCR provides technical assistance to assist recipients in achieving voluntary compliance with Title IX.

If you need additional information about Title IX, have questions regarding OCR's policies, or seek technical assistance, please contact the OCR enforcement office that serves your state or territory. The list of offices is available at <http://wdcrobcolp01.ed.gov/CFAPPS/OCR/contactus.cfm>. Additional information about addressing sexual violence, including victim resources and information for schools, is available from the U.S. Department of Justice's Office on Violence Against Women (OVW) at <http://www.ovw.usdoj.gov/>.⁴⁶

Thank you for your prompt attention to this matter. I look forward to continuing our work together to ensure that all students have an equal opportunity to learn in a safe and respectful school climate.

Sincerely,

/s/

Russlynn Ali
Assistant Secretary for Civil Rights

⁴⁶ OVW also administers the Grants to Reduce Domestic Violence, Dating Violence, Sexual Assault, and Stalking on Campus Program. This Federal funding is designed to encourage institutions of higher education to adopt comprehensive, coordinated responses to domestic violence, dating violence, sexual assault, and stalking. Under this competitive grant program, campuses, in partnership with community-based nonprofit victim advocacy organizations and local criminal justice or civil legal agencies, must adopt protocols and policies to treat these crimes as serious offenses and develop victim service programs and campus policies that ensure victim safety, offender accountability, and the prevention of such crimes. OVW recently released the first solicitation for the Services, Training, Education, and Policies to Reduce Domestic Violence, Dating Violence, Sexual Assault and Stalking in Secondary Schools Grant Program. This innovative grant program will support a broad range of activities, including training for school administrators, faculty, and staff; development of policies and procedures for responding to these crimes; holistic and appropriate victim services; development of effective prevention strategies; and collaborations with mentoring organizations to support middle and high school student victims.

07/25/2016

07/25/2016

Exhibit 2

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UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

Questions and Answers on Title IX and Sexual Violence¹

Title IX of the Education Amendments of 1972 ("Title IX")² is a federal civil rights law that prohibits discrimination on the basis of sex in federally funded education programs and activities. All public and private elementary and secondary schools, school districts, colleges, and universities receiving any federal financial assistance (hereinafter "schools", "recipients", or "recipient institutions") must comply with Title IX.³

On April 4, 2011, the Office for Civil Rights (OCR) in the U.S. Department of Education issued a Dear Colleague Letter on student-on-student sexual harassment and sexual violence ("DCL").⁴ The DCL explains a school's responsibility to respond promptly and effectively to sexual violence against students in accordance with the requirements of Title IX.⁵ Specifically, the DCL:

- Provides guidance on the unique concerns that arise in sexual violence cases, such as a school's independent responsibility under Title IX to investigate (apart from any separate criminal investigation by local police) and address sexual violence.

¹ The Department has determined that this document is a "significant guidance document" under the Office of Management and Budget's Final Bulletin for Agency Good Guidance Practices, 72 Fed. Reg. 3432 (Jan. 25, 2007), available at www.whitehouse.gov/sites/default/files/omb/fedreg/2007/012507_good_guidance.pdf. The Office for Civil Rights (OCR) issues this and other policy guidance to provide recipients with information to assist them in meeting their obligations, and to provide members of the public with information about their rights, under the civil rights laws and implementing regulations that we enforce. OCR's legal authority is based on those laws and regulations. This guidance does not add requirements to applicable law, but provides information and examples to inform recipients about how OCR evaluates whether covered entities are complying with their legal obligations. If you are interested in commenting on this guidance, please send an e-mail with your comments to OCR@ed.gov, or write to the following address: Office for Civil Rights, U.S. Department of Education, 400 Maryland Avenue, SW, Washington, D.C. 20202.

² 20 U.S.C. § 1681 *et seq.*

³ Throughout this document the term "schools" refers to recipients of federal financial assistance that operate educational programs or activities. For Title IX purposes, at the elementary and secondary school level, the recipient generally is the school district; and at the postsecondary level, the recipient is the individual institution of higher education. An educational institution that is controlled by a religious organization is exempt from Title IX to the extent that the law's requirements conflict with the organization's religious tenets. 20 U.S.C. § 1681(a)(3); 34 C.F.R. § 106.12(a). For application of this provision to a specific institution, please contact the appropriate OCR regional office.

⁴ Available at <http://www.ed.gov/ocr/letters/colleague-201104.html>.

⁵ Although this document and the DCL focus on sexual violence, the legal principles generally also apply to other forms of sexual harassment.

07/25/2016

- Provides guidance and examples about key Title IX requirements and how they relate to sexual violence, such as the requirements to publish a policy against sex discrimination, designate a Title IX coordinator, and adopt and publish grievance procedures.
- Discusses proactive efforts schools can take to prevent sexual violence.
- Discusses the interplay between Title IX, the Family Educational Rights and Privacy Act ("FERPA"),⁶ and the Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act ("Clery Act")⁷ as it relates to a complainant's right to know the outcome of his or her complaint, including relevant sanctions imposed on the perpetrator.
- Provides examples of remedies and enforcement strategies that schools and OCR may use to respond to sexual violence.

The DCL supplements OCR's *Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties*, issued in 2001 (*2001 Guidance*).⁸ The *2001 Guidance* discusses in detail the Title IX requirements related to sexual harassment of students by school employees, other students, or third parties. The DCL and the *2001 Guidance* remain in full force and we recommend reading these Questions and Answers in conjunction with these documents.

In responding to requests for technical assistance, OCR has determined that elementary and secondary schools and postsecondary institutions would benefit from additional guidance concerning their obligations under Title IX to address sexual violence as a form of sexual harassment. The following questions and answers further clarify the legal requirements and guidance articulated in the DCL and the *2001 Guidance* and include examples of proactive efforts schools can take to prevent sexual violence and remedies schools may use to end such conduct, prevent its recurrence, and address its effects. In order to gain a complete understanding of these legal requirements and recommendations, this document should be read in full.

Authorized by

/s/

Catherine E. Lhamon
Assistant Secretary for Civil Rights

April 29, 2014

⁶ 20 U.S.C. §1232g; 34 C.F.R. Part 99.

⁷ 20 U.S.C. §1092(f).

⁸ Available at <http://www.ed.gov/ocr/docs/shguide.html>.

**Notice of Language Assistance
Questions and Answers on Title IX and Sexual Violence**

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07/25/2016

TABLE OF CONTENTS

Notice of Language Assistance	iii
A. A School's Obligation to Respond to Sexual Violence	1
A-1. What is sexual violence?	1
A-2. How does Title IX apply to student-on-student sexual violence?	1
A-3. How does OCR determine if a hostile environment has been created?	1
A-4. When does OCR consider a school to have notice of student-on-student sexual violence?	2
A-5. What are a school's basic responsibilities to address student-on-student sexual violence?	2
A-6. Does Title IX cover employee-on-student sexual violence, such as sexual abuse of children?	3
B. Students Protected by Title IX	5
B-1. Does Title IX protect all students from sexual violence?	5
B-2. How should a school handle sexual violence complaints in which the complainant and the alleged perpetrator are members of the same sex?	5
B-3. What issues may arise with respect to students with disabilities who experience sexual violence?	6
B-4. What issues arise with respect to international students and undocumented students who experience sexual violence?	7
B-5. How should a school respond to sexual violence when the alleged perpetrator is not affiliated with the school?	9
C. Title IX Procedural Requirements	9
C-1. What procedures must a school have in place to prevent sexual violence and resolve complaints?	9
C-2. What information must be included in a school's notice of nondiscrimination?	10
C-3. What are a Title IX coordinator's responsibilities?	10
C-4. Are there any employees who should not serve as the Title IX coordinator?	11
C-5. Under Title IX, what elements should be included in a school's procedures for responding to complaints of sexual violence?	12
C-6. Is a school required to use separate grievance procedures for sexual violence complaints?	14

D. Responsible Employees and Reporting	14
D-1. Which school employees are obligated to report incidents of possible sexual violence to school officials?	14
D-2. Who is a “responsible employee”?	15
D-3. What information is a responsible employee obligated to report about an incident of possible student-on-student sexual violence?	16
D-4. What should a responsible employee tell a student who discloses an incident of sexual violence?	16
D-5. If a student informs a resident assistant/advisor (RA) that he or she was subjected to sexual violence by a fellow student, is the RA obligated under Title IX to report the incident to school officials?	17
E. Confidentiality and a School’s Obligation to Respond to Sexual Violence	18
E-1. How should a school respond to a student’s request that his or her name not be disclosed to the alleged perpetrator or that no investigation or disciplinary action be pursued to address the alleged sexual violence?	18
E-2. What factors should a school consider in weighing a student’s request for confidentiality?	21
E-3. What are the reporting responsibilities of school employees who provide or support the provision of counseling, advocacy, health, mental health, or sexual assault-related services to students who have experienced sexual violence?	22
E-4. Is a school required to investigate information regarding sexual violence incidents shared by survivors during public awareness events, such as “Take Back the Night”?	24
F. Investigations and Hearings	24
F-1. What elements should a school’s Title IX investigation include?	24
F-2. What are the key differences between a school’s Title IX investigation into allegations of sexual violence and a criminal investigation?	27
F-3. How should a school proceed when campus or local law enforcement agencies are conducting a criminal investigation while the school is conducting a parallel Title IX investigation?	28
F-4. Is a school required to process complaints of alleged sexual violence that occurred off campus?	29
F-5. Must a school allow or require the parties to be present during an entire hearing?	30

F-6. May every witness at the hearing, including the parties, be cross-examined?	31
F-7. May the complainant's sexual history be introduced at hearings?	31
F-8. What stages of the investigation are included in the 60-day timeframe referenced in the DCL as the length for a typical investigation?	31
G. Interim Measures	32
G-1. Is a school required to take any interim measures before the completion of its investigation?	32
G-2. How should a school determine what interim measures to take?	33
G-3. If a school provides all students with access to counseling on a fee basis, does that suffice for providing counseling as an interim measure?	33
H. Remedies and Notice of Outcome	34
H-1. What remedies should a school consider in a case of student-on-student sexual violence?	34
H-2. If, after an investigation, a school finds the alleged perpetrator responsible and determines that, as part of the remedies for the complainant, it must separate the complainant and perpetrator, how should the school accomplish this if both students share the same major and there are limited course options?	36
H-3. What information must be provided to the complainant in the notice of the outcome?	36
I. Appeals	37
I-1. What are the requirements for an appeals process?	37
I-2. Must an appeal be available to a complainant who receives a favorable finding but does not believe a sanction that directly relates to him or her was sufficient?	38
J. Title IX Training, Education and Prevention	38
J-1. What type of training on Title IX and sexual violence should a school provide to its employees?	38
J-2. How should a school train responsible employees to report incidents of possible sexual harassment or sexual violence?	39
J-3. What type of training should a school provide to employees who are involved in implementing the school's grievance procedures?	40
J-4. What type of training on sexual violence should a school provide to its students?	41

K. Retaliation.....	42
K-1. Does Title IX protect against retaliation?	42
L. First Amendment.....	43
L-1. How should a school handle its obligation to respond to sexual harassment and sexual violence while still respecting free-speech rights guaranteed by the Constitution?.....	43
M. The Clery Act and the Violence Against Women Reauthorization Act of 2013.....	44
M-1. How does the Clery Act affect the Title IX obligations of institutions of higher education that participate in the federal student financial aid programs?	44
M-2. Were a school's obligations under Title IX and the DCL altered in any way by the Violence Against Women Reauthorization Act of 2013, Pub. L. No. 113-4, including Section 304 of that Act, which amends the Clery Act?.....	44
N. Further Federal Guidance.....	45
N-1. Whom should I contact if I have additional questions about the DCL or OCR's other Title IX guidance?	45
N-2. Are there other resources available to assist a school in complying with Title IX and preventing and responding to sexual violence?	45

07/25/2016

A. A School's Obligation to Respond to Sexual Violence

A-1. What is sexual violence?

Answer: Sexual violence, as that term is used in this document and prior OCR guidance, refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (*e.g.*, due to the student's age or use of drugs or alcohol, or because an intellectual or other disability prevents the student from having the capacity to give consent). A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse, and sexual coercion. Sexual violence can be carried out by school employees, other students, or third parties. All such acts of sexual violence are forms of sex discrimination prohibited by Title IX.

A-2. How does Title IX apply to student-on-student sexual violence?

Answer: Under Title IX, federally funded schools must ensure that students of all ages are not denied or limited in their ability to participate in or benefit from the school's educational programs or activities on the basis of sex. A school violates a student's rights under Title IX regarding student-on-student sexual violence when the following conditions are met: (1) the alleged conduct is sufficiently serious to limit or deny a student's ability to participate in or benefit from the school's educational program, *i.e.* creates a hostile environment; and (2) the school, upon notice, fails to take prompt and effective steps reasonably calculated to end the sexual violence, eliminate the hostile environment, prevent its recurrence, and, as appropriate, remedy its effects.⁹

A-3. How does OCR determine if a hostile environment has been created?

Answer: As discussed more fully in OCR's *2001 Guidance*, OCR considers a variety of related factors to determine if a hostile environment has been created; and also considers the conduct in question from both a subjective and an objective perspective. Specifically, OCR's standards require that the conduct be evaluated from the perspective of a reasonable person in the alleged victim's position, considering all the circumstances. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment, particularly if the conduct is physical. Indeed, a single or isolated incident of sexual violence may create a hostile environment.

⁹ This is the standard for administrative enforcement of Title IX and in court cases where plaintiffs are seeking injunctive relief. See *2001 Guidance* at ii-v, 12-13. The standard in private lawsuits for monetary damages is actual knowledge and deliberate indifference. See *Davis v. Monroe Cnty Bd. of Educ.*, 526 U.S. 629, 643 (1999).

A-4. When does OCR consider a school to have notice of student-on-student sexual violence?

Answer: OCR deems a school to have notice of student-on-student sexual violence if a responsible employee knew, or in the exercise of reasonable care should have known, about the sexual violence. See question D-2 regarding who is a responsible employee.

A school can receive notice of sexual violence in many different ways. Some examples of notice include: a student may have filed a grievance with or otherwise informed the school's Title IX coordinator; a student, parent, friend, or other individual may have reported an incident to a teacher, principal, campus law enforcement, staff in the office of student affairs, or other responsible employee; or a teacher or dean may have witnessed the sexual violence.

The school may also receive notice about sexual violence in an indirect manner, from sources such as a member of the local community, social networking sites, or the media. In some situations, if the school knows of incidents of sexual violence, the exercise of reasonable care should trigger an investigation that would lead to the discovery of additional incidents. For example, if school officials receive a credible report that a student has perpetrated several acts of sexual violence against different students, that pattern of conduct should trigger an inquiry as to whether other students have been subjected to sexual violence by that student. In other cases, the pervasiveness of the sexual violence may be widespread, openly practiced, or well-known among students or employees. In those cases, OCR may conclude that the school should have known of the hostile environment. In other words, if the school would have found out about the sexual violence had it made a proper inquiry, knowledge of the sexual violence will be imputed to the school even if the school failed to make an inquiry. A school's failure to take prompt and effective corrective action in such cases (as described in questions G-1 to G-3 and H-1 to H-3) would violate Title IX even if the student did not use the school's grievance procedures or otherwise inform the school of the sexual violence.

A-5. What are a school's basic responsibilities to address student-on-student sexual violence?

Answer: When a school knows or reasonably should know of possible sexual violence, it must take immediate and appropriate steps to investigate or otherwise determine what occurred (subject to the confidentiality provisions discussed in Section E). If an investigation reveals that sexual violence created a hostile environment, the school must then take prompt and effective steps reasonably calculated to end the sexual violence, eliminate the hostile environment, prevent its recurrence, and, as appropriate, remedy its

effects. But a school should not wait to take steps to protect its students until students have already been deprived of educational opportunities.

Title IX requires a school to protect the complainant and ensure his or her safety as necessary, including taking interim steps before the final outcome of any investigation.¹⁰ The school should take these steps promptly once it has notice of a sexual violence allegation and should provide the complainant with periodic updates on the status of the investigation. If the school determines that the sexual violence occurred, the school must continue to take these steps to protect the complainant and ensure his or her safety, as necessary. The school should also ensure that the complainant is aware of any available resources, such as victim advocacy, housing assistance, academic support, counseling, disability services, health and mental health services, and legal assistance, and the right to report a crime to campus or local law enforcement. For additional information on interim measures, see questions G-1 to G-3.

If a school delays responding to allegations of sexual violence or responds inappropriately, the school's own inaction may subject the student to a hostile environment. If it does, the school will also be required to remedy the effects of the sexual violence that could reasonably have been prevented had the school responded promptly and appropriately. For example, if a school's ignoring of a student's complaints of sexual assault by a fellow student results in the complaining student having to remain in classes with the other student for several weeks and the complaining student's grades suffer because he or she was unable to concentrate in these classes, the school may need to permit the complaining student to retake the classes without an academic or financial penalty (in addition to any other remedies) in order to address the effects of the sexual violence.

A-6. Does Title IX cover employee-on-student sexual violence, such as sexual abuse of children?

Answer: Yes. Although this document and the DCL focus on student-on-student sexual violence, Title IX also protects students from other forms of sexual harassment (including sexual violence and sexual abuse), such as sexual harassment carried out by school employees. Sexual harassment by school employees can include unwelcome sexual advances; requests for sexual favors; and other verbal, nonverbal, or physical conduct of a sexual nature, including but not limited to sexual activity. Title IX's prohibition against

¹⁰ Throughout this document, unless otherwise noted, the term "complainant" refers to the student who allegedly experienced the sexual violence.

sexual harassment generally does not extend to legitimate nonsexual touching or other nonsexual conduct. But in some circumstances, nonsexual conduct may take on sexual connotations and rise to the level of sexual harassment. For example, a teacher repeatedly hugging and putting his or her arms around students under inappropriate circumstances could create a hostile environment. Early signs of inappropriate behavior with a child can be the key to identifying and preventing sexual abuse by school personnel.

A school's Title IX obligations regarding sexual harassment by employees can, in some instances, be greater than those described in this document and the DCL. Recipients should refer to OCR's *2001 Guidance* for further information about Title IX obligations regarding harassment of students by school employees. In addition, many state and local laws have mandatory reporting requirements for schools working with minors. Recipients should be careful to satisfy their state and local legal obligations in addition to their Title IX obligations, including training to ensure that school employees are aware of their obligations under such state and local laws and the consequences for failing to satisfy those obligations.

With respect to sexual activity in particular, OCR will always view as unwelcome and nonconsensual sexual activity between an adult school employee and an elementary school student or any student below the legal age of consent in his or her state. In cases involving a student who meets the legal age of consent in his or her state, there will still be a strong presumption that sexual activity between an adult school employee and a student is unwelcome and nonconsensual. When a school is on notice that a school employee has sexually harassed a student, it is responsible for taking prompt and effective steps reasonably calculated to end the sexual harassment, eliminate the hostile environment, prevent its recurrence, and remedy its effects. Indeed, even if a school was not on notice, the school is nonetheless responsible for remedying any effects of the sexual harassment on the student, as well as for ending the sexual harassment and preventing its recurrence, when the employee engaged in the sexual activity in the context of the employee's provision of aid, benefits, or services to students (*e.g.*, teaching, counseling, supervising, advising, or transporting students).

A school should take steps to protect its students from sexual abuse by its employees. It is therefore imperative for a school to develop policies prohibiting inappropriate conduct by school personnel and procedures for identifying and responding to such conduct. For example, this could include implementing codes of conduct, which might address what is commonly known as grooming – a desensitization strategy common in adult educator sexual misconduct. Such policies and procedures can ensure that students, parents, and

school personnel have clear guidelines on what are appropriate and inappropriate interactions between adults and students in a school setting or in school-sponsored activities. Additionally, a school should provide training for administrators, teachers, staff, parents, and age-appropriate classroom information for students to ensure that everyone understands what types of conduct are prohibited and knows how to respond when problems arise.¹¹

B. Students Protected by Title IX

B-1. Does Title IX protect all students from sexual violence?

Answer: Yes. Title IX protects all students at recipient institutions from sex discrimination, including sexual violence. Any student can experience sexual violence: from elementary to professional school students; male and female students; straight, gay, lesbian, bisexual and transgender students; part-time and full-time students; students with and without disabilities; and students of different races and national origins.

B-2. How should a school handle sexual violence complaints in which the complainant and the alleged perpetrator are members of the same sex?

Answer: A school's obligation to respond appropriately to sexual violence complaints is the same irrespective of the sex or sexes of the parties involved. Title IX protects all students from sexual violence, regardless of the sex of the alleged perpetrator or complainant, including when they are members of the same sex. A school must investigate and resolve allegations of sexual violence involving parties of the same sex using the same procedures and standards that it uses in all complaints involving sexual violence.

Title IX's sex discrimination prohibition extends to claims of discrimination based on gender identity or failure to conform to stereotypical notions of masculinity or femininity and OCR accepts such complaints for investigation. Similarly, the actual or perceived sexual orientation or gender identity of the parties does not change a school's obligations. Indeed, lesbian, gay, bisexual, and transgender (LGBT) youth report high rates of sexual harassment and sexual violence. A school should investigate and resolve allegations of sexual violence regarding LGBT students using the same procedures and standards that it

¹¹ For additional informational on training please see the Department of Education's Resource and Emergency Management for Schools Technical Assistance Center – Adult Sexual Misconduct in Schools: Prevention and Management Training, available at http://rems.ed.gov/Docs/ASM_Marketing_Flyer.pdf.

uses in all complaints involving sexual violence. The fact that incidents of sexual violence may be accompanied by anti-gay comments or be partly based on a student's actual or perceived sexual orientation does not relieve a school of its obligation under Title IX to investigate and remedy those instances of sexual violence.

If a school's policies related to sexual violence include examples of particular types of conduct that violate the school's prohibition on sexual violence, the school should consider including examples of same-sex conduct. In addition, a school should ensure that staff are capable of providing culturally competent counseling to all complainants. Thus, a school should ensure that its counselors and other staff who are responsible for receiving and responding to complaints of sexual violence, including investigators and hearing board members, receive appropriate training about working with LGBT and gender-nonconforming students and same-sex sexual violence. See questions J-1 to J-4 for additional information regarding training.

Gay-straight alliances and similar student-initiated groups can also play an important role in creating safer school environments for LGBT students. On June 14, 2011, the Department issued guidance about the rights of student-initiated groups in public secondary schools under the Equal Access Act. That guidance is available at <http://www2.ed.gov/policy/elsec/guid/secletter/110607.html>.

B-3. What issues may arise with respect to students with disabilities who experience sexual violence?

Answer: When students with disabilities experience sexual violence, federal civil rights laws other than Title IX may also be relevant to a school's responsibility to investigate and address such incidents.¹² Certain students require additional assistance and support. For example, students with intellectual disabilities may need additional help in learning about sexual violence, including a school's sexual violence education and prevention programs, what constitutes sexual violence and how students can report incidents of sexual

¹² OCR enforces two civil rights laws that prohibit disability discrimination. Section 504 of the Rehabilitation Act of 1973 (Section 504) prohibits disability discrimination by public or private entities that receive federal financial assistance, and Title II of the American with Disabilities Act of 1990 (Title II) prohibits disability discrimination by all state and local public entities, regardless of whether they receive federal funding. See 29 U.S.C. § 794 and 34 C.F.R. part 104; 42 U.S.C. § 12131 *et seq.* and 28 C.F.R. part 35. OCR and the U.S. Department of Justice (DOJ) share the responsibility of enforcing Title II in the educational context. The Department of Education's Office of Special Education Programs in the Office of Special Education and Rehabilitative Services administers Part B of the Individuals with Disabilities Education Act (IDEA). 20 U.S.C. 1400 *et seq.* and 34 C.F.R. part 300. IDEA provides financial assistance to states, and through them to local educational agencies, to assist in providing special education and related services to eligible children with disabilities ages three through twenty-one, inclusive.

violence. In addition, students with disabilities who experience sexual violence may require additional services and supports, including psychological services and counseling services. Postsecondary students who need these additional services and supports can seek assistance from the institution's disability resource office.

A student who has not been previously determined to have a disability may, as a result of experiencing sexual violence, develop a mental health-related disability that could cause the student to need special education and related services. At the elementary and secondary education level, this may trigger a school's child find obligations under IDEA and the evaluation and placement requirements under Section 504, which together require a school to evaluate a student suspected of having a disability to determine if he or she has a disability that requires special education or related aids and services.¹³

A school must also ensure that any school reporting forms, information, or training about sexual violence be provided in a manner that is accessible to students and employees with disabilities, for example, by providing electronically-accessible versions of paper forms to individuals with print disabilities, or by providing a sign language interpreter to a deaf individual attending a training. See question J-4 for more detailed information on student training.

B-4. What issues arise with respect to international students and undocumented students who experience sexual violence?

Answer: Title IX protects all students at recipient institutions in the United States regardless of national origin, immigration status, or citizenship status.¹⁴ A school should ensure that all students regardless of their immigration status, including undocumented students and international students, are aware of their rights under Title IX. A school must also ensure that any school reporting forms, information, or training about sexual violence be provided in a manner accessible to students who are English language learners. OCR recommends that a school coordinate with its international office and its undocumented student program coordinator, if applicable, to help communicate information about Title IX in languages that are accessible to these groups of students. OCR also encourages schools to provide foreign national complainants with information about the U nonimmigrant status and the T nonimmigrant status. The U nonimmigrant status is set

¹³ See 34 C.F.R. §§ 300.8; 300.111; 300.201; 300.300-300.311 (IDEA); 34 C.F.R. §§ 104.3(j) and 104.35 (Section 504). Schools must comply with applicable consent requirements with respect to evaluations. See 34 C.F.R. § 300.300.

¹⁴ OCR enforces Title VI of the Civil Rights Act of 1964, which prohibits discrimination by recipients of federal financial assistance on the basis of race, color, or national origin. 42 U.S.C. § 2000d.

aside for victims of certain crimes who have suffered substantial mental or physical abuse as a result of the crime and are helpful to law enforcement agency in the investigation or prosecution of the qualifying criminal activity.¹⁵ The T nonimmigrant status is available for victims of severe forms of human trafficking who generally comply with a law enforcement agency in the investigation or prosecution of the human trafficking and who would suffer extreme hardship involving unusual and severe harm if they were removed from the United States.¹⁶

A school should be mindful that unique issues may arise when a foreign student on a student visa experiences sexual violence. For example, certain student visas require the student to maintain a full-time course load (generally at least 12 academic credit hours per term), but a student may need to take a reduced course load while recovering from the immediate effects of the sexual violence. OCR recommends that a school take steps to ensure that international students on student visas understand that they must typically seek prior approval of the designated school official (DSO) for student visas to drop below a full-time course load. A school may also want to encourage its employees involved in handling sexual violence complaints and counseling students who have experienced sexual violence to approach the DSO on the student's behalf if the student wishes to drop below a full-time course load. OCR recommends that a school take steps to ensure that its employees who work with international students, including the school's DSO, are trained on the school's sexual violence policies and that employees involved in handling sexual violence complaints and counseling students who have experienced sexual violence are aware of the special issues that international students may encounter. See questions J-1 to J-4 for additional information regarding training.

A school should also be aware that threatening students with deportation or invoking a student's immigration status in an attempt to intimidate or deter a student from filing a Title IX complaint would violate Title IX's protections against retaliation. For more information on retaliation see question K-1.

¹⁵ For more information on the U nonimmigrant status, see <http://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-criminal-activity-u-nonimmigrant-status/questions-answers-victims-criminal-activity-u-nonimmigrant-status>.

¹⁶ For more information on the T nonimmigrant status, see <http://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-human-trafficking-t-nonimmigrant-status>.

B-5. How should a school respond to sexual violence when the alleged perpetrator is not affiliated with the school?

Answer: The appropriate response will differ depending on the level of control the school has over the alleged perpetrator. For example, if an athlete or band member from a visiting school sexually assaults a student at the home school, the home school may not be able to discipline or take other direct action against the visiting athlete or band member. However (and subject to the confidentiality provisions discussed in Section E), it should conduct an inquiry into what occurred and should report the incident to the visiting school and encourage the visiting school to take appropriate action to prevent further sexual violence. The home school should also notify the student of any right to file a complaint with the alleged perpetrator's school or local law enforcement. The home school may also decide not to invite the visiting school back to its campus.

Even though a school's ability to take direct action against a particular perpetrator may be limited, the school must still take steps to provide appropriate remedies for the complainant and, where appropriate, the broader school population. This may include providing support services for the complainant, and issuing new policy statements making it clear that the school does not tolerate sexual violence and will respond to any reports about such incidents. For additional information on interim measures see questions G-1 to G-3.

C. Title IX Procedural Requirements

Overview

C-1. What procedures must a school have in place to prevent sexual violence and resolve complaints?

Answer: The Title IX regulations outline three key procedural requirements. Each school must:

- (1) disseminate a notice of nondiscrimination (see question C-2);¹⁷
- (2) designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under Title IX (see questions C-3 to C-4);¹⁸ and

¹⁷ 34 C.F.R. § 106.9.

¹⁸ *Id.* § 106.8(a).

(3) adopt and publish grievance procedures providing for the prompt and equitable resolution of student and employee sex discrimination complaints (see questions C-5 to C-6).¹⁹

These requirements apply to all forms of sex discrimination and are particularly important for preventing and effectively responding to sexual violence.

Procedural requirements under other federal laws may also apply to complaints of sexual violence, including the requirements of the Clery Act.²⁰ For additional information about the procedural requirements in the Clery Act, please see <http://www2.ed.gov/admins/lead/safety/campus.html>.

Notice of Nondiscrimination

C-2. What information must be included in a school's notice of nondiscrimination?

Answer: The notice of nondiscrimination must state that the school does not discriminate on the basis of sex in its education programs and activities, and that it is required by Title IX not to discriminate in such a manner. The notice must state that questions regarding Title IX may be referred to the school's Title IX coordinator or to OCR. The school must notify all of its students and employees of the name or title, office address, telephone number, and email address of the school's designated Title IX coordinator.²¹

Title IX Coordinator

C-3. What are a Title IX coordinator's responsibilities?

Answer: A Title IX coordinator's core responsibilities include overseeing the school's response to Title IX reports and complaints and identifying and addressing any patterns or systemic problems revealed by such reports and complaints. This means that the Title IX coordinator must have knowledge of the requirements of Title IX, of the school's own policies and procedures on sex discrimination, and of all complaints raising Title IX issues throughout the school. To accomplish this, subject to the exemption for school counseling employees discussed in question E-3, the Title IX coordinator must be informed of all

¹⁹ *Id.* § 106.8(b).

²⁰ All postsecondary institutions participating in the Higher Education Act's Title IV student financial assistance programs must comply with the Clery Act.

²¹ For more information on notices of nondiscrimination, please see OCR's Notice of Nondiscrimination (August 2010), available at <http://www.ed.gov/ocr/docs/nondisc.pdf>.

reports and complaints raising Title IX issues, even if the report or complaint was initially filed with another individual or office or if the investigation will be conducted by another individual or office. The school should ensure that the Title IX coordinator is given the training, authority, and visibility necessary to fulfill these responsibilities.

Because the Title IX coordinator must have knowledge of all Title IX reports and complaints at the school, this individual (when properly trained) is generally in the best position to evaluate a student's request for confidentiality in the context of the school's responsibility to provide a safe and nondiscriminatory environment for all students. A school may determine, however, that another individual should perform this role. For additional information on confidentiality requests, see questions E-1 to E-4. If a school relies in part on its disciplinary procedures to meet its Title IX obligations, the Title IX coordinator should review the disciplinary procedures to ensure that the procedures comply with the prompt and equitable requirements of Title IX as discussed in question C-5.

In addition to these core responsibilities, a school may decide to give its Title IX coordinator additional responsibilities, such as: providing training to students, faculty, and staff on Title IX issues; conducting Title IX investigations, including investigating facts relevant to a complaint, and determining appropriate sanctions against the perpetrator and remedies for the complainant; determining appropriate interim measures for a complainant upon learning of a report or complaint of sexual violence; and ensuring that appropriate policies and procedures are in place for working with local law enforcement and coordinating services with local victim advocacy organizations and service providers, including rape crisis centers. A school must ensure that its Title IX coordinator is appropriately trained in all areas over which he or she has responsibility. The Title IX coordinator or designee should also be available to meet with students as needed.

If a school designates more than one Title IX coordinator, the school's notice of nondiscrimination and Title IX grievance procedures should describe each coordinator's responsibilities, and one coordinator should be designated as having ultimate oversight responsibility.

C-4. Are there any employees who should not serve as the Title IX coordinator?

Answer: Title IX does not categorically preclude particular employees from serving as Title IX coordinators. However, Title IX coordinators should not have other job responsibilities that may create a conflict of interest. Because some complaints may raise issues as to whether or how well the school has met its Title IX obligations, designating

the same employee to serve both as the Title IX coordinator and the general counsel (which could include representing the school in legal claims alleging Title IX violations) poses a serious risk of a conflict of interest. Other employees whose job responsibilities may conflict with a Title IX coordinator's responsibilities include Directors of Athletics, Deans of Students, and any employee who serves on the judicial/hearing board or to whom an appeal might be made. Designating a full-time Title IX coordinator will minimize the risk of a conflict of interest.

Grievance Procedures

C-5. Under Title IX, what elements should be included in a school's procedures for responding to complaints of sexual violence?

Answer: Title IX requires that a school adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee complaints of sex discrimination, including sexual violence. In evaluating whether a school's grievance procedures satisfy this requirement, OCR will review all aspects of a school's policies and practices, including the following elements that are critical to achieve compliance with Title IX:

- (1) notice to students, parents of elementary and secondary students, and employees of the grievance procedures, including where complaints may be filed;
- (2) application of the grievance procedures to complaints filed by students or on their behalf alleging sexual violence carried out by employees, other students, or third parties;
- (3) provisions for adequate, reliable, and impartial investigation of complaints, including the opportunity for both the complainant and alleged perpetrator to present witnesses and evidence;
- (4) designated and reasonably prompt time frames for the major stages of the complaint process (see question F-8);
- (5) written notice to the complainant and alleged perpetrator of the outcome of the complaint (see question H-3); and
- (6) assurance that the school will take steps to prevent recurrence of any sexual violence and remedy discriminatory effects on the complainant and others, if appropriate.

To ensure that students and employees have a clear understanding of what constitutes sexual violence, the potential consequences for such conduct, and how the school processes complaints, a school's Title IX grievance procedures should also explicitly include the following in writing, some of which themselves are mandatory obligations under Title IX:

- (1) a statement of the school's jurisdiction over Title IX complaints;
- (2) adequate definitions of sexual harassment (which includes sexual violence) and an explanation as to when such conduct creates a hostile environment;
- (3) reporting policies and protocols, including provisions for confidential reporting;
- (4) identification of the employee or employees responsible for evaluating requests for confidentiality;
- (5) notice that Title IX prohibits retaliation;
- (6) notice of a student's right to file a criminal complaint and a Title IX complaint simultaneously;
- (7) notice of available interim measures that may be taken to protect the student in the educational setting;
- (8) the evidentiary standard that must be used (preponderance of the evidence) (*i.e.*, more likely than not that sexual violence occurred) in resolving a complaint;
- (9) notice of potential remedies for students;
- (10) notice of potential sanctions against perpetrators; and
- (11) sources of counseling, advocacy, and support.

For more information on interim measures, see questions G-1 to G-3.

The rights established under Title IX must be interpreted consistently with any federally guaranteed due process rights. Procedures that ensure the Title IX rights of the complainant, while at the same time according any federally guaranteed due process to both parties involved, will lead to sound and supportable decisions. Of course, a school should ensure that steps to accord any due process rights do not restrict or unnecessarily delay the protections provided by Title IX to the complainant.

A school's procedures and practices will vary in detail, specificity, and components, reflecting differences in the age of its students, school size and administrative structure, state or local legal requirements (e.g., mandatory reporting requirements for schools working with minors), and what it has learned from past experiences.

C-6. Is a school required to use separate grievance procedures for sexual violence complaints?

Answer: No. Under Title IX, a school may use student disciplinary procedures, general Title IX grievance procedures, sexual harassment procedures, or separate procedures to resolve sexual violence complaints. However, any procedures used for sexual violence complaints, including disciplinary procedures, must meet the Title IX requirement of affording a complainant a prompt and equitable resolution (as discussed in question C-5), including applying the preponderance of the evidence standard of review. As discussed in question C-3, the Title IX coordinator should review any process used to resolve complaints of sexual violence to ensure it complies with requirements for prompt and equitable resolution of these complaints. When using disciplinary procedures, which are often focused on the alleged perpetrator and can take considerable time, a school should be mindful of its obligation to provide interim measures to protect the complainant in the educational setting. For more information on timeframes and interim measures, see questions F-8 and G-1 to G-3.

D. Responsible Employees and Reporting²²

D-1. Which school employees are obligated to report incidents of possible sexual violence to school officials?

Answer: Under Title IX, whether an individual is obligated to report incidents of alleged sexual violence generally depends on whether the individual is a responsible employee of the school. A responsible employee must report incidents of sexual violence to the Title IX coordinator or other appropriate school designee, subject to the exemption for school counseling employees discussed in question E-3. This is because, as discussed in question A-4, a school is obligated to address sexual violence about which a responsible employee knew or should have known. As explained in question C-3, the Title IX coordinator must be informed of all reports and complaints raising Title IX issues, even if the report or

²² This document addresses only Title IX's reporting requirements. It does not address requirements under the Clery Act or other federal, state, or local laws, or an individual school's code of conduct.

complaint was initially filed with another individual or office, subject to the exemption for school counseling employees discussed in question E-3.

D-2. Who is a “responsible employee”?

Answer: According to OCR’s 2001 *Guidance*, a responsible employee includes any employee: who has the authority to take action to redress sexual violence; who has been given the duty of reporting incidents of sexual violence or any other misconduct by students to the Title IX coordinator or other appropriate school designee; or whom a student could reasonably believe has this authority or duty.²³

A school must make clear to all of its employees and students which staff members are responsible employees so that students can make informed decisions about whether to disclose information to those employees. A school must also inform all employees of their own reporting responsibilities and the importance of informing complainants of: the reporting obligations of responsible employees; complainants’ option to request confidentiality and available confidential advocacy, counseling, or other support services; and complainants’ right to file a Title IX complaint with the school and to report a crime to campus or local law enforcement.

Whether an employee is a responsible employee will vary depending on factors such as the age and education level of the student, the type of position held by the employee, and consideration of both formal and informal school practices and procedures. For example, while it may be reasonable for an elementary school student to believe that a custodial staff member or cafeteria worker has the authority or responsibility to address student misconduct, it is less reasonable for a college student to believe that a custodial staff member or dining hall employee has this same authority.

As noted in response to question A-4, when a responsible employee knows or reasonably should know of possible sexual violence, OCR deems a school to have notice of the sexual violence. The school must take immediate and appropriate steps to investigate or otherwise determine what occurred (subject to the confidentiality provisions discussed in Section E), and, if the school determines that sexual violence created a hostile environment, the school must then take appropriate steps to address the situation. The

²³ The Supreme Court held that a school will only be liable for money damages in a private lawsuit where there is actual notice to a school official with the authority to address the alleged discrimination and take corrective action. *Gebser v. Lago Vista Ind. Sch. Dist.*, 524 U.S. 274, 290 (1998), and *Davis*, 524 U.S. at 642. The concept of a “responsible employee” under OCR’s guidance for administrative enforcement of Title IX is broader.

school has this obligation regardless of whether the student, student's parent, or a third party files a formal complaint. For additional information on a school's responsibilities to address student-on-student sexual violence, see question A-5. For additional information on training for school employees, see questions J-1 to J-3.

D-3. What information is a responsible employee obligated to report about an incident of possible student-on-student sexual violence?

Answer: Subject to the exemption for school counseling employees discussed in question E-3, a responsible employee must report to the school's Title IX coordinator, or other appropriate school designee, all relevant details about the alleged sexual violence that the student or another person has shared and that the school will need to determine what occurred and to resolve the situation. This includes the names of the alleged perpetrator (if known), the student who experienced the alleged sexual violence, other students involved in the alleged sexual violence, as well as relevant facts, including the date, time, and location. A school must make clear to its responsible employees to whom they should report an incident of alleged sexual violence.

To ensure compliance with these reporting obligations, it is important for a school to train its responsible employees on Title IX and the school's sexual violence policies and procedures. For more information on appropriate training for school employees, see question J-1 to J-3.

D-4. What should a responsible employee tell a student who discloses an incident of sexual violence?

Answer: Before a student reveals information that he or she may wish to keep confidential, a responsible employee should make every effort to ensure that the student understands: (i) the employee's obligation to report the names of the alleged perpetrator and student involved in the alleged sexual violence, as well as relevant facts regarding the alleged incident (including the date, time, and location), to the Title IX coordinator or other appropriate school officials, (ii) the student's option to request that the school maintain his or her confidentiality, which the school (*e.g.*, Title IX coordinator) will consider, and (iii) the student's ability to share the information confidentially with counseling, advocacy, health, mental health, or sexual-assault-related services (*e.g.*, sexual assault resource centers, campus health centers, pastoral counselors, and campus mental health centers). As discussed in questions E-1 and E-2, if the student requests confidentiality, the Title IX coordinator or other appropriate school designee responsible for evaluating requests for confidentiality should make every effort to respect this request

and should evaluate the request in the context of the school's responsibility to provide a safe and nondiscriminatory environment for all students.

D-5. If a student informs a resident assistant/advisor (RA) that he or she was subjected to sexual violence by a fellow student, is the RA obligated under Title IX to report the incident to school officials?

Answer: As discussed in questions D-1 and D-2, for Title IX purposes, whether an individual is obligated under Title IX to report alleged sexual violence to the school's Title IX coordinator or other appropriate school designee generally depends on whether the individual is a responsible employee.

The duties and responsibilities of RAs vary among schools, and, therefore, a school should consider its own policies and procedures to determine whether its RAs are responsible employees who must report incidents of sexual violence to the Title IX coordinator or other appropriate school designee.²⁴ When making this determination, a school should consider if its RAs have the general authority to take action to redress misconduct or the duty to report misconduct to appropriate school officials, as well as whether students could reasonably believe that RAs have this authority or duty. A school should also consider whether it has determined and clearly informed students that RAs are generally available for confidential discussions and do not have the authority or responsibility to take action to redress any misconduct or to report any misconduct to the Title IX coordinator or other appropriate school officials. A school should pay particular attention to its RAs' obligations to report other student violations of school policy (*e.g.*, drug and alcohol violations or physical assault). If an RA is required to report other misconduct that violates school policy, then the RA would be considered a responsible employee obligated to report incidents of sexual violence that violate school policy.

If an RA is a responsible employee, the RA should make every effort to ensure that *before* the student reveals information that he or she may wish to keep confidential, the student understands the RA's reporting obligation and the student's option to request that the school maintain confidentiality. It is therefore important that schools widely disseminate policies and provide regular training clearly identifying the places where students can seek confidential support services so that students are aware of this information. The RA

²⁴ Postsecondary institutions should be aware that, regardless of whether an RA is a responsible employee under Title IX, RAs are considered "campus security authorities" under the Clery Act. A school's responsibilities in regard to crimes reported to campus security authorities are discussed in the Department's regulations on the Clery Act at 34 C.F.R. § 668.46.

should also explain to the student (again, before the student reveals information that he or she may wish to keep confidential) that, although the RA must report the names of the alleged perpetrator (if known), the student who experienced the alleged sexual violence, other students involved in the alleged sexual violence, as well as relevant facts, including the date, time, and location to the Title IX coordinator or other appropriate school designee, the school will protect the student's confidentiality to the greatest extent possible. Prior to providing information about the incident to the Title IX coordinator or other appropriate school designee, the RA should consult with the student about how to protect his or her safety and the details of what will be shared with the Title IX coordinator. The RA should explain to the student that reporting this information to the Title IX coordinator or other appropriate school designee does not necessarily mean that a formal complaint or investigation under the school's Title IX grievance procedure must be initiated if the student requests confidentiality. As discussed in questions E-1 and E-2, if the student requests confidentiality, the Title IX coordinator or other appropriate school designee responsible for evaluating requests for confidentiality should make every effort to respect this request and should evaluate the request in the context of the school's responsibility to provide a safe and nondiscriminatory environment for all students.

Regardless of whether a reporting obligation exists, all RAs should inform students of their right to file a Title IX complaint with the school and report a crime to campus or local law enforcement. If a student discloses sexual violence to an RA who is a responsible employee, the school will be deemed to have notice of the sexual violence even if the student does not file a Title IX complaint. Additionally, all RAs should provide students with information regarding on-campus resources, including victim advocacy, housing assistance, academic support, counseling, disability services, health and mental health services, and legal assistance. RAs should also be familiar with local rape crisis centers or other off-campus resources and provide this information to students.

E. Confidentiality and a School's Obligation to Respond to Sexual Violence

E-1. How should a school respond to a student's request that his or her name not be disclosed to the alleged perpetrator or that no investigation or disciplinary action be pursued to address the alleged sexual violence?

Answer: Students, or parents of minor students, reporting incidents of sexual violence sometimes ask that the students' names not be disclosed to the alleged perpetrators or that no investigation or disciplinary action be pursued to address the alleged sexual violence. OCR strongly supports a student's interest in confidentiality in cases involving sexual violence. There are situations in which a school must override a student's request

for confidentiality in order to meet its Title IX obligations; however, these instances will be limited and the information should only be shared with individuals who are responsible for handling the school's response to incidents of sexual violence. Given the sensitive nature of reports of sexual violence, a school should ensure that the information is maintained in a secure manner. A school should be aware that disregarding requests for confidentiality can have a chilling effect and discourage other students from reporting sexual violence. In the case of minors, state mandatory reporting laws may require disclosure, but can generally be followed without disclosing information to school personnel who are not responsible for handling the school's response to incidents of sexual violence.²⁵

Even if a student does not specifically ask for confidentiality, to the extent possible, a school should only disclose information regarding alleged incidents of sexual violence to individuals who are responsible for handling the school's response. To improve trust in the process for investigating sexual violence complaints, a school should notify students of the information that will be disclosed, to whom it will be disclosed, and why. Regardless of whether a student complainant requests confidentiality, a school must take steps to protect the complainant as necessary, including taking interim measures before the final outcome of an investigation. For additional information on interim measures see questions G-1 to G-3.

For Title IX purposes, if a student requests that his or her name not be revealed to the alleged perpetrator or asks that the school not investigate or seek action against the alleged perpetrator, the school should inform the student that honoring the request may limit its ability to respond fully to the incident, including pursuing disciplinary action against the alleged perpetrator. The school should also explain that Title IX includes protections against retaliation, and that school officials will not only take steps to prevent retaliation but also take strong responsive action if it occurs. This includes retaliatory actions taken by the school and school officials. When a school knows or reasonably should know of possible retaliation by other students or third parties, including threats, intimidation, coercion, or discrimination (including harassment), it must take immediate

²⁵ The school should be aware of the alleged student perpetrator's right under the Family Educational Rights and Privacy Act ("FERPA") to request to inspect and review information about the allegations if the information directly relates to the alleged student perpetrator and the information is maintained by the school as an education record. In such a case, the school must either redact the complainant's name and all identifying information before allowing the alleged perpetrator to inspect and review the sections of the complaint that relate to him or her, or must inform the alleged perpetrator of the specific information in the complaint that are about the alleged perpetrator. See 34 C.F.R. § 99.12(a) The school should also make complainants aware of this right and explain how it might affect the school's ability to maintain complete confidentiality.

and appropriate steps to investigate or otherwise determine what occurred. Title IX requires the school to protect the complainant and ensure his or her safety as necessary. See question K-1 regarding retaliation.

If the student still requests that his or her name not be disclosed to the alleged perpetrator or that the school not investigate or seek action against the alleged perpetrator, the school will need to determine whether or not it can honor such a request while still providing a safe and nondiscriminatory environment for all students, including the student who reported the sexual violence. As discussed in question C-3, the Title IX coordinator is generally in the best position to evaluate confidentiality requests. Because schools vary widely in size and administrative structure, OCR recognizes that a school may reasonably determine that an employee other than the Title IX coordinator, such as a sexual assault response coordinator, dean, or other school official, is better suited to evaluate such requests. Addressing the needs of a student reporting sexual violence while determining an appropriate institutional response requires expertise and attention, and a school should ensure that it assigns these responsibilities to employees with the capability and training to fulfill them. For example, if a school has a sexual assault response coordinator, that person should be consulted in evaluating requests for confidentiality. The school should identify in its Title IX policies and procedures the employee or employees responsible for making such determinations.

If the school determines that it can respect the student's request not to disclose his or her identity to the alleged perpetrator, it should take all reasonable steps to respond to the complaint consistent with the request. Although a student's request to have his or her name withheld may limit the school's ability to respond fully to an individual allegation of sexual violence, other means may be available to address the sexual violence. There are steps a school can take to limit the effects of the alleged sexual violence and prevent its recurrence without initiating formal action against the alleged perpetrator or revealing the identity of the student complainant. Examples include providing increased monitoring, supervision, or security at locations or activities where the misconduct occurred; providing training and education materials for students and employees; changing and publicizing the school's policies on sexual violence; and conducting climate surveys regarding sexual violence. In instances affecting many students, an alleged perpetrator can be put on notice of allegations of harassing behavior and be counseled appropriately without revealing, even indirectly, the identity of the student complainant. A school must also take immediate action as necessary to protect the student while keeping the identity of the student confidential. These actions may include providing support services to the student and changing living arrangements or course schedules, assignments, or tests.

E-2. What factors should a school consider in weighing a student's request for confidentiality?

Answer: When weighing a student's request for confidentiality that could preclude a meaningful investigation or potential discipline of the alleged perpetrator, a school should consider a range of factors.

These factors include circumstances that suggest there is an increased risk of the alleged perpetrator committing additional acts of sexual violence or other violence (e.g., whether there have been other sexual violence complaints about the same alleged perpetrator, whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of violence, whether the alleged perpetrator threatened further sexual violence or other violence against the student or others, and whether the sexual violence was committed by multiple perpetrators). These factors also include circumstances that suggest there is an increased risk of future acts of sexual violence under similar circumstances (e.g., whether the student's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group). Other factors that should be considered in assessing a student's request for confidentiality include whether the sexual violence was perpetrated with a weapon; the age of the student subjected to the sexual violence; and whether the school possesses other means to obtain relevant evidence (e.g., security cameras or personnel, physical evidence).

A school should take requests for confidentiality seriously, while at the same time considering its responsibility to provide a safe and nondiscriminatory environment for all students, including the student who reported the sexual violence. For example, if the school has credible information that the alleged perpetrator has committed one or more prior rapes, the balance of factors would compel the school to investigate the allegation of sexual violence, and if appropriate, pursue disciplinary action in a manner that may require disclosure of the student's identity to the alleged perpetrator. If the school determines that it must disclose a student's identity to an alleged perpetrator, it should inform the student prior to making this disclosure. In these cases, it is also especially important for schools to take whatever interim measures are necessary to protect the student and ensure the safety of other students. If a school has a sexual assault response coordinator, that person should be consulted in identifying safety risks and interim measures that are necessary to protect the student. In the event the student requests that the school inform the perpetrator that the student asked the school not to investigate or seek discipline, the school should honor this request and inform the alleged perpetrator that the school made the decision to go forward. For additional information on interim measures see questions G-1 to G-3. Any school officials responsible for

discussing safety and confidentiality with students should be trained on the effects of trauma and the appropriate methods to communicate with students subjected to sexual violence. See questions J-1 to J-3.

On the other hand, if, for example, the school has no credible information about prior sexual violence committed by the alleged perpetrator and the alleged sexual violence was not perpetrated with a weapon or accompanied by threats to repeat the sexual violence against the complainant or others or part of a larger pattern at a given location or by a particular group, the balance of factors would likely compel the school to respect the student's request for confidentiality. In this case the school should still take all reasonable steps to respond to the complaint consistent with the student's confidentiality request and determine whether interim measures are appropriate or necessary. Schools should be mindful that traumatic events such as sexual violence can result in delayed decisionmaking by a student who has experienced sexual violence. Hence, a student who initially requests confidentiality might later request that a full investigation be conducted.

E-3. What are the reporting responsibilities of school employees who provide or support the provision of counseling, advocacy, health, mental health, or sexual assault-related services to students who have experienced sexual violence?

Answer: OCR does not require campus mental-health counselors, pastoral counselors, social workers, psychologists, health center employees, or any other person with a professional license requiring confidentiality, or who is supervised by such a person, to report, without the student's consent, incidents of sexual violence to the school in a way that identifies the student. Although these employees may have responsibilities that would otherwise make them responsible employees for Title IX purposes, OCR recognizes the importance of protecting the counselor-client relationship, which often requires confidentiality to ensure that students will seek the help they need.

Professional counselors and pastoral counselors whose official responsibilities include providing mental-health counseling to members of the school community are not required by Title IX to report *any* information regarding an incident of alleged sexual violence to the Title IX coordinator or other appropriate school designee.²⁶

²⁶ The exemption from reporting obligations for pastoral and professional counselors under Title IX is consistent with the Clery Act. For additional information on reporting obligations under the Clery Act, see Office of Postsecondary Education, *Handbook for Campus Safety and Security Reporting* (2011), available at <http://www2.ed.gov/admins/lead/safety/handbook.pdf>. Similar to the Clery Act, for Title IX purposes, a pastoral counselor is a person who is associated with a religious order or denomination, is recognized by that religious

OCR recognizes that some people who provide assistance to students who experience sexual violence are not professional or pastoral counselors. They include all individuals who work or volunteer in on-campus sexual assault centers, victim advocacy offices, women's centers, or health centers ("non-professional counselors or advocates"), including front desk staff and students. OCR wants students to feel free to seek their assistance and therefore interprets Title IX to give schools the latitude not to require these individuals to report incidents of sexual violence in a way that identifies the student without the student's consent.²⁷ These non-professional counselors or advocates are valuable sources of support for students, and OCR strongly encourages schools to designate these individuals as confidential sources.

Pastoral and professional counselors and non-professional counselors or advocates should be instructed to inform students of their right to file a Title IX complaint with the school and a separate complaint with campus or local law enforcement. In addition to informing students about campus resources for counseling, medical, and academic support, these persons should also indicate that they are available to assist students in filing such complaints. They should also explain that Title IX includes protections against retaliation, and that school officials will not only take steps to prevent retaliation but also take strong responsive action if it occurs. This includes retaliatory actions taken by the school and school officials. When a school knows or reasonably should know of possible retaliation by other students or third parties, including threats, intimidation, coercion, or discrimination (including harassment), it must take immediate and appropriate steps to investigate or otherwise determine what occurred. Title IX requires the school to protect the complainant and ensure his or her safety as necessary.

In order to identify patterns or systemic problems related to sexual violence, a school should collect aggregate data about sexual violence incidents from non-professional counselors or advocates in their on-campus sexual assault centers, women's centers, or

order or denomination as someone who provides confidential counseling, and is functioning within the scope of that recognition as a pastoral counselor. A professional counselor is a person whose official responsibilities include providing mental health counseling to members of the institution's community and who is functioning within the scope of his or her license or certification. This definition applies even to professional counselors who are not employees of the school, but are under contract to provide counseling at the school. This includes individuals who are not yet licensed or certified as a counselor, but are acting in that role under the supervision of an individual who is licensed or certified. An example is a Ph.D. counselor-trainee acting under the supervision of a professional counselor at the school.

²⁷ Postsecondary institutions should be aware that an individual who is counseling students, but who does not meet the Clery Act definition of a pastoral or professional counselor, is not exempt from being a campus security authority if he or she otherwise has significant responsibility for student and campus activities. See fn. 24.

health centers. Such individuals should report only general information about incidents of sexual violence such as the nature, date, time, and general location of the incident and should take care to avoid reporting personally identifiable information about a student. Non-professional counselors and advocates should consult with students regarding what information needs to be withheld to protect their identity.

E-4. Is a school required to investigate information regarding sexual violence incidents shared by survivors during public awareness events, such as “Take Back the Night”?

Answer: No. OCR wants students to feel free to participate in preventive education programs and access resources for survivors. Therefore, public awareness events such as “Take Back the Night” or other forums at which students disclose experiences with sexual violence are not considered notice to the school for the purpose of triggering an individual investigation unless the survivor initiates a complaint. The school should instead respond to these disclosures by reviewing sexual assault policies, creating campus-wide educational programs, and conducting climate surveys to learn more about the prevalence of sexual violence at the school. Although Title IX does not require the school to investigate particular incidents discussed at such events, the school should ensure that survivors are aware of any available resources, including counseling, health, and mental health services. To ensure that the entire school community understands their Title IX rights related to sexual violence, the school should also provide information at these events on Title IX and how to file a Title IX complaint with the school, as well as options for reporting an incident of sexual violence to campus or local law enforcement.

F. Investigations and Hearings

Overview

F-1. What elements should a school’s Title IX investigation include?

Answer: The specific steps in a school’s Title IX investigation will vary depending on the nature of the allegation, the age of the student or students involved, the size and administrative structure of the school, state or local legal requirements (including mandatory reporting requirements for schools working with minors), and what it has learned from past experiences.

For the purposes of this document the term “investigation” refers to the process the school uses to resolve sexual violence complaints. This includes the fact-finding investigation and any hearing and decision-making process the school uses to determine: (1) whether or not the conduct occurred; and, (2) if the conduct occurred, what actions

the school will take to end the sexual violence, eliminate the hostile environment, and prevent its recurrence, which may include imposing sanctions on the perpetrator and providing remedies for the complainant and broader student population.

In all cases, a school's Title IX investigation must be adequate, reliable, impartial, and prompt and include the opportunity for both parties to present witnesses and other evidence. The investigation may include a hearing to determine whether the conduct occurred, but Title IX does not necessarily require a hearing.²⁸ Furthermore, neither Title IX nor the DCL specifies who should conduct the investigation. It could be the Title IX coordinator, provided there are no conflicts of interest, but it does not have to be. All persons involved in conducting a school's Title IX investigations must have training or experience in handling complaints of sexual violence and in the school's grievance procedures. For additional information on training, see question J-3.

When investigating an incident of alleged sexual violence for Title IX purposes, to the extent possible, a school should coordinate with any other ongoing school or criminal investigations of the incident and establish appropriate fact-finding roles for each investigator. A school should also consider whether information can be shared among the investigators so that complainants are not unnecessarily required to give multiple statements about a traumatic event. If the investigation includes forensic evidence, it may be helpful for a school to consult with local or campus law enforcement or a forensic expert to ensure that the evidence is correctly interpreted by school officials. For additional information on working with campus or local law enforcement see question F-3.

If a school uses its student disciplinary procedures to meet its Title IX obligation to resolve complaints of sexual violence promptly and equitably, it should recognize that imposing sanctions against the perpetrator, without additional remedies, likely will not be sufficient to eliminate the hostile environment and prevent recurrence as required by Title IX. If a school typically processes complaints of sexual violence through its disciplinary process and that process, including any investigation and hearing, meets the Title IX requirements discussed above and enables the school to end the sexual violence, eliminate the hostile environment, and prevent its recurrence, then the school may use that process to satisfy its Title IX obligations and does not need to conduct a separate Title IX investigation. As discussed in question C-3, the Title IX coordinator should review the disciplinary process

²⁸ This answer addresses only Title IX's requirements for investigations. It does not address legal rights or requirements under the U.S. Constitution, the Clery Act, or other federal, state, or local laws.

to ensure that it: (1) complies with the prompt and equitable requirements of Title IX; (2) allows for appropriate interim measures to be taken to protect the complainant during the process; and (3) provides for remedies to the complainant and school community where appropriate. For more information about interim measures, see questions G-1 to G-3, and about remedies, see questions H-1 and H-2.

The investigation may include, but is not limited to, conducting interviews of the complainant, the alleged perpetrator, and any witnesses; reviewing law enforcement investigation documents, if applicable; reviewing student and personnel files; and gathering and examining other relevant documents or evidence. While a school has flexibility in how it structures the investigative process, for Title IX purposes, a school must give the complainant any rights that it gives to the alleged perpetrator. A balanced and fair process that provides the same opportunities to both parties will lead to sound and supportable decisions.²⁹ Specifically:

- Throughout the investigation, the parties must have an equal opportunity to present relevant witnesses and other evidence.
- The school must use a preponderance-of-the-evidence (*i.e.*, more likely than not) standard in any Title IX proceedings, including any fact-finding and hearings.
- If the school permits one party to have lawyers or other advisors at any stage of the proceedings, it must do so equally for both parties. Any school-imposed restrictions on the ability of lawyers or other advisors to speak or otherwise participate in the proceedings must also apply equally.
- If the school permits one party to submit third-party expert testimony, it must do so equally for both parties.
- If the school provides for an appeal, it must do so equally for both parties.
- Both parties must be notified, in writing, of the outcome of both the complaint and any appeal (see question H-3).

²⁹ As explained in question C-5, the parties may have certain due process rights under the U.S. Constitution.

Intersection with Criminal Investigations

F-2. What are the key differences between a school's Title IX investigation into allegations of sexual violence and a criminal investigation?

Answer: A criminal investigation is intended to determine whether an individual violated criminal law; and, if at the conclusion of the investigation, the individual is tried and found guilty, the individual may be imprisoned or subject to criminal penalties. The U.S. Constitution affords criminal defendants who face the risk of incarceration numerous protections, including, but not limited to, the right to counsel, the right to a speedy trial, the right to a jury trial, the right against self-incrimination, and the right to confrontation. In addition, government officials responsible for criminal investigations (including police and prosecutors) normally have discretion as to which complaints from the public they will investigate.

By contrast, a Title IX investigation will never result in incarceration of an individual and, therefore, the same procedural protections and legal standards are not required. Further, while a criminal investigation is initiated at the discretion of law enforcement authorities, a Title IX investigation is not discretionary; a school has a duty under Title IX to resolve complaints promptly and equitably and to provide a safe and nondiscriminatory environment for all students, free from sexual harassment and sexual violence. Because the standards for pursuing and completing criminal investigations are different from those used for Title IX investigations, the termination of a criminal investigation without an arrest or conviction does not affect the school's Title IX obligations.

Of course, criminal investigations conducted by local or campus law enforcement may be useful for fact gathering if the criminal investigation occurs within the recommended timeframe for Title IX investigations; but, even if a criminal investigation is ongoing, a school must still conduct its own Title IX investigation.

A school should notify complainants of the right to file a criminal complaint and should not dissuade a complainant from doing so either during or after the school's internal Title IX investigation. Title IX does not require a school to report alleged incidents of sexual violence to law enforcement, but a school may have reporting obligations under state, local, or other federal laws.

07/25/2016

F-3. How should a school proceed when campus or local law enforcement agencies are conducting a criminal investigation while the school is conducting a parallel Title IX investigation?

Answer: A school should not wait for the conclusion of a criminal investigation or criminal proceeding to begin its own Title IX investigation. Although a school may need to delay temporarily the fact-finding portion of a Title IX investigation while the police are gathering evidence, it is important for a school to understand that during this brief delay in the Title IX investigation, it must take interim measures to protect the complainant in the educational setting. The school should also continue to update the parties on the status of the investigation and inform the parties when the school resumes its Title IX investigation. For additional information on interim measures see questions G-1 to G-3.

If a school delays the fact-finding portion of a Title IX investigation, the school must promptly resume and complete its fact-finding for the Title IX investigation once it learns that the police department has completed its evidence gathering stage of the criminal investigation. The school should not delay its investigation until the ultimate outcome of the criminal investigation or the filing of any charges. OCR recommends that a school work with its campus police, local law enforcement, and local prosecutor's office to learn when the evidence gathering stage of the criminal investigation is complete. A school may also want to enter into a memorandum of understanding (MOU) or other agreement with these agencies regarding the protocols and procedures for referring allegations of sexual violence, sharing information, and conducting contemporaneous investigations. Any MOU or other agreement must allow the school to meet its Title IX obligation to resolve complaints promptly and equitably, and must comply with the Family Educational Rights and Privacy Act ("FERPA") and other applicable privacy laws.

The DCL states that in one instance a prosecutor's office informed OCR that the police department's evidence gathering stage typically takes three to ten calendar days, although the delay in the school's investigation may be longer in certain instances. OCR understands that this example may not be representative and that the law enforcement agency's process often takes more than ten days. OCR recognizes that the length of time for evidence gathering by criminal investigators will vary depending on the specific circumstances of each case.

Off-Campus Conduct

F-4. Is a school required to process complaints of alleged sexual violence that occurred off campus?

Answer: Yes. Under Title IX, a school must process all complaints of sexual violence, regardless of where the conduct occurred, to determine whether the conduct occurred in the context of an education program or activity or had continuing effects on campus or in an off-campus education program or activity.

A school must determine whether the alleged off-campus sexual violence occurred in the context of an education program or activity of the school; if so, the school must treat the complaint in the same manner that it treats complaints regarding on-campus conduct. In other words, if a school determines that the alleged misconduct took place in the context of an education program or activity of the school, the fact that the alleged misconduct took place off campus does not relieve the school of its obligation to investigate the complaint as it would investigate a complaint of sexual violence that occurred on campus.

Whether the alleged misconduct occurred in this context may not always be apparent from the complaint, so a school may need to gather additional information in order to make such a determination. Off-campus education programs and activities are clearly covered and include, but are not limited to: activities that take place at houses of fraternities or sororities recognized by the school; school-sponsored field trips, including athletic team travel; and events for school clubs that occur off campus (*e.g.*, a debate team trip to another school or to a weekend competition).

Even if the misconduct did not occur in the context of an education program or activity, a school must consider the effects of the off-campus misconduct when evaluating whether there is a hostile environment on campus or in an off-campus education program or activity because students often experience the continuing effects of off-campus sexual violence while at school or in an off-campus education program or activity. The school cannot address the continuing effects of the off-campus sexual violence at school or in an off-campus education program or activity unless it processes the complaint and gathers appropriate additional information in accordance with its established procedures.

Once a school is on notice of off-campus sexual violence against a student, it must assess whether there are any continuing effects on campus or in an off-campus education program or activity that are creating or contributing to a hostile environment and, if so, address that hostile environment in the same manner in which it would address a hostile environment created by on-campus misconduct. The mere presence on campus or in an

off-campus education program or activity of the alleged perpetrator of off-campus sexual violence can have continuing effects that create a hostile environment. A school should also take steps to protect a student who alleges off-campus sexual violence from further harassment by the alleged perpetrator or his or her friends, and a school may have to take steps to protect other students from possible assault by the alleged perpetrator. In other words, the school should protect the school community in the same way it would had the sexual violence occurred on campus. Even if there are no continuing effects of the off-campus sexual violence experienced by the student on campus or in an off-campus education program or activity, the school still should handle these incidents as it would handle other off-campus incidents of misconduct or violence and consistent with any other applicable laws. For example, if a school, under its code of conduct, exercises jurisdiction over physical altercations between students that occur off campus outside of an education program or activity, it should also exercise jurisdiction over incidents of student-on-student sexual violence that occur off campus outside of an education program or activity.

Hearings³⁰

F-5. Must a school allow or require the parties to be present during an entire hearing?

Answer: If a school uses a hearing process to determine responsibility for acts of sexual violence, OCR does not require that the school allow a complainant to be present for the entire hearing; it is up to each school to make this determination. But if the school allows one party to be present for the entirety of a hearing, it must do so equally for both parties. At the same time, when requested, a school should make arrangements so that the complainant and the alleged perpetrator do not have to be present in the same room at the same time. These two objectives may be achieved by using closed circuit television or other means. Because a school has a Title IX obligation to investigate possible sexual violence, if a hearing is part of the school's Title IX investigation process, the school must not require a complainant to be present at the hearing as a prerequisite to proceed with the hearing.

³⁰ As noted in question F-1, the investigation may include a hearing to determine whether the conduct occurred, but Title IX does not necessarily require a hearing. Although Title IX does not dictate the membership of a hearing board, OCR discourages schools from allowing students to serve on hearing boards in cases involving allegations of sexual violence.

F-6. May every witness at the hearing, including the parties, be cross-examined?

Answer: OCR does not require that a school allow cross-examination of witnesses, including the parties, if they testify at the hearing. But if the school allows one party to cross-examine witnesses, it must do so equally for both parties.

OCR strongly discourages a school from allowing the parties to personally question or cross-examine each other during a hearing on alleged sexual violence. Allowing an alleged perpetrator to question a complainant directly may be traumatic or intimidating, and may perpetuate a hostile environment. A school may choose, instead, to allow the parties to submit questions to a trained third party (e.g., the hearing panel) to ask the questions on their behalf. OCR recommends that the third party screen the questions submitted by the parties and only ask those it deems appropriate and relevant to the case.

F-7. May the complainant's sexual history be introduced at hearings?

Answer: Questioning about the complainant's sexual history with anyone other than the alleged perpetrator should not be permitted. Further, a school should recognize that the mere fact of a current or previous consensual dating or sexual relationship between the two parties does not itself imply consent or preclude a finding of sexual violence. The school should also ensure that hearings are conducted in a manner that does not inflict additional trauma on the complainant.

Timeframes

F-8. What stages of the investigation are included in the 60-day timeframe referenced in the DCL as the length for a typical investigation?

Answer: As noted in the DCL, the 60-calendar day timeframe for investigations is based on OCR's experience in typical cases. The 60-calendar day timeframe refers to the entire investigation process, which includes conducting the fact-finding investigation, holding a hearing or engaging in another decision-making process to determine whether the alleged sexual violence occurred and created a hostile environment, and determining what actions the school will take to eliminate the hostile environment and prevent its recurrence, including imposing sanctions against the perpetrator and providing remedies for the complainant and school community, as appropriate. Although this timeframe does not include appeals, a school should be aware that an unduly long appeals process may impact whether the school's response was prompt and equitable as required by Title IX.

OCR does not require a school to complete investigations within 60 days; rather OCR evaluates on a case-by-case basis whether the resolution of sexual violence complaints is prompt and equitable. Whether OCR considers an investigation to be prompt as required by Title IX will vary depending on the complexity of the investigation and the severity and extent of the alleged conduct. OCR recognizes that the investigation process may take longer if there is a parallel criminal investigation or if it occurs partially during school breaks. A school may need to stop an investigation during school breaks or between school years, although a school should make every effort to try to conduct an investigation during these breaks unless so doing would sacrifice witness availability or otherwise compromise the process.

Because timeframes for investigations vary and a school may need to depart from the timeframes designated in its grievance procedures, both parties should be given periodic status updates throughout the process.

G. Interim Measures

G-1. Is a school required to take any interim measures before the completion of its investigation?

Answer: Title IX requires a school to take steps to ensure equal access to its education programs and activities and protect the complainant as necessary, including taking interim measures before the final outcome of an investigation. The school should take these steps promptly once it has notice of a sexual violence allegation and should provide the complainant with periodic updates on the status of the investigation. The school should notify the complainant of his or her options to avoid contact with the alleged perpetrator and allow the complainant to change academic and extracurricular activities or his or her living, transportation, dining, and working situation as appropriate. The school should also ensure that the complainant is aware of his or her Title IX rights and any available resources, such as victim advocacy, housing assistance, academic support, counseling, disability services, health and mental health services, and legal assistance, and the right to report a crime to campus or local law enforcement. If a school does not offer these services on campus, it should enter into an MOU with a local victim services provider if possible.

Even when a school has determined that it can respect a complainant's request for confidentiality and therefore may not be able to respond fully to an allegation of sexual violence and initiate formal action against an alleged perpetrator, the school must take immediate action to protect the complainant while keeping the identity of the complainant confidential. These actions may include: providing support services to the

complainant; changing living arrangements or course schedules, assignments, or tests; and providing increased monitoring, supervision, or security at locations or activities where the misconduct occurred.

G-2. How should a school determine what interim measures to take?

Answer: The specific interim measures implemented and the process for implementing those measures will vary depending on the facts of each case. A school should consider a number of factors in determining what interim measures to take, including, for example, the specific need expressed by the complainant; the age of the students involved; the severity or pervasiveness of the allegations; any continuing effects on the complainant; whether the complainant and alleged perpetrator share the same residence hall, dining hall, class, transportation, or job location; and whether other judicial measures have been taken to protect the complainant (*e.g.*, civil protection orders).

In general, when taking interim measures, schools should minimize the burden on the complainant. For example, if the complainant and alleged perpetrator share the same class or residence hall, the school should not, as a matter of course, remove the complainant from the class or housing while allowing the alleged perpetrator to remain without carefully considering the facts of the case.

G-3. If a school provides all students with access to counseling on a fee basis, does that suffice for providing counseling as an interim measure?

Answer: No. Interim measures are determined by a school on a case-by-case basis. If a school determines that it needs to offer counseling to the complainant as part of its Title IX obligation to take steps to protect the complainant while the investigation is ongoing, it must not require the complainant to pay for this service.

H. Remedies and Notice of Outcome³¹

H-1. What remedies should a school consider in a case of student-on-student sexual violence?

Answer: Effective remedial action may include disciplinary action against the perpetrator, providing counseling for the perpetrator, remedies for the complainant and others, as well as changes to the school's overall services or policies. All services needed to remedy the hostile environment should be offered to the complainant. These remedies are separate from, and in addition to, any interim measure that may have been provided prior to the conclusion of the school's investigation. In any instance in which the complainant did not take advantage of a specific service (e.g., counseling) when offered as an interim measure, the complainant should still be offered, and is still entitled to, appropriate final remedies that may include services the complainant declined as an interim measure. A refusal at the interim stage does not mean the refused service or set of services should not be offered as a remedy.

If a school uses its student disciplinary procedures to meet its Title IX obligation to resolve complaints of sexual violence promptly and equitably, it should recognize that imposing sanctions against the perpetrator, without more, likely will not be sufficient to satisfy its Title IX obligation to eliminate the hostile environment, prevent its recurrence, and, as appropriate, remedy its effects. Additional remedies for the complainant and the school community may be necessary. If the school's student disciplinary procedure does not include a process for determining and implementing these remedies for the complainant and school community, the school will need to use another process for this purpose.

Depending on the specific nature of the problem, remedies for the complainant may include, but are not limited to:

- Providing an effective escort to ensure that the complainant can move safely between classes and activities;

³¹ As explained in question A-5, if a school delays responding to allegations of sexual violence or responds inappropriately, the school's own inaction may subject the student to be subjected to a hostile environment. In this case, in addition to the remedies discussed in this section, the school will also be required to remedy the effects of the sexual violence that could reasonably have been prevented had the school responded promptly and appropriately.

- Ensuring the complainant and perpetrator do not share classes or extracurricular activities;
- Moving the perpetrator or complainant (if the complainant requests to be moved) to a different residence hall or, in the case of an elementary or secondary school student, to another school within the district;
- Providing comprehensive, holistic victim services including medical, counseling and academic support services, such as tutoring;
- Arranging for the complainant to have extra time to complete or re-take a class or withdraw from a class without an academic or financial penalty; and
- Reviewing any disciplinary actions taken against the complainant to see if there is a causal connection between the sexual violence and the misconduct that may have resulted in the complainant being disciplined.³²

Remedies for the broader student population may include, but are not limited to:

- Designating an individual from the school's counseling center who is specifically trained in providing trauma-informed comprehensive services to victims of sexual violence to be on call to assist students whenever needed;
- Training or retraining school employees on the school's responsibilities to address allegations of sexual violence and how to conduct Title IX investigations;
- Developing materials on sexual violence, which should be distributed to all students;
- Conducting bystander intervention and sexual violence prevention programs with students;
- Issuing policy statements or taking other steps that clearly communicate that the school does not tolerate sexual violence and will respond to any incidents and to any student who reports such incidents;

³² For example, if the complainant was disciplined for skipping a class in which the perpetrator was enrolled, the school should review the incident to determine if the complainant skipped class to avoid contact with the perpetrator.

- Conducting, in conjunction with student leaders, a campus climate check to assess the effectiveness of efforts to ensure that the school is free from sexual violence, and using that information to inform future proactive steps that the school will take;
- Targeted training for a group of students if, for example, the sexual violence created a hostile environment in a residence hall, fraternity or sorority, or on an athletic team; and
- Developing a protocol for working with local law enforcement as discussed in question F-3.

When a school is unable to conduct a full investigation into a particular incident (*i.e.*, when it received a general report of sexual violence without any personally identifying information), it should consider remedies for the broader student population in response.

H-2. If, after an investigation, a school finds the alleged perpetrator responsible and determines that, as part of the remedies for the complainant, it must separate the complainant and perpetrator, how should the school accomplish this if both students share the same major and there are limited course options?

Answer: If there are limited sections of required courses offered at a school and both the complainant and perpetrator are required to take those classes, the school may need to make alternate arrangements in a manner that minimizes the burden on the complainant. For example, the school may allow the complainant to take the regular sections of the courses while arranging for the perpetrator to take the same courses online or through independent study.

H-3. What information must be provided to the complainant in the notice of the outcome?

Answer: Title IX requires both parties to be notified, in writing, about the outcome of both the complaint and any appeal. OCR recommends that a school provide written notice of the outcome to the complainant and the alleged perpetrator concurrently.

For Title IX purposes, a school must inform the complainant as to whether or not it found that the alleged conduct occurred, any individual remedies offered or provided to the complainant or any sanctions imposed on the perpetrator that directly relate to the complainant, and other steps the school has taken to eliminate the hostile environment, if the school finds one to exist, and prevent recurrence. The perpetrator should not be notified of the individual remedies offered or provided to the complainant.

Sanctions that directly relate to the complainant (but that may also relate to eliminating the hostile environment and preventing recurrence) include, but are not limited to, requiring that the perpetrator stay away from the complainant until both parties graduate, prohibiting the perpetrator from attending school for a period of time, or transferring the perpetrator to another residence hall, other classes, or another school. Additional steps the school has taken to eliminate the hostile environment may include counseling and academic support services for the complainant and other affected students. Additional steps the school has taken to prevent recurrence may include sexual violence training for faculty and staff, revisions to the school's policies on sexual violence, and campus climate surveys. Further discussion of appropriate remedies is included in question H-1.

In addition to the Title IX requirements described above, the Clery Act requires, and FERPA permits, postsecondary institutions to inform the complainant of the institution's final determination and any disciplinary sanctions imposed on the perpetrator in sexual violence cases (as opposed to all harassment and misconduct covered by Title IX) not just those sanctions that directly relate to the complainant.³³

I. Appeals

I-1. What are the requirements for an appeals process?

Answer: While Title IX does not require that a school provide an appeals process, OCR does recommend that the school do so where procedural error or previously unavailable relevant evidence could significantly impact the outcome of a case or where a sanction is substantially disproportionate to the findings. If a school chooses to provide for an appeal of the findings or remedy or both, it must do so equally for both parties. The specific design of the appeals process is up to the school, as long as the entire grievance process, including any appeals, provides prompt and equitable resolutions of sexual violence complaints, and the school takes steps to protect the complainant in the educational setting during the process. Any individual or body handling appeals should be trained in the dynamics of and trauma associated with sexual violence.

If a school chooses to offer an appeals process it has flexibility to determine the type of review it will apply to appeals, but the type of review the school applies must be the same regardless of which party files the appeal.

³³ 20 U.S.C. § 1092(f) and 20 U.S.C. § 1232g(b)(6)(A).

- I-2. Must an appeal be available to a complainant who receives a favorable finding but does not believe a sanction that directly relates to him or her was sufficient?**

Answer: The appeals process must be equal for both parties. For example, if a school allows a perpetrator to appeal a suspension on the grounds that it is too severe, the school must also allow a complainant to appeal a suspension on the grounds that it was not severe enough. See question H-3 for more information on what must be provided to the complainant in the notice of the outcome.

J. Title IX Training, Education and Prevention³⁴

- J-1. What type of training on Title IX and sexual violence should a school provide to its employees?**

Answer: A school needs to ensure that responsible employees with the authority to address sexual violence know how to respond appropriately to reports of sexual violence, that other responsible employees know that they are obligated to report sexual violence to appropriate school officials, and that all other employees understand how to respond to reports of sexual violence. A school should ensure that professional counselors, pastoral counselors, and non-professional counselors or advocates also understand the extent to which they may keep a report confidential. A school should provide training to all employees likely to witness or receive reports of sexual violence, including teachers, professors, school law enforcement unit employees, school administrators, school counselors, general counsels, athletic coaches, health personnel, and resident advisors. Training for employees should include practical information about how to prevent and identify sexual violence, including same-sex sexual violence; the behaviors that may lead to and result in sexual violence; the attitudes of bystanders that may allow conduct to continue; the potential for revictimization by responders and its effect on students; appropriate methods for responding to a student who may have experienced sexual violence, including the use of nonjudgmental language; the impact of trauma on victims; and, as applicable, the person(s) to whom such misconduct must be reported. The training should also explain responsible employees' reporting obligation, including what should be included in a report and any consequences for the failure to report and the procedure for responding to students' requests for confidentiality, as well as provide the contact

³⁴ As explained earlier, although this document focuses on sexual violence, the legal principles apply to other forms of sexual harassment. Schools should ensure that any training they provide on Title IX and sexual violence also covers other forms of sexual harassment. Postsecondary institutions should also be aware of training requirements imposed under the Clery Act.

information for the school's Title IX coordinator. A school also should train responsible employees to inform students of: the reporting obligations of responsible employees; students' option to request confidentiality and available confidential advocacy, counseling, or other support services; and their right to file a Title IX complaint with the school and to report a crime to campus or local law enforcement. For additional information on the reporting obligations of responsible employees and others see questions D-1 to D-5.

There is no minimum number of hours required for Title IX and sexual violence training at every school, but this training should be provided on a regular basis. Each school should determine based on its particular circumstances how such training should be conducted, who has the relevant expertise required to conduct the training, and who should receive the training to ensure that the training adequately prepares employees, particularly responsible employees, to fulfill their duties under Title IX. A school should also have methods for verifying that the training was effective.

J-2. How should a school train responsible employees to report incidents of possible sexual harassment or sexual violence?

Answer: Title IX requires a school to take prompt and effective steps reasonably calculated to end sexual harassment and sexual violence that creates a hostile environment (*i.e.*, conduct that is sufficiently serious as to limit or deny a student's ability to participate in or benefit from the school's educational program and activity). But a school should not wait to take steps to protect its students until students have already been deprived of educational opportunities.

OCR therefore recommends that a school train responsible employees to report to the Title IX coordinator or other appropriate school official any incidents of sexual harassment or sexual violence that may violate the school's code of conduct or may create or contribute to the creation of a hostile environment. The school can then take steps to investigate and prevent any harassment or violence from recurring or escalating, as appropriate. For example, the school may separate the complainant and alleged perpetrator or conduct sexual harassment and sexual violence training for the school's students and employees. Responsible employees should understand that they do not need to determine whether the alleged sexual harassment or sexual violence actually occurred or that a hostile environment has been created before reporting an incident to the school's Title IX coordinator. Because the Title IX coordinator should have in-depth knowledge of Title IX and Title IX complaints at the school, he or she is likely to be in a better position than are other employees to evaluate whether an incident of sexual

harassment or sexual violence creates a hostile environment and how the school should respond. There may also be situations in which individual incidents of sexual harassment do not, by themselves, create a hostile environment; however when considered together, those incidents may create a hostile environment.

J-3. What type of training should a school provide to employees who are involved in implementing the school's grievance procedures?

Answer: All persons involved in implementing a school's grievance procedures (*e.g.*, Title IX coordinators, others who receive complaints, investigators, and adjudicators) must have training or experience in handling sexual violence complaints, and in the operation of the school's grievance procedures. The training should include information on working with and interviewing persons subjected to sexual violence; information on particular types of conduct that would constitute sexual violence, including same-sex sexual violence; the proper standard of review for sexual violence complaints (preponderance of the evidence); information on consent and the role drugs or alcohol can play in the ability to consent; the importance of accountability for individuals found to have committed sexual violence; the need for remedial actions for the perpetrator, complainant, and school community; how to determine credibility; how to evaluate evidence and weigh it in an impartial manner; how to conduct investigations; confidentiality; the effects of trauma, including neurobiological change; and cultural awareness training regarding how sexual violence may impact students differently depending on their cultural backgrounds.

In rare circumstances, employees involved in implementing a school's grievance procedures may be able to demonstrate that prior training and experience has provided them with competency in the areas covered in the school's training. For example, the combination of effective prior training and experience investigating complaints of sexual violence, together with training on the school's current grievance procedures may be sufficient preparation for an employee to resolve Title IX complaints consistent with the school's grievance procedures. In-depth knowledge regarding Title IX and sexual violence is particularly helpful. Because laws and school policies and procedures may change, the only way to ensure that all employees involved in implementing the school's grievance procedures have the requisite training or experience is for the school to provide regular training to all individuals involved in implementing the school's Title IX grievance procedures even if such individuals also have prior relevant experience.

J-4. What type of training on sexual violence should a school provide to its students?

Answer: To ensure that students understand their rights under Title IX, a school should provide age-appropriate training to its students regarding Title IX and sexual violence. At the elementary and secondary school level, schools should consider whether sexual violence training should also be offered to parents, particularly training on the school's process for handling complaints of sexual violence. Training may be provided separately or as part of the school's broader training on sex discrimination and sexual harassment. However, sexual violence is a unique topic that should not be assumed to be covered adequately in other educational programming or training provided to students. The school may want to include this training in its orientation programs for new students; training for student athletes and members of student organizations; and back-to-school nights. A school should consider educational methods that are most likely to help students retain information when designing its training, including repeating the training at regular intervals. OCR recommends that, at a minimum, the following topics (as appropriate) be covered in this training:

- Title IX and what constitutes sexual violence, including same-sex sexual violence, under the school's policies;
- the school's definition of consent applicable to sexual conduct, including examples;
- how the school analyzes whether conduct was unwelcome under Title IX;
- how the school analyzes whether unwelcome sexual conduct creates a hostile environment;
- reporting options, including formal reporting and confidential disclosure options and any timeframes set by the school for reporting;
- the school's grievance procedures used to process sexual violence complaints;
- disciplinary code provisions relating to sexual violence and the consequences of violating those provisions;
- effects of trauma, including neurobiological changes;
- the role alcohol and drugs often play in sexual violence incidents, including the deliberate use of alcohol and/or other drugs to perpetrate sexual violence;
- strategies and skills for bystanders to intervene to prevent possible sexual violence;
- how to report sexual violence to campus or local law enforcement and the ability to pursue law enforcement proceedings simultaneously with a Title IX grievance; and
- Title IX's protections against retaliation.

The training should also encourage students to report incidents of sexual violence. The training should explain that students (and their parents or friends) do not need to determine whether incidents of sexual violence or other sexual harassment created a

hostile environment before reporting the incident. A school also should be aware that persons may be deterred from reporting incidents if, for example, violations of school or campus rules regarding alcohol or drugs were involved. As a result, a school should review its disciplinary policy to ensure it does not have a chilling effect on students' reporting of sexual violence offenses or participating as witnesses. OCR recommends that a school inform students that the school's primary concern is student safety, and that use of alcohol or drugs never makes the survivor at fault for sexual violence.

It is also important for a school to educate students about the persons on campus to whom they can confidentially report incidents of sexual violence. A school's sexual violence education and prevention program should clearly identify the offices or individuals with whom students can speak confidentially and the offices or individuals who can provide resources such as victim advocacy, housing assistance, academic support, counseling, disability services, health and mental health services, and legal assistance. It should also identify the school's responsible employees and explain that if students report incidents to responsible employees (except as noted in question E-3) these employees are required to report the incident to the Title IX coordinator or other appropriate official. This reporting includes the names of the alleged perpetrator and student involved in the sexual violence, as well as relevant facts including the date, time, and location, although efforts should be made to comply with requests for confidentiality from the complainant. For more detailed information regarding reporting and responsible employees and confidentiality, see questions D-1 to D-5 and E-1 to E-4.

K. Retaliation

K-1. Does Title IX protect against retaliation?

Answer: Yes. The Federal civil rights laws, including Title IX, make it unlawful to retaliate against an individual for the purpose of interfering with any right or privilege secured by these laws. This means that if an individual brings concerns about possible civil rights problems to a school's attention, including publicly opposing sexual violence or filing a sexual violence complaint with the school or any State or Federal agency, it is unlawful for the school to retaliate against that individual for doing so. It is also unlawful to retaliate against an individual because he or she testified, or participated in any manner, in an OCR or school's investigation or proceeding. Therefore, if a student, parent, teacher, coach, or other individual complains formally or informally about sexual violence or participates in an OCR or school's investigation or proceedings related to sexual violence, the school is prohibited from retaliating (including intimidating, threatening, coercing, or in any way

discriminating against the individual) because of the individual's complaint or participation.

A school should take steps to prevent retaliation against a student who filed a complaint either on his or her own behalf or on behalf of another student, or against those who provided information as witnesses.

Schools should be aware that complaints of sexual violence may be followed by retaliation against the complainant or witnesses by the alleged perpetrator or his or her associates. When a school knows or reasonably should know of possible retaliation by other students or third parties, it must take immediate and appropriate steps to investigate or otherwise determine what occurred. Title IX requires the school to protect the complainant and witnesses and ensure their safety as necessary. At a minimum, this includes making sure that the complainant and his or her parents, if the complainant is in elementary or secondary school, and witnesses know how to report retaliation by school officials, other students, or third parties by making follow-up inquiries to see if there have been any new incidents or acts of retaliation, and by responding promptly and appropriately to address continuing or new problems. A school should also tell complainants and witnesses that Title IX prohibits retaliation, and that school officials will not only take steps to prevent retaliation, but will also take strong responsive action if it occurs.

L. First Amendment

L-1. How should a school handle its obligation to respond to sexual harassment and sexual violence while still respecting free-speech rights guaranteed by the Constitution?

Answer: The DCL on sexual violence did not expressly address First Amendment issues because it focuses on unlawful physical sexual violence, which is not speech or expression protected by the First Amendment.

However, OCR's previous guidance on the First Amendment, including the 2001 Guidance, OCR's July 28, 2003, Dear Colleague Letter on the First Amendment,³⁵ and OCR's October 26, 2010, Dear Colleague Letter on harassment and bullying,³⁶ remain fully in effect. OCR has made it clear that the laws and regulations it enforces protect students from prohibited discrimination and do not restrict the exercise of any expressive activities or speech protected under the U.S. Constitution. Therefore, when a school works to prevent

³⁵ Available at <http://www.ed.gov/ocr/firstamend.html>.

³⁶ Available at <http://www.ed.gov/ocr/letters/colleague-201010.html>.

and redress discrimination, it must respect the free-speech rights of students, faculty, and other speakers.

Title IX protects students from sex discrimination; it does not regulate the content of speech. OCR recognizes that the offensiveness of a particular expression as perceived by some students, standing alone, is not a legally sufficient basis to establish a hostile environment under Title IX. Title IX also does not require, prohibit, or abridge the use of particular textbooks or curricular materials.³⁷

M. The Clery Act and the Violence Against Women Reauthorization Act of 2013

M-1. How does the Clery Act affect the Title IX obligations of institutions of higher education that participate in the federal student financial aid programs?

Answer: Institutions of higher education that participate in the federal student financial aid programs are subject to the requirements of the Clery Act as well as Title IX. The Clery Act requires institutions of higher education to provide current and prospective students and employees, the public, and the Department with crime statistics and information about campus crime prevention programs and policies. The Clery Act requirements apply to many crimes other than those addressed by Title IX. For those areas in which the Clery Act and Title IX both apply, the institution must comply with both laws. For additional information about the Clery Act and its regulations, please see <http://www2.ed.gov/admins/lead/safety/campus.html>.

M-2. Were a school's obligations under Title IX and the DCL altered in any way by the Violence Against Women Reauthorization Act of 2013, Pub. L. No. 113-4, including Section 304 of that Act, which amends the Clery Act?

Answer: No. The Violence Against Women Reauthorization Act has no effect on a school's obligations under Title IX or the DCL. The Violence Against Women Reauthorization Act amended the Violence Against Women Act and the Clery Act, which are separate statutes. Nothing in Section 304 or any other part of the Violence Against Women Reauthorization Act relieves a school of its obligation to comply with the requirements of Title IX, including those set forth in these Questions and Answers, the 2011 DCL, and the *2001 Guidance*. For additional information about the Department's negotiated rulemaking related to the Violence Against Women Reauthorization Act please see <http://www2.ed.gov/policy/highered/reg/hearulemaking/2012/vawa.html>.

³⁷ 34 C.F.R. § 106.42.

N. Further Federal Guidance

N-1. Whom should I contact if I have additional questions about the DCL or OCR's other Title IX guidance?

Answer: Anyone who has questions regarding this guidance, or Title IX should contact the OCR regional office that serves his or her state. Contact information for OCR regional offices can be found on OCR's webpage at <https://wdcrobcop01.ed.gov/CFAPPS/OCR/contactus.cfm>. If you wish to file a complaint of discrimination with OCR, you may use the online complaint form available at <http://www.ed.gov/ocr/complaintintro.html> or send a letter to the OCR enforcement office responsible for the state in which the school is located. You may also email general questions to OCR at ocr@ed.gov.

N-2. Are there other resources available to assist a school in complying with Title IX and preventing and responding to sexual violence?

Answer: Yes. OCR's policy guidance on Title IX is available on OCR's webpage at <http://www.ed.gov/ocr/publications.html#TitleIX>. In addition to the April 4, 2011, Dear Colleague Letter, OCR has issued the following resources that further discuss a school's obligation to respond to allegations of sexual harassment and sexual violence:

- Dear Colleague Letter: Harassment and Bullying (October 26, 2010), <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf>
- *Sexual Harassment: It's Not Academic* (Revised September 2008), <http://www2.ed.gov/about/offices/list/ocr/docs/ocrshpam.pdf>
- *Revised Sexual Harassment Guidance: Harassment of Students by Employees, Other Students, or Third Parties* (January 19, 2001), <http://www2.ed.gov/about/offices/list/ocr/docs/shguide.pdf>

In addition to guidance from OCR, a school may also find resources from the Departments of Education and Justice helpful in preventing and responding to sexual violence:

- Department of Education's Letter to Chief State School Officers on Teen Dating Violence Awareness and Prevention (February 28, 2013)
<https://www2.ed.gov/policy/gen/guid/secletter/130228.html>
- Department of Education's National Center on Safe Supportive Learning Environments
<http://safesupportivelearning.ed.gov/>
- Department of Justice, Office on Violence Against Women
<http://www.ovw.usdoj.gov/>

07/25/2016

Exhibit 3

07/25/2016

07/25/2016

Exhibit 4

07/25/2016

SCAMPUS 2015-16 TABLE OF CONTENTS

PART A. GENERAL POLICY STATEMENTS.....	1
SECTION 1 UNIVERSITY GOVERNANCE.....	1
SECTION 2 POWER OF THE BOARD.....	1
SECTION 3 STATEMENT OF STUDENT RIGHTS & RESPONSIBILITIES	2
<i>Subsection I Relationship to the Institution</i>	3
<i>Subsection II Student/Faculty Relations</i>	4
<i>Subsection III Student Affairs</i>	6
SECTION 4 EQUAL OPPORTUNITY	9
<i>Subsection I Policy</i>	9
<i>Subsection II Non-Discrimination and Affirmative Action</i>	9
<i>Subsection III Sources of Information</i>	10
<i>Subsection IV Protected Characteristics</i>	11
SECTION 5 PRINCIPLES OF COMMUNITY	11
SECTION 6 CODE OF ETHICS	11
SECTION 7 DEPARTMENT OF EDUCATION COMPLIANCE.....	11
 PART B. UNIVERSITY STUDENT CONDUCT CODE	 13
SECTION 10 GENERAL DISCIPLINARY PRINCIPLES	13
<i>Subsection 10.05 Disciplinary Authority</i>	13
<i>Subsection 10.10 Basic Principles</i>	14
<i>Subsection 10.20 Summary of Student Conduct Code Review Process</i>	17
<i>Subsection 10.30 Student Procedural Protections</i>	21
SECTION 11 BEHAVIOR VIOLATING UNIVERSITY STANDARDS AND APPROPRIATE SANCTIONS.....	23
<i>Subsection 11.11</i>	23
<i>Subsection 11.12</i>	24
<i>Subsection 11.13</i>	24
<i>Subsection 11.14</i>	24
<i>Subsection 11.15</i>	25
<i>Subsection 11.16</i>	25
<i>Subsection 11.17</i>	25
<i>Subsection 11.18</i>	25
<i>Subsection 11.19</i>	25
<i>Subsection 11.20</i>	25
<i>Subsection 11.21</i>	26
<i>Subsection 11.31</i>	26
<i>Subsection 11.32</i>	26
<i>Subsection 11.33</i>	26
<i>Subsection 11.34</i>	26
<i>Subsection 11.35</i>	27
<i>Subsection 11.36</i>	27
<i>Subsection 11.37</i>	27
<i>Subsection 11.38</i>	27
<i>Subsection 11.39</i>	27
<i>Subsection 11.40</i>	28
<i>Subsection 11.41</i>	28
<i>Subsection 11.42</i>	28
<i>Subsection 11.43</i>	28
<i>Subsection 11.44</i>	28
<i>Subsection 11.45</i>	29
<i>Subsection 11.46</i>	29

07/25/2016

<i>Subsection 11.47</i>	29
<i>Subsection 11.48</i>	29
<i>Subsection 11.49</i>	29
<i>Subsection 11.50</i>	30
<i>Subsection 11.51</i>	30
<i>Subsection 11.52</i>	30
<i>Subsection 11.53</i>	30
<i>Subsection 11.54</i>	31
<i>Subsection 11.55</i>	31
<i>Subsection 11.80</i>	32
<i>Subsection 11.81</i>	32
<i>Subsection 11.82</i>	33
<i>Subsection 11.83</i>	33
<i>Subsection 11.84</i>	34
<i>Subsection 11.85</i>	34
<i>Subsection 11.86</i>	34
<i>Subsection 11.87</i>	35
<i>Subsection 11.88</i>	35
<i>Subsection 11.89</i>	35
<i>Subsection 11.90</i>	35
<i>Subsection 11.91</i>	36
<i>Subsection 11.92</i>	36
<i>Subsection 11.93</i>	36
<i>Subsection 11.94</i>	37
SECTION 12 STUDENT CONDUCT REVIEW	37
<i>Subsection 12.01 Complaints</i>	37
<i>Subsection 12.02 Complaint through Other Channels</i>	37
<i>Subsection 12.03 Contents of a Complaint</i>	37
<i>Subsection 12.04 Timing of Complaints</i>	38
<i>Subsection 12.05 Intake and Initial Fact-Finding</i>	38
<i>Subsection 12.06 Overview of Student Conduct Reviews</i>	39
<i>Subsection 12.10 Administrative Reviews</i>	39
<i>Subsection 12.11 Peer Review Panels</i>	39
<i>Subsection 12.12 University Review Panels</i>	40
<i>Subsection 12.13 Residential Education Review</i>	41
<i>Subsection 12.14 Other Review Systems</i>	41
<i>Subsection 12.40 Adjudicatory Procedures</i>	41
<i>Subsection 12.50 Reviews by Panels</i>	43
<i>Subsection 12.60 Disciplinary Records</i>	47
SECTION 13 ACADEMIC INTEGRITY REVIEW	47
<i>Subsection 13.10 Initiating a Complaint</i>	47
<i>Subsection 13.11 Sanction and Consequences</i>	48
<i>Subsection 13.12 Reporting Violations of Academic Integrity</i>	49
<i>Subsection 13.13 Response to Report</i>	49
SECTION 14 ADMISSIONS VIOLATION REVIEW	50
SECTION 15 APPEALS PROCESS: ACADEMIC CONDUCT	50
<i>Subsection 15.01</i>	51
<i>Subsection 15.02</i>	51
<i>Subsection 15.03</i>	52
<i>Subsection 15.04</i>	52
<i>Subsection 15.05</i>	52
<i>Subsection 15.10</i>	53
SECTION 16 STUDENT CONDUCT RECORDS	53
APPENDIX A ACADEMIC DISHONESTY SANCTION GUIDELINES	54
APPENDIX B REPORT OF ACADEMIC INTEGRITY VIOLATION	54

07/25/2016

PART C. ACADEMIC POLICIES	55
SECTION 1 CLASS NOTES POLICY	55
SECTION 2 DISPUTED ACADEMIC EVALUATION PROCEDURES	55
<i>Subsection I Schools Organized by Departments</i>	<i>55</i>
<i>Subsection II Schools Not Organized by Departments</i>	<i>57</i>
<i>Subsection III Schools with Certain Professional Degrees</i>	<i>57</i>
<i>Subsection IV Graduate Students Who Have Been Dismissed from an Academic Program</i>	<i>57</i>
SECTION 3 GENERAL ACADEMIC PETITIONS	58
<i>Subsection I Registration-related Exceptions</i>	<i>58</i>
<i>Subsection II Degree Requirement-related Exceptions</i>	<i>60</i>
<i>Subsection III Exceptions to the Dornsife College of Letters, Arts and Sciences Limits on Units in the Major or Limits on the College Basic Requirement</i>	<i>62</i>
<i>Subsection IV Grading Issues</i>	<i>62</i>
SECTION 4 TIMELINE FOR DEGREE PROGRESS	63
SECTION 5 STUDENT EDUCATION RECORDS	64
SECTION 6 FALSIFICATION OF FINANCIAL AID INFORMATION	66

PART D. FREE EXPRESSION AND DISSENT	69
SECTION 1 POLICY	69
SECTION 2 REASONABLE TIME, PLACE, AND MANNER	69
SECTION 3 GUIDELINES FOR CAMPUS DEMONSTRATIONS	71
SECTION 4 ADVERTISING, PROMOTION, AND LITERATURE DISTRIBUTION	73
<i>Subsection I Advertising</i>	<i>73</i>
<i>Subsection II General Regulations</i>	<i>73</i>
<i>Subsection III Publicity</i>	<i>74</i>
SECTION 5 LITERATURE AND PUBLICATION DISTRIBUTION	76
<i>Subsection I General Regulations</i>	<i>76</i>
<i>Subsection II Banners</i>	<i>77</i>
<i>Subsection III Trousdale Light Post Banners</i>	<i>77</i>
<i>Subsection IV Ronald Tutor Campus Center International Plaza Light Post Banners</i>	<i>78</i>
<i>Subsection V Violations</i>	<i>79</i>
<i>Subsection VI Responsibility for Content</i>	<i>80</i>
<i>Subsection VII Helpful Hints</i>	<i>80</i>
SECTION 6 SOLICITATIONS BY OFF-CAMPUS PERSONS	81
<i>Subsection I General Regulation</i>	<i>81</i>
<i>Subsection II Considerations in Issuing Permits</i>	<i>82</i>
<i>Subsection III Displaying Permits</i>	<i>82</i>
<i>Subsection IV Code of Conduct</i>	<i>82</i>
<i>Subsection V Sanctions</i>	<i>83</i>
SECTION 7 STUDENT ORGANIZATION LOGOS POLICY	84

PART E. DISCRIMINATION, HARASSMENT, RETALIATION, SEXUAL MISCONDUCT, DATING VIOLENCE, DOMESTIC VIOLENCE, INTIMATE PARTNER VIOLENCE, STALKING, AND CHILD ABUSE	86
SECTION 1 COMMITMENT TO COMPLIANCE	87
SECTION 2 DISCRIMINATION	88
SECTION 3 HARASSMENT BASED ON A PROTECTED CHARACTERISTIC	88
SECTION 4 RETALIATION	90
SECTION 5 SEXUAL MISCONDUCT, DATING VIOLENCE, DOMESTIC VIOLENCE, INTIMATE PARTNER VIOLENCE, AND STALKING	90
<i>Subsection I Overview</i>	<i>90</i>

07/25/2016

<i>Subsection II Providing a Safe Educational and Residential Environment</i>	90
<i>Subsection III Sexual or Gender-based Harassment</i>	92
<i>Subsection IV Sexual Assault</i>	93
<i>Subsection V Other Sexual Misconduct</i>	95
<i>Subsection VI Domestic Violence, Dating Violence, and Intimate Partner Violence</i>	95
<i>Subsection VII Stalking</i>	96
SECTION 6 CHILD ABUSE.....	98
SECTION 7 REPORTING.....	98
<i>Subsection I Timeliness</i>	98
<i>Subsection II Report to the University</i>	98
<i>Subsection III Report to Law Enforcement</i>	99
<i>Subsection IV Report to Counseling</i>	99
<i>Subsection V Report to Faculty and Staff</i>	100
<i>Subsection VI Report Anonymously</i>	100
<i>Subsection VII Report to Governmental Authorities</i>	100
<i>Subsection VIII Privacy and Confidentiality</i>	101
SECTION 8 DISCIPLINARY PROCEDURES.....	101
<i>Subsection I Intake and Investigation</i>	102
<i>Subsection II Procedural Rights</i>	106
<i>Subsection III Other Procedural Matters</i>	108
<i>Subsection IV Status of the Respondent</i>	109
<i>Subsection V Policy Violations and Sanctions</i>	111
<i>Subsection VI Appeals Process</i>	116
SECTION 9 PREVENTION AND SUPPORT.....	118
<i>Subsection I Education</i>	119
<i>Subsection II Assistance for Students</i>	119
SECTION 10 WHAT TO DO IF YOU HAVE BEEN SEXUALLY ASSAULTED.....	122
<i>Subsection I Immediate Action to Take</i>	122
<i>Subsection II Follow-Up Action to Take</i>	123
<i>Subsection III Rights Concerning Reporting</i>	124
SECTION 11 WHAT TO DO IF YOU HAVE BEEN OR ARE BEING STALKED.....	125
SECTION 12 WHAT TO DO IF YOU HAVE BEEN ACCUSED OF PART E MISCONDUCT.....	126
<i>Subsection I If You've Been Accused of Harassment or Other Misconduct</i>	126
<i>Subsection II Be Aware You Have the Following Rights</i>	127

PART F. OTHER UNIVERSITY POLICIES 129

SECTION 1 COMPUTING.....	129
SECTION 2 UNIVERSITY EMAIL NOTIFICATIONS TO STUDENTS.....	129
SECTION 3 STUDENT WEBSITE DISCLAIMER.....	130
SECTION 4 STUDENT GRIEVANCE PROCEDURES.....	130
<i>Subsection I Definitions</i>	130
<i>Subsection II Grievances Covered by This Policy</i>	130
<i>Subsection III Grievances Not Covered by This Policy</i>	130
<i>Subsection IV Informal Grievance Resolution</i>	131
<i>Subsection V Formal Grievance Resolution</i>	131
SECTION 5 ALCOHOL AND OTHER DRUGS.....	132
<i>Subsection I Alcohol Policy</i>	133
<i>Subsection II Alcohol and Event Planning</i>	134
<i>Subsection III Drug Policy</i>	134
<i>Subsection IV Tobacco Policy</i>	134
<i>Subsection V Violation of Alcohol and Drug Policy</i>	135
<i>Subsection VI Assistance</i>	135
SECTION 6 SMOKE-FREE CAMPUS.....	135
SECTION 7 USC ONLINE DEGREE STUDENT HEALTH INSURANCE REQUIREMENT.....	136
SECTION 8 STUDENT RELEASES.....	137

07/25/2016

SECTION 9 TROJAN SPIRIT CODE GUIDELINES.....	137
SECTION 10 BICYCLES.....	138
<i>Subsection I Licensing/Registration</i>	138
<i>Subsection II Parking Regulations</i>	139
<i>Subsection III Parking Regulation Enforcement</i>	140
<i>Subsection IV Bicycle Operation</i>	140
<i>Subsection V Fine Structure</i>	141
<i>Subsection VI Cautionary Note</i>	141
SECTION 11 MOTORSCOOTERS/MOTORCYCLES.....	142
SECTION 12 ROLLERSKATES, ROLLERBLADES, SCOOTERS, SKATEBOARDS & OTHER COASTING DEVICES.....	143
<i>Subsection I Definitions</i>	143
<i>Subsection II Operation</i>	144
<i>Subsection III Cautionary Note</i>	144
SECTION 13 MISSING STUDENT NOTIFICATION.....	145
SECTION 14 MEDICAL AMNESTY/GOOD SAMARITAN POLICY.....	145

PART G. STUDENT ORGANIZATIONS..... 146

SECTION 1 RECOGNITION OF STUDENT ORGANIZATIONS.....	146
<i>Subsection I Privileges</i>	146
<i>Subsection II Responsibilities</i>	147
<i>Subsection III Recognition Process</i>	148
<i>Subsection IV Unrecognized Organizations</i>	149
SECTION 2 GROUP RESPONSIBILITY FOR STUDENT ORGANIZATIONS.....	149
SECTION 3 STUDENT-LED INTERNATIONAL TRAVEL.....	151
<i>Subsection I General Requirements for Sponsored and Affiliated Groups</i>	152
<i>Subsection II General Recommendations for Sponsored and Affiliated Groups</i>	154
<i>Subsection III Restrictions on Destinations for International Trips</i>	157
<i>Subsection IV Policies Concerning Standards for Student Behavior</i>	157
<i>Subsection V Contractual Agreements</i>	158
SECTION 4 FACILITIES.....	158
<i>Subsection I General Policies</i>	158
<i>Subsection II Procedures for Reserving Venues</i>	158
<i>Subsection III Programming Venues</i>	159
<i>Subsection IV Sound Amplification Policy</i>	161
<i>Subsection V Reservation Procedures</i>	162
<i>Subsection VI Classrooms</i>	162
<i>Subsection VII Filming</i>	162
<i>Subsection VIII Cancellation of Scheduled Events</i>	162
<i>Subsection IX Violations</i>	163
SECTION 5 CAMPING.....	163
SECTION 6 SOCIAL EVENTS.....	164
SECTION 7 SALES & FUNDRAISING.....	165
<i>Subsection I Prohibited Activities</i>	165
<i>Subsection II Process</i>	166
<i>Subsection III Non-Profit Collections</i>	167
<i>Subsection IV Raffles or Lotteries</i>	167
<i>Subsection V Free Drawings</i>	167
<i>Subsection VI Silent Auction</i>	168
<i>Subsection VII Student Organization Co-Sponsorship</i>	168
<i>Subsection VIII Misrepresentation (Fronting)</i>	169
<i>Subsection IX Vendors</i>	169
<i>Subsection X USC Emblem Products</i>	171
<i>Subsection XI Conflict of Interest</i>	171
<i>Subsection XII Campus Tour Policies</i>	171

07/25/2016

SECTION 8 HAZING	172
<i>Subsection I Compliance with Applicable Rules</i>	172
<i>Subsection II Policy Statement</i>	172
<i>Subsection III Prohibition of Hazing</i>	173
<i>Subsection IV Procedures for Dealing with a Hazing Incident</i>	174
<i>Subsection V Loss of Recognition and Probation for Student Organizations</i>	174
 PART H. SAFETY	176
SECTION 1 DEPARTMENT OF PUBLIC SAFETY	176
SECTION 2 MANDATORY FEDERAL REPORTING & CAMPUS CRIME STATISTICS	176
<i>Subsection I Clery Act</i>	176
<i>Subsection II Campus Security Authorities</i>	177
<i>Subsection III Housing and Residential Education</i>	177
<i>Subsection IV More Information</i>	178
SECTION 3 PREPAREDNESS	178

07/25/2016

SCAMPUS
2015-16

A. General Policy Statements

1. University Governance

As a private corporation, USC is governed by a Board of Trustees. The Board is a self-perpetuating body, electing one-fifth of its members each year for a five-year term of office. The trustees delegate certain powers to the administration of the university and serve as the ultimate decision-making body.

The President is the chief executive officer of USC. The President carries out policies established by the trustees and, in doing so, has the power to delegate this authority to the officers of the university.

The Academic Senate, Undergraduate Student Government, Graduate Student Government and the Staff Assembly serve as consultative bodies for the President and the administration, preparing studies and reports and making recommendations directly to the president on matters pertinent to the functioning of the university.

Students, faculty, staff and administrators serve on university committees, which provide advice and counsel to the President and administration on a broad variety of matters related to the operation of the university.

Nominations for membership are made usually during the spring semester. Appointments are made by the President of the university. Information and applications for committee membership are available in the Undergraduate Student Government office, Ronald Tutor Campus Center 224, (213) 740-5620, or the Graduate Student Government office, Ronald Tutor Campus Center 224, (213) 740-5649.

Departmental and divisional committees and councils exist in many academic units. Information is available through each particular office. In addition, many of the non-academic offices on campus, such as the Engemann Student Health Center, have organized student advisory boards to voice opinions and participate in program development. The appropriate office or department should be contacted for this information.

2. Power of the Board

WHEREAS, the University of Southern California, like other independent and private universities, is financed primarily by charitable contributions and grants as well as by tuition, fees and contracts; and

07/25/2016

WHEREAS, as a private institution, the university admits students selectively and students who elect this university recognize that their admission and continuance is in the nature of a privilege and not a right; and

WHEREAS, the powers of this corporation are exercised, its property controlled and its affairs conducted by this Board of Trustees, pursuant to the laws of the State of California, the Articles of Incorporation of the University and the by-laws of the university;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Trustees, acting through its officers, has both the right and responsibility to and hereby does affirm its final authority over the on-going institution, and nothing in the Statement of Student Rights and Responsibilities or any other policy pertaining to any subject promulgated by this board shall be construed as in any way abridging the basic powers, rights and responsibilities of this board.

Adopted by the Board of Trustees

3. Statement of Student Rights and Responsibilities

Preamble

Students, faculty and administrative officials at the University of Southern California, as members of the academic community, fulfill a purpose and a responsibility. The purpose is the humane and critical examination of major issues of social, political, economic, ethical and aesthetic importance which have in the past confronted, and which will in the coming years constantly confront, the society as a whole.

The responsibility is to understand the spectrum of viewpoints on an issue, and, equally, to be actively involved in the solution of the problems these issues delineate.

The university must, therefore, provide an optimal learning environment, and all members of the university community have a responsibility to provide and maintain an atmosphere of free inquiry and expression. The relationship of the individual to this community involves these principles:

1. The fundamental human rights of others;
2. The rights of others based upon the nature of the educational process;
3. The rights of the institution.

Each member of the campus has the right to organize and maintain his/her own personal life and behavior, so long as it does not violate the law or agreements voluntarily entered into and does not interfere with the rights of others or the educational process.

07/25/2016

Each member has the right to identify himself/herself as a member of the campus but has a concurrent obligation not to speak or act on behalf of the institution without authorization. Every member of the academic community shall enjoy the rights of free speech, peaceful assembly and the right of petition.

I. Relationship to the Institution

a. Non-Discrimination

See Section A.4. Equal Opportunity

b. Student Participation in the University Government

As members of the academic community, students are free, individually and collectively, to express their views on issues of university policy and on matters of interest to the student body. The student body shall have clearly defined means to participate in the formation and application of university policy affecting academic and student affairs. The actions of the student government within the areas of its jurisdiction shall be reviewed only through orderly, prescribed procedures. Students shall maintain professional standards of discretion concerning information gained about other students and members of the academic community in the course of active participation in university affairs.

c. Student Right To Be Informed

All students shall have the right of free access to statements of policy which affect the student body. The university shall have the corresponding responsibility to publish or in other ways make known, those policies which vitally affect students.

d. Financial Matters

The student has a right to a full statement of tuition and fees for which he or she is liable and to be informed, as extensively as possible, how such monies are spent. Fees which students, through the student government, impose on themselves, shall be allocated by students within governmental and university policies and regulations.

e. Political Activity

Students have the same rights as any individual to engage in political activity either individually or in groups. However, the university will not permit its name or emblems to be used by any person in connection with a campaign, or its campus, facilities or equipment to be used for campaign activities. Nothing in this policy statement is intended to prohibit candidates or others from making public addresses on campus pursuant to campus policies and procedures or the traditional activities of recognized campus organizations.

f. Utilization of Campus Facilities

The university has the responsibility to provide students the use of campus facilities according to campus regulations. The university reserves the right to prohibit individuals and groups who are not members of the campus from using its name, finances, or physical and operating facilities for commercial activities. (See Section G.4 Facilities.)

g. Authorized Search of University Premises

In university-controlled housing and offices, the university reserves the right to have its authorized agents or employees enter the premises to make necessary inspection for services, maintenance and repairs. Authorized agents or employees may enter the premises any time for the security of resident(s) or for other emergency reasons.

II. Student/Faculty Relations

Because the university is essentially an academic community in which students and faculty are co-participants, both must conduct themselves in a manner conducive to the welfare of such a community and to the free interchange of information and ideas without which that community cannot exist. The nourishment of that sense of community bestows certain rights and responsibilities upon the members of that community.

(The latest editions of the *USC Catalogue*, <http://catalogue.usc.edu/>, *Schedule of Classes* <http://classes.usc.edu/>, and the *Faculty Handbook*, <http://policy.usc.edu/faculty/>, contain many current academic policies and procedures.)

a. Rights

i. *Protection of Freedom of Expression* Students shall be free to take reasoned exception to the data or view offered in any course of study and to reserve judgment about matters of opinion.

ii. *The Importance of Teaching* Teaching plays a primary role in the advancement of learning. Therefore, students have a legitimate concern about the nature and quality of instruction, and their evaluation of teaching shall be a criterion considered in faculty promotion and tenure. Students should know that faculty are required to meet with their classes as part of their academic responsibility (see Faculty Handbook, <http://policy.usc.edu/faculty/>). Freedom to teach and to learn

07/25/2016

implies that faculty members have the right to determine the specific content of their courses, within the established course definitions, and the responsibility not to depart significantly from their areas of competence or to divert significant time to material extraneous to the subject matter of their courses.

- iii. *Protection Against Improper Evaluation* Students shall have protection through orderly procedures against prejudiced or capricious academic evaluation. The method of grading by professors shall be made known to students. Students can expect that faculty will be willing to explain and discuss any grade, and students have the right to appeal any grade. (See Section C.2. Disputed Academic Evaluation Procedures, and the Faculty Handbook online at <http://policy.usc.edu/faculty/>)
- iv. *Protection Against Improper Disclosure* Information about students' views, beliefs, political associations, performance and character, which professors and administrators acquire in the course of their work as instructors, advisers and counselors shall be held in confidence.
- v. *Assurance of Accessibility* Because the interchange of ideas between student and professor is of the utmost importance, and because such interchanges are often most productive informally, the university shall provide for student access to members of the faculty in appropriate settings outside the classroom.

b. Responsibilities

- i. *Freedom of Expression* As students are free to take reasoned exception to the data or views offered in any course of study, so students are expected to respect the intellectual views of faculty and the reasoned process of academic debate.
- ii. *The Importance of Teaching* As faculty are required to meet with their classes, students are expected to attend classes and to observe courtesy toward their instructors and their fellow students.
- iii. *Standard of Performance* Students share responsibility for maintaining standards of academic performance and classroom conduct conducive to the learning process. It is the responsibility of the student to uphold the academic integrity of

07/25/2016

the university. Cheating on examinations, plagiarism, improper acknowledgment of sources in essays, and the use of a single essay in more than one course are considered very serious offenses and shall be grounds for disciplinary action. (See Part B. University Student Conduct Code)

- iv. *Student Participation in Faculty Evaluation* In faculty evaluation, students have the responsibility to perform such evaluation according to academic criteria and not on the basis of opinions or conduct in matters unrelated to academic performance.

III. Student Affairs

As members of the academic community, students bring to the campus a variety of interests. They shall be free to organize and join campus associations to promote their common interests.

a. Freedom of Inquiry and Expression

- i. Students and student organizations shall be free to examine and discuss all questions of interest to them and to express opinions publicly and privately. They shall be free to support causes by all orderly means, which do not disrupt the regular and essential operations and activities of the university, since such disruption violates the responsible exercise of free inquiry and expression. Students and student organizations shall make it clear to the academic and larger communities that in their public expressions they speak only for themselves.
- ii. Students believing that their right to freedom of inquiry and expression has been abridged may present the issue to the Office of the Vice Provost for Student Affairs. (See Part D. Free Expression and Dissent.)
- iii. The distribution of literature is an integral part of expression and of support for a cause. Rules governing such distribution shall ensure the maximum degree of freedom, which is consistent with the regular and orderly operations of the university and the rights of students. (See Section D.5 Literature and Publications Distribution.)

b. Student Participation in Student Governments

The Undergraduate Student Government and the Graduate Student Government are the official representative student governments of the University of Southern California with power to make studies, reports and recommendations to the President of the university in any and all matters pertaining to the well-being of the student body. The role of the student government within the areas of its jurisdiction shall be reviewed by the university administration only through orderly procedures and channels.

c. Student Publications

The university shall provide editorial freedom for student publications to maintain their integrity as vehicles for free inquiry and free expression in the academic community. The editorial freedom of student editors and managers entails a responsibility to abide by the canons of responsible journalism. Libel, indecency, undocumented allegations, attacks on personal integrity and the techniques of harassment and innuendo shall be considered violation of those canons. As safeguards for the editorial freedom of student publications, the following provisions are guaranteed:

- i. The student press shall be free of censorship and advance copy approval, and its editors and managers shall be free to develop their own editorial policies and patterns of news coverage.
- ii. All university-published and/or -financed student publications shall state explicitly on the editorial page that the opinions expressed are not those of the university or its student body as a whole.
- iii. Editors and managers of student publications shall be protected from arbitrary suspension and removal because of student, faculty, administrative or public disapproval of editorial policy or content. Only for proper and stated causes can editors be subject to removal, and then by orderly and prescribed procedures.

d. Freedom of Association

- i. The university has the right to recognize student organizations and to withdraw recognition for failure to abide by campus regulations and federal, state and municipal laws and regulations.

07/25/2016

- ii. Student organizations shall be allowed to invite and to hear any person of their choosing in accordance with recognized university speakers procedures required by the university before the guest speaker is invited to appear on campus. Such procedures shall be designed only to ensure that there is orderly scheduling of facilities and adequate preparation for the event. Control of campus facilities shall not be used as a device of censorship. Sponsoring organizations shall make clear to the academic and larger communities that sponsorship of guest speakers does not imply approval or endorsement of the views presented, either by the sponsoring group or the university.
- iii. The membership, policies and action of a student organization shall be determined by a vote of only those persons who are bona fide members of the university community and of that organization.
- iv. Students shall have a voice in determining policy pertaining to the recognition and discipline procedures, which affect student organizations. Approval or disapproval of any application for recognition of a student organization shall rest with a body, which has adequate student representation.
- v. Affiliation with an extramural organization shall not of itself disqualify a student organization from university recognition.
- vi. When student organizations are encouraged to have advisers, or when campus advisers are required, each organization shall be free to choose its own adviser. Institutional recognition shall not be withheld or withdrawn solely because of the inability of a student organization to obtain an adviser. Campus advisers may advise organizations in carrying out their responsibilities, but they shall not have the authority to control the policies or finances of such organizations.
- vii. Campus organizations, including those affiliated with an extramural organization, shall be open to all students without respect to race, color, disability, sexual orientation, religion, sex, national origin, age or status as a disabled veteran or veteran of the Vietnam era, except for those religious qualifications which may be specified by organizations whose aims are primarily sectarian. (Consult the Office of the Vice Provost, Student Affairs, for the provisions of Title VI and IX.)

07/25/2016

- viii. Student organizations capable of maintaining financial autonomy shall be allowed to do so. Provision by the university for handling budgets and accounts, banking and other financial services shall in no way indicate a prerogative on the part of the university to control funds, except through prescribed procedures designed to redress justified grievances or uphold university regulations.
- ix. Student organizations, in consultation and coordination with the university, may publicize their events and solicit participation in them from the university and outside community. (See Part G. Student Organizations.)

(Portions of this section excerpted from Joint Statement on Rights and Freedoms of Students)

Adopted by the Board of Trustees, subject to the resolution on Power of the Board. It has been updated to reflect current policies.

4. Equal Opportunity

I. Policy

The University of Southern California is an equal opportunity educator and employer, proudly pluralistic and firmly committed to providing equal opportunity for outstanding women and men of every race, creed and background. The university strives to maintain a community in which each person respects the rights of other people to live, work and learn in peace and dignity, be proud of who and what they are, and to have equal opportunity to realize their full potential as individuals and members of society. To this end, the university places great emphasis on those values and virtues that bind us together as human beings and members of the Trojan Family. The university enthusiastically supports this principle in its entirety, and expects that every person associated with the university will give continuing support to its implementation.

II. Non-Discrimination and Affirmative Action

The university is committed to complying with all applicable laws and governmental regulations at every level of government which prohibit discrimination against, or which mandate that special consideration be given to, students and applicants for admission, and faculty, staff and applicants for employment, on the basis of any protected characteristic, as defined below.

07/25/2016

This commitment applies to all of the university's educational programs and activities including admissions, and all personnel actions including but not limited to recruiting, hiring, promotion, demotion, compensation, benefits, transfers, layoffs, return from layoff, provision of leaves, training, education, tuition assistance and other programs. In addition, an otherwise qualified individual must not be discriminated against in, or excluded from, admissions, participation in educational programs and activities, or employment solely due to his or her disability. The university seeks compliance with all statutes prohibiting discrimination in education, including Title VI and Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and the Americans with Disabilities Act Amendments Act of 2008, which respectively prohibit discrimination. This good faith effort to comply is made even when such laws and regulations conflict with each other. University policies and procedures will ensure that students and student applicants with a disability will not, on the basis of a disability, be denied full and equal access to and enjoyment of academic and co-curricular programs or activities or otherwise be subjected to discrimination under programs or activities offered by the university. For more information on accommodations for any student, or student applicant, with a disability, contact the Office of Disability Services and Programs at (213) 740-0776.

III. Sources of Information

Questions regarding the application of the various rules and regulations concerning equal employment opportunity, affirmative action and non-discrimination, and Title IX should be addressed to the Office of Equity and Diversity.

The Disabled/Veterans Affirmative Action Plan may be reviewed by students upon request; for further information or to make an appointment during regular business hours, contact the Office of Equity and Diversity.

University Park Campus:
3720 S. Flower Street 2nd floor
Credit Union Building, 200
Los Angeles, California 90089-0704
(213) 740-5086
oed@usc.edu

Health Science Campus:
2001 N. Soto Street, Suite 203
Los Angeles, CA 90002-9236
(323) 442-2020

07/25/2016

oed@usc.edu

IV. Protected Characteristics

The protected characteristics under this policy include sex, race, color, national origin, citizenship, ancestry, religion, gender, gender identity, gender expression, sexual orientation, age, physical disability, medical condition, mental disability, marital status, pregnancy, veteran status, genetic information, and any other characteristic that may be specified in applicable laws and governmental regulations.

5. Principles of Community

The University of Southern California's Division of Student Affairs bears a central responsibility for providing students services and resources that will assist in all aspects of their development. We further seek to foster a scholarly community in which an individual's participation in academic dialogue will be considered on its merits — and not denigrated or disregarded based on personal characteristics or group identity. Consistent with this charge, the division has adopted the following statement of guiding principles.

USC is a multicultural community of people from diverse racial, ethnic, and class backgrounds, national origins, faith backgrounds, political beliefs, abilities, and sexual orientations. Our activities, programs, classes, workshops, lectures, and everyday interactions are enriched by our acceptance of one another, and we strive to learn from each other in an atmosphere of positive engagement and mutual respect.

All who work, live, study and teach in the USC community are here by choice. As part of that choice, we share a commitment to these principles as an integral part of USC's mission.

6. Code of Ethics at the University of Southern California

See Code of Ethics of USC at <https://about.usc.edu/policies/>

7. Department of Education Compliance

The Department of Education requires each state to have an external agency responsible for handling complaints related to the university's compliance with applicable laws. In California, this external agency is the Bureau for Private Post-Secondary Education. Complaints that suggest the university may not be in compliance with applicable laws may be directed to:

Bureau for Private Postsecondary Education
2535 Capitol Oaks Drive, Suite 400

07/25/2016

Sacramento, CA 95833
Telephone: (916) 431-6959
<http://www.bppe.ca.gov/enforcement/complaint.shtml>

Additionally, the university is accredited by the WASC Senior College and University Commission. Complaints demonstrating a possible violation of the Commission's Standards of Accreditation and Commission policies and procedures should be directed to:

WASC Senior College and University Commission
985 Atlantic Avenue, Suite 100
Alameda, CA 94501
Phone: (510) 748-9001
<http://www.wascsenior.org/comments>

07/25/2016

B. University Student Conduct Code

10. General Disciplinary Principles

Students are expected to make themselves aware of and abide by the University community's standards of behavior as articulated in the Student Conduct Code and in related policy statements. Students accept the rights and responsibilities of membership in the USC community when they are admitted to the university. In the university, as elsewhere, ignorance is not an acceptable justification for violating community standards. Lack of intent or awareness of university standards normally will not be accepted as excuses for violations and will normally receive the same consequences as deliberate violations.

Because the functions of a university depend on honesty and integrity among its members, the university expects from its students a higher standard of conduct than the minimum required to avoid disciplinary action. Likewise, while many of the university's standards of conduct parallel the laws of society in general, university standards may exceed those found elsewhere in society.

Where there is a delay between the conduct and the reporting of the potential violation, the applicable provisions regarding behavior violating university standards and appropriate sanctions (as described in Section B.11) shall be those that were in effect at the time the behavior occurred. Student conduct investigations will be conducted according to the most recent or current procedures described in the most current version of this part as of the date of the notification letter to the respondent.

Any reference to "days" in this part refers to calendar days, unless otherwise noted.

10.05 Disciplinary Authority

The powers of the university are exercised, its property controlled and its affairs conducted by the Board of Trustees. Responsibility for the administration of these affairs is delegated by the board to various officers of the university, as stipulated in the corporate bylaws; the enforcement of all rules and regulations is the specific duty of the university president. The President, in turn, delegates the authority to the Vice Provost for Student Affairs to establish and hold student conduct review proceedings that will ensure the proper administration of the university's rules and regulations. The Vice Provost for Student Affairs has delegated this responsibility to the Office of Student Judicial Affairs and Community Standards. As explained in Part E, the delegation of responsibilities is different for matters involving discrimination, harassment (including sexual and gender-based harassment), sexual misconduct, dating violence, domestic violence, intimate partner violence, stalking, child abuse and retaliation

07/25/2016

connected with such matters, which are delegated to the university's Title IX Coordinator and are governed by Part E ("Part E Misconduct Investigations").

In exceptional circumstances, where imminent harm may result to persons or property within the university community, the Vice Provost for Student Affairs or designee may modify procedures outlined under the Non-academic Conduct Review System (see Section B.12).

Student procedural rights and review procedures are articulated in later sections of the Student Conduct Code.

10.10 Basic Principles

- I. The Relationship of Discipline to the Purpose of the University.
The University of Southern California is primarily an academic community. As such, the university seeks to maintain an optimal learning environment. To achieve this objective, the university exercises certain disciplinary and discretionary powers. It protects its educational environment by establishing and maintaining standards of conduct for its students as individuals and as groups. These standards reflect the very nature of an academic community and the need to preserve an effective educational environment.

Activities of students may result in violation of law, and students who violate the law may incur penalties prescribed by civil authorities. However, the university reserves the right to review such incidents independent of action by civil or criminal authorities, recognizing that the university's authority and its disciplinary process serve its educational mission and interest, a function separate from action by civil or criminal authorities.

The university's function with reference to student conduct differs from the community's function in method as well as scope. Recognizing its role in developing a sense of responsibility in students, the university uses admonition, example, counseling and guidance in addition to formal disciplinary proceedings. Every USC student is presumed to have sufficient maturity, intelligence and concern for the rights of others to help maintain the standards of the academic community. When a student's behavior demonstrates otherwise, the university will consider disciplinary action as appropriate.

- II. Conditions for Review
 - a. Definition of a Student:

07/25/2016

For the purpose of university rules and regulations, a student is defined as one who:

- i. is currently enrolled in university classes or in one of the university's degree or non-degree programs,
- ii. has completed the immediately preceding semester and/or is enrolled for the next scheduled semester,
- iii. is officially representing the university during a period between regular academic semesters, or
- iv. is not officially enrolled for a particular semester, but who has a continuing relationship with the university.

An individual may be reviewed under this code if an allegation of academic integrity violation is made after the student has left the university and a degree has been granted.

b. Definition of a Student Organization:

A student organization is defined as one which has satisfied the administrative procedures for recognition as prescribed in this guidebook (see Section G.1. Recognition of Student Organizations) or which is functioning within the university community in the capacity of a student organization.

c. Timeliness:

Generally, a matter will be reviewed only when a report has been filed with the Office of Student Judicial Affairs and Community Standards within one year of discovery of the alleged violation. There is no time limit for cases involving academic or sexual misconduct or discrimination, and those matters will be reviewed whenever they are reported. Cases involving discrimination, harassment (including sexual and gender-based harassment), sexual misconduct, dating violence, domestic violence, intimate partner violence, stalking, child abuse and retaliation connected with such matters ("Part E Misconduct") should be filed with the Office of the Title IX Coordinator, as explained in Part E.

d. Jurisdiction:

07/25/2016

University jurisdiction and discipline shall be limited to conduct which occurs on university premises or within the university community, is associated with university sponsored or related activities, or which adversely affects the university community and/or the pursuit of its objectives, including student-to-student sexual misconduct. For jurisdiction in Part E Misconduct Investigations, see Part E.

e. Standard of Proof:

The standard of proof for deciding against the accused student or student organization shall be such evidence that, when weighed against that opposed to it, has the more convincing force and the greater probability of truth, also referred to as the preponderance of the evidence. Responsibility for presenting evidence to establish a violation of the Student Conduct Code shall rest upon the complainant. However, in Part E Misconduct Investigations, the university, not the complainant, is responsible for gathering and presenting evidence to establish whether the respondent has violated Part E.

f. Status of Students or Student Organizations Pending Student Conduct Review.

The status of a student in most cases will not be altered and disciplinary sanctions will not be implemented until completion of an initial review (for Part E Misconduct Investigations, See Section E.8.IV. Status of the Respondent).

Interim Protective Measures may be authorized by the President of the university, by the Vice Provost for Student Affairs, or the designee of either, whenever there is evidence that a student or organization poses a substantial threat to the safety or well-being of members of the university community, to property within the university community or poses a continuing threat of disruption or interference to normal university life or functions. See Section B.11.83.

Administrative holds affecting registration transactions, posting of degree and a student's ability to acquire copies of their transcript may be placed when students fail to fulfill terms of their disciplinary obligations. Such situations may include failure to respond to a written notice indicating a required

07/25/2016

appointment with a designated university disciplinary official and failure to complete disciplinary sanctions by an established deadline.

This restriction normally will remain in effect until disciplinary obligations are met or adjudication of the matter is complete. Students placed on disciplinary probation or deferred suspension may continue to participate in university activities unless specific sanctions or other campus and organizational rules or regulations restrict such participation.

When the outcome of a disciplinary action is suspension from the university, a restriction will be placed prohibiting the student from performing any registration transactions during the period of suspension. The restriction will not be removed, and the student will not be allowed to perform registration transactions, until the stated period of suspension has expired and all disciplinary obligations are met.

III. Expectations for Students' Conduct

The general principles set forth here and behavioral standards, which are described in Section B.11. and Part E, are intended to provide clear guidelines for students as to what is expected of them as members of the university community, and to inform students of types of conduct that may result in university disciplinary action.

10.20 Summary of Student Conduct Code Review Process

I. Generally, student misconduct cases will be divided into four categories:

- non-academic violations (process summarized in subsection II below),
- academic integrity violations (process summarized in subsection III below),
- admissions violations (process summarized in Section B.14)
- Part E Misconduct cases (process set out in Part E). With the exception of Section B.12.14, Sections B.12 through B.15 do not apply to Part E Misconduct Cases.

The Office of Student Judicial Affairs and Community Standards is responsible for the integrity of the student conduct system. It gives advice and is responsible for procedural questions and conduct reviews, except for reviews of Part E Misconduct. There are also separate review processes in certain schools (see Section B.12.14).

07/25/2016

II. Summary of Nonacademic Review Process

This is only a summary; for details see the sections starting with B.12. The procedures below in this Part B do not apply to Part E Misconduct Investigations (pertaining to sexual and gender-based harassment and violence, dating violence, domestic violence, intimate partner violence, stalking, and retaliation); the procedures for Part E Misconduct Investigations are set forth in Part E.

- a. A written report regarding an alleged violation of the Student Conduct Code is received by the Office of Student Judicial Affairs and Community Standards from the USC Department of Public Safety, a student or a faculty member or a staff member of the university community. (See Sections B.12.01-12.04).
- b. The director will evaluate reports to determine whether to proceed with the student conduct process or dismiss the case. (See Section B.12.06).
- c. The Office of Student Judicial Affairs and Community Standards sends written notification of the complaint to the accused student via USC email (see Section F.2. University Email Notifications to Students).
- d. The accused student must meet with a designated review officer from the Office of Student Judicial Affairs and Community Standards to review the complaint and allegation. Certain cases are subject to other reviews such as Residential Education Review (see Section B.12.13).
 - i. The accused student may accept a Voluntary Administrative Review by not disputing the allegation, waiving the right to a further review and accepting the findings of the hearing officer or body. The Administrative Review is completed through a written form signed by both the student and an Office of Student Judicial Affairs and Community Standards staff member.
 - ii. The accused student may deny the allegation. If so, a Summary Administrative Review may be conducted by a designated review officer. (See Section B.12.10). Alternatively the review officer may refer the matter to a Peer Review panel (see Section B.12.11) or a University

Review panel (see Section B.12.12), as the review officer deems appropriate. If the accused student is referred to a review panel, a review officer will arrange the date, time and place for the review, send a letter of notice to the student and convene a panel review according to the written notice provided to the student.

- iii. The case may be dismissed by the review officer.
- e. Sanctions which may be assigned include but are not limited to: warning, disciplinary probation, service, educational classes, restitution, removal from university housing, loss of specific privileges, suspension and/or expulsion. (See Section B.11.80).
- f. The decision may be appealed within 10 business days of receipt of the written decision. (See Section B.15)
- g. For certain cases or when it is determined that an accused student is responsible for a violation of university standards by any of the above processes, a conduct record of the matter will be maintained in a confidential student file by the Office of Student Judicial Affairs and Community Standards for up to seven years. Expulsion, suspension, revocation of admission or degree will result in permanent student conduct files.*

* This information summarizes extensive materials from the Student Conduct Code. Readers should note that this summary is not authoritative in speaking to issues of review process. Sections B.12, 13, 14 and 15 of the Code should be consulted.

III. Summary of Academic Integrity Review Process

This is only a summary. See Section B.13 for full details of Academic Integrity Review Process.

- a. The instructor believes that an academic integrity violation has occurred.
 - i. The instructor or university official makes a reasonable attempt to meet with or notify the student and discuss the incident.
 - ii. The instructor or university official forwards a report of the alleged violation to the Office of Student Judicial Affairs and Community Standards.

- b. The Office of Student Judicial Affairs and Community Standards sends written notification of the complaint to the student with a copy to the reporting party and the academic unit.
 - i. If further review is not required, the student will be notified via email of the opportunity to meet with a review officer from the Office of Student Judicial Affairs and Community Standards. Further review of the matter may be requested by the student. If the student does not request further review by the deadline, then the proposed sanctions will be implemented.
 - ii. If further review is necessary (e.g., because additional sanctions are recommended or because further review is requested), the student must meet with a review officer from the Office of Student Judicial Affairs and Community Standards. The student then may:
 - accept a Voluntary Administrative Review by not disputing the allegation, waiving the right for further review and accepting the findings of the hearing officer or body. The Administrative Review is completed through a written form signed by both the student and review officer.
 - deny the allegation and request further review of the matter. A Summary Administrative Review may be conducted by a designated review officer or the matter may be referred to a review panel, as appropriate. If the student is referred to a review panel, a review officer will arrange a date, time and place for the review, send a letter of notice to the student and convene a panel for review according to the written notice provided to the student.
- c. Sanctions that may be assessed include but are not limited to: grade sanctions (e.g., "F" in course), education, and dismissal from the academic department. In addition, sanctions of suspension or expulsion from the university may be assessed through a review process when requested by the instructor, requested by the academic or administrative unit in which the violation occurred or when indicated by university standards (such as the seriousness of the misconduct or the existence of previous academic violations by the student). (See Appendix A).

07/25/2016

- d. The decision from the review may be appealed within 10 business days of receipt of the written decision.
- e. When it is determined that the student is responsible for a violation of university standards by any of the above processes, a disciplinary record of the matter will be maintained in a confidential student file by the Office of Student Judicial Affairs and Community Standards for up to 7 years. Expulsion, suspension, revocation of admission or degree will result in permanent student conduct files.

* This information summarizes extensive materials from the Student Conduct Code. Readers should note that this summary is not authoritative in speaking to issues of review process. Sections B.12, 13, 14 and 15 of the Code should be consulted.

10.30 Student Procedural Protections

The university is committed to the timely and fair resolution of disciplinary problems in an adjudicatory process. Although the Student Conduct Code affords significant procedural protections in the adjudicatory process, this does not include the right to confront accusers or be represented by counsel.

With the exception of cases addressed under Sections B.12.13, 12.14, or Part E, students accused of violating the Student Conduct Code and reporting students are granted the following procedural protections:

- I. Written notice via email of the incident report that specifies the nature of the alleged violation and the basis for the charge including the date or period of time and location regarding the alleged incident.
- II. Written notice of the location of copies of the Student Conduct Code and Conduct Review System.
- III. Written notice of the requirement that the accused student must meet with a judicial officer in the Office of Student Judicial Affairs and Community Standards. The university reserves the right to conduct reviews in absentia when an accused student fails to respond after proper notice has been given or after the university has exercised reasonable effort to notify the student of the allegations.
- IV. A fair and impartial review of the incident.
- V. Prior to a review, a summary of rights, review procedures and avenue of appeal.

07/25/2016

- VI. The right to inspect documents and/or relevant information on file prior to the review. A request to inspect documentation or evidence should be directed to the staff member in charge of the review at any time during the process. Requests must be presented in writing at least 2 working days in advance.
- VII. The opportunity to be present at the review; to inspect all evidence presented; and to present witnesses and evidence.
- VIII. If the accused student declines to present information on their own behalf, this will not be construed as an admission of guilt.
- IX. A written decision outlining the results of the review. In Summary Administrative Reviews and panel reviews, this includes the factual basis for the conclusions drawn.

Student conduct records are maintained as a confidential student disciplinary file. As a primary document in such files, distribution of written decisions is limited to accused students and to USC personnel charged with responsibility for implementation of sanctions. Complainants will be notified by separate letter of the outcome of the review. (For an explanation of university policy concerning student records, see Section C.5 Student Education Records.)

- X. The opportunity to appeal the initial review within 10 business days of receipt of the written decision. Both the accused student and the complainant will be notified in writing of the outcome of any appeal. Notice will be emailed to the student's email address of record in the Student Directory, unless the student makes arrangements in advance with the investigator to have the decision mailed to the student's last known address or hand-delivered. If a notice is mailed, it is deemed to be received three days after it is mailed.
- XI. A timely initial review conducted as soon as possible after the Office of Student Judicial Affairs and Community Standards has received all pertinent documents of the case. Due to the nature of the university's academic calendar, the Office of Student Judicial Affairs and Community Standards may not be able to conduct a review at any specified date or time.
- XII. At all steps of the initial review and in preparing an appeal, the accused student and complainant may have an adviser of their choice present. The adviser may be a practicing attorney only for cases in which criminal

07/25/2016

charges are pending or the recommended sanctions include expulsion, suspension, revocation of degree or revocation of admission. Advisers must request and review the guidelines of advisers prior to the review. In all reviews, whether or not an adviser is present, the primary conversation shall be with the student. (See Section B.12.50.VII. Adviser). A different provision on advisers applies to Part E Misconduct cases (see Part E).

11. Behavior Violating University Standards and Appropriate Sanctions

General principles of academic integrity include and incorporate the concept of respect for the intellectual property of others, the expectation that individual work will be submitted unless otherwise allowed by an instructor, and the obligations both to protect one's own academic work from misuse by others as well as to avoid using another's work as one's own. All students are expected to understand and abide by these principles. Faculty members may include additional classroom and assignment policies, as articulated on their syllabus.

The Student Conduct Code articulates violations that are most common and readily identifiable. Conduct violating university community standards that is not specifically mentioned may still be subject to disciplinary action.

Where conduct under any provision of this Code involves discrimination, harassment, sexual or gender-based harassment or violence, dating violence, domestic violence, intimate partner violence, stalking, child abuse or retaliation, the conduct is "Part E Misconduct" and is subject to review under Part E.

The following are examples of violations of these and other university standards.

11.11

- A. The submission of material authored by another person but represented as the student's own work, whether that material is paraphrased or copied in verbatim or near-verbatim form.
- B. The submission of material subjected to editorial revision by another person that results in substantive changes in content or major alteration of writing style.
- C. Improper acknowledgment of sources in essays or papers.

Note: Culpability is not diminished when plagiarism occurs in drafts which are not the final version. Also, if any material is prepared or submitted by another person on the student's behalf, the student is

07/25/2016

expected to proofread the results and is responsible for all particulars of the final draft.

11.12

- A. Acquisition of term papers or other assignments from any source and the subsequent presentation of those materials as the student's own work, or providing term papers or assignments that another student submits as his/her own work.
- B. Distribution or use of notes or recordings based on university classes or lectures without the express permission of the instructor for purposes other than individual or group study. This includes, but is not limited to, providing materials for distribution by services publishing class notes. This restriction on unauthorized use also applies to all information, which had been distributed to students or in any way had been displayed for use in relationship to the class, whether obtained in class, via email, on the Internet or via any other media. (See Section C.1 Class Notes Policy).
- C. Recording a university class without the express permission of the instructor and announcement to the class. Recording can inhibit future free discussion and thus infringe on the academic freedom of other students as well as the instructor.

11.13

- A. Any use or attempted use of external assistance in the completion of an academic assignment and/or during an examination, or any behavior that defeats the intent of an examination or other classwork or assignment, shall be considered academically dishonest unless expressly permitted by the instructor. The following are examples of unacceptable behaviors: communicating with fellow students during an exam, copying or attempting to copy material from another student's exam; allowing another student to copy from an exam or assignment; possession or use of unauthorized notes, calculator, or other materials during exams and/or unauthorized removal of exam materials.
- B. Submission of work altered after grading shall be considered academically dishonest, including but not limited to changing answers after an exam or assignment has been returned or submitting another's exam as one's own to gain credit.

11.14

07/25/2016

- A. Obtaining for oneself or providing for another person a solution to homework, a project or other assignment, or a copy of an exam or exam key without the knowledge and expressed consent of the instructor.
- B. Unauthorized collaboration on a project, homework or other assignment. Collaboration will be considered unauthorized unless expressly part of the assignment in question or expressly permitted by the instructor.

11.15

- A. Attempting to benefit from the work of another.
- B. Any attempt to hinder the work of another student or any act which may jeopardize another student's academic standing.

11.16

Using any portion of an essay, term paper, project or other assignment more than once, without permission of the instructor(s).

11.17

Falsification, alteration or misrepresentation of official or unofficial records or documents including but not limited to academic transcripts, academic documentation, letters of recommendation, and admissions applications or related documents.

11.18

Taking a course, any course work or exam for another student or allowing another individual to take a course, course work, a portion of a course or exam in one's stead.

11.19

- A. Using university computer, network and word processing systems to gain access, alter and/or use unauthorized information.
- B. Misuse of university computer systems or access to those systems as articulated by the university's Computing Policies (including improper downloading of material, see Section F.1. Computing)

11.20

07/25/2016

Fabrication: Submitting material for lab assignments, class projects or other assignments which is wholly or partially falsified, invented or otherwise does not represent work accomplished or undertaken by the student.

11.21

Any act that gains or is intended to gain an unfair academic advantage may be considered an act of academic dishonesty.

11.31

- A. Dishonesty, such as furnishing false information to any university official, faculty member or office. This includes, but is not limited to, furnishing false information in academic petitions or requests, financial aid documents, student employment documents, financial statements or other documents or intentionally evading university officials and/or obligations to the university.
- B. Failing to participate fully and truthfully in university investigations.

11.32

- A. Conducting oneself in a manner that endangers the health or safety of oneself within the university community or at university sponsored or related events.
- B. Conducting oneself in a manner that endangers the health or safety of other members or visitors within the university community or at university sponsored or related events.

11.33

- A. Unauthorized entry, presence in or use of university premises, facilities or property.
- B. Unauthorized entry into, or presence in, the dwelling or property of another.

11.34

07/25/2016

- A. Forgery, unauthorized alteration or unauthorized use of any university document, records, keys or instruments of identification, or of documents or records related to functions of the university.
- B. Unauthorized presentation of oneself as a representative of the university for the purpose of gaining or attempting to gain privilege, convenience, goods or services.
- C. Possession, manufacture or distribution of false or altered instruments of identification within the university community.

11.35

Theft (or attempted theft) of property or of services within the university community; possession of stolen property regardless of origin; or misappropriation of university resources.

11.36

- A. Causing physical harm to any person in the university community or at university-sponsored activities.
- B. Causing reasonable apprehension of harm to any person in the university community or at university-sponsored activities.

Note: Self-defense is that which reasonably appears necessary, in view of all the circumstances of the case, to prevent injury and remove oneself from the situation.

11.37

Destroying, damaging or defacing the property of others, whether in the university community or at university-sponsored activities.

11.38

Behavior which disrupts or interferes with normal university or university-sponsored activities, including, but not limited to, study, teaching, research, officially invited speakers, university administration, public safety, or fire, police or emergency services or other authorized activity. (Also see Part D. Free Expression and Dissent.)

11.39

07/25/2016

Failure to comply with directions of university officials acting in the performance of their duties while in the university community or at university-sponsored activities, or resisting or obstructing such university officials in the performance of their duties, including failure to carry and/or provide upon request appropriate USC student identification.

11.40

Unauthorized use, possession or dissemination of alcohol in the university community or at university-sponsored activities. (Also see Section F.5. Alcohol and Other Drugs.)

11.41

Use, possession or dissemination of illegal drugs or drug-related paraphernalia in the university community or at university-sponsored activities. (Also see Section F.5. Alcohol and Other Drugs.)

11.42

Behavior which disrupts or interferes with the freedom of expression of others in the university community or at university-sponsored activities. (Also see Part D. Free Expression and Dissent.)

11.43

Participation in or promotion of a disturbance of the peace or unlawful assembly in the university community or at university-sponsored activities, which may include violating published USC guidelines regarding amplification equipment and noise. (Also see Part D. Free Expression and Dissent.)

11.44

- A. Engaging in disruptive or disorderly conduct in the university community or at university-sponsored activities.
- B. Engaging in or encouraging lewd, indecent or obscene behavior in the university community or at university-sponsored activities.
- C. Encouraging or permitting others to engage in misconduct prohibited within the university community, failing to confront and prevent the

07/25/2016

misconduct, notify an appropriate university official of the misconduct, or remove oneself from the situation.

11.45

Initiating or causing to be initiated any false report, warning or threat, such as that of fire, explosion or other emergency in the university community or at university-sponsored activities.

11.46

- A. Misusing or damaging fire safety equipment or other emergency equipment in the university community or at university-sponsored activities.
- B. Failure to evacuate during a fire alarm, whether the alarm is activated falsely, as a drill, or in a genuine emergency.
- C. Inappropriate use of flammable substances or equipment, or use of such items without proper authorization.

11.47

- A. Unauthorized use or possession of firearms or replicas, ammunition, explosives, knives, flammable substances or other weapons in the university community or at university-sponsored events.
- B. Unauthorized use or possession of fireworks in the university community or at university-sponsored events.

11.48

Violating rules and regulations pertaining to the operation of bicycles, mopeds and/or vehicles, roller skates, rollerblades, scooters and skateboards in the university community property. (Also see Sections F.10. Bicycles; F.11. Motorscooters/ Motorcycles; F.12. Roller Skates, Rollerblades, Scooters, Skateboards and Other Coasting Devices.)

11.49

Knowingly violating the terms of any disciplinary sanction imposed in accordance with the Student Conduct Code. This includes further violations during a period of disciplinary probation.

07/25/2016

11.50

- A. Violating regulations or policies governing residence in university owned or administered property (e.g., rules outlined in the USC Housing Contract and Residential Education policies).
- B. Violating standards or policies established for social greek letter organizations, including but not limited to the Greek Recognition Standards.
- C. Violating any policies, rules or regulations of the university including but not limited to administrative rules of campus offices.
- D. Violating Section G.2. Group Responsibility for Student Organizations (including social greek letter organizations). This policy can also be found in the Office for Fraternity and Sorority Leadership Development and in the Office of Campus Activities.

11.51

Engaging in discriminatory or harassing behavior as defined in Sections E.2 and E.3. This conduct is "Part E Misconduct", subject to review under Part E.

11.52

Any act chargeable as a violation of local, state or federal law may be cited as a violation of the University Student Conduct Code, whether or not charges are brought by civil authorities, when such act(s) occur on university premises, or at university sponsored activities or events, or when such conduct adversely affects the university community and/or the pursuit of its objectives.

11.53 Sexual Misconduct, Dating Violence, Domestic Violence, Intimate Partner Violence, Stalking and Child Abuse

The conduct prohibited by this section 11.53 is "Part E Misconduct" subject to review under Part E. The University Student Conduct Code prohibits a broad continuum of behaviors, including all forms of sexual or gender-based harassment and violence, dating violence, domestic violence, intimate partner violence, stalking and child abuse. For all relevant definitions relating to the following code sections, See Part E.

07/25/2016

- A. Engaging in sexual or gender-based harassment as defined in Section E.5.III.
- B. Engaging in non-consensual fondling, groping or sexual contact including intentional contact with the intimate parts of another, causing another to touch one's intimate parts, or disrobing or exposure of another without permission. Intimate parts may include the breasts, genitals, buttocks, groin, or mouth. (See Section E.5.IV.)
- C. Engaging in any actual or attempted non-consensual physical sexual act including, but not limited to vaginal, oral or anal penetration using a body part or object. (See Section E.5.IV.)
- D. Engaging in sexual exploitation as defined in Section E.5.V.
- E. Engaging in domestic violence, dating violence or intimate partner violence as defined in Section E.5.VI.
- F. Engaging in stalking as defined in Section E.5.VII.
- G. Engaging in child abuse as defined in Section E.6.
- H. Engaging in retaliation as defined in Section E.4.

11.54

Engaging in behavior prohibited by the policy against Hazing. (See Section G.8. Hazing.)

Where conduct under section 11.54 involves discrimination, harassment, sexual or gender-based harassment and violence, the conduct is considered Part E Misconduct and is subject to review under Part E.

11.55

Threatening, attempting, or committing retaliation against anyone who, in good faith, brings a complaint under SCampus policy, university policy, or applicable law; or participates in investigation of such a complaint; or protests in good faith alleged discrimination, harassment or retaliation against another. Such retaliation may include, but is not limited to:

07/25/2016

- Coercion, intimidation, interference, harassment or vexatious behavior;
- Excluding or blocking someone from a team, activity, organization, or course participation due to that person's having filed a complaint or been a witness as part of an investigation;
- Spreading negative information about the individual.

11.80

Sanctions for violations of the University Student Conduct Code are assessed appropriately for the cited violation. Sanctions for Part E Misconduct Investigations are governed by Section E.8.V. Policy Violations and Sanctions, and not by Sections 11.80 through 11.94.

Sanctions will be considered in light of a student's comprehensive conduct record at the university. Sanctions will be designed to hold students accountable for their actions; to promote their physical, intellectual, social and emotional well-being; to protect the integrity of the educational environment of the university; and to ensure the safety of every member of its community.

All academic integrity violations will result in an academic consequence. Failure to comply with the terms of any imposed sanctions may be considered an additional violation.

When a student's enrollment is cancelled as a result of disciplinary action resulting in marks of "W" on the student's academic transcript, the university's policy is not to refund tuition or fees for the cancelled enrollment.

One or more of the following sanctions may be imposed for violations of university regulations.

11.81

Expulsion from the university: Permanent termination of student status. A permanent notation will appear on the student's transcript. The student will be excluded from all classes, seminars and programs; will not be allowed to participate in any university-sponsored activity; may not receive a USC degree; and is barred from university premises. If the expulsion becomes effective during a semester for which the student currently is enrolled, the student's enrollment will be cancelled by the

university resulting in marks of "W" for the enrolled courses on the student's academic transcript.

11.82

Suspension from the university: Termination of student status for a specified but limited period of time. During the period of suspension, the student will be excluded from all classes, seminars and programs; will not be allowed to participate in any university-sponsored activities; and is barred from university premises. A restriction will be placed prohibiting the student from performing any registration transactions during the period of suspension. The restriction will not be removed, and the student will not be allowed to perform registration transactions, until the stated period of suspension has expired and all disciplinary obligations have been met. A notation will appear on the student's academic transcript indicating the dates of suspension. Upon earning a degree from the university, the suspension notation may be omitted from the transcript at the sole discretion of the university. In some cases, suspensions may be permanently noted on the transcript. During the period of suspension, the student may not complete academic work elsewhere that may be counted toward the completion of a USC degree.

Violation of the conditions of suspension, university policies or regulations during the period of suspension may be cause for further disciplinary action, usually in the form of expulsion from the university. Normally after the suspension, the student will be on disciplinary probation for a specified period of time. If the suspension becomes effective during a semester for which the student currently is enrolled, the student's enrollment will be cancelled by the university resulting in marks of "W" for the enrolled courses on the student's transcript.

11.83

Interim Protective Measures: The Vice Provost for Student Affairs or designee may authorize Interim Protective Measures, including suspension or other action, against a student or organization pending disciplinary proceedings whenever there is evidence that the student or organization poses a substantial threat to the safety or well-being of members of the university community, to property within the university community or when a student or organization poses a continuing threat of disruption or interference to normal university life or functions. A student or organization subject to Interim Protective Measures will be given prompt written notice of the charges and the opportunity for a

07/25/2016

review within 15 days of the notice, unless a later date shall be mutually agreed upon by the accused student or organization and the Office of Student Judicial Affairs and Community Standards or the Title IX Coordinator.

- I. Interim Suspension: Exclusion from all classes, seminars and programs; prohibition of participation in university-sponsored activities; and exclusion from university premises.
- II. Interim Action: Includes, but is not limited to, exclusion from university housing or a specified portion thereof, limitations on hours of attendance at certain events or in certain university facilities, or exclusion from other specified activities or areas of the campus as set forth in the written notice of Interim Action.

11.84

Revocation of Admission: The student loses admitted status to the university. The student may not continue enrollment or enroll for future semesters and may not receive a USC degree. Normally, revocation of admission precludes the student from the opportunity to apply to or be admitted to any program at the university in the future. A permanent notation will be made on the student's transcript indicating that admission was revoked and the date of the action. If the revocation of admission becomes effective during a semester for which the student currently is enrolled, the student's enrollment will be cancelled by the university resulting in marks of "W" for the enrolled courses on the student's academic transcript.

11.85

Revocation of Degree: The student loses the right to claim the degree as earned. Posting of the degree will be removed from the student's transcript, and a permanent notation will be made on the transcript indicating the revocation, the degree involved and the date of the action.

11.86

Dismissal from an Academic Unit: Permanent termination of the student's right to enroll or participate in the classes, seminars and/or programs of a specific academic unit, school or department.

07/25/2016

- I. Undergraduate Students: Dismissal from a specific undergraduate academic unit shall not prevent undergraduate students from enrolling in other university academic units. Normally after dismissal from an academic unit, the student will be on disciplinary probation for a specified period of time.
- II. Graduate Students: Students who have been dismissed from a specific graduate academic unit may not enroll in other graduate programs unless they have gained formal admission to such programs.

11.87

Removal from an individual course or section of a course. Removal precludes the student from participation in and attendance of the course or section, or any of its sessions. In multiple section courses, the student will not necessarily be allowed to transfer to another section.

11.88

Grade Sanctions: Any disciplinary grade reduction including, but not limited to, grades of "F" for a course, a reduced grade for a course, grades of "F" or zero credit for assignments, or reduced credit for assignments. In cases where a student has registered for a course on a Pass/No Pass basis and the student is found responsible for an academic violation, a letter grade may be assigned. See Appendix A for university recommendations.

11.89

Disciplinary Probation: Indicates that the student has engaged in unacceptable behavior and may be required to report to the Office of Student Judicial Affairs and Community Standards or designee (or, in the case of Part E Misconduct cases, to the Office of the Title IX Coordinator or designee) and meet specific conditions related to the violation during the probationary period. Additionally, the student is given written notice that any further violations of university policies may result in more severe sanctions such as removal from university housing, suspension, dismissal from an academic unit or expulsion from the university.

11.90

07/25/2016

Warning: Written notice to the student that continued or repeated violations may be cause for further disciplinary action, normally in the form of disciplinary probation, suspension or expulsion.

11.91

Restitution: Reimbursement for damage to university property or for misappropriation of university property or services may be imposed in combination with other disciplinary action where appropriate. The student may be required to make reimbursement to the university for property damages incurred as a result of a violation of this code. Such reimbursement may take the form of monetary payment or appropriate service to repair or otherwise compensate for damages. Restitution may be assigned for minor damage to the property of individuals or groups within the university community, but adjudication of student discipline usually will defer determination of significant restitution to other appropriate processes.

11.92

Restriction or Loss of Computing Privileges: Consequences for violation of the University Computing Policies or violations involving use of university computing services may include:

- I. Restrictions placed on the use of university computing resources that may include prohibition of access to particular facilities or resources (e.g., Resnet), or limits placed on the use of university computing resources (e.g., restriction to use for specified academic work only).
- II. Loss of privilege of using university computing resources for any purpose, including academic work. Loss of privilege may be temporary or permanent.

11.93

Organizational Sanctions: All residential and non-residential organizations, clubs and similar organized groups are responsible for compliance with university rules and regulations. Upon a determination that the group has engaged in violations, encouraged violations, or did not take reasonable steps as a group to prevent violations of university rules and regulations, the group may be subjected to permanent or temporary removal of recognition/registration, social probation, denial of the use of university facilities or other appropriate sanctions (see Section G.2. Group Responsibility for Student Organizations).

07/25/2016

11.94

Other Sanctions: Other sanctions may be imposed instead of or in addition to those specified in the above list. Examples include but are not limited to: university housing reassignment or removal, restrictions upon or denial of driving privileges on campus, prohibition of student leadership opportunities, counseling, community service work, research projects, seminars, classes or other educational experiences deemed appropriate. Certain sanctions also may be assigned as “deferred” under appropriate circumstances (e.g., deferred removal from housing, deferred suspension from the university, deferred loss of organizational recognition).

12. Student Conduct Review

Note: This Section 12 does not apply to Part E Misconduct as defined in Section 11. Part E Misconduct is reviewed pursuant to the procedures set forth in Section E.8.

12.01 Complaints

Any member of the university community (faculty, staff and/or student) may initiate a complaint against a student or student organization for an alleged non-academic violation of the Student Conduct Code by submitting a report to the Office of Student Judicial Affairs and Community Standards. Academic integrity cases are initiated by a faculty or staff member.

12.02 Complaint through Other Channels

When an alleged violation is indicated in a USC Department of Public Safety or police report, or a referral by the Center for Women and Men, Student Judicial Affairs and Community Standards, or the Office of Equity and Diversity, the Vice Provost for Student Affairs or designee may initiate a review of the alleged violation on behalf of the university. Such an action may be taken when the circumstances of the alleged violation affect the well-being of the campus or the personal safety or well-being of any member of the university community.

12.03 Contents of a Complaint

A report of an alleged violation should consist of a clear, concise written statement that contains the following information:

07/25/2016

- I. A list of any and all parties against whom the complaint is being filed.
- II. A description of the alleged misconduct, the date or period of time during which it occurred and the location where the incident(s) allegedly occurred.
- III. The name, address and phone number of the person making the report.
- IV. All complaints are considered to have been made in good faith. Any information to the contrary may be grounds for university action against the initiating party.

12.04 Timing of Complaints

Any report and request for a review must be made as soon as possible (preferably within 15 days but not later than one year from the date of discovery of the incident) (see Section 10.10.II.c). Cases involving academic or sexual misconduct or discrimination may be reported at any time.

12.05 Intake and Initial Fact-finding

Upon receiving a report that a student has allegedly violated university standards, the director, Office of Student Judicial Affairs and Community Standards, or designee will review the report to determine whether there is good cause to proceed with the student conduct process. The director or designee may conduct such fact-finding as they see fit in order to determine whether a particular complaint has merit, and such fact-finding shall not disqualify them from also conducting the Administrative Review with the student.

Students who fail to respond to initial notification from the Office of Student Judicial Affairs and Community Standards within five business days of the email notification or who cannot be contacted after reasonable attempts remain subject to Summary Administrative Review and consequent sanctioning. If the student fails to respond to the email notice to schedule an appointment with the designated member of the Office of Student Judicial Affairs and Community Standards, an administrative hold will be placed on the student's record prohibiting the student from performing registration transactions until an appointment is scheduled and completed. In addition, a Summary Administrative Review may be conducted in absentia when a student fails to respond to initial notification.

07/25/2016

12.06 Overview of Student Conduct Reviews

In complaints where there is good cause, the director or designee will meet with the accused student to conduct an Administrative Review, either Voluntary or Summary (unless the director or designee has determined there should be a Peer Review, a University Review, or a Residential Education Review). At this Administrative Review meeting with the Judicial Affairs officer the accused student has the opportunity to present any information regarding the incident. The decision as to whether the matter should be resolved by Administrative Review is at the sole discretion of the director or designee.

For participation of advisers or attorneys, see Section B.12.50.VII. A different provision on advisers applies to Part E Misconduct cases (See Part E).

12.10 Administrative Reviews

An Administrative Review consists of a meeting between the director or designee (finder-of-fact) and the named student

- I. In a Voluntary Administrative Review, the student does not dispute the facts upon which the allegations are based, waives their right to further review and accepts the decision by signing an Administrative Review form. Students accepting the Administrative Review form retain the right to appeal to the appropriate appeal body only as to the appropriateness of the sanction (see Section B.15.02.II).
- II. In a Summary Administrative Review, the student may deny some or all of the facts upon which the allegations are based, or the student may dispute the appropriateness of the recommended sanction(s). The director, Office of Student Judicial Affairs and Community Standards, or designated review officer, may determine the student is responsible for the alleged violation(s) or dismiss the case, based on the preponderance of the evidence. Students found responsible for violations under the Summary Administrative Review process retain the right to appeal to the appropriate appeal body on all grounds (see Section 15.02). As an alternative to making a determination on the case, the review officer may refer the case to an appropriate review panel (Peer Review Section 12.11, University Review Section 12.12, or Residential Education Review Section 12.13.)

12.11 Peer Review Panels

07/25/2016

In the event that the director, Office of Student Judicial Affairs and Community Standards, determines that a hearing before a review panel is warranted under the circumstances of a particular allegation, the matter may be referred to a Review Panel. Peer Review Panels hear non-academic cases arising out of university housing, the university fraternity and sorority system and the non-residential student population, but do not hear Part E Misconduct cases. Whether the facts of a particular incident warrant referral to a Peer Review Panel is at the sole discretion of the director or designee. Each of these panels is advised by the director, Office of Student Judicial Affairs and Community Standards, or designee, who shall be a non-voting member of every review panel.

These panels are composed of three to five students. Students are selected for membership after an application and interview process. Members serve at the discretion of the director, Office of Student Judicial Affairs and Community Standards.

Both the accused student and the complainant may have an adviser of his/her choice present at the Peer Review. The adviser cannot be a licensed or practicing attorney. Advisers must request and review the guidelines for advisers prior to the review. (See Section 12.50 G). A different provision on advisers applies to Part E Misconduct cases (See Part E).

12.12 University Review Panels

University Review Panels are composed of three members including two faculty or staff members and a student chairperson. Members are drawn from lists supplied annually by the Vice Provost for Student Affairs (staff) and the academic deans (faculty). Lists may be supplemented as necessary during the year.

In the event that the Office of Student Judicial Affairs and Community Standards determines that a Review Panel is warranted, the University Review Panels may review cases involving the following issues:

- I. Academic integrity violations.
- II. Cases in which expulsion, suspension, revocation of degree or revocation of admission are recommended for non-academic violations.
- III. Cases occurring when the appropriate Peer Review Panel is unable to convene in a reasonable time.

07/25/2016

All University Review Panels are advised by the director, Office of Student Judicial Affairs and Community Standards, or designee, who shall be a non-voting member of every hearing panel.

Both the accused student and complainant may have an adviser of their choice present at the review. The adviser may be a licensed or practicing attorney only for cases in which criminal charges are pending and the recommended sanctions include expulsion, suspension, revocation of degree or revocation of admission. Advisers must request and review the guidelines for advisers prior to the review. In all reviews, whether or not an adviser or attorney is present, the primary conversation will be with the student. (See Section 12.50 G). A different provision on advisers applies to Part E Misconduct cases (See Part E).

12.13 Residential Education Review

In specified cases involving violations of behavioral standards outlined in the Student Conduct Code or the University Housing/Hospitality Service Contract by student residents in university housing, a Residential Education Review may be conducted by a Residential Education staff member. A Residential Education Review is an informal process which utilizes procedures in lieu of the procedures contained in SCampus (documentation on the Residential Education review process may be obtained from the Office for Residential Education). Part E Misconduct cases are not handled through Residential Education Review.

12.14 Other Review Systems

The Vice Provost for Student Affairs has granted to several graduate and professional schools the authority to conduct independent reviews, render decisions and recommend appropriate sanctions in cases of alleged violations. Granting this authority does not preclude the university from adjudicating matters concerning the behavior of students from these schools. These graduate/professional school panels are subject to basic due process requirements and general procedural fairness. Separate review bodies and/or procedures for reviews exist in the following professional degree programs: Keck School of Medicine, Gould School of Law, Ostrow School of Dentistry, School of Pharmacy and the Leventhal School of Accounting. Part E Misconduct cases are handled under SCampus Part E rather than through school processes, but the determinations of a completed Part E Misconduct case may lead to additional sanctions imposed by those schools as appropriate to the professional discipline.

07/25/2016

12.40 Adjudicatory Procedures

All of the student procedural protections listed in Section 10.30 will be observed. Complainants will be treated with the same procedural fairness afforded accused students. With the exception of cases managed under 12.13, 12.14, or Part E, the following procedural guidelines apply to all reviews of Student Conduct Code violations adjudicated by the Office of Student Judicial Affairs and Community Standards:

I. Multiple Accused Students

In reviews of incidents involving more than one accused student, the director, Office of Student Judicial Affairs and Community Standards, will determine whether the reviews concerning each student be conducted separately.

II. Pending Criminal Charges

For cases in which criminal investigations and/or proceedings are concurrent or pending, the university normally may proceed independent of such investigations or proceedings. The accused student or the complainant may request that the university delay its proceeding. Such requests should be submitted in writing at least two business days prior to the scheduled review to the director, Office of Student Judicial Affairs and Community Standards, stating the requested action and the supporting rationale for the request. The director or designee may grant the request but is not obligated to do so. The mere fact that criminal investigation or proceedings exist will not ordinarily be considered grounds for delay.

III. Testimony and Evidence

It is the responsibility of the finder of fact to render determinations concerning relevance of testimony and evidence to be presented as part of the review.

Rules of evidence and discovery used by federal and state judicial proceedings shall not be applicable to reviews described in this code.

Affidavits or other written statements submitted in lieu of a witness' presence at a review shall not be admitted into evidence unless signed by the author. Authorship and content of the document may be subject to verification at the discretion of the finder of fact.

07/25/2016

IV. Standard of Proof

The burden of proof shall at all times rest upon the complainant. The standard of proof for deciding against the accused student shall be such evidence that, when weighed against that opposed to it, has the more convincing force and the greater probability of truth.

V. Decision

For cases in which it is determined that a student is not responsible for violating the Student Conduct Code no sanctions will be assessed. For cases in which it is determined the accused student is responsible for violating the Student Conduct Code, the accused student's conduct record (see Section 12.60) at the university will be considered in determining appropriate sanctions. Except for cases in which the accused student's disciplinary history is a basis for the alleged violation(s) under review (e.g., reference to Section 11.49 or to a continuing pattern of behavior), consideration of that history will occur subsequent to the determination of responsibility.

Cases involving suspension, expulsion, revocation of degree and revocation of admission are subject to review and possible modification by the Vice Provost for Student Affairs or designee.

Included with the decision document will be a statement outlining the proper course of appeal for the particular case. A notification of the outcome and of the opportunity to appeal the decision shall be forwarded to involved parties.

12.50 Reviews by Panels

In addition to the above protections and procedures, the following apply to initial reviews conducted by panels:

- I. Involved parties will be provided written notice of the date, time and place of any scheduled review. Both the reporting student and the accused student must be notified at least three business days before the scheduled review. Notice may be either emailed, mailed or hand delivered. If a notice is mailed, it is deemed to be received three days after it is mailed to the student's last known address. The university reserves the right to conduct reviews in absentia when proper notice has been given. Failure to attend the review after proper notice does not necessarily constitute grounds for an appeal hearing. Requests for rescheduling a review hearing must be directed, in writing, to the

07/25/2016

director, Office of Student Judicial Affairs and Community Standards, with a statement of grounds for the request, at least two business days prior to the scheduled hearing. This request will be considered, but rescheduling is not automatic.

The Office of Student Judicial Affairs and Community Standards, for good cause, may postpone a review and notify the accused student and the complainant of the new date.

- II. A fully constituted review panel meeting the particular panel staffing requirements. (See Section B.12. Non-academic Conduct Review System.) Applicable requirements should be verified with the Office of Student Judicial Affairs and Community Standards.
- III. An opportunity to object to any member of the review panel as biased. The panel will decide if that member should review the alleged violation. This decision will be based on that member's ability to be fair and objective in the review.
- IV. An adviser at the review who may assist the accused student (e.g., conferring together, document management) but who may not represent the accused student by speaking exclusively on his or her behalf. At University Review Panels, the adviser may be a licensed or practicing attorney only for cases in which criminal charges are pending or the recommended sanctions include expulsion, suspension, revocation of degree or revocation of admission. In all reviews, whether or not an adviser or attorney is present, the primary conversation will be with the student. (See Section 12.50 G). A different provision on advisers applies to Part E Misconduct cases (see Part E).
- V. If the accused student declines to give testimony, this will not be construed as an admission of guilt. Declining testimony, the accused student retains the right to question witnesses, present witnesses on his/her own behalf and submit documentary evidence. If the accused student provides any testimony, he/she is subject to examination on credibility and on all matters relevant to the charges and to other testimony presented.
- VI. Panel reviews shall be private. The number of persons attending any review may be limited by the panel conducting the review.

Due to the nature of the university's academic calendar and to the availability of appointed panel members, the Office of Student Judicial

07/25/2016

Affairs and Community Standards may not be able to convene a University Review Panel for any specified date or time.

Panel Members' and Chairperson's Roles

The chairperson of the review panel shall exercise control over the hearing to avoid needless consumption of time and to prevent the harassment and/or intimidation of witnesses. Any person, including an adviser, who disrupts a hearing or who fails to adhere to the rulings of the chairperson of the review panel may be excluded from the proceedings.

Panel members (including the Panel Adviser) have the authority to ask questions of all parties.

All involved parties must be reminded of the student procedural protections cited in 12.30 at the outset of the review.

VII. Adviser's Role

The adviser's role shall be to consult with the student and not to speak on the student's behalf; however, the adviser may be permitted to make brief statements as stipulated in the guidelines for advisers. Advisers must request and review a copy of guidelines for his/her role in the respective review process from the Office of Student Judicial Affairs and Community Standards prior to the hearing in question.

At University Review Panel hearings, the adviser may be a licensed or practicing attorney only for cases in which criminal charges are pending or the recommended sanctions include expulsion, suspension, revocation of degree or revocation of admission. At all other hearings, the adviser may be anyone but an attorney. If an adviser will be present, the review panel must be informed of this fact at least three business days prior to the hearing date. When an attorney is present as the student's adviser, the university may also have an attorney present. If the student designates an attorney as his/her adviser, the attorney shall keep the following in mind: the review is not a court of law but an educational process. It does not follow the formal rules of evidence and procedure attorneys may encounter in other judicial forums. The hearing's educational context and purpose require that the attorney play a different and a more limited role than in the courtroom.

A different provision on advisers applies to Part E Misconduct cases (see Part E).

07/25/2016

VIII. Hearing Format

Normally, the complainant presents evidence first, the accused student then presents evidence and responds to the evidence presented by the complainant and then the complainant may rebut. This procedure will be followed unless the panel agrees to a different format.

IX. Testimony and Evidence

At least 3 business days before the review, the involved parties must furnish the Office of Student Judicial Affairs and Community Standards with a list of witnesses they may present and with copies of any documents and other evidence they intend to present. This list may be supplemented with additional witnesses and evidence for good cause as determined by the review panel.

Only evidence and testimony presented during the hearing or officially admitted into the record following the hearing with notice to all parties may be used as the basis for the review panel's decision.

Because review panels may limit the number of witnesses presented (see Section 12.40 C), students should choose carefully those witnesses who can provide direct information concerning the allegation under review. Written statements from additional witnesses attesting to the same information is admissible.

X. Witness Testimony

All witnesses may be questioned by the members of the review panel, by the complainant and by the accused student.

Witnesses may be asked to affirm that their testimony is truthful and may be subject to charges of dishonesty, pursuant to provisions of this code.

Prospective witnesses, other than the complainant and the accused student will be excluded from the review during all testimony but their own. The panel may also exclude "expert" witnesses (such as handwriting experts, private investigators and others). Any witness may be excluded unless the university has been notified in advance that the student intends to call them on his/her behalf. In addition, the panel may exclude any witness it deems inappropriate for an educational

07/25/2016

hearing. The panel may limit the number of witnesses presented at a review for good cause (e.g., repetitive testimony, character witness).

XI. Hearing Record

An audiotape recording will be made by the university, with the knowledge of all parties, as the single verbatim record of the hearing. This record shall be the sole property of the university. The complainant or accused student may request permission to review this record for appeal only. This tape will be erased after the appeal deadline has expired or after an appellate decision has been released.

XII. Panel Decision

Following the conclusion of testimony in a review, the panel will meet in a closed session (including the panel adviser) to deliberate and make a decision concerning the alleged violation(s). For cases in which the panel determines a student is not responsible for violating the Student Conduct Code no sanctions will be assessed. For cases in which it is determined the accused student is responsible for violating the Student Conduct Code, the panel will include consideration of the accused student's disciplinary record (see Section 12.50) at the university in determining appropriate sanctions. Except for cases in which the accused student's disciplinary history is a basis for the alleged violation(s) under review (e.g., reference to Section 11.49 or to a continuing pattern of behavior), consideration of that history will occur subsequent to the panel's determination of responsibility.

The review panel will provide a written opinion outlining the results of the review to the Office of Student Judicial Affairs and Community Standards. This written opinion should be released to both the accused student and the complaining student within 15 business days of the review. This time may be extended if necessary. The accused student and complainant should be informed if the decision will be delayed.

12.60 Disciplinary Records

For certain cases or when a student is determined to be responsible for a violation of university standards by any student conduct process, a disciplinary record of the matter will be maintained in a confidential student file by the Office of Student Judicial Affairs and Community Standards for up to seven years. Expulsion, suspension, revocation of degree and revocation of admission will result in permanent student conduct files.

13. Academic Integrity Review

Note: This Section 13 does not apply to Part E Misconduct as defined in Section 11. Part E Misconduct is reviewed pursuant to the procedures set forth in Section E.8.

In cases involving alleged academic integrity violations, the appropriate action is initiated by the course instructor, academic unit or appropriate university official.

13.10 Initiating a Complaint

If the instructor, academic unit or appropriate university official has reason to believe, based on observation or other evidence, that a student has violated the university academic integrity standards, he or she is encouraged to make reasonable attempts to meet with the student and discuss the alleged violation and the evidence which supports the charge. When necessary, such discussions may be conducted by telephone or electronic mail. In this meeting every effort should be made to preserve the basic teacher/student relationship. The student should be given the opportunity to respond to the complaint.

The instructor should assign a mark of "MG" until notification is received from the Office of Student Judicial Affairs and Community Standards that a final decision has been made.

Also, because the student may contest the allegation, he or she must be allowed to attend all classes and complete all assignments until the complaint is resolved.

13.11 Sanction and Consequences

Unless the reporting party withdraws the allegation, the instructor, academic unit or appropriate university official may recommend an appropriate sanction for the violation.

- I. Sanctions include but are not limited to: grade sanctions (e.g., "F" in course) and dismissal from the academic department. In addition, sanctions of suspension or expulsion from the university may be assessed through a review process when requested by the instructor, by the academic or administrative unit in which the violation occurred, or when indicated by university standards (such as the seriousness of the misconduct or the existence of previous academic violations by the student) Refer to Appendix A: Academic Dishonesty Sanction

07/25/2016

Guidelines, when determining which sanction is most appropriate for the violation.

- II. Students may not withdraw from a course in which they have committed or have been accused of committing an academic integrity violation. Students found to have withdrawn from a course in which an academic integrity violation is alleged or determined will be reenrolled in the course upon receipt of a violation report by the Office of Student Judicial Affairs and Community Standards.
- III. Students found responsible for an act of academic dishonesty in a course in which they have participated but have not enrolled (auditing), will be retroactively enrolled and assigned an appropriate sanction.
- IV. Graduate students who are found responsible for academic integrity violations may be sanctioned more severely than Appendix A suggests.
- V. Sanctions for second offenses by graduate or undergraduate students will be more severe and generally will include suspension or expulsion.

13.12 Reporting Violations of Academic Integrity

As soon as possible, the instructor, academic unit or appropriate university official will provide the Office of Student Judicial Affairs and Community Standards with a completed Academic Integrity Violation Form. The reporting party likewise will make a reasonable attempt to provide a copy of the report to the accused student.

Students having specific information regarding academic violation(s) of a classmate and wishing to report this academic misconduct are encouraged to contact the faculty member of the course.

13.13 Response to Report

Once a report of an Academic Integrity Violation has been submitted, the Office of Student Judicial Affairs and Community Standards will evaluate the report, confirm whether or not the accused student has a previous disciplinary record at the university, and notify the student of the allegation in writing. A copy of the notification will be sent to the individual submitting the report and to his/her academic dean, if appropriate.

- I. If further review is not required, the student will be notified of report received, alleged violations and recommended sanctions. The student will also be given the opportunity to meet with a review officer from the

07/25/2016

Office of Student Judicial Affairs and Community Standards. During that meeting, the student has the opportunity to request further review of the matter, thus initiating the Administrative Review process. If no meeting or further review is requested, the matter will be considered complete and sanctions initiated.

- II. If the incident requires further review (such as when an instructor or academic unit has requested additional sanctions, when a student has previously been found responsible for an academic integrity violation or when university standards indicate suspension, expulsion, revocation of degree or revocation of admission), the student is notified in writing and must meet with a review officer from the Office of Student Judicial Affairs and Community Standards as part of the Administrative Review process. At or following that meeting the director or designee will determine whether the matter may be appropriately resolved by Administrative Review, either Voluntary or Summary. The Administrative Review meeting with the Student Judicial Affairs review officer is the student's opportunity to present any information regarding the incident. If the student fails to respond to the written notice and instruction to schedule an appointment with the designated review officer of the Office of Student Judicial Affairs and Community Standards, an administrative hold will be placed on the student's record prohibiting the student from performing registration transactions until an appointment is scheduled and completed (see Section B.10.10). In addition, a Summary Administrative Review may be conducted in absentia when a student fails to respond to initial notification (see Section 12.05).
- III. As indicated, reviews may be requested by the accused student, by the instructor reporting the alleged violation, by the academic or administrative unit in which the alleged violation occurred or by the university in cases where the alleged behavior indicates expulsion, suspension, revocation of degree or revocation of admission. Appropriate review processes are Administrative Review or University Review (see Section 12).

14. Admissions Violations Review

In cases where false and/or inaccurate information is believed to have been submitted by, or on behalf of, a prospective student prior to enrollment, if academic or behavioral violations occur, or if there is a failure to provide all requested information/documents, the director of admission will conduct a special admissions review.

07/25/2016

This ad hoc review of the case may result in action(s) including a delay of enrollment or revocation of admission from the university. All pertinent documents will be reviewed and the prospective student may be asked to provide additional information regarding his or her application to the university.

A decision will be reached by the director and communicated in writing to the prospective student. Formal hearing procedures and protections cited in the Student Conduct Code, Section 12.30 and 12.40, do not apply to this review process. There is no appeal of a special admissions review.

If the student is enrolled at the university when concerns about admissions violations arise, the case will be referred to the Office of Student Judicial Affairs and Community Standards for review.

15. Appeals Process: Academic Conduct

Note: This Section 15 does not apply to Part E Misconduct as defined in Section 11. Part E Misconduct is reviewed pursuant to the procedures set forth in Section E.8.

Following an initial review, the accused student and/or the complainant may file a written appeal within 10 business days from receipt of the written decision. Receipt is deemed accomplished by personal delivery or three days after the date of mailing.

In most cases, the status of a student will not be altered and disciplinary sanctions will not be implemented until completion of the appeal. Written appeals should be submitted to the Office of Student Judicial Affairs and Community Standards.

Should a party intending to appeal believe they have been given inadequate time to prepare their written documents, a written request for extension of time may be submitted to the Office of Student Judicial Affairs and Community Standards. The request must be submitted in writing within the 10 business-day appeal period, and should include the rationale for requesting the extension along with a proposed date by which all appeal documents will be submitted.

Requests for extension of time will be considered on their merits and will not be granted automatically. When an extension is granted, opposing parties to the initial review may be notified.

15.01

The written appeal must include the Appeal Request Cover Sheet indicating the specific grounds for the appeal, supporting arguments and documentation, and any other relevant information the accused student or the complainant wishes to include. Appellants should refer to

07/25/2016

Guidelines for Writing Appeals, a document available from the Office of Student Judicial Affairs and Community Standards.

The appellant should be aware that all appeals are documentary reviews in which no oral testimony is taken. Generally, appeals are determined solely on the merits of the documents submitted and do not proceed to oral hearing. Appellate documents therefore should be as complete as possible.

15.02

Appeals must state one or more of the following criteria as the reason for the appeal:

- I. That new evidence has become available which is sufficient to alter the decision and which the appellant was not aware of or could not have been reasonably obtained at the time of the original review.
- II. That the sanction imposed is excessive, insufficient or inappropriate.
- III. That the review panel or review officer failed to follow university rules or regulations while reviewing the cited behavior.

15.03

Upon receipt of the written appeal, the other principal parties to the original complaint (complainant or accused student) are notified and provided reasonable opportunity to respond in writing to the appeal.

After receiving all appellate documents, the appropriate appeals panel will convene and review the submitted appellate documents, the written decision from the initial review and supporting documents relevant to the initial review decision. In addition, the appeals panel may request additional statements from the review officer of an administrative review or the chairperson or adviser from a panel review, and may refer to the audio recording of an initial panel review, if such was conducted. The appeals panel will issue a written decision through the Office of Student Judicial Affairs and Community Standards to all principal parties to the initial review.

15.04

Upon review of the appellate documents, the appeals panel may uphold the initial decision in its entirety, increase sanctions of the initial

decision, decrease sanctions of the initial decision, remand the case back to the Office of Student Judicial Affairs and Community Standards for further review or dismiss the case. The appellate panel applies a preponderance of the evidence standard.

All decisions of appellate bodies, as left in effect or modified by the Vice Provost for Student Affairs, are final and binding upon all parties. There is no further appeal in any of these cases. (See Sections 12.40 E and 15.10).

15.05

Upon written request to the Office of Student Judicial Affairs, the university will provide an alleged victim of a crime of violence the final results of the disciplinary proceeding. Final results are available only after the appeal process has been exhausted and the university has made a final determination in the matter. Final results are limited to information related to the sanctions imposed by the university that affect the victim.

15.10 Appropriate Appeals Panel

I. Peer Review Appeals Panel

The Peer Review Appeals Panel reviews all nonacademic appeals except those resulting in sanctions of expulsion, suspension, revocation of degree or revocation of admission, and except for matters of sexual misconduct and discrimination. The panel is appointed by the director, Office of Student Judicial Affairs and Community Standards, and consists of three to five members including at least one student member. The director, Office of Student Judicial Affairs and Community Standards, or designee shall serve as a non-voting advisory member of every appeals panel. The recommendations of the Peer Review Appeals Panel may be reviewed and modified by the Vice Provost for Student Affairs at his sole discretion and, once approved, are final and binding upon all parties.

II. Student Behavior Appeals Panel

The Student Behavior Appeals Panel serves the President through the Vice Provost for Student Affairs. The recommendations of the Student Behavior Appeals Panel are reviewed and modified by the Vice Provost for Student Affairs at his sole discretion and, once approved, are final and binding upon all parties. No student has the right to make a direct appeal to the Vice Provost for Student Affairs.

07/25/2016

The members of this panel are appointed by the President or his delegate. Each appeal is reviewed by three members including at least one faculty member and one student (except in Part E Misconduct cases). The panel will be advised by an appointee of the Vice Provost for Student Affairs. The adviser will be a non-voting member whenever the panel convenes.

The Student Behavior Appeals Panel will meet on a regular basis to review all appeals where academic sanctions and/or sanctions of expulsion, suspension, revocation of degree and revocation of admission are imposed.

16. Student Conduct Records

- I. Student conduct records are maintained separate and apart from all other student records. Student conduct actions become part of a student's academic records only in those cases in which a notation on the student's academic record is made for suspension, expulsion and/or revocation of admission or degree.
- II. Records of student conduct actions are maintained in the Office of Student Judicial Affairs and Community Standards for a period of up to seven years after the most recent student conduct incident, except for students assigned University-wide Sanctions, as described in item number 1.
- III. All records are maintained confidentially as provided in the university's policy concerning student education records (see Section C.5 Student Education Records).
- IV. The Title IX Coordinator keeps records of Part E Misconduct Investigations and Part E Misconduct appeals.

[Appendix A: Academic Dishonesty Sanction Guidelines \(PDF\)](#)

[Appendix B: Report of Academic Integrity Violation \(PDF\)](#)

07/25/2016

C. Academic Policies

1. Class Notes Policy

Notes or recordings made by students based on a university class or lecture may only be made for purposes of individual or group study, or for other usual non-commercial purposes that reasonably arise from the student's membership in the class or attendance at the university. This restriction also applies to any information distributed, disseminated or in any way displayed for use in relationship to the class, whether obtained in class, via email or otherwise on the Internet, or via any other medium. Actions in violation of this policy constitute a violation of the Student Conduct Code, and may subject an individual or entity to university discipline and/or legal proceedings.

2. Disputed Academic Evaluation Procedures

General university policy regarding disputed academic evaluations entitles a student to two levels of formal appeal after review by the instructor. In the interest of preserving the very important student-instructor relationship, the student and instructor should try to resolve the grade dispute by direct communication. If the issue cannot be resolved by this dialogue, the grade dispute should move beyond the instructor to the next level of review. All grade appeals must be brought no later than the end of the semester following the semester for which the student received the disputed grade. The two levels of appeal beyond the instructor are the department chair and the school dean.

The sequence of the appeal process depends upon the structure of the school in which the academic evaluation occurred. The two levels of appeal are as follows:

I. Schools Organized by Departments

For schools organized by departments, the first level of review, after speaking with the instructor, is by the department chair and, if needed, a second level of review by the dean. The process described in the paragraphs 1.A. and 1.B. below applies to:

USC Roski School of Art and Design

USC Marshall School of Business

USC School of Cinematic Arts

USC Annenberg School for Communication and Journalism

Ostrow School of Dentistry of USC (except the DDS, B.S./DH)

07/25/2016

USC Viterbi School of Engineering

USC Thornton School of Music

USC Dornsife College of Letters, Arts and Sciences graduate students (USC Dornsife College undergraduates have a variation on the process, which is described in paragraph 1.C. below).

- a. The department chair at his or her discretion may review the matter personally or conduct a formal hearing through an ad hoc or standing committee. The hearing committee is appointed by the department chair and consists of a faculty member from outside the involved department or academic unit, a student, a faculty member of the appealing student's choice, and two faculty members from the department or academic unit. A written decision will be given to the student after the department chair's decision or the hearing committee decision. Normally a decision should be sent to the student within approximately 15 days after the hearing. This time may be extended if necessary. The student should be informed in writing if the decision will be delayed.
- b. If either the student or faculty member who assigned the grade wishes to appeal the decision of the chair or the hearing committee, in the next level of appeal beyond the instructor and the department chair, he/she must appeal in writing to the dean of the academic unit within 2 weeks after receiving the written decision. The dean of the academic unit may review the matter personally or, if a hearing has not been conducted by the department, the dean must conduct a hearing. The hearing committee consists of the same categories of members within the academic unit as described above.

The committee will make a recommendation to the dean who will make a decision which is final and binding. Normally a written decision should be sent to the student within approximately 15 days after a hearing. This time may be extended if necessary. The student should be informed in writing if the decision will be delayed.

- c. In the case of undergraduate students in the Dornsife College, there is an initial consultation by the college ombudsman after the student has talked to the instructor. All grade or evaluation appeals must be filed in writing with the college ombudsman by the end of the following semester (excluding the summer session) after the student received the disputed grade or evaluation. The college ombudsman will explain the review and appeals process to the student, and will direct the student's

07/25/2016

written appeal to the relevant department chair. The second level of review beyond the instructor is conducted by the vice dean for academic programs (with or without a hearing committee). The hearing committee is appointed by the vice dean and should conform to the guidelines outlined in paragraph 1.A.

II. Schools not Organized by Departments

For schools not organized by departments, the second level of review beyond the instructor is by the dean. This applies to the following schools:

USC School of Dramatic Arts

USC Davis School of Gerontology

USC Price School of Public Policy

USC School of Social Work

III. Schools with Certain Professional Degrees

The following degrees are governed by separate disputed academic evaluation procedures. Copies of these procedures can be obtained directly from the school.

USC School of Architecture (separate procedures for all degrees except Ph.D.)

Ostrow School of Dentistry of USC (DDS, B.S./DH)

USC Rossier School of Education (separate procedures for all degrees except Ph.D.)

USC Gould School of Law (J.D., MCL, LL.M)

Keck School of Medicine of USC (M.D. and the Physician Assistant Practice program). Other degree programs in the Keck School of Medicine, including undergraduate, master's and Ph.D. programs, fall into the review category I above.

USC School of Pharmacy (Pharm.D., D.R.Sci.)

IV. Graduate Students who have been Dismissed from an Academic Program

07/25/2016

The student may appeal in writing to the department chair or program director within 30 days of the date of dismissal. If the student is dissatisfied with the outcome of the appeal, then, within 30 days of the date of the department's or program's decision, they may appeal in writing to the dean of the school. If the second appeal is unsuccessful, then the student may appeal in writing to the Vice Provost for Graduate Programs. Such an appeal must be received within 6 months after the student has received notice of the outcome of the school's decision. Appeal panel guidelines can be found at https://www.usc.edu/schools/GraduateSchool/current_student_resource_03.html. The school dean has the final level of review for students wishing to appeal dismissal from the M.D., J.D., and LL.M. programs.

3. General Academic Petitions

The Office of Academic Review and Retention (Figueroa Building 107) is responsible for processing student requests to deviate from general university policies. Faculty requests to change a grade that was originally submitted incorrectly is processed by the Grades Department (Hubbard Hall 106). The actual decisions on these requests are made by a subgroup of the Committee on Academic Policies and Procedures (CAPP) which meets several times a month.

Not all requests for deviation from normal requirements are handled through the same process. Registration-related exceptions are initiated in the Office of Academic Review and Retention. These include such requests as adding or dropping courses after enrollment deadlines and changing the grading option after the third week. Degree requirement-related exceptions are initiated in the student's academic unit. These include requests to count excess units in a course with a unit maximum and to extend time to complete an incomplete. Decisions on these types of exception requests are reported to the Office of Academic Review and Retention by the CAPP petitions panel.

The following exceptions are those that a student may request under certain circumstances. There is no assurance that the request will be approved. The panel will review the student's academic record and consider the circumstances that led to the student's situation. The circumstances must justify exempting an individual student from a rule or deadline that other students are being required to follow.

Students should take care that the material they submit is accurate, comprehensive and well documented. It is important to initiate the petition process as soon as possible. A student who wishes to file a petition should speak with an academic adviser to determine whether the request is appropriate and whether it will actually resolve the problem.

I. Registration-related Exceptions (See time limits for filing below)

07/25/2016

A student wishing to request a registration-related exception should come to Figueroa Building 107. By talking with an academic review counselor, the student can determine whether there are grounds for an exception request and learn what documentation will be required. When all required documentation and endorsements are gathered, the student should submit the completed petition to the Office of Academic Review and Retention. These requests are heard by the Dean of Academic Records and Registrar. Requests not approved by the dean are referred to the CAPP panel for review. Below are the registration-related exceptions with the guidelines.

Late or Retroactive Adding of One or More Courses

The final deadline for original registration is the end of the third week of classes for fall or spring semesters. For summer sessions or special sessions, the student must look up the equivalent of the third week deadline. This is also true for the twelfth week drop deadline. Please assume that, in any reference to registration deadlines, the third or twelfth week refer to the fall and spring semesters and that an equivalent deadline will be applied for shorter sessions.

The end of the third week of classes is also the deadline to add courses that are not listed on the original program. CAPP will consider petitions for exception to the add deadline only if the student has documented extenuating circumstances.

Extenuating circumstances are defined by CAPP as situations over which the student has no control (e.g., a family death). Reasons such as "I didn't know the policy" or "I was out of town that week" or "I forgot" or "That isn't how they did it at the last school I attended" are not considered to be extenuating circumstances.

In all cases, a petition to add a course must include a statement from the instructor indicating the quality of work and dates of attendance.

Late or Retroactive Withdrawal from One or More Courses

The final deadline for dropping one or more courses is the end of the 12th week of classes or its equivalent for a given term. To officially drop a course the student must process a drop form through the Registration Department or drop through Web registration and secure a Registration Confirmation as proof of having dropped. This 12-week time period is considered generous. CAPP will entertain petitions for exceptions to the drop deadline when the student has documented extenuating circumstances or the student was unable to evaluate his or her level of performance prior to the drop deadline.

Withdrawal petitions based on medical reasons require accompanying documentation from the student's physician. It is assumed that such requests

07/25/2016

will usually involve a complete withdrawal from all classes. If the request involves less than cancellation of the whole academic program, a complete explanation must be provided of courses to be dropped or retained, plans for completion of the remaining courses and an explanation of why the student's medical condition allowed completion of some courses but not all. In general, if a student is healthy enough to participate in campus activities outside of class, he or she is considered responsible for all courses undertaken. In all cases, a petition to drop a course must include a statement from the instructor indicating the quality of work and dates of attendance.

A final word of caution: CAPP almost never approves requests for late withdrawals if the student has taken the final exam in a course. However, a student should not take this word of caution as an indication that she or he should purposefully miss a final exam because of a pending petition to drop. A student who misses a final exam because of a pending petition and then discovers that the petition was denied, will surely be in a worse position because the final exam grade will be calculated as an "F."

Change in Registration Grading Option from Pass/No Pass to Letter Grade or Vice Versa

The final deadline for changing the grading option of a course from pass/no pass to a letter grade or vice versa is the end of the third week of classes or its equivalent for a given term. Approval of requests to change enrollment status after the deadline is rare.

Time Limits for Registration-related Requests

Exception requests for retroactive change of an official registration for a semester or special session must be submitted no later than 24 months from the last day of final examinations for the semester or special session in question. If appropriate, the time limit can be waived by the dean of the academic unit in which the student is seeking a degree, but may not be waived if the courses in question occurred longer than five years previously.

II. Degree Requirement-related Exceptions

These requests are generated in the student's major department or school. When the petition is completed, the school's petition contact person will submit the petition to Academic Review and Retention to be heard by the CAPP petitions panel. Below are the most common degree requirement-related petitions with the guidelines.

Extension of Time for Removal of an Incomplete (IN)

One calendar year is allowed to remove the mark of IN. A mark of IN cannot be removed by repeating the course, even if it is successfully completed within the

07/25/2016

calendar year requirement. If the IN is not removed within the calendar year, the course is considered "lapsed" and the grade is changed to an IX. Lapsed incompletes (IX) are penalty grades and are calculated as grades of "F." Courses offered on a Credit/No Credit basis or taken on a Pass/No Pass basis for which a mark of Incomplete is assigned will be lapsed with a mark of NC or NP and will not be calculated into the grade point average.

Extensions beyond this deadline are not likely to be approved if the student has enrolled in subsequent semesters, since it is assumed that the student's first priority should be the removal of the incomplete.

In all cases, a petition for an extension of time for removal of an IN must include a statement from the instructor explaining what is needed to complete the course and why the instructor feels the student should be given even further time for completion.

Other degree-related exceptions include requests to count excess units for a course with a unit maximum.

Exceptions Made Elsewhere

The Office of Admission and Financial Aid, Financial Services and the Graduate School have similar processes for actions taken by their respective committees or deans. Still other requests are handled through the exception process which comes directly from the academic unit to the Degree Progress Department.

Registration in Graduate-level Courses by Undergraduate Students

Exceptional undergraduate students may enroll in a graduate course. In order to do so, students must receive approval from the instructor. Students must also have prior approval from the chair of the major department to count the course for undergraduate credit or audit the course. The student's major department will notify the Degree Progress Department in writing regarding the manner in which the graduate course will be used. In no case will a student be allowed to enroll in and receive credit for a graduate course if the student's cumulative USC GPA is below 2.0.

Graduate Credit for 400 and 500 Level Work Taken as an Undergraduate

An undergraduate student who is within 12 semester units of the bachelor's degree and has a cumulative grade point average of at least 3.0 may request to enroll in and reserve for graduate credit a limited amount of work at the 400 and 500 levels during the last semester as a senior, provided that the semester program does not exceed 16 semester units. A written request should be submitted to the Degree Progress Department and should bear the endorsements of the chair of the student's major department and of the department in which the reserved work is to be taken. The Degree Progress

07/25/2016

Department verifies that the units being reserved are not needed to fulfill requirements for the bachelor's degree. The student must present a copy of the final action to the Registration Department at the time of enrollment.

III. Exceptions to the Dornsife College of Letters, Arts and Sciences Limits on Units in the Major or Limits on the College Basic Requirement

Departments within the Dornsife College of Letters, Arts and Sciences awarding the B.A. degree cannot require fewer than 24 or more than 36 upper division units in the major. However, students may elect to take up to 40 upper division units within their major without a petition. A student wishing to exceed the limit must obtain the approval of the department with the final endorsement of the dean of undergraduate programs.

Students who major in the Dornsife College of Letters, Arts and Sciences must earn 104 units in the college departments. For students graduating with a minor or second bachelor's degree, this minimum is reduced to 96 units. Exceptions will be considered by the dean of undergraduate programs.

Students who are completing major degree programs in a professional school, but whose degree is conferred by the college, are exempt from this policy.

Substitutions of general education requirements and skill level requirements are generated in the student's academic unit and submitted to the dean of undergraduate programs. Substitutions of foreign language requirements are also generated in the student's academic unit and submitted to the American Language Institute.

IV. Grading Issues

Correction of Grade

A student who believes an error was made in the assignment of a grade should consult directly with the instructor of the class. The instructor may request from the Grades Department and submit to CAPP a Correction of Grade form with appropriate endorsements. This type of request cannot be submitted on any other form and the form may not be handled by a student at any point in the process.

A full description of the actual error will be required of the instructor. General descriptions such as "clerical error" will not be accepted. CAPP considers grade changes on the basis of the explanation given, but may void a request involving any of the following circumstances:

07/25/2016

- A request to change a grade of IN unless all work was completed prior to the end of the semester involved.
- A request to change a grade to any other mark than IN when work was completed subsequent to the end of the semester involved.
- A request that is missing the required endorsements (instructor, department chair and dean).

Missing Grades (MG) Defaulting to Unofficial Withdrawals (UW)

Students have 1 year, from the end of the semester in which they were assigned a mark of MG, to resolve or clarify the mark of MG. (Note: Marks of MG assigned PRIOR to fall 2005 are not bound by this policy.) Missing grades can be resolved by the instructor of the course through the Correction of Grade process. The Correction of Grade process (COG), is handled by the Grades Department, (213) 740-5586, Hubbard Hall 106, MC 9012.

Failure to resolve the mark of MG within the one year limit results in the assignment of the mark of UW (Unofficial Withdrawal). A mark of UW is a failing grade and will calculate in the student's GPA the same way that a grade of "F" is calculated in the GPA. Courses graded Credit/No Credit (CR/NC) in which a mark of MG is not resolved will result in a mark of NC. Students who have elected to take a course on a Pass/No Pass (P/NP) option and do not resolve the mark of MG will be assigned a mark of NP.

4. Timeline for Degree Progress

All undergraduate students must make reasonable progress, each year, toward their degree objectives.

- I. All students are required to record their primary major in the Office of Academic Records and Registrar, Trojan Hall 101, by the start of the junior year (on completion of 64 semester units). Supplemental or secondary majors may be added after junior standing has been attained. Minors may be added at any time.
- II. While there are no specific limits for completing bachelor's degrees (except in the case of discontinued programs), many departments change their major requirements over the years based on changing technology, etc. Occasionally, general education requirements are changed as well. Therefore, students who do not complete their academic degrees within six consecutive years from the beginning of the semester of their first completed USC course work will not be allowed automatically to continue following the pre-major, major, and minor requirements. (This time limit includes semesters during which students were

07/25/2016

not enrolled.) The pertinent department chair will decide what pre-major, major and minor requirements each student must follow and communicate the decision to the student in writing.

Students who do not complete their degrees within 10 consecutive years from the beginning of the semester of their first completed USC course work will not be allowed automatically to continue their general education requirements. (This time limit includes semesters during which students are not enrolled.) The General Education Office will decide what general education requirements each student must follow and communicate the decision to the student in writing.

Changes in certain university-wide regulations, policies and procedures are immediate, regardless of the degree requirements in effect at entrance or transfer.

Students pursuing degree programs which the university discontinues may be required to immediately change majors and pursue other degrees. Some departments may allow students already in the program to complete the degree within a specified time limit, not to exceed five years. Beyond that time, such degrees will not be awarded.

5. Student Education Records

The University of Southern California maintains the privacy of student education records and allows students the right to inspect their education records consistent with the requirements of the Family Educational Rights and Privacy Act (1974). The following is a summary of rights afforded students regarding their own education records. The entire text of the university's policy concerning student education records is located in the Office of the General Counsel and in the Office of the Vice Provost for Student Affairs.

- I. A student has the right to inspect and review education records pertaining to him/her. Should a student wish to inspect a particular education record, a request to do so should be made in writing to the university office maintaining that record. Certain records (or information contained in records), such as parental financial records and information to which the student has waived access (e.g., confidential letters of recommendation), are excluded from the student's right to inspection. Excluded categories of records and information are specified in the university's policy concerning the privacy of student education records.
- II. A student has the right to request amendment of his/her education records. Should a student believe an education record is inaccurate or misleading, a request for amendment or correction should be addressed, in writing, to the university office maintaining the record in question. The custodian of records for that office may correct or amend the record in question or may determine that the record is accurate as it stands. In instances when a dispute cannot be

07/25/2016

resolved between the student and the office maintaining the record in question, the student may request a formal hearing by the university to resolve the issue. Questions about and requests for formal hearing should be directed to the Office of the General Counsel. This provision for amendment does not apply to disputed grade information on academic transcripts. (See Disputed Academic Evaluation Procedures).

III. The university will not release personally identifiable information from a student's education records without the student's prior written consent or an authenticated electronic signature release. Exceptions are noted in the university's policy concerning the privacy of student education records and include:

- a. disclosure of information to a university official having a legitimate educational interest in the specific education record. A university official is any person employed by the university in an administrative, supervisory, academic, research or support staff position, a person elected to the Board of Trustees, a student serving on an official committee, or a person employed by or under contract to the university to perform a specific task. Such a person has a legitimate educational interest whenever he or she is performing a task that is specified in his or her position description or by a contract agreement, performing a task related to a student's education, performing a task related to the discipline of a student, or providing a service or benefit relating to the student or student's family (such as health care, counseling, job placement or financial aid);
- b. disclosure of information in connection with financial aid for which the student has applied or which the student has received, when disclosure is necessary for such purposes as determining eligibility for, amount or conditions of the aid;
- c. disclosure of information in response to a judicial order or legally issued subpoena;
- d. disclosure to officials of another school in which a student seeks or intends to enroll; or
- e. disclosure concerning "directory information." The university has designated "directory information" to include a student's address (local and permanent), telephone number (local and permanent), university email address, student identification number, student photo, USC attendance dates, USC degrees earned (with dates), academic honors, major/minor and degree objective, expected date of graduation,

previous school attended, enrollment status, whether or not the student currently is enrolled, and participation in officially recognized activities and sports. The university is under no obligation to release directory information upon request. Students wishing to restrict release of "directory information" may do so by completing the appropriate form provided by the Registrar's Office (Trojan Hall 101). Such requests remain in effect for the academic year. The above exceptions represent a partial listing of those found in the university's policy concerning the privacy of student education records.

IV. A student has a right to file a complaint with the U.S. Department of Education concerning alleged failures by the university to comply with the requirements of the Family Educational Rights and Privacy Act.

V. A student has a right to obtain the university's policy concerning the privacy of student education records. Requests should be directed to the Office of the General Counsel, the Office of Student Judicial Affairs and Community Standards or the Office of the Vice President for Student Affairs.

VI. More general questions may be directed to the Office of the General Counsel, the Office of the Vice Provost for Student Affairs, the Office of Student Judicial Affairs and Community Standards or the Office of the Registrar, as appropriate. Additional information can also be found by visiting the Registrar's FERPA Website at <http://www.usc.edu/dept/ARR/records/ferpa/>.

6. Falsification of Financial Aid Information

The types of information covered by this policy include all documents and information submitted to apply for and/or receive need-based financial aid, scholarships and private financing funds. These documents and information include, but are not limited to, the following:

- The Free Application for Federal Student Aid (FAFSA)
- The Student Aid Report (SAR)
- The CSS Financial Aid/PROFILE Application and CSS Noncustodial Parent PROFILE Application
- Enrollment and Housing Form
- Student and parent federal income tax forms, tax return information and other income documentation

07/25/2016

- Documentation of U.S. citizenship or eligible non-citizen status
- Documentation of housing/living arrangements
- Academic documents relating to high school diploma or college course work
- Loan applications, promissory notes and related documentation
- Specific program applications
- Federal Work-Study time sheets
- Any university financial aid forms and related documentation
- Any written, electronic or verbal statements sent to or made to a university employee regarding the student's financial aid application or other related documents

The integrity of the documents and the honesty of the information presented through them are critical to the financial aid process. Students should be aware that they will be held responsible for the integrity of any financial aid information submitted either by them or on their behalf.

If the university determines that a student or a parent has provided falsified information, or has submitted forged documents or signatures, the following steps may be taken without prior notification to the student or parent:

- I. An incident report will be filed with USC's Office of Student Judicial Affairs and Community Standards following procedures outlined in the University Student Conduct Code. Pending resolution of the complaint, the Financial Aid Office may restrict the distribution of any further aid to the accused student.
- II. If the Financial Aid Office or the student conduct review process finds that a violation has occurred, the consequences may include, but are not limited to, the following:
 - The student will be required to make full restitution of any and all federal, state, private and/or university scholarship, grant, loan, or work funds to which he or she was not entitled.
 - Until full restitution is made, all federal, state and university funds will be withheld from the student, including all funds disbursed in past or in current semesters.

07/25/2016

- No arrangements will be made with the Cashier's Office or Collections Office on the student's behalf to settle an account. The student will be responsible for all charges incurred on the student's account because of the loss of federal, state or institutional financial aid funds.
- If the student is determined to be ineligible for financial aid, based on a basic eligibility criterion, no further federal, state or university funds will be awarded to the student in any future terms of enrollment at the university.
- The student may become ineligible for future participation in some or all financial aid programs for a minimum of 1 year or longer. In some cases, the student will not be eligible to receive funds from that program in any future terms of enrollment at the university.
- The student will not be awarded funds to replace those lost because of dishonesty.

III. In addition to any consequences directly related to the student's financial aid, the student may be assigned disciplinary sanctions as described in the Student Conduct Code (see Section B.11.80).

IV. As required by federal and state law, the USC Financial Aid Office will report any infraction to the appropriate office or agency. These include, but are not limited to, the U.S. Department of Education Office of the Inspector General, state agencies or other entities that may take whatever action is required by federal and state law. In this report, the Financial Aid Office will describe in detail the incident, the response of the Financial Aid Office and any additional actions taken by or pending with the university.

07/25/2016

D. Free Expression and Dissent

1. Policy

The University of Southern California is committed to fostering a learning environment where free inquiry and expression are encouraged and celebrated and for which all its members share responsibility. Dissent (defined as disagreement, a difference of opinion, or thinking differently from others) is an integral aspect of expression in higher education, whether it manifests itself in a new and differing theory in quantum mechanics, a personal disagreement with a current foreign policy, opposition to a position taken by the university itself, or by some other means.

The university is a diverse community based on free exchange of ideas and devoted to the use of reason and thought in the resolution of differences. Whether in free debate or in the exchange of information, this community must rely on self-restraint and self-discipline if it is to retain its freedom to search and question. However, when self-restraint and self-discipline fail, the university will initiate such action as necessary to prevent disruption of or substantial interference with its community and to preserve the rights of its individual members.

The university's position is set forth in the following statement on Student Rights and Responsibilities:

"Students and student organizations shall be free to examine and discuss all questions of interest to them and to express opinion publicly and privately. They shall be free to support causes by all orderly means which do not disrupt or substantially interfere with the regular and essential operations and activities of the university, since such disruption or substantial interference violates the responsible exercise of free inquiry and expression. Students and organizations shall make it clear to the academic and larger communities that in their public expression they speak only for themselves."

If any student member of the university community believes that the university has acted in an arbitrary, capricious or discriminatory manner in exercising the Policy on Free Expression and Dissent (or its related policies), he or she may submit a formal grievance as outlined in the Student Grievance Procedures.

2. Reasonable Time, Place, and Manner

In exercising its responsibility to provide and maintain an atmosphere of free inquiry and expression, the university may establish reasonable time, place and manner restrictions for the purpose of avoiding disruption to or substantial interference with its regular and essential operations and activities. The university will not base decisions regarding time, place and manner upon the content of the message, except as

07/25/2016

permitted in those narrow areas of expression devoid of federal or state constitutional protection.

The university recognizes the crucial importance of preserving First Amendment rights and maintaining open communication and dialogue in the process of identifying and resolving problems which arise in the dynamics of life in a university community. The legitimate expression of differing opinions and concerns, including unpopular, controversial or dissident viewpoints, is an essential element of the academic process; the imposition of these opinions and concerns upon those who in turn dissent from them is not to be condoned and is inconsistent with a university's process and function.

Lawful and peaceful demonstration as an expression of favor or dissent will be permitted and protected. On the other hand, the university will not tolerate coercive disruption, defined generally herein as activity that imposes the will of other persons or groups within the university community, outside of the established university procedures and policies for the expression of opinion and the resolution of differences. Coercive disruption is construed to include any activity which, contrary to law, denies the rights of other students, the faculty or the staff of the university and:

- I. Disrupts or obstructs educational and other activities of the university.
- II. Reacts to the expression of the peaceful dissent of others by attempting to deny their rights.
- III. Obstructs or restricts free movement of persons on any part of the university campus, including the free entry to or exit from university facilities.
- IV. Denies or interferes with the use of offices or other facilities to the students, faculty, officers, staff or guests of the university.
- V. Threatens or endangers the safety of any person on the university campus. This includes but is not limited to signs on any forms of stakes.
- VI. Results in damage to or destruction of property.
- VII. Contains "fighting words" where (a) the speech, considered objectively, is abusive and insulting rather than a communication of ideas and (b) it is actually used in an abusive manner in a situation that presents an actual danger.
- VIII. Constitutes "hate violence," meaning any act of physical intimidation or physical harassment, physical force or physical violence, or the threat of physical force or physical violence, that is directed against any person or group, or the property of any person or group because of the ethnicity, race, national origin, religion, sex, sexual orientation, disability, or political or religious beliefs of that

07/25/2016

person or group. (Acts shall not be considered "hate violence" based on speech alone, except upon a showing that the speech itself threatens violence against a specific person or group, that the person or group against whom the threat is directed reasonably fears that the violence will be committed because of the speech, and that the person threatening violence had the apparent ability to carry out the threat.)

IX. Makes sustained or repeated noise in a manner which substantially interferes with a speaker's ability to communicate his or her message or the rights of others to listen. Since a clear differentiation between lawful or peaceful dissent and coercive disruption may often be difficult, the foregoing list is illustrative and not exhaustive; this list is expected to evolve, based on experience and changes in the law. It should be understood that the application of this policy also takes situational factors into consideration. For example, conduct appropriate at a political rally might constitute a violation of this policy if it occurred within a classroom.

In all cases, the rights of students under the First Amendment to the Constitution, as applied by California law, will always be protected.

Any coercive disruption initiated by a visitor or a student member of the university community or occurring during any university-sanctioned activity or function may be met by the action of the university that is necessary to restore the order and communication required for the rational solution of problems and free debate. In addition, any coercive disruption by students may be subject to disciplinary action through the Office of Student Judicial Affairs and Community Standards up to and including suspension or expulsion and/or legal action through local, state or federal courts.

If any member of the university community believes that disruption of or substantial interference with the regular and essential operations and activities of the university is occurring or that this policy is otherwise being violated, the established procedure is to inform university Public Safety officers and/or university administrators. It is the responsibility of designated university officials to protect the university community to the fullest extent possible.

3. Guidelines for Campus Demonstrations

All student members of the university community have the right to hold a demonstration (including, but not limited to, a rally, gathering, protest, parade or procession) on campus. Any property damages related to the demonstration may result in the assessment of fees associated with cleaning or repair costs to either the organization or the individuals.

07/25/2016

Reservations and prior arrangements are not required for campus demonstrations. However, if students do not make advance reservations, their event may be moved or rescheduled in order to accommodate previously scheduled reservations, in accordance with the university's right to establish reasonable time, place, and manner for campus events.

All demonstrations are encouraged to follow these guidelines, which serve as a mechanism to ensure a successful and safe demonstration:

- I. Reservations for outdoor spaces or other venues to conduct campus demonstrations are encouraged and should be made through Trojan Event Services online at <http://sait.usc.edu/scheduling/>. These spaces are made available to the campus community on a first-come, first-served basis. Students may also reserve space to protest approved speakers, presenters or programs as long as those protests are consistent with the guidelines stated in the Reasonable Time, Place and Manner section of this policy.
- II. Representatives of the sponsoring organization wishing to stage a demonstration are encouraged to complete an Outdoor Event Questionnaire and a USC Event Permit Application at least two weeks prior to the demonstration. The SLI staff will check on the availability of the venue requested and can facilitate communication with Safety and Risk Management, Operations and Maintenance, Public Safety and Student Affairs, as needed.
- III. Representatives of the organization sponsoring a demonstration are encouraged to attend a meeting with the Director of Campus Activities or other Student Affairs staff so that expectations, rights and responsibilities are mutually understood. The sponsoring organization is responsible for the behavior of the organization's members and of guests from off campus. Informing these members and guests of the university's expectations is the responsibility of the sponsoring organization's representatives. The sponsoring organization's representatives should also explain to the organization's members and guests the individual and organizational implications for failure to adhere to these expectations.
- IV. When a campus demonstration is scheduled, organizers can expect the university personnel present (typically staff from the Division of Student Affairs) to help ensure that organizers' rights are protected and the university's regular and essential operations and activities continue. Such regular and essential operations and activities include, but are not limited to, classes, meetings, and the standard operation of university offices and facilities. As the university is concerned about the entire university community and visitors, particular attention will be spent on managing crowds, maintaining access to buildings, sidewalks, streets, etc. and personal safety for all.

07/25/2016

4. Advertising, Promotion and Literature Distribution

I. Advertising

The Division of Student Affairs oversees all advertising, promotions, literature and publications distribution on the USC campus in order to:

- a. Protect the rights enumerated in the policy on Free Expression and Dissent.
- b. Help foster and maintain a campus atmosphere of personal responsibility and mutual respect.
- c. Allow for maximum promotion of student events.
- d. Ensure a safe environment of order and cleanliness on campus.

This will aid in creating a campus that promotes the well-being of its students, faculty, staff and visitors and will provide events with effective publicity and exposure.

II. General Regulations

- a. Content of all printed materials posted or distributed on campus must:
 - i. Contain no material containing advocacy directed to inciting or producing imminent lawless action
 - ii. Contain no advertisements for "term paper mills" or other products or services which undermine the academic integrity of the university.
 - iii. Contain no true threats or intimidation, meaning language where:
 - The speaker means to communicate a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals, or
 - The speaker directs a threat to a person or group of persons with the intent of placing the victim in fear of bodily harm or death.

07/25/2016

- iv. Contain no advertisements or promotions for alcoholic beverages, illegal drugs or drug paraphernalia.
- v. Contain no “fighting words” meaning language where:
 - The speech, considered objectively, is abusive and insulting rather than a communication of ideas.
 - The speech is used in an abusive manner in a situation that presents an actual danger that it will cause a breach of peace.
- b. USC does not exercise prior restraint on printed materials to be posted or distributed on campus that may be libelous or slanderous. However, if such materials are posted or distributed, they may be referred to the Office of Student Judicial Affairs and Community Standards for action.
- c. Any material that is not written in English requires a translation to be kept on file with Trojan Event Services in Ronald Tutor Campus Center 425.
- d. Any student groups or organizations not recognized by the university will be considered either “commercial” or “personal,” including non-profit organizations.

III. Publicity

All advertising and communication plans/timelines must be submitted in advance to the approving departments. No advertising is permitted until all approvals, paperwork and final payments have been received.

The use of third party promoters is strictly prohibited.

All printed publicity such as flyers, posters and postcards, must include the following entry guideline in accordance with the level of event identified during the dance agreement-planning meeting.

The following must be indicated on all materials to be posted:

- a. The full name of the sponsoring organization
- b. The time, date and place of the event

07/25/2016

- c. Any entrance fees or costs to participate
- d. Entry guidelines

Entry Guidelines

Level 1 Open to USC student members of the student organization only, with valid USC ID

Level 2 Open to any USC student with valid USC ID

Level 3 Open to USC students, with valid USC ID, and guest

Level 4 Open to USC students, guest(s) and other college student(s). Valid USC ID or other valid college photo ID and proof of 18 years or older required.

Posting

Posting on bulletin boards not controlled by the division must be approved by the staff of the principal department in that building. It is the university's intent to limit the use of departmental bulletin boards to information relating to that department, unless otherwise posted.

In order to advance the university's objectives, to control the number of posters or flyers posted, and to ensure appropriate use of university facilities and property, limits may be placed on the number of posting locations that commercial or personal groups may use.

The individual or organization responsible for the posting must be identified.

Posting or flyer distribution is prohibited in the following areas or in the following ways:

- a. all trees and hedges
- b. the ground, taped or loose
- c. buildings (including glass windows, doors, walls and columns)
- d. Tommy Trojan and all other statues
- e. trash cans

- f. all lamp posts
- g. telephone booths/telephone poles
- h. parking lots and structures
- i. on top of other previously posted materials
- j. fountains
- k. chalking
- l. electronic flyers or materials distributed via USC listservs
- m. on cars, bicycles or other individual property
- n. freestanding advertisements such as signs on stands, sandwich boards, other displays, etc.

The individual or organization responsible for posting will be held accountable for any violations and associated fees.

5. Literature and Publications Distribution

I. General Regulations

- a. This policy applies to students and recognized student organizations and establishes time, place and manner regulations. It will be interpreted and applied so as to respect all federal and state constitutional and statutory rights. (Off-campus organizations, individuals or vendors should consult the policy on Solicitations by Off-Campus Persons, and section IX Vendors in the policy on Sales and Fund-raising.)
- b. The Division of Student Affairs oversees the in-person distribution of literature (including posters, handbills and pamphlets) and publications on the campus and the compliance of individuals and organizations with this policy.
- c. All university students and recognized organizations may distribute literature anywhere on campus provided such distribution does not affect the scheduled activities in that area and does not interfere with the essential operations of the university.
- d. Designated bins are for official university publications only

07/25/2016

- e. No preprinted manually inserted sheets of information (flyers, advertisements or any other information message sheets) are allowed inside the pages of any official university publication.

II. Banners

Banners may only be mounted on campus buildings if:

- a. Permission is obtained by the occupants of the building
- b. Such banners are professionally produced
- c. They meet design criteria established by the university architect's office
- d. They are consistent with the university's graphic identity guidelines
- e. Such banners are for identification of the academic program, department or school housed within the building on which the banner is mounted. Banners may not be mounted on guide wires suspended between campus buildings.

III. Trousdale Light Post Banners

- a. Trojan Event Services maintains 11 light post locations on Trousdale Parkway for pole panels. The light poles may be reserved by campus departments at least four weeks prior to the desired first date of banner display.
- b. Panels may only be mounted if such banners:
 - are professionally produced;
 - meet design criteria established by the university architect's office;
 - are consistent with the university's graphic identity guidelines;
 - are for identification of the academic program, department or university event.
- c. In addition, pole panels must:

07/25/2016

- be produced by an approved university vendor (contact Trojan Event Services);
- fit the dimensions of the existing mounting hardware (2' by 4');
- use a minimum of five of the eleven available poles.

If the proposed banner design includes text, such text must prominently feature the name of the campus department and the name of the campus event.

- d. A copy of the proposed panel design must be submitted to Trojan Event Services at least four weeks prior to the desired first date of banner display, in order to receive approval.
- e. The reserving campus department will arrange for the light pole panel installation and removal. Charges will be the responsibility of the campus department.
- f. A representative from the campus department is responsible for meeting the light pole panel installer at installation and removal of panels to deliver and accept their panels.
- g. The campus department is responsible for the storage of their pole panels.

IV. Ronald Tutor Campus Center International Plaza Light Post Banners

- a. Trojan Event Services maintains 26 light post locations in and around the Ronald Tutor International Plaza for pole panels. The light poles may be reserved by campus departments at least four weeks prior to the desired first date of banner display.
- b. Panels may only be mounted if such banners:
 - are professionally produced;
 - meet design criteria established by the university architect's office;
 - are consistent with the university's graphic identity guidelines;
 - are for identification of the academic program, department or university event.

07/25/2016

c. In addition, pole panels must:

- be produced by an approved university vendor (contact Trojan Event Services);
- fit the dimensions of the existing mounting hardware (1' by 3');
- use a minimum of seven of the thirteen available poles.

If the proposed banner design includes text, such text must prominently feature the name of the campus department and the name of the campus event.

- d. A copy of the proposed panel design must be submitted to Trojan Event Services at least four weeks prior to the desired first date of banner display, in order to receive approval.
- e. The reserving campus department will arrange for the light pole panel installation and removal. Charges will be the responsibility of the campus department.
- f. A representative from the campus department is responsible for meeting the light pole panel installer at installation and removal of panels to deliver and accept their panels.
- g. The campus department is responsible for the storage of their pole panels.

V. Violations

- a. Non-compliance with any of the provisions of these guidelines will constitute a violation.
- b. All printed materials in violation of these policies will be removed. Costs incurred for the removal of such materials can be charged to the person, persons or department responsible for the violation.
- c. Any violation or continued violations of these guidelines will be handled in accordance with the severity of the infraction, and will include one or more of the following responses:
- Written warnings

07/25/2016

- Assessments for damage to facilities and/or assessed a \$1 per flyer violation fee or the cost for removal
- Denial of future posting and other privileges, including the ability to schedule on-campus facilities for events and/or assessed a \$1 per flyer violation fee
- Appropriate on-campus judicial proceedings through the Office of Student Judicial Affairs and Community Standards
- Appropriate legal action in local, state or federal courts of competent jurisdiction

VI. Responsibility for Content

An individual or organization shall be personally responsible for the content of any sign, notice, poster or other material referenced herein, which the individual or organization sponsors or posts on campus.

Advertisements or promotions on campus or in university publications and activity programs do not imply official endorsement by the university.

VII. Helpful Hints

- a. In the interest of a free exchange of ideas, we recommend that an individual or organization comply with a request from any and all members of the university community for a copy of the material being distributed.
- b. Whenever literature is distributed by more than five individuals in any campus area at the same time, we recommend an Event Request process that ensures prior notification to area occupants regarding the activity, works to alleviate misunderstandings, lessens the chance for actions against individuals or organizations distributing literature, allows separation from other groups wanting to distribute literature, and works to alleviate impediments to the flow of traffic across campus or into entrances or out of exits of campus buildings. If more than five individuals will be distributing literature in the same campus area at the same time, we recommend that a representative complete an Event Request form and obtain event confirmation., and that a representative be present with a copy of Trojan Event Services confirmed Event Request Form, Confirmations are granted on a first-come, first-served basis. (This paragraph does not apply to normal academic activities within the program of any school of the university.)

07/25/2016

- c. If any literature contains language other than English, in the interest of a free exchange of ideas we request that a copy of the translated information be on file with Trojan Event Services.
- d. Make an effort to print quality flyers and/or literature.
- e. Plan for six weeks or more of lead-time to take full advantage of the process of scheduling and advertising an event.
- f. Plan carefully before printing materials in order to avoid printing more than can legitimately be utilized.
- g. Use other types of promotion in addition to flyers. Flyers should only be one small part of your promotional campaign.
- h. For additional ideas regarding effective promotion of your student organization's events, consult with Campus Activities staff members in the Ronald Tutor Campus Center.

6. Solicitations by Off-Campus Persons

I. General Regulation

This policy is issued to establish time, place and manner regulations for solicitors who substantially interfere with the regular and essential educational and other activities of the university.

Off-campus persons must have written permission from Trojan Event Services to conduct solicitation anywhere on campus.

- a. "Off-campus persons" are defined to include all those who are not USC students, recognized student organizations, staff or faculty.
- b. "Solicitation" is defined to include advertising, taking orders, sales not governed by another policy, distributing literature, distributing material including samples, asking for donations, campaigning (political or otherwise), collecting signatures, collecting email addresses or personal information. The university will apply this policy with full respect for all relevant constitutional and statutory rights.
- c. Vendor sales of products on campus are governed by a more restrictive policy. See Section G.7.IX. Vendors in the Sales and Fund-raising policy.

- d. In exercising its responsibility to provide and maintain an atmosphere of free inquiry and expression, the university may establish reasonable time, place and manner restrictions for the purpose of avoiding disruption to or substantial interference with its regular and essential operations and activities. For all expression with federal or state constitutional protection, the university will not base decisions regarding time, place and manner upon the content of the message. Also see the policy on Reasonable Time, Place and Manner.

II. Considerations in Issuing Permits

- a. Trojan Event Services will consider other demands on space and will not issue a permit if the space is otherwise programmed.
- b. The activity will be limited to certain designated areas.
- c. The only area currently available for soliciting by off-campus persons is the plaza at the north end of Trousdale Parkway.
- d. The applicant must provide identification.
- e. The application must state the number of participants. Excessive numbers of participants will not be approved to ensure no interference with the free passage of pedestrians.
- f. Each participant will be issued an individual permit.
- g. Permits are for one day at a time.
- h. Decisions on permits will not be based upon the content of the message.

III. Displaying Permits

All off-campus persons who are participating in solicitation approved by Trojan Event Services must keep their written permission prominently displayed with them at all times on campus.

IV. Code of Conduct

It is important to foster and maintain a campus atmosphere of mutual respect. Aggressive solicitation is prohibited, including:

07/25/2016

- a. Obstructing or restricting free movement of persons on any part of the campus including free passage and the free entry to or exit from classrooms, offices or facilities.
- b. Persisting in closely following or approaching a person, after the person solicited has informed the solicitor by words or conduct that such person does not want to be solicited.
- c. Intentionally touching or causing physical contact with another person without that person's consent in the course of soliciting.
- d. Disrupting, obstructing or substantially interfering with the educational or other operations and activities of the university, including by making sustained or repeated noise.
- e. Using violent or threatening gestures toward a person solicited either before, during or after soliciting; using profane or abusive language which is inherently likely to provoke an immediate violent reaction, either before, during or after solicitation; uttering "fighting words" where the speech, considered objectively, is abusive and insulting rather than a communication of ideas and it is used in an abusive manner in a situation that presents an actual danger.
- f. Physically intimidating or physically harassing, or using physical force or physical violence, or threatening physical force or physical violence.
- g. Endangering the safety of any person on the university campus.
- h. Damaging or destroying property.
- i. Soliciting for immediate receipt of funds.
- j. Remaining on campus at times when only USC persons and invited visitors may enter.

V. Sanctions

Students and others may register complaints about the activities of off-campus solicitors with the Division of Student Affairs.

Failure to obtain and display a permit, violation of the code of conduct, or violation of the conditions of a permit may result in cancellation of a permit, requirement to leave and not return, and denial of permits in the future. Violations of criminal law may result in arrest.

7. Student Organization Logos Policy

- a. All recognized student organizations are permitted to create and use their own logos providing the logos do not violate the USC Graphic Identity Program or alter existing university logos. Student organizations are not allowed to use academic unit or department logotypes without permission from the academic unit or department. Student organizations are also not allowed to use the following university marks without special permission from the Department of Athletics or the Trojan Marching Band: Interlocking SC, Baseball Interlocking SC, Football Helmet Trojan Head and the Trojan Marching Band's logo. For more information, visit identity.usc.edu.
- b. Student organizations are permitted to identify their affiliation with the university through the proper use of USC official logos and trademarks on all products, publications, flyers and documents. Student organizations are required to use authorized licensed vendors when sourcing products that feature any of USC's trademarks or wordmarks. For more information, visit trademarks.usc.edu/campus-community.
- c. Student organizations may use their own logos in the context of a Website that meets the established USC Web publishing guidelines found at usc.edu/uscweb/authoring.
- d. Requests for permission to use any university logo or mark must be initiated by a student from the requesting organization. Requests from a national organization or other non-USC entity affiliated with the student organization will not be granted.
- e. Student organizations must adhere to the General Regulations section of the Advertising, Promotion and Literature Distribution Policies, which state that content of printed materials posted or distributed on campus must:
 - a. Contain no material containing advocacy directed to inciting or producing imminent lawless action.
 - b. Contain no advertisements for "Term Paper Mills" or other services which undermine the academic integrity of the university.
 - c. Contain no true threats or intimidation, meaning language where (i) the speaker means to communicate a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals, or (ii) the speaker directs a threat to a person or group of

persons with the intent of placing the victim in fear of bodily harm or death.

- d. Contain no advertisements for alcoholic beverages, illegal drugs or drug paraphernalia.
- e. Contain no "fighting words", meaning language where (i) the speech, considered objectively, is abusive and insulting rather than a communication of ideas and (ii) is actually used in an abusive manner in a situation that presents an actual danger that it will cause a breach of peace.

07/25/2016

E. Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating Violence, Domestic Violence, Intimate Partner Violence, Stalking and Child Abuse

Applicability

This policy applies to discrimination and harassment committed by a student or student organization based on any protected characteristic, and to retaliation for bringing a complaint under this policy. The protected characteristics under this policy include race, color, national origin, ancestry, religion, sex, gender, gender identity, gender expression, sexual orientation, age, physical disability, medical condition, mental disability, marital status, pregnancy, veteran status, genetic information, and any other characteristic which may be specified in applicable laws and governmental regulations. This policy also applies to all forms of sexual and gender-based harassment and violence, dating violence, domestic violence, intimate partner violence, stalking and child abuse.

Student conduct covered by this Part E is referred to as "Part E Misconduct" and student conduct investigations covered by this Part E are referred to as "Part E Misconduct Investigations."

This Part E applies to complaints against students or student organizations, whether raised by students, faculty, staff, or others.

This policy applies to all forms of Part E Misconduct committed by a student or student organization when the conduct occurs:

- on campus;
- in the context of University employment, education, or research program or activity, including but not limited to University-sponsored study abroad, research, internship, mentorship, summer session, or other affiliated programs or premises; and/or
- outside the context of a University employment, education, or research program or activity, but has continuing adverse effects on campus or in any University-employment, education, or research program or activity.

For complaints against faculty involving Part E Misconduct, see chapter 6 of the University of Southern California Faculty Handbook, available online at <http://policy.usc.edu/faculty>.

For complaints against non-faculty employees of the university or third parties involving Part E Misconduct, see the university's Policy on Discrimination, Harassment, Sexual Harassment and Sexual Assault, available online at <http://policy.usc.edu/discrimination/>. Additional information is available on the website of the Office of Equity and Diversity, at <http://equity.usc.edu/>.

07/25/2016

Where there is a delay between the conduct and the reporting of the potential violation, the applicable provisions regarding behavior violating university standards (definitions of prohibited conduct) and appropriate sanctions (as described in Section E.8.V. Policy Violations and Sanctions) shall be those that were in effect at the time the behavior occurred. However, Part E Misconduct Investigations will be conducted according to the most recent or current Part E procedures as of the date of the notification letter to the respondent.

Definitions

A student is defined as one who:

- is currently enrolled in university classes or in one of the university's degree or non-degree programs,
- has completed the immediately preceding semester and/or is enrolled for the next scheduled semester,
- is officially representing the university during a period between regular academic semesters, or
- is not officially enrolled for a particular semester, but who has a continuing academic relationship with the university.

A student organization is defined as one which has satisfied the administrative procedures for recognition as prescribed in this guidebook or which is functioning within the university community in the capacity of a student organization.

"Days" refers to calendar days, unless otherwise noted.

"Complainant" refers to the individual who is alleged to have been the subject of prohibited behavior, and includes victims and survivors.

"Respondent" refers to the individual(s) who has been accused of prohibited behavior.

"Third party" refers to any other participant in the process, including an individual who makes a report, participates in an investigation or disciplinary process as a witness, or is affected by any prohibited conduct.

E.1. Commitment to Compliance

E.1.I. The University of Southern California is firmly committed to complying with all applicable laws and governmental regulations at every level of government that prohibit discrimination against, or which mandate that special consideration be given to, students and applicants for admission, and faculty, staff and applicants for employment, on the basis of any protected characteristic as defined in this Part E.

- This commitment applies to all of the university's educational programs and activities, including admissions, financial aid, education and

07/25/2016

university programs. To carry out this university commitment, the university will not tolerate statements or actions that create a discriminatory or harassing work or academic environment. The university seeks compliance with all statutes prohibiting discrimination in education, including Title VI and Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, the Age Discrimination in Employment Act of 1967, the Americans with Disabilities Act of 1990 and the Americans with Disabilities Act Amendment Act of 2008 which respectively prohibit discrimination. This good-faith effort to comply is made even when such laws and regulations conflict with each other. In compliance with Section 504, the university provides reasonable accommodations for applicants with disabilities, as well as for students.

- Applicants for admission and registered students with questions about disabilities may contact the Office of Disability Services and Programs, at (213) 740-0776 or ability@usc.edu.

E.1.II. Attempts or threats to commit acts prohibited by this policy, or to omit acts required by this policy, are prohibited equally with the acts themselves. Complaints and witness statements that are not in good faith are also prohibited.

E.1.III. Intentionally submitting or providing false or misleading information in bad faith is prohibited. This prohibition does not apply to reports made or information provided in good faith, even if the facts alleged in the report are not later substantiated.

E.2. Discrimination

No student may discriminate against anyone in the university community based on any protected characteristic.

For the purposes of this policy, "discrimination" refers to the unfair treatment of a person or group because of that person's or group's protected category status, when the conduct is sufficiently severe, persistent or pervasive such that it has the purpose or effect of unreasonably interfering with an individual's academic or work performance, or creating an intimidating, hostile or offensive academic, work or student living environment. This conduct will also be evaluated from the perspective of a reasonable person in the alleged victim's position, considering all the circumstances.

E.3. Harassment Based on a Protected Characteristic

07/25/2016

- E.3.I. The University of Southern California is committed to maintaining an environment that is free from all forms of discrimination and harassment based on a protected characteristic. The protected characteristics under this policy include race, color, national origin, ancestry, religion, sex, gender, gender identity, gender expression, sexual orientation, age, physical disability, medical condition, mental disability, marital status, pregnancy, veteran status, genetic information, and any other characteristic which may be specified in applicable laws and governmental regulations.

No student may take actions that are harassing, abusive or intimidating against anyone based on any protected characteristic, or commit actions which adversely affect another because of a protected characteristic, when the conduct is sufficiently severe, persistent or pervasive such that it has the purpose or effect of unreasonably interfering with an individual's academic or work performance, or creating an intimidating, hostile or offensive academic, work or student living environment. This conduct will also be evaluated from the perspective of a reasonable person in the alleged victim's position, considering all the circumstances.

The actions do not have to be directed at a specific person or persons to constitute harassment.

- E.3.II. Attempts or threats to commit acts prohibited by this policy, or to omit acts required by this policy, are prohibited. Any student who violates this policy will be subject to appropriate disciplinary action for misconduct.
- E.3.III. Such conduct may include, but is not limited to, the following examples, if the conduct meets the standards above:
- Ridicule, abuse, insults or derogatory comments that are directly or indirectly based on a protected characteristic;
 - Offensive remarks about an individual's looks, clothing, or body parts, that relate to a protected characteristic;
 - Offensive comments about an individual's racial, ethnic or religious characteristics;
 - Disparaging or offensive remarks about an individual's gender whether or not sexual in nature;
 - Disparaging or offensive comments about an individual's religious beliefs or lack of religious beliefs;
 - Expressing negative stereotypes regarding an individual's country of birth, ancestry, citizenship, or race;

07/25/2016

- Disparaging, intimidating or offensive references to an individual's mental or physical impairment or disability;
- Disparaging racial or ethnic remarks, and racial or ethnic slurs, jokes or epithets;
- Disparaging comments based on other protected characteristics;
- Offensive and unwelcome language directed at someone because of their gender, or based on gender stereotypes;

E.3.IV. Behavior by non-student members of the university community, including faculty, staff and third parties, is investigated by the university's Office of Equity and Diversity and addressed by the university's Discrimination, Harassment, Sexual Harassment and Sexual Assault Policy and the Faculty Handbook.

E.4. Retaliation

No student may threaten, attempt, or commit retaliation against anyone who, in good faith, brings a complaint under SCampus policy, university policy, or applicable law; or participates in investigation of such a complaint; or protests in good faith alleged discrimination, harassment or retaliation against another. Such retaliation may include, but is not limited to, the following examples:

- Coercion, intimidation, interference, harassment or vexatious behavior;
- Excluding or blocking someone from a team, activity, organization, or course participation due to that person's having filed a complaint or been a witness as part of an investigation;
- Spreading negative information about the individual.

E.5. Sexual Misconduct, Dating Violence, Domestic Violence, Intimate Partner Violence, and Stalking

E.5.I. Overview

This Section applies to all forms of sexual and gender-based harassment, sexual misconduct, sexual assault, dating violence, domestic violence, intimate partner violence and stalking.

E.5.II. Providing a Safe Educational and Residential Environment

a. Expectations for the University Community

- i. The University of Southern California expects that all members of the university community – students, faculty, staff and friends – should be able to pursue their work and education in a safe environment, free from sexual and gender-based harassment and violence, and other forms of sexual misconduct and interpersonal violence. The university community is committed to fostering a safe environment where these forms of behavior are unacceptable, and where those who are harmed by another in violation of this policy, are provided support and avenues of redress as appropriate. Upon receipt of a report of Part E Misconduct, the university will take appropriate action to stop prohibited conduct, eliminate any hostile environment, prevent its recurrence and address its effects.
- ii. All incoming students are required to participate in mandatory educational programs about preventing Part E Misconduct and promoting a culture of caring for and respecting one another. See Section E.9.I. Education. In addition, returning students are, from time to time, required to participate in mandatory educational programs about alcohol and its effects, sexual assault, domestic and dating violence, stalking, and bystander intervention, safety, and other topics as deemed necessary by the Provost.
- iii. All members of the university community are expected to conduct themselves in a manner that does not infringe upon the rights of others. This Part E has been developed to reaffirm these principles and to provide recourse for individuals whose rights have been violated.

b. Students should understand that:

- i. Sexual activity and behavior which is non-consensual is sexual misconduct, whether the respondent is a stranger or an acquaintance of the complainant;
- ii. Intoxication of the respondent does not diminish his or her responsibility for an act of sexual misconduct;
- iii. A person who is incapacitated is not capable of giving valid, affirmative consent; and

- iv. These standards apply whether the respondent was acting individually or in concert with others.

E.5.III. Sexual or Gender-Based Harassment

a. No student may commit sexual harassment, defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- i. Submission to such conduct is either explicitly or implicitly made a term or condition of an individual's educational environment, employment, living environment, appointment, admission, or academic evaluation; or
- ii. submission to such conduct is used as a basis for evaluation in academic evaluations, educational opportunities, admissions evaluations, financial aid, or personnel decisions affecting an individual; or
- iii. such conduct is sufficiently severe, persistent or pervasive that it has the purpose or effect of unreasonably interfering with an individual's work or academic performance, or creating an intimidating, hostile, or offensive working or learning environment or student living environment. This conduct will also be evaluated from the perspective of a reasonable person in the complainant's position, considering all the circumstances.

b. Sexual harassment also includes harassment based on gender, sexual orientation, gender identity or gender expression, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex, gender, or sex/gender stereotyping, even if the harassing acts do not involve conduct of a sexual nature.

c. Sexual and gender-based harassment may include, but is not limited to, the following examples, when that behavior meets the criteria for sexual or gender-based harassment identified above:

- Written instances: Suggestive or obscene communication via letters, notes, text messages, emails, and any material distributed via social media, or any type of digital communication.

07/25/2016

- Verbal instances: Derogatory comments, slurs, jokes, or epithets of a sexual nature or sexist remarks, discussions about sex or sexual activities not related to a specific course topic, requests for sexual favors, repeated and unwelcome propositions for dates, or offensive sexual remarks about an individual's looks, clothing, or body parts when related to sex or gender.
- Physical instances: Leering, stalking, assaults, impeding or blocking movement, touching, or body contact.
- Visual instances: Inappropriate display of sexually explicit objects, pictures, cartoons, posters, computer screen savers, websites, movies, drawings, or sexual gestures.

E.5.IV. Sexual Assault

a. No student may commit sexual assault. Sexual assault includes, but is not limited to, sexual intercourse or sexual contact without consent. Sexual assault is defined as any actual or attempted non-consensual physical sexual act including, but not limited to: i) vaginal, anal, or oral intercourse, ii) vaginal, oral or anal penetration using a body part or object, iii) fondling, iv) groping or v) sexual contact as defined in paragraph c below. Sexual assault occurs where:

- There is no affirmative, conscious and voluntary consent, or consent is not freely given;
- Physical force, threats, coercion or intimidation are used to overpower or control another, or the person assaulted fears that he or she, or another person, will be injured or otherwise harmed if he or she does not submit; or
- There is no ability to give or withhold consent due to incapacitation, whether due to the influence of alcohol or other drugs, age or mental incapacity, being asleep, or unconsciousness. (See subsection 4 below on consent.)

b. Stranger and non-stranger sexual assault are covered equally in this policy.

c. Sexual contact includes intentional contact with the intimate parts of another, causing another to touch one's own or another's intimate parts, or disrobing or exposure of another without permission. Intimate parts may include the breasts, genitals, buttocks, groin, or mouth.

07/25/2016

d. Consent

An affirmative consent standard applies in the determination of whether consent was given by both parties to sexual activity. "Affirmative consent" means affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that they have the affirmative consent of the other or others to engage in the sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent.

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

- i. The respondent's belief in affirmative consent arose from the intoxication or recklessness of the respondent.
- ii. The respondent did not take reasonable steps, in the circumstances known to the respondent at the time, to ascertain whether the complainant affirmatively consented.

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

- i. The complainant was asleep, unconscious, or unaware that the sexual activity was occurring.
- ii. The complainant was incapacitated due to the influence of drugs, alcohol, or medication, so that the complainant could not understand the fact, nature, or extent of the sexual activity.
- iii. The complainant was unable to communicate due to a mental or physical condition, including incapacitation caused by the influence of drugs, alcohol, or medication.

- e. Rape and sexual battery are crimes as defined under California law and may be subject to criminal prosecution.

E.5.V. Other Sexual Misconduct

No student may commit sexual exploitation. Sexual exploitation includes, but is not limited to:

- a. non-consensually observing or recording (by photography, video, or audio recording) another's nudity or sexual activity;
- b. allowing another to observe or record a person's nudity or sexual activity without that person's consent;
- c. non-consensual sharing of images or recordings of the nudity or sexual activity of another;
- d. non-consensually exposing one's genitals to another; and
- e. inducing incapacitation for the purpose of making another person vulnerable to sexual assault.

E.5.VI. Domestic Violence, Dating Violence, and Intimate Partner Violence

- a. No student may commit domestic violence, dating violence, or intimate partner violence.
 - i. Domestic violence or dating violence means violence committed against a person who is a spouse or former spouse, a cohabitant or former cohabitant, a person with whom he or she has a child, or with whom he or she has, or had, a dating, romantic, intimate or engagement relationship.
 - ii. Intimate partner violence means violence by a person who is or has been in a romantic or intimate relationship with the victim.
 - iii. When used in this section, violence means causing physical harm either to the person or to their possessions, or conduct that would cause a reasonable person to be fearful for their safety. It may also include other forms of Part E Misconduct, including, but not limited to, sexual assault, sexual misconduct or stalking. Examples include, but are not limited to: slapping, pulling hair, name calling, damaging property, stalking, sexual assault, and threats of abuse or physical harm.

07/25/2016

- b. Dating violence and domestic violence are crimes as defined under California law and may be subject to criminal prosecution.

E.5.VII. Stalking

- a. No student may engage in stalking or tormenting behavior.
- b. Stalking is a non-consensual course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress.
 - i. "Course of conduct" means behavior composed of 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, engages in any of the following: monitoring, following, observing, threatening, surveilling, or communicating to or about a person, or interfering with a person's property.
 - ii. "Substantial emotional distress" means significant mental suffering or anguish.
 - iii. Stalking includes "cyber-stalking," a particular form of stalking in which a person uses electronic media, such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact.
 - iv. For purposes of this policy, "tormenting behavior" is defined as non-consensual willful conduct directed at a specific person that seriously alarms, annoys or terrorizes the person, that would have that effect on a reasonable person, and that serves no legitimate purpose.
- c. Stalking is experienced by women and men of all races, ethnicities, religions, ages, abilities and sexual orientations. It can affect every aspect of a victim's life. It often begins with phone calls, emails, text messages or letters and may escalate to include physical violence.
- d. Stalking is a crime as defined under California law and may be subject to criminal prosecution. Under California law, any person who willfully, maliciously, and repeatedly follows or willfully and maliciously harasses another person and who makes a credible threat with the intent to

07/25/2016

place that person in reasonable fear for his or her safety, or the safety of his or her immediate family is guilty of the crime of stalking.

e. Some illustrative examples of behavior that may come under this definition:

- Non-consensual communication, including face-to-face, telephone calls, voice messages, emails, text messages, postings on social networking sites, written letters, gifts or any other communications that are undesired.
- Use of online, electronic or digital technologies, referred to as cyber-stalking, including:
- Posting picture(s) or information on social networking sites or other Websites.
- Sending unwanted or unsolicited email or chat requests.
- Posting private or public messages on school bulletin boards or Internet sites.
- Installing spyware on another person's computer.
- Using Global Positioning Systems (GPS) to monitor another person.
- Pursuing, following, waiting or showing up uninvited at or near a course, classroom, residence, workplace or other places frequented by the victim.
- Surveillance or other types of observation, including staring or "peeping."
- Vandalizing property.
- Non-consensual touching.
- Verbally or physically threatening.
- Gathering information about an individual from friends, family or co-workers.
- Threatening to harm self or others.

- Defaming by lying to others about the victim (e.g., rumors of infidelity, etc.).
- Third-party stalking or stalking by proxy.

E.6. Child Abuse

No student may commit an act of child abuse, including sexual abuse of an individual under 18 years of age. All students have a personal responsibility to report any instances of known or suspected abuse, molestation or neglect of a child. Please see the university's Policy on Protecting Minors, at policy.usc.edu.

E.7. Reporting

The university is committed to creating a campus environment that encourages prompt reporting and expedites a fair, thorough and neutral investigation and adjudication of cases. The university will respond to complaints or reports or information about incidents of Part E Misconduct to stop prohibited conduct, eliminate any hostile environment, take steps to prevent the recurrence of the misconduct and address any effects on campus from such conduct.

Reports of conduct by a student prohibited by this Part E, as well as cases involving retaliation that is connected with such matters, are investigated by a specially-trained investigator designated by the university's Title IX Coordinator.

E.7.I. Timeliness

Cases involving Part E Misconduct may be reported at any time. Complainants are encouraged to make a prompt report to maximize the ability to respond promptly and effectively. If the respondent is no longer a student at the time of the report, or if the conduct is not within the scope of the policy, the university may not be able to take disciplinary action against the respondent, but will still provide reasonably available support and resources to a complainant designed to end the conduct, prevent its recurrence, and address its effects. The Title IX Coordinator will also help a complainant identify external reporting options.

E.7.II. Report to the University

Part E Misconduct committed by a student should be reported to the Title IX Coordinator or directly to a Title IX Investigator at (213) 740-5086. See also equity.usc.edu/title-ix/.

07/25/2016

Sexual misconduct committed by staff or faculty, or other members of the university community (for example, a vendor or campus visitor), should be reported to the Office of Equity and Diversity, also at (213) 740-5086.

Both the Office of the Title IX Coordinator and the Office of Equity and Diversity are located at CUB Building 2nd Floor, 3720 South Flower St., University Park Campus, Los Angeles, CA 90089.

E.7.III. Report to Law Enforcement

Many forms of Part E Misconduct may also constitute felony or misdemeanor violations of criminal law. Under most instances it is the complainant's right to choose whether to file a criminal report. The university encourages complainants to report potential crimes to law enforcement, and will provide assistance in making the report. To report a crime, individuals may contact the local police department, or may contact the university Department of Public Safety (DPS) at (213) 740-4321, 24 hours a day. When a crime of a sexual nature is reported to DPS, DPS immediately notifies:

- The Los Angeles Police Department (LAPD). If the complainant asks that their name not be provided to the LAPD, DPS will honor that request. The LAPD (or the appropriate law enforcement agency if outside of Los Angeles) has the responsibility for the investigation of these crimes; DPS is not permitted to do so.
- The university's Title IX Coordinator
- The Center for Women and Men, so that the Center for Women and Men may conduct any appropriate outreach.

E.7.IV. Report to Counseling

The Center for Women and Men, and the Sexual Assault Resource Center, offer resources and confidential counseling to those who have experienced gender-based harm. Counselors are available for emotional support and assistance in locating other appropriate resources, 24 hours a day, at (213) 740-4900. Trained counseling staff from the Center for Women and Men are also available to accompany a student to a rape treatment center, to DPS or law enforcement in order to make a report, or to meetings with the Title IX Coordinator or investigator.

A student who receives assistance from the CWM may request that the CWM forward the student's report to the Office of the Title IX Coordinator or Office of Equity and Diversity, although the student is not required to do so.

07/25/2016

For additional information, see Section E.9.II. Assistance for Students

E.7.V. Report to Faculty and Staff

Faculty, teaching assistants, and staff holding supervisory positions are required to contact the Title IX Coordinator to immediately report all information shared with them regarding sexual harassment or sexual assault or any other conduct prohibited by this policy.

E.7.VI. Report Anonymously

Students have the option to make anonymous reports of Part E Misconduct, and may also anonymously access information about resources, through the Center for Women and Men, and the Sexual Assault Resource Center (213-740-4900), or Student Counseling Services (213-740 7711).

The university's ability to respond to an anonymous report may be limited by the amount of information available, but the university will seek to identify available steps to investigate or otherwise determine what happened, consistent with its obligation to eliminate prohibited conduct, prevent its recurrence and address its effects.

E.7.VII. Report to Governmental Authorities

In addition to notifying the university about unlawful discrimination, harassment or retaliation, students may direct their complaints to the Office for Civil Rights (OCR) within the U.S. Department of Education at (415) 486-5555 or ocr.sanfrancisco@ed.gov. While OCR complaints should generally be filed within 180 days of the last date of alleged discrimination, OCR may extend this deadline in a variety of circumstances.

If a student is also an employee, inquiries or complaints may also be referred to the California Department of Fair Employment and Housing (DFEH) at contact.center@dfeh.ca.gov or www.dfeh.ca.gov, or the United States Equal Employment Opportunity Commission (EEOC) at 1-800-669-4000 (TTY 1 (800) 669-6820) or www.eeoc.gov. The deadline for filing complaints with the DFEH is one year from the date of the alleged unlawful conduct. If the DFEH believes that a complaint is valid and settlement efforts fail, the DFEH may seek an administrative hearing before the California Fair Employment and Housing Commission (FEHC) or file a lawsuit in court. Both the FEHC and the courts have the authority to award monetary and non-monetary relief in meritorious cases.

07/25/2016

Any person who believes that the university as a federal contractor has violated nondiscrimination or affirmative action obligations may contact the Office of Federal Contract Compliance Programs (OFCCP) at 1(800)397-6251 (TTY: 1(202)693-1337).

E.7.VIII. Privacy and Confidentiality

The university will respect and safeguard the privacy interests of individuals involved in reports under this policy to the extent possible. Privacy in this context means that information related to a report made under this policy will generally be shared only with those university employees who need to know the information in order to assist in the review, investigation, or resolution of the report. These individuals will keep as private as possible information related to the report. If an investigation is pursued against a respondent, however, information will need to be shared with the respondent and, as appropriate, with relevant witnesses. The university will, if so requested, keep as private as possible the identity of complainants to the fullest extent of the law, but will inform complainants that keeping their name private may limit the university's ability to investigate or discipline the responsible individual.

While the university recognizes that a complainant may wish to preserve her or his privacy, it should also be understood that the university has a responsibility to maintain the integrity and safety of the campus as a whole. Where circumstances exist that are deemed a danger to the university community at large, pertinent details about an incident may need to be acted upon or publicly released. At no time will the university release the name of the complainant, or any identifying information, to the general public without the express consent of the complainant. The release of the Respondent's name to the general public is guided by the Family Educational Rights and Privacy Act (FERPA) and the Clery Act. For more information regarding reporting under the Clery Act, see Section H.2. Mandatory Federal Reporting and Campus Crime Statistics.

The university will also respect and safeguard legal confidentiality, which is different from privacy. For information about confidential resources, see Section E.9.II. Assistance for Students.

E.8. Disciplinary Procedures

The below disciplinary procedures apply to these investigations, also referred to as "Part E Misconduct Investigations." The Title IX Coordinator maintains oversight of all Part E Misconduct complaints and ensures that they are resolved in a timely manner and in compliance with Title IX and this Part E. The Title IX Coordinator receives written notice of all determinations made in Part E Misconduct Investigations by a Title IX investigator, the Student Equity Review Panel (defined in Section E.8.V. Policy Violations and

07/25/2016

Sanctions), the Student Behavior Appeals Panel, and the Vice Provost for Student Affairs.

The Title IX Coordinator may in his or her discretion refer a matter to be handled by SJACS under the procedures set forth in Part B if he or she determines that proceeding under this Part E is not warranted based on the facts alleged.

E.8.I. Intake and Investigation

- a. Complaints of Part E Misconduct that are made to the Office of Student Judicial Affairs and Community Standards or DPS will be referred to the Office of the Title IX Coordinator.

Upon learning of a report of Part E Misconduct, the Title IX Coordinator or designee will contact the complainant to explain the complainant's rights, the complainant's right to make (or decline to make) a report to LAPD or the Title IX Coordinator or both, and resources and available referrals, including medical and other assistance.

- If the Center for Women and Men has not previously been consulted by the student about the incident, the Title IX Coordinator or designee will also inform the Center for Women and Men of the complaint, so that the Center for Women and Men may conduct any appropriate outreach.

- b. Upon receipt of a report of Part E Misconduct, the university will review whether Interim Remedial Measures may be appropriate to eliminate a hostile environment and protect the parties involved. Interim Remedial Measures are designed to address a complainant's safety and well-being and continued access to educational opportunities. Complainants are eligible for Interim Remedial Measures and support whether or not they choose to participate in a disciplinary investigation.

- i. Either party may request an avoidance of contact letter or other similar protection, whether or not a student seeks formal disciplinary action against the person responsible. Other potential Interim Remedial Measures may include access to counseling services, medical care, rescheduling of exams (in conjunction with appropriate faculty), changes in class schedule when feasible, the ability to take an incomplete or drop a course without penalty, changes in on-campus housing when feasible, changes in university work schedules or assignments, housing relocation assistance, voluntary leave of absence, escorts, academic support services, tutoring, course

07/25/2016

rescheduling or course load reduction assistance, or other such measures as may be both feasible and appropriate.

- ii. A student seeking information about Interim Remedial Measures should speak with a Title IX investigator, the Title IX Coordinator, Student Support and Advocacy within Student Affairs, or the Center for Women and Men.
- c. It is generally up to the discretion of the complainant whether or not to proceed with a university investigation. However, where there is evidence that a respondent (whether an individual student or organization) may pose a substantial threat to the safety or well-being of one or more members of the university community or to property within the university community, or poses a continuing threat of disruption or interference to normal university life or functions, the Title IX Coordinator may determine that the safety and security of the broader campus community requires that the university proceed with an investigation. Factors that may lead the university to proceed with such an investigation include the use of a weapon, evidence of violence, predation, a pattern of behavior (one or more other acts of sexual misconduct), and threats of repeated or additional acts of violence. If the Title IX Coordinator determines that there is a need to move forward with an investigation, the complainant will be notified prior to the start of any such investigation.
- d. Informal Resolution Process. The university recognizes that in some limited circumstances (and never in sexual assault cases) voluntary informal resolution options may, if implemented consistently with institutional values and legal obligations, be an appropriate means of addressing some behaviors reported under this policy. Informal resolution is a remedies-based, non-judicial approach designed to eliminate a hostile environment without taking disciplinary action against a Respondent.
- i. Examples of potential remedies are similar to those provided in Section E.8.I.b., Interim Remedial Measures. Other potential remedies include targeted or broad-based educational programming or training, direct confrontation of the respondent and/or direct or indirect action by the Title IX Coordinator or the College. Depending on the form of informal resolution used, it may be possible to maintain anonymity.
 - ii. With approval from the Title IX Coordinator, informal resolution options may be used during or prior to the investigation phase, as a means of addressing the reported or admitted behavior, preventing its recurrence, and remedying its effects absent a formal finding.

07/25/2016

- iii. To initiate an informal resolution process, the Title IX Coordinator must have reviewed the matter to the extent necessary to confirm that it is of the type that would be appropriate for an informal resolution process and must have concluded, in consultation with appropriate University employees, that use of an informal resolution process would be consistent with the institutional values and legal obligations. The participating parties must have voluntarily elected to pursue an informal resolution process without pressure or compulsion from others and must have been advised that they may withdraw from the process at any time. The Complainant can request to end the informal resolution process and instead pursue a formal investigation at any time. The process will never be used to require the Complainant to directly confront the Respondent.
 - iv. Individuals may be accompanied by an advisor at any meetings related to the informal resolution process. Any agreements reached in an informal process must be approved by the Title IX Coordinator. When an agreement is approved, the Respondent will be required to comply with the agreement. If no agreement is reached, the matter may be referred to the Title IX Coordinator for further action.
- e. If the complainant wishes to proceed with a university investigation (or the university decides to do so), the matter will be immediately assigned to an investigator trained in or otherwise knowledgeable about investigating Title IX complaints, who may be the Title IX Coordinator, or a Title IX Investigator, with oversight from the Title IX Coordinator.
- f. These procedures do not apply to investigations of non-students. Investigations of non-students are conducted by the Office of Equity and Diversity. Information is available at Office of Equity and Diversity and in the Faculty Handbook.
- g. The responsibility is on the university, not the parties to the complaint, to gather the relevant evidence, to the extent reasonably possible, relating to a complaint, report or other incident of Part E Misconduct of which the university has notice. As part of the investigation, the investigator will meet separately with both the complainant and respondent and explain to each a summary of rights, the investigative process, avenues of appeal after the investigation and information about available resources.

07/25/2016

- Interim Protective Measures. During the course of a Part E Misconduct Investigation, the university has the right to impose Interim Protective Measures whenever there is evidence that the respondent individual or organization poses a substantial threat to the safety or well-being of members of the university community, or poses a continuing threat of disruption or interference to normal university life or functions. Interim Protective Measures include actions taken against a respondent pending an investigation that include, but are not limited to: interim suspension; removal from a class, student organization, team or housing; putting an organization on notice; or notifying a national office of an organization. See Section E.8.IV.b. Interim Protective Measures.
- h. The complainant and respondent will each meet separately with the investigator. The complainant and respondent will receive timely notice of any meeting at which their presence is requested or required.
- i. At the meetings of the complainant or the respondent with the investigator, the student being interviewed may have one adviser present. The adviser may be any person of the student's choosing, such as the student's parent or guardian, a mental health professional, a certified victim's advocate, an attorney, or an adviser provided by the university at the student's request. A witness may not serve as an adviser, or vice versa. The role of the adviser is to provide support to the student being interviewed as well as assistance in understanding and navigating the investigation process, and the conversation will be between with investigator and the student being interviewed. The adviser may not interfere with or disrupt the interview. To protect the privacy of students and witnesses, the adviser is required to sign a confidentiality statement prior to attending an interview or otherwise participating in the university's investigatory process.
- j. As part of the investigation, the investigator will ask for all information relevant to the allegations. For both parties, this is their opportunity to present any information regarding the incident, including names of witnesses, the existence of documents, electronic communications, or recordings, or any other information the parties think may be relevant. Both parties may also present supplemental information during the course of the investigation, until the investigator makes findings.
- k. The investigator will conduct additional investigation and witness interviews as appropriate and review all available pertinent evidence.
- l. Both parties will be given the opportunity to review all information that will be used at any informal or formal disciplinary proceeding or meeting.

07/25/2016

m. The investigator will then make findings of fact by a preponderance of the evidence.

- i. In preparing the report, the investigator will review all facts gathered to determine whether the information is relevant to the findings of fact.
- ii. The investigator may redact information that is irrelevant, more prejudicial than probative, or immaterial.
- iii. The investigator may also redact statements of personal opinion, rather than direct observations or reasonable inferences from the facts.
- iv. Evidence pertaining to an individual's character is not pertinent and will not be considered.
- v. The investigator cannot and does not make a finding as to whether a crime has been committed, as that can only be done through the legal process.

n. All students and employees have the responsibility to participate fully and truthfully in university investigations. If the respondent declines to present information on his/her own behalf, this will not be construed as an admission of responsibility. If employees (including student employees) are interviewed during their USC working hours, the time will count as time worked.

o. Respondents who fail to respond to initial notification from the Title IX Investigator within one week of that notification or who cannot be contacted after reasonable attempts remain subject to an investigation and consequent sanctioning if a violation of the Student Conduct Code is found.

p. Part E Misconduct Investigations and review by the Student Equity Review Panel (as described in Section E.8.V. below), excluding the time for any appeal, shall be completed within 60 working days, unless the university's Title IX Coordinator determines that there is good cause to extend the period to conduct a fair and complete investigation, comply with a request by external law enforcement, accommodate the availability of witnesses, accommodate delays by the parties, account for university breaks or vacations, due to the complexity of the investigation, or for other legitimate reasons. Any extension of the timeframe for good cause, and the reason for the extension, will be shared with the parties in writing. Best efforts will be made to complete the investigation in a timely manner by balancing principles of thoroughness, fairness and promptness.

E.8.II. Procedural Rights

07/25/2016

While significant procedural protections are provided to both the complainant and respondent, the opportunity to confront accusers is not required as part of a fair and impartial process. Both the complainant and respondent are granted the following procedural protections:

- a. At the start of the investigation, a summary of rights, investigation procedures and avenue of appeal.
- b. Equal treatment throughout the investigation and appeal process.
- c. A fair, thorough, reliable, neutral and impartial investigation by a trained and experienced investigator.
- d. Written notice specifying the nature of the alleged violation and the basis for the charge including the date or period of time and location regarding the alleged incident.
- e. Written notice of the published location of the Student Conduct Code and Conduct Review System, published online in this guidebook in Parts B and E.
- f. Written notice of the requirement to meet with the investigator. The university reserves the right to conduct investigations in absentia when a respondent fails to respond after proper notice has been given or after the university has exercised reasonable effort to notify the student of the allegations. Also, there may be times when the university in its discretion decides to proceed with the investigation even when the complainant does not wish to proceed. See Section E.8.I. Intake and Investigation.
- g. The opportunity to provide relevant information and names of relevant witnesses. Declining to present information will not be construed as an admission of responsibility.
- h. The opportunity to inspect documents and/or relevant information gathered as part of the investigation. Medical and counseling records are confidential records that the parties are not required to disclose. If such records are disclosed to the investigator by one party, however, the other party will be given access to the relevant portions of the records upon request. Declining to present information will not be construed as an admission of responsibility.
- i. A written and timely decision sent simultaneously to both parties outlining the findings of fact of the investigator and the conclusions of the Student Equity Review Panel regarding whether a policy violation occurred and whether any sanctions are to be imposed (see Section E.8.V. below). The written decision

07/25/2016

shall explain the basis for the findings and conclusions and outline the proper course of appeal.

Notice will be emailed to the student's email address of record in the Student Directory, unless the student makes arrangements in advance with the investigator to have the decision mailed to the student's last known address or hand-delivered. If a notice is mailed, it is deemed to be received three days after it is mailed.

- j. The opportunity to appeal the decision of the Student Equity Review Panel within 2 weeks of receipt of the written decision. Following the appeal process, both parties shall receive a written and timely decision regarding the outcome of the appeal and explaining the basis for the decision.

E.8.III. Other Procedural Matters

a. Multiple Respondents

In reviews of incidents involving more than one respondent, the investigator, in consultation with the Title IX Coordinator will determine whether the reviews concerning each student should be conducted separately or in a consolidated investigation.

b. Pending Criminal Investigations and/or Proceedings

For cases in which criminal investigations and/or proceedings are concurrent or pending, the university may proceed independent of such investigations or proceedings. The mere fact that a criminal investigation or proceedings exist will not be considered grounds for delay. However, the Title IX Coordinator will attempt to coordinate with law enforcement so that any university processes do not interfere with the integrity or timing of the law enforcement investigation. At the request of law enforcement, the university may agree to defer the fact-finding portion of its investigation until after the initial stages of a criminal investigation. The Title IX Coordinator will nevertheless communicate with the parties regarding resources and accommodations, procedural options, anticipated timing, and the implementation of any necessary interim interventions for the safety and well-being of the complainant and university community members. The investigator will promptly resume fact-gathering as soon as law enforcement has released the case for review following the initial criminal investigation.

c. Standard of Proof

The standard of proof shall be the preponderance of the evidence, meaning such evidence that, when weighed against that opposed to it, has the more convincing force and the greater probability of truth.

d. Character Witness Statements

Character witnesses and letters are not admissible as evidence and will not be considered.

e. Prior Sexual History

- i. In cases concerning sexual assault, the past sexual history of any involved party will not be admitted in evidence or testimony unless directly relevant to the matter under consideration.
- ii. A party's character or reputation with respect to other sexual activity is never relevant and will not be considered as evidence.
- iii. In general, a complainant's prior sexual history is not relevant and will not be admitted as evidence. Where there is prior sexual history between the complainant and the respondent, and the respondent alleges that the complainant gave consent, the prior sexual history between the parties may be relevant to assess the manner of communication between the parties as to consent. However, the mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. In addition, evidence of other sexual history may be relevant to prove a material fact (for example, to explain an injury or physical finding).
- iv. Where there is evidence of conduct substantially similar in nature by the respondent, regardless of whether there has been a finding of responsibility, this information may be deemed relevant to the determination of responsibility and/or sanction. In addition, other conduct may be relevant to establish intent, motive, absence of mistake, or another ground deemed probative of a material fact by the investigator.

f. The investigator determines what information is relevant to the determination of findings of fact.

E.8.IV. Status of the Respondent

07/25/2016

- a. In most cases, the status of the respondent will not be altered and disciplinary sanctions are not initiated until completion of the investigation and an appeal, if any.
- b. That an action is pending within the Student Conduct process does not relieve the student from any financial obligations to the university.
- c. Interim Protective Measures, including interim suspension or other interim action, may be authorized by the Vice Provost for Student Affairs or designee at any time pending disciplinary proceedings against a student or organization or pending an appeal, whenever there is evidence that the student or organization may pose a substantial threat to the safety or well-being of one or more members of the university community or to property within the university community or poses a continuing threat of disruption or interference to normal university life or functions. Factors that will be considered in determining whether to authorize Interim Protective Measures include the use of a weapon, evidence of violence, predation, a pattern of behavior (one or more other acts of sexual misconduct), and threats of repeated or additional acts of violence.
 - i. A student or organization subject to Interim Protective Measures will be given prompt written notice of the charges and the opportunity for a review by the Vice Provost for Student Affairs, or designee, of the Interim Protective Measures within 15 days of the notice, unless a later date shall be mutually agreed upon by the respondent and the Vice Provost for Student Affairs or designee.
 - ii. Interim Suspension means exclusion from all classes, seminars and programs; prohibition of participation in university-sponsored activities; and exclusion from university premises.
 - iii. Interim Action may include, but is not limited to, exclusion from university housing or a specified portion thereof, or from other specified activities or areas of the campus, or a prohibition on the respondent from representing the university in any capacity, as set forth in the written notice of Interim Action. Interim Action may also include a directive or agreement that the complainant and respondent have no contact, as specified in a letter from the Vice Provost or designee (often referred to as an "Avoidance of Contact Letter").
- d. The university will place a hold on registration or transcript release during an appeal of a Part E Misconduct case where the respondent has been found

07/25/2016

responsible for a violation of the Student Conduct Code and is awaiting a final decision in the appeal.

- e. Upon written notice of the determination of the Student Equity Review Panel (see Section E.8.V, below), if the sanction is determined to be an expulsion or suspension, the respondent will be immediately placed on interim suspension (as defined in Section E.8.IV.c.ii, above) and a transcript and registration hold will be placed on the respondent's account. The interim suspension and transcript or registration hold shall only be lifted if the sanction of expulsion or suspension is overturned on appeal and the revised sanction imposed (if any) does not include suspension or expulsion.
 - If the final decision following appeal upholds the initial sanction of expulsion, or where there is no appeal, the sanction will be documented on the respondent's academic record as taking effect on the date of written notice of the Student Equity Review Panel decision (or such other date as may be determined by the Title IX Coordinator). In the case of a sanction of suspension, the interim suspension period shall count towards the total suspension period.

For further details about the impact of sanctions on student status, see Section E.8.V.d. Sanctions.

E.8.V. Policy Violations and Sanctions

- a. Following completion of an investigation and issuance of findings of fact by a Title IX investigator or the Title IX Coordinator, the report of the Title IX investigator or Title IX Coordinator (the "Investigation Report") will be forwarded to the Student Equity Review Panel to determine whether a policy violation has occurred by a preponderance of the evidence and to determine appropriate sanctions. The Student Equity Review Panel shall consist of two individuals selected from a pool of specially-trained individuals designated by the Provost and Senior Vice President for Academic Affairs. The Student Equity Review Panel will be advised by the Title IX Coordinator, who is present during the Student Equity Review Panel's deliberations but is not a member of the panel and does not have a vote. Within 10 working days following receipt of the Investigation Report, the Student Equity Review Panel will conclude by a preponderance of the evidence whether there have been one or more violations of this Part E and, if so, decide on the appropriate sanctions.
- b. As explained in Section E.8.II. above, the university will simultaneously provide both the complainant and respondent the results of the investigation and the determinations of the Student Equity Review Panel, in writing. The results will include the determination whether or not there was a violation, and the reasons, and both the complainant and the respondent will be given a summary of any sanction imposed on the respondent.

- c. Sanctions are assessed appropriately for the cited violation. Sanctions will be considered in light of the gravity of the respondent's actions and the respondent's entire conduct record at the university and will be designed to hold students accountable for their actions and the resulting or potential consequences of such actions, and to protect the safety of the university community.

Where there is no appeal, the determination as to the effective date of the sanction will be made by the Title IX Coordinator.

- d. One or more of the following sanctions may be imposed for policy violations. Note that a sanction does not relieve a student from any financial obligations to the university.

- i. Expulsion from the university: Permanent termination of student status. A permanent notation will appear on the student's transcript. The student will be excluded from all classes, seminars and programs; will not be allowed to participate in any university-sponsored activity; may not receive a USC degree; and is barred from university premises. If the expulsion becomes effective during a semester for which the student currently is enrolled, the student's enrollment will be cancelled by the university resulting in marks of "W" for the enrolled courses on the student's academic transcript.
- ii. Suspension from the university: Termination of student status for a specified but limited period of time. During the period of suspension, the student will be excluded from all classes, seminars and programs; will not be allowed to participate in any university-sponsored activities; is prohibited from representing the university in any capacity; and is barred from university premises. A restriction will be placed prohibiting the student from performing any registration transactions during the period of suspension. The restriction will not be removed, and the student will not be allowed to perform registration transactions, until the stated period of suspension has expired and all disciplinary obligations have been met (provided that, where good cause is shown, the Vice Provost for Student Affairs or designee may, in his or her sole discretion, remove the restriction to permit a student to register for courses to be taken in the semester following the end of the suspension period).

07/25/2016

- A notation will appear on the student's academic transcript indicating the dates of suspension. Upon earning a degree from the university, the suspension notation may be omitted from the transcript at the sole discretion of the university. In some cases, suspensions may be permanently noted on the transcript.
 - During the period of suspension, the student may not complete academic work elsewhere that may be counted toward the completion of a USC degree.
 - Violation of the conditions of suspension, university policies or regulations during the period of suspension may be cause for further disciplinary action, usually in the form of expulsion from the university. Normally, after the suspension, the student will be on disciplinary probation for a specified period of time. If the suspension becomes effective during a semester for which the student currently is enrolled, the student's enrollment will be cancelled by the university resulting in marks of "W" for the enrolled courses on the student's transcript.
- iii. Revocation of Admission: The student loses admitted status to the university. The student may not continue enrollment or enroll for future semesters and may not receive a USC degree. Normally, revocation of admission precludes the student from the opportunity to apply to or be admitted to any program at the university in the future. A permanent notation will be made on the student's transcript indicating that admission was revoked and the date of the action. If the revocation of admission becomes effective during a semester for which the student currently is enrolled, the student's enrollment will be cancelled by the university resulting in marks of "W" for the enrolled courses on the student's academic transcript.
- iv. Revocation of Degree: The student loses the right to claim the degree as earned. Posting of the degree will be removed from the student's transcript, and a permanent notation will be made on the transcript indicating the revocation, the degree involved and the date of the action.
- v. Dismissal from an Academic Unit: Permanent termination of the student's right to enroll or participate in the classes, seminars

07/25/2016

and/or programs of a specific academic unit, school or department.

- For undergraduate students: Dismissal from a specific undergraduate academic unit shall not prevent undergraduate students from enrolling in other university academic units. Normally after dismissal from an academic unit, the student will be on disciplinary probation for a specified period of time.
 - For graduate students: Students, including those who are enrolled in a post-baccalaureate professional program, who have been dismissed from a specific graduate academic unit may not enroll in other graduate programs unless they have gained formal admission to such programs. (The word "graduate" includes post-baccalaureate professional students and units.)
- vi. Removal from an individual course or section of a course. Removal precludes the student from participation in and attendance of the course or section, or any of its sessions. In multiple section courses, the student will not necessarily be allowed to transfer to another section.
- vii. Disciplinary Probation: Indicates that the student has engaged in unacceptable behavior and may be required to report to the Title IX Coordinator or her designee and meet specific conditions related to the violation during the probationary period. Additionally, the student is given written notice that any further violations of university policies may result in more severe sanctions such as removal from university housing, suspension, dismissal from an academic unit or expulsion from the university.
- viii. Warning: Written notice to the student that continued or repeated violations may be cause for further disciplinary action, normally in the form of disciplinary probation, suspension or expulsion.
- ix. Restitution: Reimbursement for damage to university property or for misappropriation of university property or services may be imposed in combination with other disciplinary action where appropriate. The student may be required to reimburse the

07/25/2016

university for property damages incurred as a result of a violation of the Student Conduct Code. Such reimbursement may take the form of monetary payment or appropriate service to repair or otherwise compensate for damages. Restitution may be assigned for minor damage to the property of individuals or groups within the university community, but adjudication of student discipline usually will defer determination of significant restitution to other appropriate processes. Restitution is not appropriate for personal harm.

- x. **Organizational Sanctions:** All residential and non-residential organizations, clubs and similar organized groups are responsible for compliance with university rules and regulations. Upon a determination that the group has encouraged violations or did not take reasonable steps as a group to prevent violations of university rules and regulations, the group may be subjected to permanent or temporary removal of recognition/registration, social probation, denial of the use of university facilities or other appropriate sanctions (see Section G.2. Group Responsibility for Student Organizations).
- xi. **Restriction from Employment at the university:** Prohibition of, or limitations on, university employment.
- xii. **Removal from Specific Activities:** Suspension from activities (e.g., leadership positions, athletic participation) at the university for a specific period of time.
- xiii. **No Contact:** Restriction from entering specific university areas and/or from all forms of contact with certain specified persons.
- xiv. **Other Sanctions:** Other sanctions may be imposed instead of or in addition to those specified in the above list. Examples include but are not limited to: university housing reassignment or removal, restrictions upon or denial of driving privileges on campus, prohibition of student leadership opportunities, counseling, community service work, research projects, seminars, classes or other educational experiences deemed appropriate. Certain sanctions also may be assigned as "deferred" under appropriate circumstances (e.g., deferred removal from housing, deferred suspension from the university, deferred loss of organizational recognition.)

E.8.VI. Appeals Process

- a. Following the Student Equity Review Panel's decision, either the complainant or the respondent may file a written appeal. A review of the matter will be efficient and narrowly-tailored to the provisions of this policy and relevant reasons for appeal. The appeal will be conducted in an impartial manner by impartial decision-makers, and both parties will be treated fairly throughout the process.
- b. Appeals must be submitted within 2 weeks from receipt of the Student Equity Review Panel's decision. The Vice Provost of Student Affairs may deem a late submission of an appeal reasonable under extraordinary and extenuating circumstances.
- c. Written appeals should be submitted electronically to the Title IX Appeal Coordinator at titleixappeals@usc.edu.
- d. Appeals are documentary reviews in which no oral testimony is taken and no oral argument takes place. Generally appeals are determined solely on the merits of the documents submitted. Appellate documents therefore should be as complete as possible.
- e. The appeal must include the Appeal Request Cover Sheet indicating the specific grounds for the appeal, supporting arguments and documentation, and any other relevant information the complainant or respondent wishes to include. Appellants should refer to Guidelines for Writing Appeals, a document available from the Title IX Appeal Coordinator.
- f. Appeals must state one or more of the following criteria as the reason for the appeal:
 - i. That new evidence has become available which is sufficient to alter the decision and which the appellant was not aware of or which could not have been reasonably obtained at the time of the original review.
 - ii. That the sanction imposed is grossly disproportionate to the violation found.

- iii. That there were procedural errors that had a material impact on the fairness of the investigation.
 - iv. That the conclusions of the Student Equity Review Panel and the sanctions imposed are not supported by the findings, or the findings are not supported by the evidence in light of the whole record.
- g. The Title IX Appeal Coordinator, who is designated by the Vice Provost for Student Affairs, will receive all appeals, and within 1 business day will provide notice to the opposing party of the appeal, in writing. The opposing party will have 2 weeks to respond in turn.
- h. The parties are neither required to file an appeal nor required to respond to an appeal filed by the opposing party. Not responding to an appeal does not suggest one party agrees with the appeal.
- i. The Title IX Appeal Coordinator will provide the appellate documents to the Student Behavior Appeals Panel. This Panel consists of three members, at least one of whom is a faculty member, who have been appointed by the Vice Provost for Student Affairs. The Panel is trained in university procedures and Title IX requirements, and is advised by the Title IX Appeal Coordinator. The Panel will meet as needed to review and consider appeals concerning Part E Misconduct.
- j. After receiving all appellate documents, the Appeals Panel will review the submitted appellate documents, the written decision from the initial review and supporting documents relevant to the initial review decision. In addition, the Appeals Panel may request additional statements from the investigator. The adviser is present during the Panel's deliberations but is not a member of the Panel and does not have a vote.
- k. Upon review of the appeal, the Appeals Panel may recommend upholding the initial decision in its entirety, increasing or decreasing the assigned sanctions, remanding the case back to the investigator for further investigation, or reversing specific findings of fact not supported by the evidence in light of the whole record or conclusions of policy violations not supported by the findings. If new evidence is submitted and the Appeals Panel determines that the new evidence should be considered, the Appeals Panel may return the complaint to the investigator to reconsider in light of the new evidence. If the Appeals Panel determines that procedural errors had a material impact on the fairness of the investigation, it may return the complaint to the investigator with instructions that the investigator remedy the errors.

- l. The Appeals Panel will not substitute its opinion on credibility in place of the judgment of the investigator who saw and heard the witnesses, and will not make new findings of fact. If there is substantial evidence in light of the whole record to support a finding of fact, the Panel will not reweigh the evidence but will defer to those findings. Where the findings are upheld, the conclusions of the investigator as to policy violations will be changed only if not supported by the findings, and the sanction imposed will be changed only if not supported by the findings or if grossly disproportionate to the violation found. Appeals Panel members should not substitute their judgment for that of the original investigator or the Student Equity Review Panel merely because they disagree with the findings, conclusion, or sanctions.
- m. The adviser to the Panel will inform the Vice Provost for Student Affairs of the Panel's recommendation within one week of the conclusion of its review, unless the Vice Provost for Student Affairs extends that time.
- n. The recommendations of the Student Behavior Appeals Panel may be accepted or modified by the Vice Provost for Student Affairs based on his or her review of the record of the case. Whether the Vice Provost modifies the draft decision or remands to the investigator, is a matter of his or her discretion based upon the record of the case. The Vice Provost makes the final decision on appeal. Once made, this decision is final and binding upon all parties. There is no further appeal.
- o. The Vice Provost for Student Affairs will provide both the complainant and the respondent the final results of the disciplinary proceeding at the same time. Final results are available only after the appeal process has been exhausted, or waived, and the university has made a final determination in the matter. The final result will include the determination whether or not there was a violation and the reasons, and the complainant and respondent will be given a summary of the sanctions.
- p. Appeals and final decision shall be completed within 45 days of the filing of an appeal, unless the Vice Provost for Student Affairs determines that there is good cause to extend that period.
- q. Harmless Error Clause: Deviations from proscribed procedures shall not necessarily invalidate a decision, unless significant prejudice may result to the student or to the university.

E.9. Prevention and Support

Both women and men can be the victim of sexual misconduct, dating violence, domestic violence, intimate partner violence and stalking. Such acts are taken seriously by the

07/25/2016

university, and are not tolerated. They can happen to anyone, regardless of age, gender, race, sexual orientation, gender identity or socioeconomic status. The university is committed to providing a consistent, timely and caring response to anyone within the campus community.

E.9.I. Education

All incoming students are required to participate in mandatory educational programs about preventing sexual harassment, sexual assault, and gender-based harm, and promoting a culture of caring for and respecting one another. This includes, but is not limited to, the online modules AlcoholEdu and Think About It. In addition, USC provides education on the prevention of sexual misconduct, dating violence, domestic violence, intimate partner violence and stalking to its campus community each year. Additional optional educational programs are also offered throughout the year, including training offered by the Center for Women and Men on healthy relationships and gender-based harm, as well as other training offered through the Title IX Office.

E.9.II. Assistance for Students

a. Campus Resources

- i. Sexual Assault Resource Center / Center for Women and Men
 - (213) 740 - 4900
 - <https://sarc.usc.edu/>
 - <http://engemannshc.usc.edu/cwm/>
 - Counselors are available for emotional support and assistance in locating other appropriate resources. Students can speak confidentially with a counselor on campus 24 hours a day. Trained counseling staff are also available to accompany a student to a rape treatment center, to DPS or law enforcement in order to make a report, or to meetings with the Title IX Coordinator or investigator.
 - Information shared with campus or community professionals who have legal confidentiality (such as licensed counselors or therapists) will only be disclosed with the individual's express written permission or as provided by law (where there is a continuing threat of serious harm to the individual or others; where there is suspected abuse or neglect of a minor; or where disclosure to a third party is otherwise legally required).

- ii. Engemann Student Health Center

07/25/2016

- (213) 740-9355
- <https://engemannshc.usc.edu/>
- Medical care and counseling services are available from Engeman Student Health Center and the Student Counseling Center. Counseling staff assure confidentiality to students seeking their services.
- In California, medical physicians (but not psychological counselors) are mandated by state law to notify law enforcement if a patient presents with a physical wound or injury due to a sexual assault, domestic violence or the sexual assault of a minor. However, the patient has the right to request that a victim advocate be present when they speak with law enforcement and to request that law enforcement not pursue a criminal charge at that time. Beyond this notification, the disclosure of private information contained in medical records is protected by HIPAA. Further, neither the Student Health Center nor community medical providers will notify the Title IX Coordinator or university.
- Medical and counseling records are privileged and confidential and the university will not require a student to disclose them. However, where a student chooses to share medical and counseling records as part of the investigation, the records will be shared with the other party.

iii. USC Department of Public Safety (DPS)

- University Park Campus office:
(213) 740-4321
Parking Structure 'A', at the southwest corner
of McClintock Avenue and Downey Way
- Health Sciences Campus office:
(213) 442-1000
2001 Soto Street, Los Angeles, CA
- Any report filed with DPS will be also shared with the Title IX Coordinator and the Center for Women and Men, so that the Center for Women and Men may conduct any appropriate outreach.

iv. Office of the Title IX Coordinator

- (213) 740-5086

07/25/2016

- <https://equity.usc.edu/title-ix/>
- The Title IX Coordinator is responsible for coordinating the university's overall response to allegations of gender-based harm. As part of that obligation, the Title IX Coordinator manages the complaint and investigation process, and can also assist in obtaining an Informal Resolution or Interim Remedial Measure. See Section E.8.I. Intake and Investigation.

v. Sex Assault Center within the Violence Intervention Program
Urgent Care Center at the LAC+USC Medical Center

- (323) 226-3961
- 2010 Zonal Avenue, Los Angeles (Health Sciences Campus)
- Includes 24-hour emergency care, forensic exams, and victim advocacy.

b. Off-Campus Resources

- i. Santa Monica Rape Treatment Center
 - (310) 319-4000
 - <http://www.911rape.org/>
 - Provides 24-hour emergency care, forensic exams, victim advocacy.
- ii. Peace Over Violence
 - 213-626-3393 (24-hour rape and battering hotline)
 - <http://www.peaceoverviolence.org/>
- iii. Stalking Resource Center
 - (202) 467-8700
 - <https://www.victimsofcrime.org/our-programs/stalking-resource-center>
- iv. National Domestic Violence Hotline
 - (800) 799-7233
 - (800) 787-3224 TDD
- v. National Coalition Against Domestic Violence (Washington, DC)
 - <http://www.ncadv.org/>
- vi. Privacy Rights Clearinghouse (San Diego, CA)
 - <http://www.privacyrights.org/>

07/25/2016

E.10. What To Do If You Have Been Sexually Assaulted

If you or someone you know has been sexually assaulted recently, there can be time-sensitive decisions to make about preventing sexually transmitted infections, preventing pregnancy and collecting physical evidence. Students who have been sexually assaulted are advised to proceed with the following:

E.10.I. Immediate Action to Take

- Go to a safe location.
- Contact the confidential Sexual Assault Resource Center or the Center for Women and Men (CWM) at (213) 740-4900 (24 hours) for medical resources, emotional support and advocacy. If you prefer to seek confidential counseling off campus, call the Santa Monica Rape Treatment Center, (310) 319-4000 (24 hours), or Peace Over Violence, (213) 626-3393 (24 hours).
- Get medical care as soon as possible. Go to a hospital, emergency room or a specialized forensic clinic that works with sexual assault survivors. Some options in Los Angeles include the Santa Monica Rape Treatment Center, (310) 319-4000 (24 hours), and the Violence Intervention Program, which is supervised by USC physicians, (323) 226-3961 (24 hours). Both locations provide medical care, specially-trained staff, and the collection of forensic evidence. You may also request medications for the prevention of sexually transmitted infections, including HIV, and emergency contraception. If you think you may have been given a rape drug, request that the hospital or clinic take a urine and blood sample. These samples need to be collected quickly as these drugs leave the system quickly. If you wish, the Department of Public Safety or the Center for Women or Men can transport you, or arrange transportation for you, to either the Santa Monica Rape Treatment Center or the Violence Intervention Program.
- If you want to report the crime immediately, notify the Department of Public Safety (DPS) at (213) 740-4321 (24 hours) and/or call 911. Please note that any report alleging rape or sexual assault (as defined by California law) filed with DPS will be forwarded to LAPD.
- Preserve all physical evidence of the assault, even if you are unsure whether you want to report the crime. Do not shower, bathe, douche, eat, drink, wash your hands or brush your teeth until after you have had a medical examination. Save all the clothing you were wearing at the time of the assault and bring them and any other potential evidence to

07/25/2016

the medical exam. Place each item of clothing in a separate paper bag (do not use plastic bags). Do not clean or disturb the area where the assault occurred.

- Call a trusted friend, family member or someone else who can provide support.

If more than one week has passed since the assault, or if you are certain that you do not want the collection of forensic evidence, Engemann Student Health Center, (213) 740-9355, provides medical care, including emergency contraception and testing for sexually transmitted infections. Staff at the Engemann Student Health Center, including the Student Counseling Center, also assure confidentiality to students seeking their services. (Please note that, in the cases in which there is a physical wound or injury due to a sexual assault, or in the case of a sexual assault of a minor, physicians may be required to report these situations to the proper legal authorities.) See also Section E.9.II. Assistance for Students.

E.10.II. Follow-up Action to Take:

- File a complaint with the Office of the Title IX Coordinator, (213) 740-5086, and the complaint will then be investigated. This can be done instead of or in addition to filing a report with DPS and filing a Los Angeles Police Department report. Students should note that any report alleging rape or sexual assault filed with DPS will be forwarded to LAPD.
- The university recognizes that deciding whether or not to make a report, either to the university or law enforcement, and choosing how to proceed, can be difficult decisions. All individuals are encouraged to seek the support of campus and community resources. These trained professionals can advise in making decisions, provide information about resources and procedural options, and assist in the event that a report under this policy is pursued. For this reason, the Center for Women and Men (CWM) is designated as a place where individuals may seek confidential assistance. You can speak confidentially with a CWM counselor on campus, (213) 740-4900 (24 hours). If you prefer to seek confidential counseling off campus, call the Santa Monica Rape Treatment Center, (310) 319-4000 (24 hours), or Peace Over Violence, (213) 626-3393 (24 hours).
- The CWM and/or the university's Title IX Coordinator can meet with you to explain the process and explain the option to start an investigation by filing a complaint.

07/25/2016

- Other evidence to gather: Whether or not you have made the decision to pursue disciplinary action against the individual responsible, there is certain information that should be gathered before too much time elapses, so that you may best preserve your options. For example you might consider saving text messages, Facebook postings, emails, voice mail messages, or other social media postings that might prove relevant. If you have already deleted text messages, they might also be retrieved from your mobile phone company if you make the request during the current billing cycle. It can also be helpful to write down the names (or descriptions, if you do not have names) of possible witnesses, in case you later forget this information.

E.10.III. Rights Concerning Reporting

In connection with reporting sexual misconduct, including sexual assault, you have these rights:

- If the person alleged to have committed the conduct is a USC student or employee, the right to request an investigation through the Office of the Title IX Coordinator at (213) 740-5086.
- The right to be informed of reporting options with regard to notifying law enforcement authorities or declining to notify law enforcement authorities, and to be assisted in notifying such authorities if you so choose. These reports can be made to DPS and the Los Angeles Police Department (LAPD), or other appropriate local law enforcement. You should note that any report alleging rape or sexual assault filed with DPS will be forwarded to LAPD. If you asks that your name not be provided to the LAPD, DPS will honor that request.
- The right to request that sexual misconduct incidents, including sexual assaults, be investigated by the proper criminal authorities, and to have the full and prompt assistance and cooperation of campus personnel in this regard (in addition to any campus disciplinary proceedings as outlined above).
- The right to full and prompt cooperation from campus personnel in obtaining and securing evidence (including medical evidence) necessary for any potential criminal proceedings.
- The right not to be discouraged by university officials from reporting an assault to both on-campus and off-campus authorities.

07/25/2016

- The right to be free from pressure to report assaults as lesser offenses than you perceive them to be.
- The right to be free from any suggestion that you were responsible for being assaulted.
- The option of participation within the university's disciplinary proceeding. Should you choose not to participate, the university still may proceed with disciplinary action.
- The right to the same level of support at any Title IX investigations is permitted to the accused student, and the right to be notified in a timely manner of the outcome of the investigation.
- The right to have access to existing campus counseling and medical professionals, victim support services, and to be given referrals to off-campus counseling and support services if desired.
- The right to have the university change your or the other party's academic and/or living situation after a report of alleged policy violation, if the requested changes are feasible and reasonable. Options for possible changes include, but are not limited to: termination of an existing housing contract, assistance in locating alternative housing and/or withdrawal from classes. See Section E.8.I.b. Interim Remedial Measures.
- The right to be free from retaliation. The university will not permit retaliation against any person for exercising the right to make a Part E Misconduct complaint in good faith, to use any of the processes provided by the university or to testify or offer evidence connected with a complaint. Retaliation is a violation of this policy whether or not the underlying claim of Part E Misconduct is proven. See also Section E.4. Retaliation.
- The right to be treated with respect and dignity by university officials.

E.11. What To Do If You Have Been or Are Being Stalked

- If you feel you are in danger, immediately call the USC Department of Public Safety (DPS) at (213) 740-4321. If you are off campus, contact local law enforcement.

07/25/2016

- Contact support services such as the USC Center for Women and Men at (213) 740-4900. Staff there can help develop a safety plan, seek a temporary restraining order or other no-contact orders, and provide counseling.
- Try to retain documentation of the stalking incidents such as messages, texts, and/or other items.
- Keep a log of the dates and ways that the other person contacted you or attempted to contact you.

Other inappropriate conduct, such as repeated telephone or email contacts of a lewd or obscene nature, personal threats, stalking, domestic violence and sexual harassment, may also be disclosed confidentially to the Center for Women and Men.

You may also report such conduct formally, without confidentiality, to the Department of Public Safety, the Los Angeles Police Department, or directly to the Title IX Coordinator for the university at (213) 740-5086, and the complaint will then be investigated.

Please see Section E.9.II. Assistance for Students for the complete list of on-campus and off-campus resources available for you.

E.12. What To Do If You Have Been Accused of Part E Misconduct

E.12.I. If you've been accused of harassment or other misconduct:

- You may receive free individual counseling to help deal with feelings related to being accused, decision-making, and concerns about relationships. Confidential support is available from the Engemann Student Counseling Center at (213) 740-7711.
- Contact the Assistant Vice-Provost for Student Affairs, Student Support and Advocacy, at (213) 821-4710, for help in locating a trained adviser. The adviser can provide you with information about the investigation process, provide support, and accompany you to meetings with the investigator. Note this office is not confidential, although they will keep the information you share as private as possible.
- Talk to someone you can trust: A friend, clergy member, parent, or counselor.
- Do not contact the alleged victim by any means; this might appear retaliatory, even if that is not your intent. In addition, the alleged victim

07/25/2016

might believe this to be an additional act of harassment, putting you at risk of having additional charges of misconduct filed against you.

- There is certain information that should be gathered before too much time elapses. For example, you might gather text messages, emails, Facebook postings, voicemail, or other social media postings. If you have already deleted text messages, they might also be retrieved from your mobile phone company if you make the request during the current billing cycle. It can also be helpful to write down the names (or descriptions, if you do not have names) of possible witnesses, in case you later forget this information.

E.12.II. Be aware that you have the following rights:

- At the start of the investigation, the right to a summary of your rights, investigation procedures and avenue of appeal.
- The right to the same level of support at any Title IX investigation as is permitted to the student who filed the complaint; and the right to be notified in a timely manner of the outcome of the investigation.
- The right to a fair, thorough, neutral and impartial investigation of the incident by a trained and experienced investigator.
- The right to an adviser of your choice, with the exception that a witness in your case cannot be your adviser.
- The right to written notice, before meeting with the investigator, of the incident report that specifies the nature of the alleged violation and the basis for the charge including the date or period of time and location regarding the alleged incident.
- The right to written notice of the online published location of the Student Conduct Code and Conduct Review System.
- The right to written notice of the requirement to meet with the investigator. The university reserves the right to conduct investigations without you if you fail to respond after proper notice has been given, or after the university has exercised reasonable effort to notify you of the allegations; there may also be times when the university in its discretion decides to proceed with the investigation even when the complainant does not wish to proceed. See Section E.8.I.

07/25/2016

- The right to provide relevant information and evidence, and names of relevant witnesses. Declining to present information will not be construed as an admission of responsibility.
- The right to inspect documents and/or relevant information gathered as part of the investigation, though medical information may be kept confidential (a request to inspect documentation or evidence should be presented in writing at least one working day in advance to the investigator, at any time during the process).
- The right to a written and timely decision sent to both parties outlining the results of the investigation, explaining the basis for the conclusion and outlining the proper course of appeal.
- The right to appeal the investigation results.
- The right to be treated with respect and dignity by university officials.

07/25/2016

F. Other University Policies

1. Computing

Because the use of computers and computing facilities is central to the learning experience at USC, it is important for all students to understand the policies governing the use of computing resources and appropriate behaviors in an electronic community. To that end, the university has developed a set of computing policies for members of the university community, regarding electronic communications, the use of computing resources at USC, compliance with the Digital Millennium Copyright Act (DMCA) and other related topics.

All of these policies are available online at policy.usc.edu or cio.usc.edu/copyright/policy. Students are expected to read and abide by all policies located at this site and check this page for updates, as these policies are subject to change. All electronic information under this Website supersedes all printed computing policies.

2. University Email Notifications to Students

Email has been adopted as the primary mechanism for sending official communications to students at the University of Southern California. Students, therefore, must check email regularly in order to stay abreast of important messages and notifications. Failure to read official university communications sent to students' official email addresses does not absolve students from knowing and complying with the content of official communications.

Faculty may use students' official email addresses as the official out-of-class means of communicating with students registered in their classes. Students must comply with course requirements communicated to them by email.

Implementation

All students are assigned an official university email address that will be maintained in the university's email directory for at least one year after the student's last enrollment at the university.

All official university communications for students will be sent to the student's official university email address.

Students may forward their email from their official university email address to another email address of their choice. The university, however, is not responsible for email forwarded to another email address.

07/25/2016

3. Student Website Disclaimer

The University of Southern California protects its students' rights of free speech and academic freedom on student Websites. Because student Websites are hosted on official university servers, however, the university automatically places a disclaimer on each student site.

The disclaimer reads as follows: USC does not control the content herein and takes no responsibility for any inaccurate, offensive, indecent or objectionable content, which is the sole responsibility of the individual student author.

Students may not remove or otherwise take steps to defeat this disclaimer. Any attempt to do so will be cause for disciplinary action.

4. Student Grievance Procedures

I. Definitions

A grievance arises when a student believes, based on established administrative policies and procedures, that he or she has been treated in an arbitrary or capricious manner by a university department or a representative of the university.

II. Grievances Covered by This Policy:

A grievance against a university official arises when a student believes he or she has been subjected to inappropriate behavior by a department or university representative (faculty or staff) acting within their role and duty.

A grievance of personal misconduct by a faculty member or other university employee arises when a student believes he or she is the subject of inappropriate behavior outside of the employee's role and duties within the university.

III. Grievances Not Covered by This Policy Include:

- Grade disputes, academic evaluation disputes and other matters related to a faculty member's assigned duties. The grievance process for these disputes is found in Section C.2. Disputed Academic Evaluation Procedures.
- Issues of sexual harassment or discrimination. These issues should be referred to the Title IX coordinator, Office of Equity and Diversity

07/25/2016

(Credit Union Building 2nd Floor, University Park Campus, (213) 740-5086, oed@usc.edu). Also see Part E.

IV. Informal Grievance Resolution

Prior to bringing a grievance forward against a university office or representative acting within their role or duty, students are encouraged to attempt a good-faith resolution of the grievance. This attempt may be made with the party directly involved with the disputed matter, or with the head of the department or unit in which the grievance arises. Please note that there are cases when it is appropriate to go directly to the formal grievance resolution process.

Attempts at information resolution should be initiated within 30 days of the incident in dispute.

V. Formal Grievance Resolution

Should a situation arise in which a student is unable to resolve his or her grievance informally, the university's formal grievance process may be employed. This process, outlined below, should also be initiated within 30 days of the failed informal resolution if applicable.

Step I

A formal grievance is presented in writing to the Office of the Vice Provost for Student Affairs (Student Union 201). This written grievance must include the following:

- Name, address and phone number of the person making the grievance;
- Identification of the office or individual against whom the grievance is brought;
- A description of the specific university action or individual behavior resulting in this grievance;
- The date or period of time in which the behavior occurred and the location of the incident; and
- A listing of all individuals who witnessed any part of the incident in dispute.

Step II

07/25/2016

Upon receipt of the formal grievance, a designee is appointed by the Office of the Vice Provost for Student Affairs to investigate the dispute.

The grievance involves a university office or representative acting within their role or duty, the investigator determines the involvement of pertinent supervisors, department chairs and deans in the investigation. Depending upon the grievance, pertinent data (interviews, etc.) will be gathered by the investigator or the university office involved in the grievance. This data is then presented to the department for resolution. If the complainant and the respondent do not agree through informal resolution, a formal hearing becomes necessary. In a formal hearing, the Office of the Vice Provost for Student Affairs appoints a panel or administrator to make a recommendation to the cognizant administrator. Copies of the detailed protocol may be obtained from the Office of the Vice Provost for Student Affairs (Student Union 201).

If the grievance is based on personal misconduct by a faculty member or other university employee, the investigator gathers pertinent information and presents it to either the Vice Provost for Faculty Affairs (faculty complaint) or the Office of the Senior Vice President for Administration (staff complaint). The Office of the Vice Provost for Student Affairs assists the appropriate office with resolution and the resolution process.

5. Alcohol and Other Drugs

The illegal or abusive use of alcohol and/or other drugs by students, faculty or staff adversely affects USC's commitment to provide an environment of excellence in teaching, research and learning. As members of the USC community, we all share in the responsibility for creating and maintaining a healthy and productive environment for work and study alike. With this responsibility comes the obligation to be involved in preventing problems caused by the abuse of alcohol, tobacco and other drugs.

USC's comprehensive approach to addressing substance abuse emphasizes:

- Taking effective steps to create and maintain a drug-free workplace and educational environment for students, faculty and staff.
- Providing continual prevention, education and counseling services along with referrals to off-campus treatment facilities as appropriate.
- Encouraging individuals who are experiencing problems associated with alcohol and/or other drugs or chemical dependency to seek assessment, counseling and/or treatment voluntarily with the understanding that this assistance is confidential and will not be used against them.

07/25/2016

(Taken from *USC Drug-Free*, <https://policy.usc.edu/drug-free/>)

I. Alcohol Policy

With this approach in mind, the university has expectations concerning alcohol use on campus which directly correspond to California and Los Angeles laws and ordinances and include, but are not limited to, the following provisions:

- a. The purchase, possession, or consumption of any alcoholic beverages (including beer and wine) by any person under the age of 21 is prohibited.
- b. Alcoholic beverages will not be provided to individuals under 21 years of age.
- c. The selling, either directly or indirectly, of alcoholic beverages (including beer and wine) except under the authority of a California Alcoholic Beverage Control Board license is prohibited. This includes selling cups, mixes, ice, tickets for admission, required donations, etc.
- d. The serving of alcohol to an intoxicated person or to the point of intoxication is prohibited.
- e. The manufacture, use or provision of a false state identification card, driver's license, or certification of birth or baptism is prohibited.
- f. The act(s) of being drunk and disorderly in public view, including on public sidewalks and walkways, is prohibited.
- g. The consumption of alcoholic beverages in a public place (unless licensed for consumption of alcohol on the premises) is prohibited. This includes a prohibition of alcoholic beverages in public areas of academic facilities, recreation fields, university housing corridors and lounges.
- h. Operating a motor vehicle, bicycle, skates, or scooters while under the influence of alcohol is prohibited.
- i. The possession of an alcoholic beverage in any open container in a motor vehicle, or while operating a bicycle, skates, skateboard, or scooter is prohibited regardless of who is driving and whether one is intoxicated (taken from *USC Drug-Free*).

07/25/2016

- j. Behavior that is disruptive or abusive to others as a result of using intoxicants.

II. Alcohol and Event Planning

Since the consumption of alcoholic beverages is prohibited (unless licensed for consumption of alcohol on the premises), any event being sponsored or hosted by a campus individual, university-recognized group, department, or office, must get approval to serve alcohol. All student organizations must have permission to serve alcohol at their events. The Office of Fraternity and Sorority Leadership Development must approve requests to serve alcohol for all organizations within the Asian Greek Council, the Interfraternity Council, the Multi-Cultural Greek Council, the National Pan-hellenic Council, the Panhellenic Council and the Professional Fraternity Council. All other student organizations should contact the Office of Campus Activities for additional information. Approval must be obtained for all events on campus within any university-owned property. For approval and copies of the detailed protocol on serving alcohol on campus, call:

- Campus Activities, Steven and Kathryn Sample Hall 410, (213) 740-5693
- Office of Fraternity and Sorority Leadership Development, Ronald Tutor Campus Center 330, (213) 740-1195
- USC Hospitality, Bookstore 404, (213) 740-6285

III. Drug Policy

The university's policy is to conform to all applicable laws and follows the current stance of the medical and mental health professions regarding the use of other psychoactive substances including stimulants, depressants, narcotics, inhalants and hallucinogens including marijuana.

The university expects all students and student groups to comply with all local, state and federal laws. It is the responsibility of each individual to be aware of, and abide by, all federal, state and local ordinances and university regulations. Current laws provide for severe penalties for violations which may result in criminal records (taken from *USC Drug-Free*).

IV. Tobacco Policy

The use of tobacco is prohibited in all enclosed buildings, facilities and university vehicles. See Section F.6. Smoke-free Campus.

07/25/2016

V. Violation of Alcohol and Drug Policy

Student involvement in underage consumption of alcohol or the manufacture, use, possession, distribution or sale of illicit drugs is a matter of concern to the university and will subject a student so involved to disciplinary action by the university. Dependent on the nature of the violation, university sanctions may include educational intervention, mandated community reparations, suspension, or expulsion aside from or in addition to prosecution under applicable state and federal laws. University action may be taken whether or not independent action is taken by civil authorities.

VI. Assistance

There are many well-documented risks associated with the use of alcohol and other drugs, affecting not only the individual user, but also his or her family, friends and roommates. Alcohol abuse is frequently a factor in cases of assault on campus. Other problems associated with alcohol and other drug abuse include poor academic or job performance; relationship difficulties, including sexual dysfunction; a tendency toward verbal and physical violence; financial stress; injuries or accidents; and violations of the law such as driving under the influence and willfully destroying property.

Members of the university community are encouraged to seek assistance and/or support for themselves or others through any of the following resources:

- Student Counseling Services, (213) 740-7711
- Office for Wellness and Health Promotion, (213) 740-4777
- Engemann Student Health Center, (213) 740-9355
- Alcoholics Anonymous, University Religious Center 205,
trojanrecovery@gmail.com

6. Smoke-free Campus

In order to provide a safe and healthy environment for all of our faculty, staff and students, it is the policy of the University of Southern California that smoking is prohibited in all enclosed buildings, facilities and university vehicles.

The thoughtfulness and cooperation of the entire campus community are paramount to successful implementation of this policy. Given the established harmful effects of smoking to both smokers and non-smokers, it is the intent of the University of Southern California to reduce the existence of this health hazard in our campus environment.

07/25/2016

Smoking is prohibited in all enclosed buildings, facilities and vehicles, which are owned or leased by the university, on both the University Park Campus and the Health Sciences Campus. This applies to all academic and administrative units including all individual faculty and administrative offices.

Smoking is prohibited in all university owned and leased housing. All University Park on-campus housing facilities are smoke free environments, regardless of roommate consent. All shared community space within university housing shall be designated as non-smoking areas.

All dining facilities on both the University Park Campus and the Health Sciences Campus shall be designated as non-smoking areas.

Smoking is prohibited during indoor athletic events and other university-sponsored or designated indoor events.

The university recognizes the need to accommodate those members of the university community who wish to smoke. Therefore, administrative and academic units may designate existing outdoor space as smoking areas, but these areas should be located far enough away from doorways, windows and ventilation systems to prevent smoke from entering enclosed buildings and facilities.

Some outdoor areas are confined spaces or particularly busy thoroughfares; in such cases, administrative and academic units may request Risk Management to designate those outdoor areas as smoke free.

For information on smoking cessation, contact the Engemann Student Health Center, at (213) 740-9355, or Office of Wellness and Health Promotion (OWHP) at (213) 740-4777.

7. USC Online Degree Student Health Insurance Requirement

USC online degree program students are now subject to the USC mandatory insurance requirement which is required of all USC students. This gives online degree program students access to enroll in the USC Student Health Insurance Plan. The university offers the USC Student Health Insurance Plan through Aetna Student Health, underwritten by Aetna Life Insurance Company (ALIC) and administered by Chickering Claims Administrators, Inc. (CCA).

All USC online degree program students will be automatically enrolled in the USC Student Health Insurance Plan if they are taking 6 units or more per semester. All international students are also automatically enrolled, even if they are taking less than 6 units. Students must actively attend classes online for at least the first 31 days after the date for which coverage is purchased, or the insurance will be cancelled.

07/25/2016

Students will have the option to waive this health care coverage as of July 1, 2014. To be considered for a waiver, students must already be covered under a comprehensive health insurance policy. An email will be sent to all online degree students with details on how to request a waiver.

For more information regarding the USC Student Health Insurance Plan and rates, visit www.usc.edu/engemann and go to the Insurance menu to see information and rates specific to online degree students.

For questions and to talk to a representative at USC's Engemann Student Health Center, please call (213) 740-9355 and identify yourself as an online degree program student. Or, you may email the USC student health center representative at eshcins@usc.edu.

8. Student Releases

A person's registration as a student and either (i) attendance at or near the campuses of the university, or (ii) participation in classes and other activities of the university, constitutes an agreement by the student to the university's use and distribution (both now and in the future) of the student's image or voice in photographs and video and/or audio recordings in any form (including electronic reproductions) of such attendance or participation. If any student in a class where such photography or recording is to take place does not wish to have his or her image or voice used, the student should raise the matter in advance with the instructor.

9. Trojan Spirit Code Guidelines

Please encourage friends and family to honor our championship team by upholding the Trojan tradition of good sportsmanship. Alcohol is not permitted inside the stadium. Possession of alcohol, drunk or disorderly behavior, or threatening or obscene language will result in eviction from the Coliseum and permanent loss of the privilege of buying tickets in the future. Keep the Coliseum a family-friendly environment!

Treat all fans, students, staff, players, coaches, and officials in a respectful and courteous manner — win or lose/home or away.

Remember that you are responsible for your actions and how they may affect other fans and athletes, as well as the university.

Obey all rules and regulations as set forth by the university.

Join in the Trojan Spirit by supporting all student athletes and their commitment to academic and athletic excellence.

07/25/2016

Avoid making negative remarks or gestures that disrespect opponents, their fans and their institutions.

Never forget the ideals of a Trojan — ambitious, courageous, skillful, scholarly, and faithful. Always do your best to live up to the high standards of the Trojan Family.

Send a positive message to our opponents about USC, our teams, students and fans wherever USC is playing.

10. Bicycles

Maintaining a safe environment for pedestrians and bicyclists requires that those individuals who ride bicycles exercise sound judgment and courtesy at all times while operating and parking their bicycles.

All applicable sections of the California Motor Vehicle Code pertaining to bicycle use are to be observed on the properties of the University of Southern California. Any person operating a bicycle on USC property implicitly accepts responsibility for adherence to all state and local laws governing bicycle operation, as well as this bicycle policy.

California bicycle laws and bicycle safety tips can be found on the California Department of Motor Vehicle's Website, www.dmv.ca.gov.

Riding your bicycle on the sidewalk while on campus is permitted, except where noted by signs on campus.

I. Licensing/Registration

- a. Bicycle registration is mandatory for all faculty, staff and students who ride or park a bicycle on the USC campus. By registering your bicycle, you will help DPS identify your bike if lost, stolen, recovered or impounded. Registration can be completed online at capsnet.usc.edu and is free. After completing the registration process, you will receive an automated receipt by email which should be kept for your personal record. Print and take a copy of this receipt to the DPS office to pick up your registration decal. DPS is located at PSA on campus. For more information, please call DPS at (213) 740-5519.
- b. Upon change of ownership or destruction of the licensed bicycle, it is the responsibility of the owner to notify DPS in writing at 3667 S. McClintock Ave, Los Angeles, CA 90089 or by email at bikereg@caps.usc.edu.

07/25/2016

- c. Valid California Bicycle Licenses obtained from other agencies will be accepted by DPS. However, it is recommended that owners register their bicycles with DPS to assure that current information is available in the event of a theft or if your bicycle is impounded. There is no charge for this informational registration.
- d. It is unlawful for any person to tamper with, destroy, mutilate or alter any license, indicia, registration tag or serial number on a bicycle (CA Vehicle Code 39002(b)).
- e. Any person who knowingly buys, sells, receives, disposes of, conceals, or has in his or her possession any personal property from which the manufacturer's serial number, identification number or any other distinguishing number has been removed, defaced, destroyed or altered is guilty of a crime (CA Penal Code 537e(a)).

II. Parking Regulations

- a. Bicycles may be parked only in those areas which have been specifically designated for this purpose. A bicycle parking area is indicated by the presence of bicycle racks. All bicycles must be parked in bicycle racks, and it is recommended that they are secured to these bicycle racks to deter theft.
- b. Bicycles may not be parked in a way that would block or impede the access to a building entrance or exit. Bicycles may not be left within six feet of an entrance or exit unless the area is designated for bicycle parking by racks. Additionally, bicycle parking is prohibited at any entrance, exit or access ramp to any building on campus.
- c. Bicycles parked in a manner that impedes the normal access to ramps designated for wheelchair or handicapped access to facilities are subject to impound and fines.
- d. Bicycles may not be parked or left on any lawn or landscaped area except those that have been designated for bicycle parking with the presence of bicycle racks.
- e. Bicycles may not be chained or attached to shrubbery, trees, plants, guide rails, posts, doors, lamps, telephone poles or other objects not designated for the purpose of securing bicycles.
- f. Bicycles may not be parked or left standing in any lobby or hallway of any building.

07/25/2016

III. Parking Regulation Enforcement

- a. A public safety officer or other individual specifically authorized by DPS may issue a citation, relocate or impound a bicycle which:
 - i. is in violation of any regulation stated above in Sections I or II;
or
 - ii. appears to have been abandoned, inoperable; or
 - iii. has been reported stolen by its owner.
- b. DPS may remove the securing mechanism of the bicycle by whatever means are necessary for impounding a bicycle or locking the bicycle in place. DPS officers are authorized to remove the device and impound the bicycle in this manner, and the university shall not be liable to the owner of the securing device or the bicycle for the cost of repair or replacement of such securing device.
- c. Any bicycle that has been impounded will be secured at its location or in the impound area of DPS. Persons retrieving an impounded bicycle will be required to show proof of ownership (with complete description: manufacturer, model, color, size and serial numbers) and his/her picture identification (student ID or appropriate state driver's license).
- d. Bicycles are not to be left on campus for storage during winter and summer breaks. Bicycles considered abandoned will be tagged and issued a 3-day warning. If no action is taken within 3 days, these bicycles will be considered abandoned and impounded with a fee assigned.

IV. Bicycle Operation

- a. All bicycles must be walked in and around the following areas, Monday through Friday, between 10 a.m. and 2 p.m.:
 - a. Trousdale Parkway, between Hellman Way and Downey Way
 - b. Childs Way, between Watt Way and the eastern boundary of Trousdale Parkway

07/25/2016

- c. All construction areas at all times for the continued safety of pedestrians and bicyclists.
- d. Gate 5, at times, on McClintock, between Jefferson Boulevard and 34th Street
- b. Bicycles may not be operated at a speed that exceeds the university speed limit for vehicles (15 miles per hour on streets and 5 miles per hour on campus grounds).
- c. Bicycles may be operated on the streets and pedestrian malls on campus; however, bicycles are to be walked on sidewalks in designated areas delineated by signage.
- d. Bicycles must always yield to pedestrians anywhere on the pedestrian malls. Bicycles must be walked in crosswalks since they are many times filled with pedestrians.
- e. When operating a bicycle, bicyclists must remain in the marked bike lane, if there is one. Otherwise they must remain to the far right of the street or paved area.

V. Fine Structure

Violators receiving a citation are referred to Student Judicial Affairs and Community Standards, and may receive a monetary fine.

- The impound fee is \$20 for each occurrence. A bicycle will not be released until after the payment is made and ownership is established. If an owner is unable to pay the fine, he or she must sign a promissory note in order to retrieve his/her bicycle. If the owner does not return with the fine within three days, the charge will be added to the student's fee bill and a registration hold will be placed if the amount is not paid.
- The impound fee for bicycles blocking building access, wheelchair ramps or handicapped access is \$35.
- The impound fee for bicycles locked to a wheelchair ramp or handicapped access is \$75.
- Bicycles not claimed in 90 days will be presumed to be abandoned and will be sold or donated to charity.

VI. Cautionary Note

07/25/2016

Bicyclists are urged to be very cautious when riding on campus. Accidental collisions may seriously injure pedestrians or other bicyclists. In the state of California, bicyclists on public streets have the same rights and responsibilities as automobile drivers and are subject to the same rules and regulations as any other vehicle on the road. A bicyclist who strikes anyone is liable for all medical expenses of that victim and any damage done to the victim's property.

A bicycle operator who strikes a pedestrian or other bicyclist and does not stop to inquire whether any harm or damage has been done, has committed the crime of "hit and run" (Calif. Motor Vehicle Code, Section 20001). This could result in the arrest and prosecution of the bicycle operator. Such an offense carries a 1-year sentence in jail or state prison, or a fine of \$10,000, or both.

If you operate a bicycle, you are also urged to review your homeowner and automobile insurance policies, or other personal liability coverage to be sure you, and your family if you are a dependent, are protected.

11. Motorscooters/Motorcycles

This policy relates to all motorized scooters, mopeds, motor bikes, motorcycles or other two- or three-wheeled, motor driven vehicles, herein referred to as motorized scooters/motorcycles.

- Motorized scooters/motorcycles must be ridden in a safe manner with the riders observing the university speed limit of 15 mph and obeying all vehicular traffic regulations while on campus.
- Riding motorized scooters/motorcycles is not allowed at any time on the malls, sidewalks or the center of campus (Trousdale Parkway between 34th Street and Exposition Boulevard, and Childs Way from McClintock to Trousdale Parkway). Riders may not take "short cuts" through unauthorized areas nor ride the vehicle in any way that may endanger pedestrians.
- All motorized scooters/motorcycles must be parked in the designated motorized scooter/motorcycle parking areas only. The vehicles may not be parked in such a manner as to prevent automobiles from parking, i.e., parallel to the curb or between two parked cars. Motorized scooters/motorcycles may not be parked on the malls, within the center of campus or on a sidewalk adjacent to any building unless a designated motorized scooter/motorcycle parking area exists there. Designated scooter/motorcycle parking area maps are available at the USC Transportation Office.

07/25/2016

- All motorized scooters/motorcycles parked or driven on university property must have a valid parking permit. Parking permits may be purchased at the USC Transportation Office. The permit must be affixed in a highly visible area, e.g., the front fender, fork, or windshield. The USC Transportation Office is located at 620 West 35th Street PSX on the University Park Campus, and is open 8:30 a.m. to 5 p.m., Monday through Friday. The telephone number is (213) 740-3575.

12. Roller Skates, Rollerblades, Scooters, Skateboards & Other Coasting Devices

Roller skates, rollerblades, scooters, skateboards and other coasting devices are not vehicles, and are prohibited on roadways dedicated solely to vehicular traffic and in parking structures. Coasting devices are approved for use as transportation on university property, but cannot be used in any manner that places pedestrians at risk; use for acrobatic, racing or other stunts is strictly prohibited. Persons may coast or ride upon any sidewalk or improved surface used for pedestrian purposes, provided they yield the right-of-way to pedestrians on foot.

The use of coasting devices is prohibited within any building on the USC campuses or on any surface features (e.g., handicapped ramps, benches, or other architectural features) that might reasonably be expected to incur damage because of such use. Persons using roller skates or rollerblades must remove them before entering all university buildings.

These regulations will be enforced by the Department of Public Safety. Students or employees violating these regulations are subject to disciplinary action by the appropriate university office or official. Any other person violating these prohibitions may be cited for criminal trespass as well as criminal citation.

I. Definitions

Definitions for the terminology used above include:

- a. Roller skate: a shoe, or attachment for a shoe, with a set of wheels connected for skating.
- b. Rollerblade: a type of roller skate with in-line wheels.
- c. Scooter: a narrow platform mounted on in-line or skate-type wheels with a handle to allow steering by turning the front wheels.
- d. Skateboard: a board mounted on skate-type wheels.
- e. Acrobatics, recreational use: any action on roller-equipped devices that is not necessary for the safe forward movement of the rider and which might be described as a "trick" or "routine," including, but not limited

07/25/2016

to, such maneuvers as having all wheels off the ground at the same time, jumping up or down steps, and so on.

II. Operation

- a. All roller skates, rollerblades, scooters, skateboards and other coasting devices must be walked in and around the following areas, Monday through Friday, between 10 a.m. and 2 p.m.:
 - i. Trousdale Parkway, between Hellman Way and Downey Way
 - ii. Childs Way, between Watt Way and the eastern boundary of Trousdale Parkway
 - iii. All construction areas at all times for the continued safety of pedestrians and bicyclists.
 - iv. Gate 5, at times, on McClintock, between Jefferson Boulevard and 34th Street
- b. All roller skates, rollerblades, scooters, skateboards and other coasting devices may not be operated at a speed that exceeds the university speed limit for vehicles (15 miles per hour on streets and 5 miles per hour on campus grounds).
- c. Roller skates, rollerblades, scooters, skateboards and other coasting devices are not vehicles, are prohibited on roadways dedicated solely to vehicular traffic and in parking structures, and are to be walked on sidewalks in designated areas delineated by signage.
- d. You must always yield to pedestrians anywhere on the pedestrian malls. Roller skates, rollerblades, scooters, skateboards and other coasting devices must be walked in crosswalks since they are many times filled with pedestrians.

III. Cautionary Note

You are urged to be cautious when riding on campus. Accidental collisions may seriously injure pedestrians or other skaters. In the City of Los Angeles Municipal Code, "No person shall ride, operate or use a bicycle, unicycle, skateboard, cart, wagon, wheelchair, rollerskates, or any other device moved exclusively by human power, on a sidewalk, bikeway or boardwalk in a willful or wanton disregard for the safety of persons or property" (LAMC 56.15.1). A person riding roller skates or skateboards who strikes anyone is liable for all medical expenses of that victim and any damage done to the victim's property.

07/25/2016

If you use roller skates/blades or a skateboard, you are also urged to review your homeowner and automobile insurance policies, or other personal liability coverage to be sure that you, and your family if you are a dependent, are protected.

13. Missing Student Notification

See <http://policy.usc.edu/missing-students/>

14. Medical Amnesty/Good Samaritan Policy

Because USC places a high priority on student health and safety, the purpose of this policy is to encourage students to take immediate action in the case of an emergency. Some students may be hesitant to seek help or report sexual misconduct or seek medical assistance because they fear possible disciplinary consequences for consumption of drugs or alcohol. The university aims to remove this fear by clarifying the policy so as to encourage students and organizations to report sexual misconduct and to seek assistance for themselves and others who are experiencing distress while under the influence.

Those who report sexual misconduct or participate as witnesses in sexual misconduct investigations, or who seek medical assistance for themselves or another, by contacting a Residential Assistant, calling a Department of Public Safety officer, or calling 911, will not be subject to disciplinary sanctions for their consumption of alcohol and/or other substances. Instead, these students will be directed to the appropriate services, and amnesty for alcohol or substance consumption in violation of university policies will be granted to both the reporting students and the intoxicated student in need of assistance.

This has long been our practice. The policy does not apply if a Department of Public Safety officer or a Residential Assistant confronts the student first. The policy also does not preclude disciplinary sanctions due to any other violations of the Student Code of Conduct beyond alcohol or substance consumption.

07/25/2016

G. Student Organizations

1. Recognition of Student Organizations

Student organizations provide opportunities for students and other members of the university community to explore their academic, professional, political, social, recreational, artistic, cultural, spiritual or community service interests. In addition, student organizations provide a laboratory for the development of interpersonal, organizational and leadership skills in the members and officers. Such organizations exist to promote the educational mission of the university.

The existence of student organizations at the university is sanctioned by the Board of Trustees. The responsibility for recognition of student organizations falls within the Division of Student Affairs. Recognized student organizations are offered privileges, provided the organizations accept certain responsibilities. All student organizations must complete the recognition paperwork on the Student Organization Website on an annual basis in order to maintain the most up-to-date records. In addition, national, regional and local social greek-letter organizations are recognized through the Office for Fraternity and Sorority Leadership Development (Tutor Campus Center 330, (213) 740-1195) which may require further paperwork. All other student organizations are recognized through the Office of Campus Activities (Steven and Kathryn Sample Hall 410, (213) 740-5693).

The Board of Trustees has ultimate authority over student organizations and can, from time to time, direct the Division of Student Affairs on matters regarding student organizations.

I. Privileges

All recognized student organizations may:

- a. Post notices on campus, within the posting policy.
- b. Receive and post messages on the student organization electronic mailing list.
- c. Post on the Trojan Information Kiosk.
- d. Use a campus mailing address and/or mailbox.
- e. Reserve campus facilities for events, programs and meetings.
- f. Apply for university funding (including student program fee monies).

07/25/2016

g. Conduct fundraising efforts within the stated Sales and Fundraising Policies of the university (see Section G.7. Sales and Fundraising). Student organizations (or individual members while acting in any capacity for the organization) may not: (i) conduct for-profit or commercial activities (or facilitate the for-profit or commercial activities of others), (ii) conduct a business (or facilitate conducting the business of others), or (iii) act as (or create the appearance of acting as) a liaison, representative, agent, facilitator, face or front for another business, person or entity. All recognized student organizations are permitted to fundraise on their own behalf. However, student organizations may only fundraise or pursue activities to benefit their organization, another student organization or an outside philanthropic agency or relief effort. No individual student(s) may receive any type of payment either in the form of money, discounts and/or goods and services.

h. Receive a discount on selected facility and equipment rentals.

i. Access organizational email and Web accounts (the university will place the following disclaimer at the bottom of each organization's Website: USC does not control the content herein and takes no responsibility for any inaccurate, indecent or objectionable content, which is the sole responsibility of the student author). Students may not remove or otherwise take steps to defeat this disclaimer. Any attempt to do so will be cause for disciplinary action.

j. Access banking services at the USC Credit Union and/or Campus Activities.

k. Use the name, logo or other trademarks of the university, while making clear to a reasonable person not from the campus that the organization is a student organization at the university and not the university itself. Use of the name, logo or other trademarks must be consistent with the USC Graphic Identity Program, including those specified in the Sales and Fund-raising Policies (see Section G.7. Sales and Fundraising).

II. Responsibilities

In return, the university expects all student organizations to:

a. Abide by all university policies, regulations and procedures as defined in SCampus and elsewhere, all state laws, and any applicable governing regulations associated with a national affiliation;

07/25/2016

- b. Limit its participation to students, faculty, staff, alumni and alumnae of the university;
- c. Limit its voting members and officers to currently enrolled USC students;
- d. Refrain from discriminating in membership decisions, elections and all other matters on the basis of race, creed or religion, sex*, age, ethnicity, disability, sexual orientation, gender identity, medical condition and national origin. A statement to this effect should appear in the constitution of all recognized organizations.

*Except those exempted from Title IX compliance.

III. Recognition Process

Recognition status runs for one academic year (August 1-July 31) regardless of when an application is approved. All organizations seeking renewal of recognition must complete the Student Organization Application form and adviser form available online at usc.edu/stuorgs by a specified deadline each semester (see Website for complete details).

Organizations that do not complete the recognition renewal process by the specified time will lose all privileges. New organizations may become recognized at any time during the fall or spring semesters by completing the Student Organization Application form, completing an adviser form, submitting the organization's constitution and membership roster, and attending a mandatory meeting with the Office of Campus Activities.

The name, telephone number and email of the first person listed on the application will be made available to members of the USC community. This student will also receive official communications from the Office of Campus Activities and is expected to share any pertinent information with their organization. Only the organization's email and Website will be listed on the student organization Website.

Recognized groups are required to provide a statement of purpose, a constitution officially ratified by the membership, names and contact information of four officers or other contact persons and the signature of an adviser from the university faculty or staff (Peer Leadership Consultants will assist in recruiting an adviser if needed). In addition, all student organizations must submit a roster and attend a mandatory meeting once each academic year prior to receiving their recognition.

07/25/2016

Religious organizations seeking recognition must complete the guidelines outlined on the Office of Religious Life website prior to receiving university recognition.

Where university policies or regulations conflict with student organization constitutions or bylaws, the university policies or regulations will take precedence. Student organizations may be affiliated with other off-campus organizations. If this is the case, the student organization must submit a copy of the constitution, articles of incorporation or other governance document of the external organization for university approval. Again, where conflicts arise, university policies and regulations supersede those of the external organization.

Through this recognition process, the university accepts no financial, tort or other liability for the action of the student organization or its members. Recognition of a student organization may be withdrawn by the organization itself, by the Office of Campus Activities or following a recommendation of the Office of Student Judicial Affairs and Community Standards, for any violation of university regulations and policies governing students, student organizations or their actions.

IV. Unrecognized Organizations

Any student who knowingly chooses to affiliate with a club, organization or group that has been suspended, disbanded or dissolved by the university, or any external authority, is subject to disciplinary action up to and including suspension and expulsion from the university.

2. Group Responsibility for Student Organizations

The Student Conduct Code's overall general principles (Part B) incorporate the expectation that students will meet higher standards of conduct than the minimum to avoid disciplinary action, and also assert that university standards may be set higher than those found elsewhere in society. Consistent with these principles, USC has established the following policy to ensure that leaders and members of student organizations understand and accept responsibility for the actions of their organization and all of its members. The following policy applies to all recognized student organizations.

Student organizations may be held responsible for the acts of individual members. Acts include but are not limited to the following types of circumstances:

- when a member of an organization is violating state law or university standards and other members present fail to indicate their disapproval, or by their continued presence without objection implicitly condone the behavior;

07/25/2016

- when the acts grow out of or are directly related to the student organization's activities or an environment created by the organization;
- when the acts are those of guests of an organization, or by persons authorized or permitted to represent themselves as connected with the organization;
- when an organization places prospective members in a subordinate status prior to achieving full membership, or imposes any kind of probationary period prior to full membership, and hazing occurs.

Liability on the part of the student organization may be mitigated if members of the organization take reasonable steps to prevent infractions of university regulations by their fellow members. Such steps will usually include clear establishment of standards (preferably in writing), documented education of members as to the standards established and documented enforcement of standards when violations occur. The specific steps necessary to avoid this liability (or to mitigate consequences) will vary according to the circumstances of the situation, the seriousness of the behavior, and the possible harms which could have arisen from the behavior. Where more serious behavior and harm is in question, the student organization has the duty to take clear and firm action that is reasonably calculated to prevent and/or cease the behavior in question.

It is the duty and responsibility of every member of every student organization to respond to the conduct of the other members when they are engaged in behavior which violates the law or university regulations. It is not the number of members involved in an activity that is crucial to a determination that the organization is responsible. The test is whether the activity is related to a student organization through one of the four sets of circumstances previously articulated, rather than a private activity by persons who happen to be members of the same student organization. The factors to be considered include whether the activity is one normally considered part of student organization life and whether the atmosphere in the particular organization encourages or condones the particular group activity of the members.

It is the duty of every organization to create the proper atmosphere to ensure that misconduct related to the student organization is inconsistent with membership in the organization.

The duty just defined is applicable not only to members who are engaged directly in the activity, but also to members not engaged in the activity who are present or who have knowledge of the activity. For instance, knowledge of involvement by other members in illicit activities is sufficient to invoke culpability. All members must be on notice that their misdeeds may result in the sanctioning of their student organization through the Office of Student Judicial Affairs and Community Standards.

07/25/2016

In addition to the group being held culpable, members and officers may be cited and held responsible as individuals for their role. In sum, the policy is that every student organization member has the duty to take all reasonable steps necessary to prevent infractions of university rules growing out of or related to the student organization's life. Policies which may be relevant in such cases include, but are not limited to, those involving:

- Hazing
- Discrimination
- Vandalism
- Theft
- Alcohol or substance abuse
- Dishonesty
- Misappropriation of organization or university funds.

For more information contact the Office for Residential Education, Student Union 200, (213) 740-2080; Fraternity and Sorority Leadership Development, Ronald Tutor Campus Center 330, (213) 740-1195; or Campus Activities, Steven and Kathryn Sample Hall 410, (213) 740-5693.

3. Student-led International Travel

As a global university, USC encourages students to gain international experience through a variety of programs, including study abroad, internships overseas and international service trips. While most of these programs are initiated by academic and administrative departments at the university, student organizations also occasionally express interest in sponsoring trips abroad. The following set of policies and guidelines has been developed, with the approval of the provost, to clarify university expectations for student clubs considering planning international trips. This information also provides a framework for organizations to take advantage of the many campus resources that can assist with promoting a safe and healthy experience abroad.

For questions about this policy, contact the Office of the Vice Provost for Student Affairs.

All USC sponsored or affiliated programs must follow the guidelines below, which include general trip requirements/recommendations and descriptions of the roles and

responsibilities of advisers and student coordinators. USC sponsored or affiliated programs are defined as:

Sponsored Programs

Sponsored programs consist of student organizations or groups of students working under the specific direction of a university school or department. These students have regular and ongoing direction and involvement from a USC staff or faculty member and the program is listed among the school or department's schedule of programs.

Affiliated Programs

Affiliated programs consist of (a) recognized student organizations or (b) groups that choose to affiliate with the university and are willing to comply with the requirements set forth below. Any recognized student organization that receives university funds, uses the USC name, and/or receives support or guidance from a university school or department, or individual faculty or staff member, can be classified by the university as an affiliated program.

I. General Requirements for Sponsored and Affiliated Groups

a. USC Health Insurance and International SOS Travel Insurance

All students on USC-sponsored or affiliated overseas programs (credit and non-credit programs) must be covered by either regular USC student health insurance, or the USC overseas health insurance plan, both of which include special health and emergency coverage by International SOS. To make sure students are enrolled in appropriate coverage, and to request copies of the health insurance information and International SOS emergency cards for all of your students, please contact Valerie Hill, vhill@usc.edu, (213) 740-1550, at least 1 month before your program's start date.

Representatives from the Student Health Insurance office may also be available to attend your orientation programs to explain the health insurance benefits to students.

b. Required Student Information/Forms

The required documents, forms and a copy of the student roster database spreadsheet template are available online at studentaffairs.usc.edu/ssa/ssa-overseas.

i. Standard Release Form

07/25/2016

A standard release form must be used by all USC-sponsored and affiliated overseas programs. Coordinators must collect signed releases from all students participating in their program. These signed forms should be kept on file by the organization or department that sponsors the overseas program. This release was prepared by USC's Office of the General Counsel.

- ii. **Medical Treatment Authorization Form**
This form allows USC representatives (such as faculty/staff advisers) to authorize medical treatment for a student who is incapacitated and unable to make such decisions on his/her own. Student coordinators must collect signed medical treatment forms from all students participating in their program. These signed forms should be kept on file by the organization or department that sponsors the overseas program.
- iii. **Central Overseas Database**
All organizations or departments sending students overseas are required to submit a student travel roster to Student Affairs, Student Support and Advocacy, no later than 7 days prior to departure. This information may be submitted by the student coordinator or faculty/staff adviser. A blank template of the roster is available online at <https://studentaffairs.usc.edu/ssa/ssa-overseas/>.
- iv. **USC Overseas Emergency Response Plan**
Student coordinators and faculty/staff advisers are required to read and keep in their possession the USC Overseas Emergency Response Plan. This document outlines a general plan for response to various types of overseas emergencies. The first point of contact in an emergency is International SOS, USC's contracted health and safety emergency service provider for overseas programs. There is also a 24-hour USC phone number (Travel Emergency Call Center) for urgent situations in which it is necessary to reach a staff member in Student Affairs.
- v. **USC Overseas Sexual Assault Protocol – For Coordinators**
This document describes the measures to be taken by student coordinators and faculty/staff advisers to prepare students with information about sexual assault, including advice for reducing risk of sexual assault while abroad. It also contains instructions on the critical steps to take if a sexual assault is reported by a participant in one of your programs.

07/25/2016

- vi. Health And Safety Information For USC Study Abroad Programs
This document, to be distributed to all student participants, covers essential information about health and safety abroad.

c. Pre-trip Orientations and Preparation

All groups must host at least one pre-trip orientation session that covers the following:

- Travel details, living arrangements, and trip itinerary
- Emergency procedures, health insurance, International SOS
- Health and safety precautions
- Expectations for appropriate behavior and participation
- Country-specific information

II. General Recommendations for Sponsored and Affiliated Groups

a. Student Coordinator

Student Coordinator (Role Definition)

Pre-trip Roles

- Thoroughly explain mission and purpose of the trip to all prospective/selected participants.
- Make final determination on eligibility for participation (this often entails a selection process with the possible involvement of a faculty/staff adviser).
- Inform participants that they will be required to have USC travel insurance.
- Coordinate the collection/submission of student information to University Health Insurance Coordinator within stated time frame.
- Collect and submit required student travel participant data to Student Affairs (Student Support and Advocacy) no later than seven days prior to departure.

07/25/2016

- Collect and submit to departmental representative and adviser vital participant information: (1) university release; (2) medical authorization; and (3) emergency contact form.
- Make travel clinic information available to all participants. (1) Schedule group appointment and (2) contact travel nurse to review immunization requirements.

Roles During the Trip

- Provide general leadership while on the trip. Act as primary decision-maker and group representative in all matters affecting the day-to-day experience of the trip.
- Maintain contact with community partners and facilitate regular conversations between all parties to troubleshoot problems and determine solutions.
- Assist with emergency response as needed.
- In cooperation with faculty/staff adviser (if present), respond to student concerns and problems as they arise.

b. Adviser

Each USC sponsored overseas student trip is strongly encouraged to include a faculty/staff adviser for the duration of the trip. An adviser may be any of the following:

- An employee whose job requires them to go on the trip
- An exempt employee with at least a 50% staff or faculty appointment
- A non-exempt staff employee performing duties and taking personal vacation time

All employees traveling with students as advisers or volunteers on domestic or international trips are covered under workers' compensation should they become injured or ill while on the trip, providing the injury is in the course and scope of the activities associated with the trip. In other words, if an employee takes a personal outing before or after the student trip he/she would not be covered by workers' compensation. The type of trips for which the coverage is

07/25/2016

extended includes, but is not limited to: alternative spring breaks; trips involving sport clubs; trips involving religious groups; academic trips, either for credit or not-for-credit; and both domestic and international trips.

These employees will also be covered under the university's general liability policy should they become involved in some legal action arising out of their involvement with the trips, unless the action is egregious or criminal or in some way is not otherwise covered under a general liability policy, or that the university cannot in good conscience defend.

Adviser (Role Definition)

Pre-trip Roles

- Meet several times with the student coordinator(s) before leaving USC to delineate the adviser role and allow for an open exchange of ideas and expectations between the advisers and student coordinators.
- Assure the collection of vital participant information: (1) university release; (2) medical authorization; and (3) emergency contact form.

Roles During the Trip

- Respond to coordinator/participant concerns and problems as needed.
- Possess a full set of student information forms and emergency procedures.
- Serve as the official university representative in the case of an emergency.
- Coordinate emergency response and all communications between university and others as needed.

c. Transportation While on Trip

Every effort must be made to secure transportation in the host country that is provided by licensed and insured vendors. USC's affiliated travel agencies are available to provide assistance with these arrangements (procurement.usc.edu/travel/agencies).

07/25/2016

d. Accommodations While on Trip

- Every effort must be made to identify and assure access to adequate services.
- Identify emergency medical facilities.
- Inform all participants of their expected living conditions prior to their departure.

e. Communications While on Trip

- Determine the extent of adequate communications – either email, cellular or land line communications available.
- Formulate a plan for communications and articulate the plan to all trip leaders prior to departure.

III. Restrictions on Destinations for International Trips

At the discretion of the Provost and/or the Vice Provost for Student Affairs, specific intended destinations for USC-affiliated or USC-sponsored international trips may be restricted due to State Department travel warnings, Centers for Disease Control (CDC) warnings or other indicators that might suggest conditions that are unhealthful or particularly dangerous for travel. Student groups planning international trips are advised to consult State Department and CDC resources early in the planning process to avoid the risk of choosing a destination that is subsequently denied by the university. It should also be recognized that the health and safety factors of a particular location can change drastically without warning, and organizations are strongly urged to take necessary precautions (such as trip cancellation insurance through a travel agent) in case it becomes necessary to change plans or cancel a trip on short notice.

IV. Policies Concerning Standards for Student Behavior

As is the case with USC study abroad programs, all SCampus policies are in effect for sponsored and affiliated student-led trips abroad. Student coordinators, all trip participants, and faculty/staff advisers should familiarize themselves with the University Student Conduct Code and other university policies as outlined in SCampus. It is the responsibility of student coordinators and faculty/staff advisers to inform prospective/selected participants that all SCampus policies apply to trips abroad.

07/25/2016

V. Contractual Agreements

No student or student organization may enter into direct contractual agreement in USC's name with outside vendors (travel agencies, tour operators, etc.).

Check with the appropriate administrative unit (Vice Provost for Student Affairs or specific dean's offices) for clarification of required procedures.

For more information and resources for student organizations, visit the Campus Activities Website at usc.edu/ca.

4. Facilities

I. General Policies

Recognized student organizations are offered priority use of all Student Affairs venues. However, other reservations that are made prior to student reservations will not be cancelled to accommodate these higher priority programs. Recognized student organizations may also request to use classroom space, but academic scheduling has priority in these venues. Anyone using USC venues must be in compliance with university regulations regarding time, place and manner. Activities, programs or events must not interfere with other university functions. If any unscheduled activity interferes with an official university function or any other scheduled activity, it may be discontinued at the direction of the Division of Student Affairs.

Scheduling reservations shall be made on a first-come, first-served basis according to organization type, and the university cannot and does not guarantee that facilities suitable for all group needs will be provided. Requests should be made early enough to allow adequate time for processing the request, planning the event, payment of fees and advertising. No advertisement can take place before written confirmation is received.

No requests may be finalized or confirmed until arrangements have been made and approved by all USC departments having vested interest in the event, including but not limited to the Division of Student Affairs, USC Bookstores, USC Hospitality, USC Transportation, the Department of Public Safety and Fire Safety.

The University of Southern California reserves the right to cancel any event if fees are not paid by the required due date, if the group does not comply with USC policies and procedures, or if USC officials cannot ensure the safety of students, faculty, staff and/or visitors.

II. Procedures For Reserving Venues

07/25/2016

Reservation request forms for Bovard Auditorium, Ground Zero Performance Café, Ronald Tutor Campus Center, outdoor venues and advertising spaces are available online at <http://sait.usc.edu/scheduling/>.

All reservation requests for table, banner and light pole spaces must be made by submitting reservation request forms at least four weeks prior to the event. Event requests for Bovard Auditorium, Ground Zero Performance Café, Ronald Tutor Campus Center, and the outdoor parks and plazas must be submitted to Trojan Event Services no later than 4 weeks prior to the event. Telephone requests are not accepted. The venue requested becomes officially confirmed only when written approval is issued.

For complete policy details, please see <http://sait.usc.edu/scheduling/>. An online schedule is also available at this site.

III. Programming Venues

The Division of Student Affairs operates the Ronald Tutor Campus Center, Bovard Auditorium, Ground Zero Performance Café and all outdoor areas in the center of campus. These venues may be scheduled through Trojan Event Services at <http://sait.usc.edu/scheduling/>.

Bovard Auditorium

Bovard Auditorium is a multiuse lecture/performing arts venue that seats 1,230 people with stage dimensions of approximately 37 feet by 42 feet. Information about Bovard Auditorium can be found online at usc.edu/bovard.

Ground Zero Performance Café

Ground Zero Performance Café is a student-run coffeehouse available for concerts, lectures and performances. Located on the southeast corner of campus between Marks Hall and Trojan Residence Hall, Ground Zero is a great place to hold an event or just hang out. Venue information can be found by visiting usc.edu/gzcoffee.

Outdoor Programming Venues

Trojan Event Services provides outdoor programming areas for use by recognized student organizations, campus departments and invited guests on a reservation basis. The programming areas include:

- Alumni Park
- Argue Plaza

- Associates Park
- E.F. Hutton Park
- Founders Park
- Crocker Plaza, Herbert Plaza, Pardee Plaza, Queens Courtyard, Bogardus Courtyard
- Hahn Plaza/Tommy Trojan
- Sections of Trousdale Parkway and Childs Way adjacent to the above locations
- Meyer Plaza
- Von KleinSmidt Center
- McCarthy Quad and Fred Fagg Jr. Gardens (the barbeque grill area)

Ronald Tutor Campus Center

The Ronald Tutor Campus Center is a multiuse facility that features many reservable meeting and event spaces in addition to several non-reservable lounges and study spaces. For details on available venues and reservation policies, visit usc.edu/scheduling. Programming spaces include:

- The Grand Ballroom
- Tommy's Place (available for rentals on a case-by-case basis)
- The Rosen Family Screening Theater
- The Forum
- More than 15 other meeting rooms

Alternate campus venues that are **not** managed by Trojan Event Services include:

- Archimedes Plaza/Engineering Quad (USC Viterbi School of Engineering, (213) 740-4530)
- Annenberg G21 Auditorium (USC Annenberg School for Communication and Journalism, (213) 740-5297)

- Breezeway and Bridge South Lawn (USC Marshall School of Business, (213) 740-6886)
- Bing Theatre, (213) 740-1293
- Childs Way sidewalk in front of the Bookstore (Bookstore, (213) 740-BOOK)
- Cromwell Field, Cromwell Track, Dedeaux Field, Fagg Park, Howard
- Jones Field, Intramural Field, Lyon Center, McAlister Athletic Field, P.E. gym and pool, and tennis courts (Recreational Sports Department, (213) 740-5127)
- Lewis Hall (USC Price School of Public Policy, (213) 740-0397)
- Libraries (usc.edu/libraries/about/facilities_usage)
- Theatres (contact the appropriate theatre for scheduling procedures)

IV. Sound Amplification Policy

General Policies

To maintain the academic environment at the university, the use of amplified sound equipment in open areas must be approved by Trojan Event Services. Amplified sound is defined as any form of equipment (i.e., microphone, speakers, amplifiers, bullhorns, musical instruments) used to increase sound levels or any object that does not require equipment to project its sound. In some cases, large group singing is also considered amplified sound. Events involving high sound levels may not be scheduled during regular classroom instruction if the possibility of interference exists. Any recognized student organization or university department may reserve one of the designated open spaces for sound amplification.

The use of outdoor areas for amplified events is limited by the nature of the given area and the probability of interference with official university functions. In general, moderate amplification (not more than 90 decibels, "A" weighted, measured 45 feet from the front center of the stage) is allowed at Hahn Plaza (adjacent to Tommy Trojan) from noon to 1 p.m. Monday – Friday. A sound check will be permitted from 11:50 a.m. to noon. All other requests for amplified sounds will be reviewed on a case-by-case basis by Trojan Event Services. All outdoor venues and events after 5 p.m. will be considered for approval by Trojan Event Services.

07/25/2016

V. Reservation Procedures

All reservation requests are processed through Trojan Event Services, (213) 740-6728.

Reservation request forms are available online at usc.edu/scheduling. Reservations will be honored on a first-come, first-served basis according to your organization type.

Scheduling procedures for tables, banners, display cases and the Trousdale and tutor Campus Center Plaza light posts are addressed under Advertising, Promotion and Literature Distribution Policies (see here). All other areas are addressed in this policy.

Individuals or groups are responsible for any damage they cause. Repair or replacement costs will be charged to the group reserving the facility at the time damage is incurred.

Trojan Event Services reserves the right to relocate any event for reasons including, but not limited to, states of emergency, official university functions, an event exceeding room capacity and/or facility repair.

VI. Classrooms

Classrooms may be reserved by contacting the USC Classroom Scheduling Office, at (213) 740-4612, or classroom.scheduling@usc.edu.

VII. Filming

School of Cinematic Arts students wishing to film in any of the listed venues must submit the completed SCA location release form to Trojan Event Services at least 24 hours in advance of their film shoot.

Students or recognized organizations wishing to film must obtain and complete a non-SCA film shoot form from Trojan Event Services at least 24 hours in advance of their film shoot. Student filmmakers are subject to venue fees.

Commercial filming is booked through the USC Campus Filming Office at (213) 740-6951. Fees are determined by the Filming Office.

VIII. Cancellation of Scheduled Events

- a. Groups reserving tables, banner space or display cases must cancel at least 2 working days prior to the meeting or event. Groups reserving

07/25/2016

Bovard Auditorium, Ground Zero Performance Café, Ronald Tutor Campus Center, or any outdoor parks or plazas must cancel by the cancellation date listed for each venue in the Performance Venues Terms and Conditions. Failure to cancel an event will result in a violation and may incur charges for set-up and/or staff. Charges may be applied for late cancellations.

- b. If any unscheduled activity interferes with an official university function or any other scheduled activity, it may be relocated or discontinued at the direction of the Division of Student Affairs.
- c. Trojan Event Services and/or Student Life and Involvement staff reserves the right to cancel any scheduled event, in whole or in part, due to lack of payment of fees; failure to show within 15 minutes of the specified event start time; complaints received for disturbing academic classes or other events.
- d. Groups reserving space are responsible for the behavior of its members and guests. Inappropriate or disrespectful behavior may result in the cancellation and/or suspension of future reservations.
- e. Failure to comply with university policies and procedures may result in the cancellation and/or suspension of future reservations and/or scheduling privileges.

IX. Violations

Non-compliance with any of Trojan Event Services guidelines will constitute a violation. The first violation constitutes a written warning. The second violation will result in a fine determined by the nature of the violation. The third violation can result in the loss of all Trojan Event Services privileges.

5. Camping

University grounds and facilities may not be used for the purposes of camping, which includes but is not limited to the use of tents or temporary, makeshift or portable structures intended for living or sleeping.

On an exceptional basis, the Vice Provost for Student Affairs or appropriate designee may grant permission for USC students to erect tents with the following stipulations:

- Tents may only be erected for an approved number of days, normally three to five days when school is regularly in session;

07/25/2016

- Tents must be broken down (disassembled) from 7 a.m. to 6 p.m.;
- A maximum of three tents (designed for no more than two persons) may be erected on campus when an exception is granted;
- The presence of tents may not interfere with normal university operations and may not damage university property (e.g., stakes in the ground);
- The location of tents may not impede pedestrian or vehicular traffic.

6. Social Events

Guided by the University of Southern California's Principles of Community, the university supports opportunities for students to promote an array of diverse views and to positively enhance the campus community through events and social programs. USC has adopted guidelines for major social and sponsored events in an effort to enrich the academic experience while maintaining the importance of safety and security within the campus community.

Scope

- I. Activities governed by this policy have the following characteristics:
 - a. alcohol is present or
 - b. there is amplified sound (either live or recorded)
- II. This policy is not designed to discourage events which:
 - a. directly support the academic mission of the university;
 - b. expand the cultural awareness of USC students; or
 - c. are primarily intellectual or educational in nature.

Regulations

- I. All university recognized social events must be scheduled following procedures of the university, and all required clearances must be obtained.
- II. Social events where alcohol is NOT provided by the host student organization are permitted Sunday through Thursday until midnight and Friday through Saturday until 2 a.m.

07/25/2016

- III. Social events where alcohol is served by the host student organization are ONLY permitted Thursday until midnight and Friday and Saturday until 2 a.m. Alcohol service must end by 1 a.m. on Friday and Saturday nights.
 - a. Distribution of alcohol to persons under the age of 21 is prohibited.
 - b. Alcohol must not be the main "focus" of the event.
 - c. When alcohol is served, it is required that sufficient quantities of non-alcoholic beverages and food must be available.
- IV. All members of the USC community are expected to abide by all federal, state and local laws, including those governing alcohol consumption and distribution. Under California law, it is illegal for anyone under the age of 21 to purchase alcohol or to possess alcohol in a public space. It is also illegal for anyone to furnish alcohol to an individual under the age of 21.
- V. Amplified sound cannot exceed 90 dBA, 50 feet from the source.
- VI. No social events may take place during university study days or final exams.
- VII. All aspects of social events must be advertised in accordance with Section D.6. Advertising, Promotion and Literature Distribution.

7. Sales and Fund-raising

All recognized student organizations are permitted to fundraise.

I. Prohibited Activities

Student organizations (or individual members while acting in any capacity for the organization) may not:

- a. Conduct for-profit or commercial activities (or facilitate the for-profit or commercial activities of others)
- b. Conduct a business (or facilitate conducting the business of others), or
- c. Act as (or create the appearance of acting as) a liaison, representative, agent, facilitator, face or front for another business, person or entity.

This should not be confused with fundraising. All recognized student organizations are permitted to fundraise on their own behalf. However, student organizations may only pursue fundraising activities to benefit their student

07/25/2016

organization, another university student organization, or an outside philanthropic agency or relief effort. No individual student(s) may receive any type of benefit or payment in connection with any of these activities, either in the form of money, trade, discounts and/or any other goods or services.

II. Process

- a. If your organization is recognized and wants to fundraise, a student representative must complete the Fundraising Approval Request Form found on the Trojan Event Services Website at <http://sait.usc.edu/scheduling/index.asp>.
- b. Identify the type of fundraising event your organization is planning.
 - i. Food sale – Approval signature required from the director of USC Hospitality, (213) 740-6285. Note: All food must be supplied by a food-licensed kitchen/grocer/distributor. No “homemade” items will be approved. Food product sales must be accompanied by permission from USC Hospitality. The event registration form section for USC Hospitality must be signed. Sales are limited to a maximum of two, one-week periods per semester. Sales weeks must be held at least four weeks apart.
 - ii. Item sale – Approval signature required from the University Bookstore. USC recognized student organizations, departments and athletic teams must obtain final permission to sell products on campus from the USC Bookstores, Administrative Offices, located on the fourth floor, (213) 740-9254, or send a facsimile to (213) 740-5203 (FAX), MC 2540. Permission is granted on the bookstore signature portion of the event registration form.
 - iii. Donation collection for organization
 - iv. Charity collection/non-profit collection – a letter is required from the agency/organization receiving the funds raised stating that they are aware of this fundraiser and will be accepting the money. This letter must be on the agency’s official letterhead and submitted with this request. Please see the policy on Non-Profit Collections below.
 - v. Other types – We will review and approve events to determine the signatures required.

07/25/2016

- c. Appropriate signatures from the University Bookstore and/or USC Hospitality are required prior to requesting the final signature from the Office of Campus Activities.

III. Non-Profit Collections

Recognized student organizations collecting money/donations for specific non-profit organizations must meet with the Office of Campus Activities at least two weeks prior to the event and supply Trojan Event Services with a written letter from the non-profit organization stating their agreement to accept donations prior to the scheduled collection of any goods or funds.

IV. Raffles or Lotteries

In the state of California, raffles and lotteries are illegal if a person is required to purchase a ticket or make a donation in order to be eligible to win the contest.

V. Free Drawings

Free drawings are legal when rules conforming to the California State Law are followed exactly. These rules are:

- a. The drawing must be in connection with an event or a recognized student organization.
- b. The ticket must have the following information printed on it:
 - i. Date, time and location of drawing
 - ii. Name of sponsors and beneficiary of fund-raising
 - iii. Donation or purchase of ticket is not required to be eligible to win
 - iv. Winner need not be present at drawing (not required but advised)
- c. Free tickets (a minimum of one per person) must be available.
- d. Each solicitor must know that free tickets can be obtained and how to obtain them.
- e. The word "drawing" or "free drawing" is required; do not use the word "raffle" on the ticket or in advertisements.

VI. Silent Auction

The same rules apply for coordinating a silent auction as would apply for a free drawing.

- a. The drawing must be in connection with an event or a recognized student organization.
- b. The bid sheet must have the following information printed on it:
 - i. Date, time and location of drawing
 - ii. Name of sponsors and beneficiary of fund-raising
 - iii. Donation or purchase of ticket is not required to be eligible to win
 - iv. Winner need not be present at drawing (not required but advised)
- c. Do not use the word "raffle" on the ticket or in advertisements.

VII. Student Organization Co-Sponsorship

As many student organizations co-sponsor events with outside agencies, it is important to be aware of what constitutes a co-sponsorship.

A student organization hosting an event with an outside organization must be aware that:

- a. The student organization must be the primary contact for Trojan Event Services.
- b. The main contact from the student organization must be a current, full-time student and member of the student organization.
- c. The money must be paid by the student organization and not the outside agency for any fees owed to the university.
- d. The student organization must be the primary name listed on all advertisements and promotional materials.

07/25/2016

- e. The main contact from the student organization must be present at all meetings and walkthroughs as the primary producer of the event.
- f. Student organizations may not bring a business to campus as a vendor. Businesses can only come to campus if a pre-existing event is occurring.
- g. All money made from the event (if any) must follow the guidelines listed in SCampus.
- h. The primary target audience for the event must be USC students.
- i. Student organizations co-sponsoring events with university departments will only be considered the primary producing entity if all of the above conditions apply. Student organization policies only apply to events for which the above conditions are met.

VIII. Misrepresentation (Fronting)

Individual students and/or employees of the university may not reserve space for personal or commercial purposes. Additionally, student organizations may not act as agents for university departments, off-campus persons or organizations in order to receive student rates for the space.

University departments may not act as agents for off-campus vendors or organizations to receive department rates for the space. Sponsoring organizations that reserve space for the purpose of allowing off-campus vendors or organizations to advertise or sell items will be held responsible for misrepresenting themselves and their organizations.

IX. Vendors

The Division of Student Affairs and Trojan Event Services are responsible for vendor sales on campus. No other department or organization, with the exception of the USC Bookstores and the Athletic Department, is permitted to bring outside vendors to campus. Outside vendors are prohibited from selling on campus without prior permission from Trojan Event Services and must meet the criteria outlined below. Reservation requests for vending locations are available online at usc.edu/scheduling.

- a. Approval for on campus sales will only be considered for those vendors whose products or services:
 - i. Provide significant positive value to the quality of campus student life.

07/25/2016

- ii. Are not in competition with vendors holding current university-wide contracts.
 - iii. Are not duplicative of goods and/or services currently available through established on-campus sources.
 - iv. Are not alcoholic beverages, illegal drugs or drug paraphernalia.
 - v. Are not considered obscene as defined by community standards.
 - vi. Are not for products or services which undermine the academic integrity of the university.
 - vii. Are not counterfeits of brand-name goods.
- b. Appropriate approvals must be obtained from the USC Bookstores, Trademarks and Licensing (only if the product bears a USC emblem) and/or USC Hospitality. The USC Bookstores requires a sample of the merchandise to be sold as well as a copy of the Vendor Agreement before approval will be granted; final approval must be given by Trojan Event Services. USC Bookstores reserves the right to refuse approval of the sale if the merchandise or service competes with bookstore business.
- c. Sales are only permitted in one of two official vendor spaces along Trousdale Parkway.
- d. Vendors must use the 10 feet of frontage space within the designated vendor canopy. Vendor displays extending outside of the 10 foot by 10-foot canopy will be fined an additional \$25 for every square foot they extend beyond the space.
- e. Vendors may not be on campus during any official university event, such as orientation or final exam period.
- f. In extenuating circumstances, vendors associated with special events must have the approval of Trojan Event Services at least three weeks prior to the event. A list of vendors participating in the special event must be provided to Trojan Event Services at least two weeks prior to the event. Written permission and appropriate identification will be provided for those vendors associated with the special event.

07/25/2016

- g. All approved vendors must obtain written permission from Trojan Event Services and must keep their written permission, a valid seller's permit (issued by the State Board of Equalization) and appropriate identification visibly displayed with them at all times on campus.

Funds raised through this process will be distributed back to the USC student community in three ways:

- a. Twenty-five percent will go to programs, services and equipment for the Campus Center and student programs that will benefit all patrons.
- b. Twenty-five percent will go to Campus Activities for events and services to students.
- c. Fifty percent will go to a Student Organization Fund for Minor Events.

All recognized student organizations can apply for these funds through an application process administered and supervised by the Peer Leadership Consultants. For more information visit the Campus Activities Website at sait.usc.edu/ca.

X. USC Emblem Products

USC emblem products intended for sale during fundraisers must be manufactured by a vendor that is licensed by USC. A licensed vendor has a contract with USC that specifies quality standards and services and recognizes that USC insignia are protected trademarks.

A list of licensed product manufacturers may be obtained from the Trademarks and Licensing Services Website at usc.edu/trademarks, (213) 740-5222.

XI. Conflict of Interest

The university does not enter into purchasing contracts with students, faculty or staff or members of their immediate families. No employee, officer or agent shall participate in the selection, award or administration of a contract if he/she, his/her immediate family or partners, or organization to which he/she, his/her immediate family or partners belong or has any arrangement concerning employment with any vendor under consideration. Any violation of this policy by a USC employee or agent will be subject to disciplinary action.

XII. Campus Tour Policies

07/25/2016

A campus tour is any event that brings a non-university affiliated company or business onto campus solely to market its products or services. Often, campus tours will approach student organizations about booking their event on campus in exchange for money. The university does not permit student organizations to earn money in this capacity. Trojan Event Services is permitted to accept four requests for Campus Tours per semester. USC Program Board is the only student organization at USC that is permitted to book campus tours. Program Board is limited to booking two campus tours per semester. All other student organizations are not permitted to bring campus tours to USC. The other two tour dates per semester may be used by university departments. Priority is given to tours that are not for profit and are for educational purposes (as opposed to marketing and sales). All campus tours must be approved by the Office of Campus Activities. Campus tours may not bring any merchandise or materials to campus that are in direct conflict with an existing USC on-campus vendor.

If the university suspects that a student organization or department is in violation of these guidelines, its event may be charged off-campus rates for the venue, and/or be canceled and the student organization will forfeit any deposits.

8. Hazing

I. Compliance with Applicable Rules

All students and student organizations will observe and fully comply with California law and university policy against hazing. In addition, all students and student organizations are expected to adhere to related regulations set forth by their respective inter/national, regional or local organizations and university policies concerning practices commonly referred to as hazing. It is the responsibility of the officers of organizations to be informed of all the regulations and to ensure that they are brought to the attention of the rest of the membership.

II. Policy Statement

Students and student organizations shall not engage in any activity that is considered hazing by university standards, or as defined in California Penal Code 245.6, which defines hazing as, "any method of initiation or preinitiation into a student organization or student body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury to any former, current, or prospective student of any school community college, college, university, or other educational institution in

07/25/2016

this state. The term hazing does not include customary athletic events or school-sanctioned events.”

III. Prohibition of Hazing

In addition to California law, the university’s policy with respect to hazing prohibits students from engaging collectively or individually in any of the following practices as a part of any programs or general activities. This list is intended to provide examples of hazing; as it is impossible to anticipate every situation that could be defined as hazing, this list should not be considered to be all-inclusive. For questions regarding whether a particular activity not mentioned below is considered hazing, contact the Office of Student Judicial Affairs and Community Standards, the Office for Fraternity and Sorority Leadership Development, or the Office of Campus Activities.

- a. Forced excessive or strenuous physical activities.
- b. The application of foreign substances to the body.
- c. Activities such as scavenger hunts, which result in illegal or otherwise prohibited activity, such as pledge ditches, kidnaps and the like.
- d. Depriving students of sufficient sleep (eight consecutive hours per day minimum).
- e. Not providing decent and edible meals (no unusual combinations or preparation, colored foods, etc.).
- f. Depriving students means of maintaining a normal schedule of bodily cleanliness (including a minimum of one shower per day).
- g. Depriving students means of communications, such as their cell phones.
- h. Forcing, coercing or permitting students to eat an excess of substances such as raw meat, onions, peppers, etc.
- i. Forcing, coercing, or permitting students to drink excessive amounts of liquids including alcohol, salt water, water, etc.
- j. Nudity or forcing or allowing students to dress in a degrading manner.
- k. Branding any part of the body.

07/25/2016

- I. Psychological hazing, which is defined as any act or peer pressure which is likely to: (i) compromise the dignity of any student affiliated with the organization, (ii) cause embarrassment or shame to any student affiliated with the organization, (iii) cause any student affiliated with the organization to be the object of malicious amusement or ridicule, or (iv) cause psychological harm or emotional strain.

IV. Procedures for Dealing with a Hazing Incident

Anyone with information about a possible hazing incident has a responsibility to report it to the Office of Student Judicial Affairs and Community Standards, the Fraternity and Sorority Leadership Development staff, Campus Activities or the Office of the Vice Provost for Student Affairs.

Students and/or student organizations engaging in activity which is considered hazing as defined by California law will be reported to the Los Angeles Police Department.

V. Loss of Recognition and Probation for Student Organizations

Following a proved allegation of hazing, individual members and officers of the organization may be subject to disciplinary action by the university, up to and including suspension and permanent dismissal from the university. Additionally, the student organization may lose its recognition/registration with the university. Loss of recognition/registration may begin immediately after a decision finding hazing is finalized by the Office of Student Judicial Affairs and Community Standards. In order to regain recognition/registration a student organization may be required to suspend activities such as:

- recruitment of new members
- changes in membership status
- social functions
- officer elections
- participation in voting groups of associated organizations (e.g., student assemblies, Interfraternity Council, Panhellenic Council, etc.) or participation in their sponsored events
- participation in intramurals and accumulation of award points

07/25/2016

- use of university facilities, including office space, meeting space or residence
- all operations of the student organization
- Internet access (email and website)

The restoration of recognition/registration with the university will be followed by a period of probation for the organization. Probationary status for the organization may include some of the limitations imposed during suspension and may also involve projects, programs and/or other criteria to be met by the organization. These stipulations will be designed to promote positive development of the organization.

Please refer to Section B.11. Behavior Violating University Standards and Appropriate Sanctions for additional information.

07/25/2016

H. Safety

1. Department of Public Safety

See <http://adminopsnet.usc.edu/departments/departments-public-safety>

2. Mandatory Federal Reporting and Campus Crime Statistics

I. Clery Act

In 1990, Congress enacted the Crime Awareness and Campus Security Act of 1990 (Title II of Public Law 101-542), a landmark federal law which amended the Higher Education Act of 1965 (HEA). The act was amended in 1998 and renamed the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, or more commonly known today as the Clery Act. The Clery Act requires all postsecondary educational institutions participating in HEA's Title IV student financial assistance programs to disclose campus crime statistics and security information. The requirements of the Clery Act are complex and require significant coordination and organization among campus officials, but can be condensed into three primary categories: 1. policy disclosure statements; 2. records collection and retention; and 3. information dissemination.

The policy disclosure mandate requires postsecondary educational institutions receiving federal financial aid to create and publish policy and information disclosure statements, which must be contained in a single document titled the Annual Security Report (ASR). The University of Southern California publishes its Annual Security Report on the Department of Public Safety website under the Clery Compliance sub-heading at capsnet.usc.edu/departments/departments-public-safety/clery-compliance.

The records collection and retention mandate requires postsecondary educational institutions to collect information concerning certain crimes reported to campus police or individuals identified in the law as "campus security authorities" for crimes occurring on Clery geography defined as: 1. on-campus; 2. non-campus locations; or 3. on certain public property within or near campus. USC is also required under this mandate to maintain a daily crime log and to make it accessible to the public during normal business hours. USC's daily crime log can be accessed on the Department of Public Safety's website, capsnet.usc.edu/departments/departments-public-safety/calendarview/month.

The information dissemination mandate requires postsecondary educational institutions annually publish by October 1 campus crime statistics and policy disclosure statements in one document entitled the Annual Security Report. The Annual Security Report includes Clery crime statistics for the three year period prior to the report and is disseminated to current and prospective students and

07/25/2016

employees. Data identical to that contained in the Annual Security Report must be entered on the Department of Postsecondary Education's survey website prior to October 1 of each year. The Department of Education is charged under the Clery Act with monitoring compliance with the act and for enforcement.

The Violence Against Women Reauthorization Act (VAWA), signed into law by President Obama March 7, 2013, imposes new obligations on colleges and universities under its Campus Sexual Violence Act (SaVE Act) provision. There are three new crime categories for which statistics must be collected under the VAWA amendments to the Clery Act: 1. domestic violence; 2. dating violence; and 3. stalking. For further information on the definitions of the VAWA crimes which must be reported for the Clery Act refer to the Annual Security Report posted on the Department of Public Safety's website.

II. Campus Security Authorities

A Campus Security Authority (CSA) is a Clery-specific term that encompasses four groups of individuals and organizations associated with an institution: 1. a campus police department or a campus security department of an institution; 2. any individual or individuals who have responsibility for campus security but who do not constitute a campus police department or a campus security department (e.g., an individual who is responsible for monitoring the entrance into institutional property); 3. any individual or organization specified in an institution's statement of campus security policy as an individual or organization to which students and employees should report criminal offenses; and 4. an official of an institution who has significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline and campus judicial proceedings.

Students, faculty and staff can contact a Campus Security Authority to report a crime. Campus Security Authorities who are not employees of the Department of Public Safety complete an online CSA Crime Report form when they receive a report of a Clery defined crime. The CSA online crime report form can be found on the Department of Public Safety's website. The CSA Crime Report form is not a criminal report or police agency related report and does not need to contain information identifying complainant, perpetrator, or a third party reporter unless the reporting party wants to disclose that information. The intent of the CSA Crime Report form is to assist the University of Southern California in its efforts to gather mandatory statistical data and information required to comply with the Clery Act.

III. Housing and Residential Education

07/25/2016

Resident Advisers (RAs), Resident Coordinators (RCs), as well as their supervisors, are trained CSAs and are instructed to complete the online CSA Crime Report form when a Clery crime is reported to them. As was previously mentioned regarding CSA crime reports, the reports completed by housing and residential staff are for statistical purposes only and do not require disclosure of personal information unless such disclosure is requested and provided by the reporting party.

IV. For More Information

For more information on the Clery Act, refer to the U.S. Department of Education Handbook for Campus Safety and Security Reporting (2011) which can be accessed at www2.ed.gov/admins/lead/safety/handbook.pdf or contact Mardi Walters, Clery Compliance officer, at (213) 309-7569 or by email at: MWalters@caps.usc.edu.

3. Preparedness

See <http://preparedness.usc.edu/>

07/25/2016

07/25/2016

Exhibit 5

07/25/2016



**An Open Letter to Higher Education about Sexual Violence
from Brett A. Sokolow, Esq. and The NCHERM Group Partners**

May 27th, 2014

Our goal is to help higher education embrace and empower gender equity through fair processes, which we all should share as a goal. Who we are and what we do is important to the message of this letter, because of the unique vantage point and perspective we have. We run The NCHERM Group, the largest higher education-specific law practice in the country, doing the legal work of more than 50 campuses. We consult with more than 300 campuses each year, in addition to those we represent as attorneys. We've had more than 3,000 higher education clients since 2000. We have a special expertise in Title IX law, and our law firm frequently represents campuses being investigated by the Department of Education's Office for Civil Rights (OCR), though we prefer to try to keep them from being investigated in the first place.

We are the founders of ATIXA, a membership association of more than 1,400 campus Title IX coordinators and investigators who both look to OCR for guidance and occasionally curse Washington for their workload. We have victim's advocate training, and our experience suggests victims tell the truth. We are all investigators who have done countless campus sexual misconduct investigations, which require a very different approach than victim advocacy. We are expert witnesses and litigation strategists in Title IX cases, both for and against campuses and schools. We represent both victims and accused students in campus hearings, though obviously never at the same time. We don't help rapists to get away with it. We wish campus attorneys and conduct officers would stop treating attorneys representing students in the conduct process as if it is an adversarial role. After all, we share the goal of protecting student rights, and assuring the equal dignity of all students.

It upsets some individuals in higher education that we are not always on the side of colleges in these cases, but that would just make us hired guns for money, not experts. Sometimes, campuses do this wrong; sometimes, they do it right. Our firm's record of success in cases suggests we rarely lose, and that is because we choose clients based on principle, and we choose based on who we believe has the right legal argument. We have trained thousands of campus civil-rights investigators and Title IX coordinators. As change-agents, we understand that we can be polarizing. We don't have just one job or

07/25/2016

one role. We won't pick a side. Our loyalty is only to civil rights equity, and we see it from a unique 360° vantage point. This is what we see...

Colleges and universities struggled to fully embrace gender equity until April 4th, 2011. When OCR issued its April 4, 2011 Dear Colleague Letter (DCL), it changed higher education forever. For whatever reason, that day was simply a tipping point for the field. The broad strokes of that letter painted a clear picture, and sincere and earnest commitment followed. The details could have been better-defined, but credit for genuine change needs to be given to OCR and the White House. We have never seen higher education move, at once and in concert, in the same direction on a single issue with such dramatic fervor. Students sensed it, too, and reporting has dramatically increased as a result on almost every campus that has made serious changes to policies and procedures. On many, reporting has doubled. This is not a doubling of incidents, but a doubling of the willingness of victims to come forward. Thank you for trusting your campuses with your stories.

But, the pace of change is still too slow for groups like Know Your IX and Ed Act Now, as well as the President of the United States, and perhaps even for the OCR. It has been three years since the DCL was published, and some campuses still have not fully realized the changes that are needed. In the midst of the slow but steady progress campuses have been making, Congress compounded the compliance challenge with passage of the Campus SaVE provisions in the VAWA reauthorization in March of 2013. OCR has kept the pressure on by investigating an unprecedented number of campus complaints -- ninety at last count -- many catalyzed by the grassroots, decentralized, social network-based activism of groups like Know Your IX.

Ed Act Now wants OCR to put some teeth and transparency into its enforcement. OCR wants to transform campuses rather than punish them, and feels the heat of imperatives from the Vice President, the President and Congress, as well as push-back from higher education that they've gone too fast, and from organizations like the Foundation for Individual Rights in Education (FIRE) that they have gone too far. Campuses complain that OCR is creating change by slapping one campus at a time, rather than providing wider and more frequent guidance. Campuses are confused by varying messages from different OCR offices, and from the inconsistent enforcement actions being undertaken and publicized. It seems that OCR takes criticism from every side. So does higher education, and we hope OCR can see that, too.

Victims go to the media, file OCR complaints, and Title IX lawsuits. They've figured out they can put more teeth in their grievances by filing class-action complaints to the Departments of Education and Justice, complaining of Title IX, Title IV and Clery Act violations. Two historic fines for Clery Act violations are expected to be leveled any day now. Accused perpetrators have revived the "erroneous outcome" claim and are suing campuses and victims in increasing numbers, too, and using Title IX to do it. At least ten such suits are winding through the federal courts right now. Campuses flooded OCR

with 1,400 questions last year when it announced it was going to provide an FAQ on the DCL. OCR released it just last month as a 53-page document adding even more clarification to Title IX, and more work for colleges. And, as if that wasn't complicating enough, impact litigator Wendy Murphy recently filed a federal lawsuit to enjoin enforcement of the Campus SaVE Act as unconstitutional, and is telling campus presidents that the SaVE Act has compromised Title IX's efficacy, a claim that is widely debated in campus legal circles.

The Huffington Post now maintains a dedicated sub-site focused on campus sexual violence, *Breaking the Silence*, and rarely lacks for content. Less savvy media outlets still attack campuses for meddling in what is otherwise criminal behavior, and wonder why campuses are involved in rape cases at all? Many administrators may wonder similarly, but they understand what the public largely does not: campuses are mandated by Title IX to resolve and remedy all forms of sex and gender discrimination, which includes all acts of campus sexual violence. They also understand that the courts are virtually useless at prosecuting known-offender assaults on campuses where alcohol is often the key factor and recollections are anything but clear. In short, campuses have no choice, and consigning campus victims to the criminal justice process is often consigning them to no remedy at all. Campuses regularly address other "crimes" that students commit through administrative discipline processes. What would it look like if campuses addressed assault, drug dealing, weapons, arson, theft, etc., but not sexual assault? They would be accused of dodging the issue.

Caught in the middle of all this is the campus Title IX Coordinator (TIXC) who receives a complaint from a victim who is in pain. The TIXC pursues the complaint with diligent investigation within the requisite +/- 60 days, and then calls us in puzzlement over why they have now found text messages from the complainant both before and after the incident, describing it as consensual. It's easy for media outlets to paint uncaring campuses as the bad guys over and over again, but reality is often far more complex than that. Worse, FERPA – the federal student privacy law – leaves colleges unable to explain and defend the backstory to the cases they process.

Our generation and generations before us fought from our very cores for the right of victims to be believed, to be treated with respect, and to receive acknowledgment of their basic dignity from seemingly callous educational institutions that championed male privilege by merely slapping rapists on the wrists, if they punished them at all. We've been instrumental in seeing hundreds, if not thousands, of victims vindicated through campus resolution processes, which is why we're so pained that while the last twenty years has brought transformation, we've now arrived at the destination only to find that today's students have wholly redefined sexual experience – as every generation does – without reference to the rules we wrote. How can we demand respect for a generation that at times seems not demand it from themselves, or at least demands it on very different terms than we did? To illustrate what we mean, we can use just some of the

recent cases where our firm was asked to assist. Please note this **trigger warning** for graphic and rape-related content in what follows:

- A female student interviewed recently during an investigation had spread rumors by social media that she had been raped by a male student. When the rumors got back to the male student, he approached her about it, and she offered him a lengthy apology, and then put it in writing. We had to investigate nevertheless, and she told us that they'd had a drunken hook-up that she consented to. She was fine with what happened. We asked her why she called it a rape then, and she said, "you know, because we were drunk. It wasn't rape, it was just rapey rape." We asked her if she was aware of what spreading such an accusation might do to the young man's reputation, and her response was "everyone knows it wasn't really a rape, we just call it that when we're drunk or high." By the way, whomever popularized the term "rapey" deserves a special place in purgatory. For more on the drunk sex issue, click [here](#).
- A female student alleged a campus sexual assault based on non-consensual oral intercourse. Her texts both before and after the incident with the alleged perpetrator state that she enjoys swallowing and "dirty boys who cum in her mouth," all in reference to her actions with him. In her complaint that the oral sex was non-consensual, she informed the campus that she was appalled that he did not wear a condom. He insists it was consensual. We don't know that we'll ever know what happened, but we do know what can and can't be proven.
- A female student was caught by her boyfriend while cheating on him with another male student. She then filed a complaint that she had been assaulted by the male student with whom she had been caught cheating. The campus investigated, and the accused student produced a text message thread from the morning after the alleged assault. It read:
 - Him: How do I compare with your boyfriend?
 - Her: You were great
 - Him: So you got off?
 - Her: Yes, especially when I was on top
 - Him: We should do it again, soon
 - Her: Hehe
- A female student claimed multiple instances of sexual aggression, assault and coercion by her boyfriend over more than a year, but after making the complaint, she could not recall or provide ANY specifics of each instance in terms of location, time, or salient details. His corroborative evidence showed cooperation and even initiation by the complainant.
- A female student claimed a male student performed oral sex on her without her permission on October 3rd. He did so again on October 11th. On October 13th, they had consensual sexual intercourse. On November 2nd, he again performed oral sex on her without her consent. She complained about the three non-consensual acts, but not the consensual intercourse. The campus processed this

complaint to a fair outcome based on the October 13th violation, but it demonstrates how little black and white exists in some of these cases.

- A male student performed demeaning, degrading and abusive sexual acts on a female non-student. They engaged in BDSM, and he ignored her protests throughout the entire sexual episode, despite her screaming in obvious pain and trying to get away from him. She filed a grievance with the campus, and we soon discovered instant messages in which she consented just before the incident to exactly these acts, and agreed to forgo the use of a "safe word" common in BDSM relationships.
- A female student accused a male student of sexual assault. When her complaint of sexual assault was heard by a campus panel, there was literally no evidence to support her complaint. He was found not responsible and decided not to press a complaint against her for a false allegation out of sensitivity to her serious mental health issues. Then, she went around campus telling anyone and everyone that he had raped her. The male student then filed a complaint against the female student for harassment. The female student then filed a complaint with the college for processing his complaint as an act of retaliation against her.
- In another recent case, a long-term relationship between two students involved many consensual sexual acts. The couple broke up. The male student started dating another student on campus, at which point the former girlfriend filed a complaint that there were non-consensual acts amongst many prior and subsequent consensual acts that they engaged in. Perhaps, but the timing is suspicious, and there is no evidence to suggest any concern about the behaviors during the time they were dating. Again, there is often a chasm between what is alleged and what evidence is able to prove.

We could go on and on with a litany of these complicated and conflicting cases. We hate that some of them provoke tired old victim-blaming tropes, such as the woman scorned and the cover-up of cheating. We hate even more that in a lot of these cases, the campus is holding the male accountable in spite of the evidence – or the lack thereof – because they think they are supposed to, and that doing so is what OCR wants. If you work on a college campus, we don't have to point out the complexity of the complaints we receive. But, the public and the media need to understand that campus complaints are not as clear-cut as the survivors at Know Your IX would have everyone believe.

Sexual assault is rampant on campuses, no matter what study you read. Debating prevalence is futile, because one victim is one too many. But, not every complaint can be resolved, and not every allegation can be proved. We don't see victims making many false complaints¹, but just as the OCR-mandated preponderance standard (what is more likely than not?) should be making it easier to determine what violates a policy, Millennial sexual mores are clouding the evidence. We see complainants who genuinely believe they have been assaulted, despite overwhelming proof that it did not happen.

¹ A malicious or false complaint made by someone knowing it to be untrue.

We fear for the mental health issues impacting many students, but in particular for those whose reality contact issues manifest in sexual situations they can't handle and campuses can't remedy. We hate even more that another victim-blaming trope – victim mental health – continues to have legs, but how do you not question the reality contact where case-after-case involves sincere victims who believe something has happened to them that evidence shows absolutely did not? How do campus and community mental health resources help someone who is suffering from real trauma resulting from an unreal episode?

It's futile, we know, to wish that this generation of students would stop inviting ambiguity into so many of their sexual interactions². But, we can tell them that the great majority of administrators we work with daily encourage reporting, and will receive their reports with open-mindedness, compassion and empathy. We know it may be a vain hope, but students, we really wish you would help us help you. We wish you would say yes when you mean yes, no when you mean no, and text in a way that reinforces what you said or did, rather than contradicts the allegations you have made. In a remarkable shift, the field is now finally sympathetic to victims, and societal victim-blaming tendencies are ebbing, but we fear the tide will shift again, against believing victims. None of our hopes above takes away from the fact the college messaging also needs to tell potential perpetrators to get consent, to stop raping, to avoid sex with those who have been drinking, and to intervene in potentially harmful situations, not as patriarchal protectors, but as empathic beings in inter-dependent communities.

We fear that other activists and the victim advocacy community will see this letter as anti-victim. Instead, we hope that the field will reject a victim-blaming analysis in favor of deeper exploration of the challenges we all are facing. Any person has the right to their autonomy, and the self-determination to claim it if they have been victimized. We cannot give that to them, and we cannot take it away. But, a victim's self-labeling does not make the person they are accusing a perpetrator. Only a campus resolution process, conducted under equitable rules in compliance with Title IX, can determine that an accused student violated campus policy (which doesn't make them a rapist, in a criminal sense). And, every campus owes services, resources and supports to every victim, regardless of whether a campus process is able to uphold their complaint or not.

The President of the United States wants us to solve the campus sexual assault problem. So we have some thoughts about how we all can be more effective stakeholders in the solution. Here's a suggestion for each of us:

- **President Obama.** Please continue to give your task force on campus sexual violence a true mandate for prevention. Empower it to advocate for the

² And, we don't like to label a rape as an "interaction," but neutral terms work best in these circumstances, because we can't assume an accused student is a perpetrator, either.

resources that campuses need to fully embrace the compliance and prevention missions that the law imposes.

- **Campus Presidents.** Allocate at least \$250k annually to a prevention budget. You'll make it up in the long run through loss prevention. Really. Additionally, we beseech you to streamline your policy-making process. OCR and the courts are averaging at least two pronouncements each year that require revisions to campus policy. Your campus policymaking process needs to be agile enough to keep up with this new pace of change, and on most campuses, that process is woefully unable to do so.
- **Chief Student Affairs Officers.** Campus SaVE Act Compliance (VAWA Section 304) is largely going to fall on your division, and it is time to get ready. Prevention must be professionalized under your division, with something like a Campus Prevention Services Office or Campus Prevention Committee that is well-staffed and well-resourced.
- **Orientation and First Year Experience Professionals.** Please lead conversations on your campuses for how to mandate educational and prevention programming beyond the first year and work with faculty to develop cross-curricular programming in these and related areas.
- **Deans of Students.** Devise a points system or other effective mechanism to get student butts in the seats, so that they attend the presentations you provide. No one will benefit from campus prevention efforts if those efforts are not delivered to the audience who needs to hear them. Conduct regular campus climate surveys with a three-year action plan to address the survey findings and remedy any hostile climate issues that are evident.
- **Campus investigators.** Do more than attend the two-day ATIXA training. We've done investigations for more than fifteen years to learn what we know how to do. With two days of training, you've made a start, but to do right by all of our campus constituents, and to do justice to the complexity of these cases, you must invest in your own professional development with diligence and hard work. If you make training a continual task, excellence will follow.
- **Title IX Coordinators.** Make sure your president and trustees understand the enormity of your role. Yours is a full-time, dedicated role, whether your position is or not. Fight for your authority to be the final say on Title IX on your campus. You need a budget, a direct or dotted line to your president, and the authority to effectuate the changes compliance requires. Oh, and in your spare time, help your campus Public Safety and Student Affairs professionals to meet the prevention, education and training mandates of the SaVE Act. They're big.
- **FIRE.** Live up to your name. Don't just fight for the rights of accused students. Fight for the individual rights of all students. If a campus puts a gag order on a victim, where is your voice in favor of her rights to share her story?
- **Student Conduct professionals.** You can't be too hot or too cold, you need to get it just right. Some of you are too hot, meaning that you hold men accountable for drunken hook ups that shouldn't violate campus policies.

Charging only the male if both parties are drunk (not incapacitated) is gender discrimination. In some cases where you find a preponderance, some of you have your thumbs on the scales of justice. A tie must go to the accused student. In other cases, you're too cold, and you don't ensure that victims get their due, and that perpetrators are kicked out. The just right bowl of porridge is neither too hot nor too cold, and the equal dignity we owe to all of our students requires that we get it right, every time. We also ask you to become more effective gatekeepers on the process. Not every complaint deserves a hearing. Many complaints can be resolved through investigation, and when the investigation shows that no misconduct took place, bring the gate down and stop the process. It can be victimizing to all parties to continue the process beyond that point. Please reconsider imposing gag orders on the parties to a complaint. Title IX requires *you* to maintain the confidentiality of an investigation. It does not give you the right to deprive students of their right to talk about their experiences and tell their stories. We also suggest you get used to welcoming attorneys as advisors in your processes. We're coming sooner or later (now that the SaVE Act is in effect), and we can't imagine many students involved in sexual misconduct complaints navigating the campus process very well without us, to be blunt.

- **Public Safety.** Continue to train officers to believe victims and not to blame them. You're not the ultimate deciders of fact, and don't need to take sides. Consider that higher crime statistics mean safer campuses, not the other way around. Assist campus civil rights investigations, and partner with the Title IX Coordinator and Student Affairs to deliver the training and prevention content the law requires.
- **Know Your IX, Ed Act Now, End Rape on Campus and other student voices.** Continue to push higher education and OCR to do better, partner with us where you can, teach us about your expectations, and be open to the possibility that some of the cases you believe in are harder to prove than you think, and in some cases, may not constitute a violation of policy.
- **OCR.** Go further to make your case decisions open and transparent. Publish regular, consistent guidance. Higher education is hungry for it. Open a technical assistance department staffed just as well as your enforcement division. If you do, you might slowly realize you'll need your enforcers less, and that compliance will improve.
- **Faculty.** Please be open to changing your privileged discipline processes, because you are the only ones who can. Equity is an inherent good for all of us, and complex, drawn-out discipline processes, multiple layers of appeal, grievance processes and tenure revocation systems all impede equitable resolution of sex and gender discrimination complaints involving faculty. We must protect our faculty members who are accused, but we must equally protect those who accuse them.
- **Human Resources.** It is no longer acceptable to be unaware that Title IX applies to employees in any situation where Title VII also applies to address sex/gender discrimination on a college campus. Many of the mandates for prevention and

training in Title IX and the Campus SaVE Act apply to employees. They are breathtakingly broad and your institution is going to need more than the same animated online tutorial on sexual harassment every year to address them.

- **Campus LGBTQI Resources.** We shouldn't need this reminder, but please keep institutions focused on the ways that Title IX covers gender identity discrimination, transgender individuals, those in transition, and those who are gender nonconforming, and make sure we continue to acknowledge that not every case of sexual violence is male-on-female or occurs in exclusively heterosexual contexts.
- **Campus Victim Advocates.** Victims need at least one human being who believes them 100%. It may not be their parents, friends, or loved ones. Be there for them unequivocally, but please understand that institutions are obligated to protect not just the victim you are helping, but future victims as well. Campuses try to honor each victim's wishes, but if they pursue a complaint against the wishes of the victim, it is not to harm him or her, but to protect others from the same harm. If the campus does not uphold your victim's complaint, it may not be that they don't believe him or her. It may be that they don't have the evidence to show a violation. But, campuses still need to provide services, supports and remedies no matter what.
- **Athletics.** Strive for equity of facilities, participation, scholarships, uniforms, coaching, and athletics opportunities. Report what you hear to the Title IX Coordinator, and never forget that your athletes are, first and foremost, our students. Their status as athletes doesn't change the fact that they are protected by campus policies and subject to campus rules. Special training for athletes and coaches is needed to address the circumstances inherent in closed campus athletic communities.
- **Counselors and Health Services.** You know more about campus victimization rates than anyone else. But, many of you do not report statistics on sexual violence (and soon, dating violence, domestic violence, and stalking). I ask you to voluntarily invert the Clery Act reporting paradigm. At present, counselors may volunteer statistics when they choose to. We suggest that reporting anonymous, non-personally-identifiable, statistical information should be the standard for you. But, you can make discretionary decisions not to report if you believe it would harm your client or patient to do so. Will you help us understand our climate and the extent of campus crime if it won't harm your clients in any way?
- **Students.** A community is a place where the members look out for one another. When you are a bystander to the safety of the community, you fail to contribute to making your campus a socially just community. Engage, intervene and look after each other. You won't always make the best choices, but a safety net can help to ensure you don't always suffer for them.
- **Victims.** If anyone has sexual contact with you by force, without your clear consent by word or by action, or where they know or should know that you are physically incapacitated (often by alcohol or other drugs), you have the right to

have your college remedy the effects of what has happened to you. You can make a confidential report, or a formal complaint, and/or report to police. Title IX also protects you if you are stalked, if you experience intimate partner violence, sexual harassment, or other forms of sex/gender discrimination.

- **Sexual Aggressors.** Take no for an answer. Ask for a yes. Don't make assumptions. You're not entitled to sex, and if you take it without permission, you're going to get kicked out of college.
- **Registrars.** And, the institution is going to note it on your transcript. It's the ethical thing to do.
- **The NCHERM Group.** We will continue to support all of you as you work earnestly to achieve compliance. This summer, we'll release our strategic prevention curriculum, to provide you with the content you need to comply with the education and training mandates of Title IX and the Campus SaVE Act. We have an online suite of trainings already available for mandated reporters, hearing boards and appeals officers. More online trainings are scheduled throughout 2014-2015 on the topics you need to assure gender equity within your campus communities.

Thank you for your dedication and determination.

Sincerely,

Brett A. Sokolow, Esq.

President & CEO, The NCHERM Group, LLC

W. Scott Lewis, J.D.

W. Scott Lewis, Partner, The NCHERM Group, LLC

Sandra K. Schuster, Esq.

Sandra K. Schuster, Partner, The NCHERM Group, LLC

Daniel C. Swinton, J.D., Ed.D.

Daniel C. Swinton, Managing Partner, The NCHERM Group, LLC

The NCHERM Group, LLC
116 E. King Street
Malvern, PA 19355
610-993-0229
www.ncherms.org

07/25/2016

Exhibit 6

07/25/2016

Discrimination Complaint Form

When the form has been completed and signed, and then signed by authorized staff in the Office of Equity and Diversity, your complaint has been properly received and noted by the university. We will provide you with a copy of this form as well as complete information about the discrimination complaint process.

The Office of Equity and Diversity investigates complaints by faculty, staff, applicants and students who believe themselves to be harmed by sexual harassment or discrimination and harassment related to issues that have protected class status. The office represents the university to government agencies on those same matters.

What is protected class status?

Protected class status is acquired by persons or behavior protected by applicable laws and governmental regulations at the federal, state and local levels which prohibit discrimination, or which mandate that special consideration be given, on the basis of race, religion, national origin, gender, age, veteran status, disability, sexual orientation, or any other characteristic which may from time to time be specified in such laws and regulations.

Special protections for employees are also available concerning family care leave or its denial, pregnancy disability or its denial, or retaliation for complaints related to any protected class.

If you are unsure about the protected class status of your complaint, please feel free to call the Office of Equity and Diversity. If your complaint is not one which our office handles, we will refer you to the appropriate office for assistance.

Check one

☐ Faculty
☐ Employment Applicant

☐ Staff
☐ Student Applicant

☒ Student
☐ Other Explain: _____

JOHN DOE

Name

Department/Company

Work Telephone

Home Telephone

Work Address

City

State

ZIP Code

Home Address

City

State

ZIP Code

Employee I.D.

Student I.D.

Name of Your Supervisor

Supervisor's Telephone

Have you brought this matter to the attention of any other department(s) at the university? If so, please list the name(s) and department(s) of all other persons with whom you have discussed this matter.

No. This is the first complaint.

Type of Complaint

Check one or more

☐ Age

☐ Pregnancy

☐ Sexual Orientation

☐ Disability

☐ Race

☐ Veteran Status

☒ Gender

☐ Religion

☒ Other Explain: _____

☐ Medical Condition

☐ Retaliation

Harassment, threats, and stalking.

☐ National Origin

☐ Sexual Harassment

07/25/2016

Complaint: Describe your complaint. Please summarize below and attach additional pages describing your complaint if necessary.

JANE DOE has been harassing me for over two months by threatening to report me to the Title IX office, telling people that I assaulted her while we were together, and also asking me to continue our relationship. On November 14, 2015 JANE DOE broke up with me and ended our consensual, romantic relationship that had started in August 2015 after we met in summer when we were both attending the Viterbi Summer Overseas Program in London. A month or so after we broke up, JANE DOE started threatening to report me to USC Title IX office, but also asked for me to continue a romantic relationship with her. JANE DOE said that the alternative to my not agreeing to have a romantic relationship with her was that she would hate me forever. I told JANE DOE that I only wanted a platonic friendship with her and did not want a romantic relationship. JANE DOE continued to threaten me with making a Title IX report. On January 18, 2016 she wrote an email to me to tell me of her intentions to begin the process of reporting me to Title IX in order to make me understand that I raped her. She told me that she had gone to the Center for Women and Men and showed them all the evidence and they told her she had a very strong case. (Cont. next page)

Name of person or persons you believe discriminated against you and why you have contact with them, e.g. supervisor, co-worker, faculty, customer.

JANE DOE student

Describe the corrective action you are seeking. Attach additional pages if necessary.

No contact from JANE DOE immediately stop the harassment and threats.

For retaliation complaints, please explain why you believe someone retaliated against you:

Witnesses (The relationship information requested means co-worker, supervisor, customer, faculty, etc.)

1. Seth Schacter	Fraternity member	(845) 825-2949
	Relationship	Telephone
2. Samuel L. Picus	Fraternity member	(314) 703-1028
	Relationship	Telephone
3. Rachel Belzer	Sorority member	(310) 738-6715
	Relationship	Telephone

I certify the aforementioned is true and correct.

07/5/2016
Your signature

March 3, 2016
Date

For the USC Office of Equity and Diversity

Complaint taken by

Signature

Print Name

Date

USC Office of Equity and Diversity

(213) 740-5086

Mail Code 0704

Office Location

University Park Campus

Credit Union Building, 2nd floor

A victim of discrimination or harassment is encouraged to use the university's internal complaint process. Persons believing they have been discriminated against or harassed may seek assistance from government agencies such as the federal Equal Employment Opportunity Commission, the federal Department of Labor Office of Civil Rights, or the California Department of Fair Employment and Housing (Inside California, contact the department toll free at 800-884-1684; Sacramento area and outside California 916-227-0551; TTY number 800-700-2320)

(Complaint Continued.) When [JANE DOE] was asked to give a statement about her claims to an investigator, she refused and texted me, "I won't report anything, please keep your lawyers out of my life." After that, [JANE DOE] apparently changed her mind again because a few weeks later she told my fraternity leadership that I had sexually assaulted her and that she did not want to make a formal complaint but the fraternity should take action against me. The fraternity leaders told me that they made a report to the Title IX office and asked me to accept an informal suspension to comply with [JANE DOE]'s request and avoid a formal Title IX action. So I agreed not to fight to stay in the fraternity and I moved out last weekend. Just yesterday I learned from my fraternity that even though I moved out and was gone from the fraternity [JANE DOE] had changed her mind again and was going to file a formal report with Title IX office, reportedly because I posted my picture with my girlfriend on Facebook. I do not know how [JANE DOE] has access to my Facebook profile because we were not friends on Facebook and I had blocked [JANE DOE] from my social media. [JANE DOE]'s efforts to continue a romantic relationship with me and her false accusations and the rumors she has started and have been very distressful. I only want for this harassment to stop and for [JANE DOE] to not have any contact with me and not to attempt to contact me through my friends.

07/25/2016

ADMOP503/DCF/AUG2012

07/25/2016

Exhibit 7

07/25/2016



JOHN DOE <JOHN.DOE@usc.edu>

Notification of Investigation - Action Required

Patrick Noonan <PNoonan@hr.usc.edu>
To: "JOHN.DOE@usc.edu" <JOHN.DOE@usc.edu>

Tue, Mar 22, 2016 at 4:59 PM

PRIVATE

March 22, 2016

JOHN.DOE

Case # 201502017

Dear JOHN.DOE

A report has been received in this office that you allegedly have violated the University Student Conduct Code.

Date(s) of Incident(s): October 14, 2015
Location: Sigma Alpha Mu
Violation(s): Student Conduct Code Section(s) §§
(SCampus for full description: <https://policy.usc.edu/student/scampus/>)

11.53.C.: Engaging in any actual or attempted non-consensual physical sexual act including, but not limited to vaginal, oral or anal penetration using a body part or object; to wit penetration of KS's vagina with his penis. (See Section E.5.IV.)

Please meet with me by: 3/30/2016

Please call me at 213-821-8298 to schedule your appointment. Students have the right to have one advisor present at meetings with the investigator. You are encouraged to bring an advisor of your choice to all meetings, and if you do not have an advisor you may request a trained staff member to serve as your advisor. The role of

07/25/2016

the investigator is to be neutral and impartial, and many students find the process to be less stressful when they have an advisor with them to provide emotional support. For more information about the role of an advisor please see E.8.I.i. If you would like to be connected with a trained staff advisor you may either let me know or speak with Lynette Merriman, Associate Provost for Support and Advocacy. Dr. Merriman can be reached at merriman@usc.edu, or 213-740-7421. If you plan on bringing an advisor please let me know in advance so that I can provide you with the necessary confidentiality statement for the advisor prior to attending the meeting (see SCampus E.8.I.i for more information about the role of an advisor).

The purpose of the meeting will be to initiate the Administrative Review Process outlined in §E.8 of the Student Conduct Code. If you have not scheduled an appointment by the above date, a restriction (hold) will be placed on your records prohibiting you from performing any registration transactions. This hold will remain on your records until the investigation is concluded. A review also may be conducted in your absence should you choose not to respond. Students should know that they may file a Title IX complaint with the Office of Civil Rights of the U.S. Department of Education. If you choose to initiate independent legal actions outside of the Administrative Review Process, you would likely need to obtain legal counsel.

The first thing that will happen in this meeting is that we will review your procedural rights, and it is an opportunity for you to ask any procedural questions you may have. It is also an opportunity for you to review the report if you would like to do so. Students are encouraged to submit any relevant information as evidence in the investigation. For example, please consider saving text messages, Facebook postings, emails, or voice mail messages that might prove relevant. If you have already deleted text messages, they may also be retrieved from your mobile phone company if you make the request during the current billing cycle. It can also be helpful to write down the names (or descriptions, if you do not have names) of possible witnesses, in case you later forget this information.

Confidential support is available from the Engemann Student Counseling Center at (213) 740-7711. You may receive free individual counseling to help deal with feelings related to being accused, decision-making, and concerns about relationships. Although not confidential, Student Support and Advocacy staff are also available to assist you. You can find more information about their office at: <https://studentaffairs.usc.edu/ssa/> or by calling (213) 821-4710.

I want to let you know that the university is able to issue **Avoidance of Contact** directives to both you and another student. Please know that these letters are mutual directives to both parties before an investigation finding has been determined. You can request an Avoidance of Contact through the Student Support and Advocacy or through the Title IX office.

For a full description of the sexual misconduct review process please refer to Part E in the current SCampus (<https://policy.usc.edu/student/scampus/>). Please familiarize yourself with these standards and procedures concerning student conduct prior to our meeting. Additional information is available at <http://sarc.usc.edu>, the Sexual Assault Resource Center website.

I look forward to meeting with you to discuss this matter.

Sincerely,

07/25/2016

Patrick Noonan

Title IX Investigator

Patrick R. Noonan | Senior Complaint Investigator

University of Southern California

Office of Equity & Diversity and Title IX

3720 S. Flower St., Ste. 200

Los Angeles, CA 90089

Office (213) 740-5086 | pnoonan@hr.usc.edu

This email message is confidential, intended only for the recipient(s) named above and may contain information that is privileged, attorney work product or exempt from disclosure under applicable law. If you have received this message in error, or are not the named recipient(s), please immediately notify the sender by return email and delete this message from your computer. Thank you.

07/25/2016

07/25/2016

07/25/2016

Exhibit 8

AR 00281

Sanctions

EXPULSION: Permanent termination of student status effective the date of this review. Respondent will be excluded from all classes, seminars, and programs; will not be allowed to participate in any University sponsored activities and is barred from University premises. A permanent notation of expulsion will appear on the student's academic transcript.

07/25/2016

Pages AR00283
through AR00468
To Be Lodged Separately
Under Seal

07/25/2016

07/25/2016

Exhibit 9

AR 00459



USC University of Southern California

OFFICE OF EQUITY AND DIVERSITY
Title IX

June 07, 2016

JOHN DOE

Case #201502017

Dear **JOHN DOE**

This letter and the accompanying material is your written notification of the decision resulting from your Summary Administrative Review. The review was concluded on May 20, 2016.

The details of this decision are outlined on the following pages. Both you and the reporting party have the right to appeal this decision within two weeks (14 days) of receiving notification of this decision.

If neither party appeals, the decision will be considered final. The Office of the Title IX Coordinator maintains confidential disciplinary files concerning students found responsible for conduct violations (see Student Conduct Code §16.00).

Any appeal should be directed to the Student Behavior Appeals Panel and should be submitted electronically to the Title IX Appeals Advisor (titleixappeals@usc.edu) no later than **12 noon on June 21, 2016**. The appeal should follow the guidelines found in the current SCampus at <https://policy.usc.edu/student/scampus/> (Student Conduct Code §E.8.VI, "Appeals Process"). Cover Sheet and guidelines are found enclosed.

If you have any questions regarding the appeals process please contact Ms. Roopali Malhotra, Title IX Appeals Advisor, at 213.740.2421.

Sincerely,

Patrick Noonan

University of Southern California

3720 South Flower Street, Second Floor, Los Angeles, CA 90089-0704 • Tel: 213 740 5086 • e-mail: oad@usc.edu

07/25/2016

07/25/2016

Exhibit 10

07/25/2016

MARK J. WERKSMAN
ALAN J. JACKSON
MARK M. HATHAWAY*
KELLY C. QUINN**
JOSHUA E. RITTER
INBAL D. ZEEVI
MARK W. ALLEN
ELIZABETH S. LITTLE
JENNA E. EYRICH

WERKSMAN JACKSON
HATHAWAY & QUINN LLP
888 WEST SIXTH STREET
FOURTH FLOOR
LOS ANGELES, CALIFORNIA 90017
TELEPHONE (213) 688-0460
FACSIMILE (213) 624-1942
www.WERKSMANJACKSON.COM

*ADMITTED IN CALIFORNIA, NEW YORK, AND
WASHINGTON, D.C.

*CERTIFIED SPECIALIST – TAXATION LAW
THE STATE BAR OF CALIFORNIA
BOARD OF LEGAL SPECIALIZATION

**CERTIFIED SPECIALIST – APPELLATE LAW
THE STATE BAR OF CALIFORNIA
BOARD OF LEGAL SPECIALIZATION

June 14, 2016

VIA FACSIMILE TO (213) 740-7606 AND
EMAIL TO uscprovost@usc.edu
WITH CONFIRMATION VIA U.S. MAIL

Ainsley Carry, Ed.D.
Vice Provost for Student Affairs
University of Southern California
3601 Trousdale Prkwy #206
Los Angeles, CA 90089

RE: **JOHN DOE** – USC Student ID 6751237589

Dr. Carry,

I am writing to let you know of the extremely derogatory statements of USC Title IX Director Gretchen Dahlinger Means and USC Title IX Investigator Patrick Noonan that confirm unacceptable gender bias and personal animus against the accused student in a process that is to be equitable, fair, and impartial. The statements were witnessed by attorney Jenna E. Eyrich, USC student Mr. **JOHN DOE** and myself on June 7, 2016, at the conclusion of a schedule conference call via speaker phone.

At the conclusion of the call, my associate Jenna E. Eyrich and I were waiting for Ms. Means and Mr. Noonan to drop off the call so we could speak further with Mr. **JOHN DOE**. Ms. Means and Mr. Noonan, however, began speaking to each other, apparently unaware that Ms. Means had not disconnected from the conference call.

We heard Ms. Means say almost immediately, “Who do those motherfuckers think they are?” And, “That question is totally inappropriate. Does that college motherfucker know who I am?”

Both Ms. Means and Mr. Noonan referred to **JOHN DOE** and me as “motherfuckers.” Ms. Means also said “Do they think I’m fucking stupid?” Mr. Noonan

07/25/2016

June 14, 2016

Page 2

and Ms. Means then said that the complainant **JANE DOE** was such a "catch" because she is "so cute and intelligent. What was she doing with that?" referring to Mr. **JOHN DOE**

Ms. Means and Mr. Noonan then apparently noticed that the conference call was still connected and hung up the call.

During the call **JOHN DOE** had requested the identity of the panel members who had decided the case and the panel members who would consider his appeal. Ms. Means replied that two members of a five member panel had made the decision against him, but that it was not the appropriate time for the student to ask such questions. **JOHN DOE** then asked when would be the appropriate time and if the information was restricted. Ms. Means replied, "Don't try to game me," and would not answer the questions.

As you appear to be responsible for the integrity of USC's Title IX disciplinary process, and in order to protect the interests of my advisee and other USC students, I am obligated to report this gender bias for your information and attention.

Sincerely yours,



MARK M. HATHAWAY

cc: C.L. Max Nikias (via E-Mail president@usc.edu and via fax to (213) 821-1342)
President, University of Southern California

Carol Mauch Amir, Esq. (via facsimile to (213) 740-3249)
General Counsel and Secretary, University of Southern California

07/25/2016

07/25/2016

Exhibit 11

07/25/2016



AINSLEY CARRY

*Vice President
Student Affairs*

Via email to mbathaway@werksmanjackson.com and
Facsimile to (213) 624 1942

June 17, 2016

Mark Hathaway
Werksman Jackson
Hathaway & Quinn
888 West Sixth Street
Fourth Floor
Los Angeles, California 90017

Mark Hathaway,

This notice is intended to confirm the receipt of your email to me, dated June 14, 2016. Thank you for taking the time to inform me of your concerns.

Sincerely,

A handwritten signature in black ink, reading "Ainsley Carry", is positioned above the typed name.

Ainsley Carry, Ed.D.
Vice President for Student Affairs

07/25/2016

University of Southern California

Student Union 201, Los Angeles, CA 90089-4891 • Tel: 213 740 2421 • Fax: 213 740 5299

Exhibit 11

USC Student Affairs

To: **Werksman Jackson Hathaway & Quinn** Fax: **213-624-1942**

From: **Vice President for Student Affairs** Date: **6/17/2016**
University of Southern California

Re: **Response to Correspondence re** Pages: **2 (INCLUDING COVER)**
Title IX Gender Bias

Cc:

☒ Urgent ☐ For review ☐ Please comment ☐ Please reply ☐ Please recycle

Notes:

This message is intended only for the use of the individual entity to which it is addressed, and may contain information that is privileged, confidential, and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone 213-740-5240.

07/25/2016

CONFIDENTIAL

07/25/2016

07/25/2016

Exhibit 12

JOHN DOE

June 21, 2016

Roopali Malhotra
Title IX Appeals Advisor
University of Southern California
Student Union Building 201
Los Angeles, CA 90089-4891
titleixappeals@usc.edu

RE: Appeal of **JOHN DOE** University of Southern California,
Case #201502017

Pursuant to Student Conduct Code § E.8.VI, I am seeking review of the Student Equity Review Panel's decision dated June 3, 2016, which seeks to expel me, an undergraduate student in my third year at the University of Southern California (hereinafter the University or USC) for allegedly engaging in a non-consensual sexual act with another USC student in violation of USC's Student Conduct Code § 11.53C ("Engaging in any actual or attempted non-consensual physical sexual act including, but not limited to vaginal, oral or anal penetration using a body part or object; to wit penetration of Complainant's vagina with his penis").

For the reasons discussed in this appeal, the opinion of the Title IX investigator Patrick Noonan that I am responsible violation of USC's Student Conduct Code § 11.53C and the expulsion sanction should be dismissed:

PROCEDURAL BACKGROUND

JANE DOE ended our relationship in November of 2015, after which time she began threatening to report me to USC's Title IX Office for sexual assault and rape from our sexual activity on October 14, 2016, but not for earlier, or later sexual activity.

On March 3, 2016 I filed a formal Discrimination Complaint with the University against **JANE DOE** for harassment, threats, and stalking because **JANE DOE** had been asking me to continue our relationship after I had made it clear I did not want a relationship with her, and threatening to report me to the Title IX office, and telling people that I assaulted her. Exhibit 1. I asked that "I only want for this harassment to stop and for **JANE DOE** to not have any contact with me and not to attempt to contact me through my friends."

On March 22, 2016, I was notified about the Title IX charges against me.

On April 7, 2016, I met with Title IX investigator Patrick Noonan. Mr. Noonan

would not provide me any details about the accusation against me and I elected not to make any further statement beyond my March 3, 2016 complaint.¹

During the Administrative Review process, Mr. Noonan conducted the following interviews with student witnesses, all of whom were identified by JANE DOE²:

March 3, 2016 - Interview of Complainant JANE DOE (Gretchen Means present).

April 7, 2016 - Interview of JOHN DOE (Mark Hathaway Present).

April 12, 2016 - Interview of Tamar Fleshler.

April 12, 2016 - Interview of Alexandra Habberstad.

April 18, 2016 - Interview of Samuel Picus.

April 20, 2016 - Interview of Yasmeen Kamel.

April 21, 2016 - Interview of Maya Anderman.

April 21, 2016 - Interview of Seth Schacher.

April 22, 2016 - Interview of John Henry Kurtz.

April 22, 2016 - Interview of Sirine Yared.

April 22, 2016 - Interview of Caroline Vance.

April 22, 2016 - Interview of Rhea Patel.

April 25, 2016 - Interview of Julianna Coleman.

April 25, 2016 - Interview of Austin Roy.

April 26, 2016 - Interview of Brandon Min.

April 26, 2016 - Interview of Donielle Bunyard.

April 26, 2016 - Interview of Joelle Burkhardt.

April 29, 2016 - Phone Interview of Tamar Fleshler.

April 29, 2016 - Interview of Carrie Scherder.

May 4, 2016 - Interview of Rachel Belzer

It does not appear that Mr. Noonan investigated or asked questions of any witness about my March 3, 2016 complaint that JANE DOE had been asking me to continue our relationship after I had made it clear I did not want a relationship with her, and her threats to report me to the Title IX office.

On May 10, 2016, I met again with Mr. Patrick Noonan for approximately three hours to review notes that Mr. Noonan had taken of his interviews of a number of witnesses and also text messages and social media messages I had given him. I asked for a copy of the evidence and Mr. Noonan said that it was USC's policy not to provide the evidence until after the investigation was concluded. My advisor and I were instructed not to take any notes of any kind during the meeting.

¹"Declining to present information will not be construed as an admission of responsibility." Student Conduct Code § E.8.II.g

² The University has not provided the actual witness statements or meeting reports and includes only a gist or summary in the Administrative Review.

I made comments and statements about the information that Mr. Noonan showed me and answered his questions. Mr. Noonan took notes of what I said but did not record or write down everything I said. During the meeting I learned that Mr. Noonan does not take verbatim notes of the questions he asked and the responses of any witnesses, so there are no actual witness statements, just a summary of what Mr. Noonan believes is important. In a case where everything hinges on witness statements, to not have actual witness statements is not an adequate, reliable, equitable, nor balanced investigation as required by USC policy and Title IX. Also, under USC policy I am entitled to "A fair, thorough, reliable, neutral and impartial investigation by a trained and experienced investigator." But when I asked Mr. Noonan about his background, training, and experience as a Title IX investigator, he replied only about his college educations and would not provide the information I requested. Mr. Noonan's investigation practice to just write notes and then summarize the gist of what a witness said, does not seem reliable, nor adequate, nor thorough, nor reliable given the stakes involved. I have never been provided with any witness statements, nor any notes of witness interviews. It is impossible for me, or any accused student, to challenge or refute witness statements without reviewing actual witness statements.

I also turned over to Mr. Noonan 252 pages of Facebook messages between [JANE DOE] and me and 17 pages of about 1,000 text messages between us.

The main points I conveyed to during my second meeting with Mr. Noonan were that before October 14, 2015 [JANE DOE] and I had tried to have sexual intercourse unsuccessfully and whenever she said stop, I stopped. After October 14, 2015 [JANE DOE] and I also tried to have sexual intercourse again and succeeded. Our interaction on October 14, 2016 was no different than the times we tried before or the times we tried afterwards when we had consensual sexual activity and sexual intercourse. On October 14, 2015 [JANE DOE] and I got undressed, tried to have sexual intercourse unsuccessfully, cuddled for a while, tried unsuccessfully again, and then I fell asleep. In her response, [JANE DOE] did not dispute any of those points, or anything else I told Mr. Noonan, but only states that she believes her phone records show that she came to my room at 12:11 a.m. and left about two hours later. For the next month or so after October 14, 2015, [JANE DOE] was still trying to have an exclusive relationship with me, but I was upfront and honest with her that I did not want an exclusive relationship with her. As is shown in our text messages, Facebook messages and emails, [JANE DOE] tends to be dramatic and was going over everything good and bad in our relationship. [JANE DOE] tends to exaggerate bad things but does not exaggerate the good things. I was trying my best to respond to [JANE DOE]'s questions and to try to understand how she felt and why she felt the way she did. Even after she broke up with me and then was trying to get back together and have a romantic relationship with me, I did my best to be honest and upfront with her in communicating with her.

[JANE DOE] also started threatening to report me to the Title IX office. [JANE DOE] wrote, "in a twisted way, i want to gain happiness from knowing you're not doing okay. And I'm frustrated because you're doing way better than I am when I deserve happiness more than

07/25/2016

you do." After she told me that she would not make a Title IX report, she called my ex-girlfriend and made a report to my fraternity. [JANE DOE] said that if I got kicked out of the fraternity house, she would not make a formal Title IX report. Right after I left the fraternity house and moved, [JANE DOE] made a formal report. In reporting me, [JANE DOE] named my girlfriend as a witness to be interviewed by the Title IX office even though she doesn't have any first-hand information.

On May 20, Mr. Noonan completed his Summary Administrative Review of Ms. [JANE DOE]'s claims. In conclusion Mr. Noonan stated his personal opinion that,

"In sum, there is sufficient evidence that Respondent knew or reasonably should have known that Complainant did not consent to the sexual penetration on October 14, 2015."

On June 3, 2016, apparently two members of a five member Student Equity Review Panel reviewed the Summary Administrative Review documents and assigned sanctions. The two review panel members, who are unidentified, decided on the following sanctions:

"EXPULSION: Permanent termination of student status effective the date of this review. Respondent will be excluded from all classes, seminars, and programs; will not be allowed to participate in any University sponsored activities and is barred from University premises. A permanent notation of expulsion will appear on the student's academic transcript."

On June 7, 2016, I was notified via email by Mr. Noonan about the results of the Administrative Review and the Student Equity Review Panel's decision regarding sanctions. I was also informed I could submit an appeal to the Student Behavior Appeals Panel by June 21, 2016 at 12:00 p.m. I subsequently had a phone conversation with Mr. Noonan, Ms. Means, my advisor Mark Hathaway and his associate Jenna Eyrich on June 7, 2016 to address my questions about the appeal process.

At the conclusion of the call, we all heard extremely derogatory statements made by USC Title IX Director Gretchen Dahlinger Means and USC Title IX Investigator Patrick Noonan that show unacceptable gender bias and personal animus against me in a process that is to be equitable, fair, and impartial. Ms. Means and Mr. Noonan must have thought they hung up from the conference call, because we heard Ms. Means say almost immediately, "Who do those motherfuckers think they are?" And, "That question is totally inappropriate."³ Does that college motherfucker know who I am?" Both Ms. Means

³ I had asked about the members and qualifications of the Student Equity Review Panel who decided my case and the members and qualifications of the appeals panel. Ms. Means responded during the call that it was not the appropriate time for me to ask those questions, but she would not tell me whether information was restricted nor when would be the appropriate

and Mr. Noonan referred to me and my advisor as "motherfuckers." Ms. Means also said "Do they think I'm fucking stupid?" Mr. Noonan and Ms. Means then said that the complainant JANE DOE was such a "catch" because she is "so cute and intelligent. What was she doing with that?" referring to me. They were both laughing about me. Ms. Means and Mr. Noonan then apparently noticed that the conference call was still connected and hung up the call. It has caused considerable distress and anxiety to hear firsthand what USC Title IX officials, who are supposed to be fair, neutral, and impartial, actually think of me.

Later that same day, Mr. Noonan provided supporting documents on USC's file-sharing website, OneHub, to help me prepare my appeal. However, I was not permitted to download, share, or print these documents. Then the documents were inexplicably removed from the OneHub website between June 9, 2016 and June 14, 2016. In spite of not having access to the Title IX process documents for five days, I have done my best to timely file this appeal to the Student Behavioral Appeals Panel on June 21, 2016.

I. SUMMARY OF FACTS

JANE DOE and I first became acquainted when we attended the Viterbi Summer Overseas Program in London between our sophomore and junior years at the University of Southern California. While we were in London, our relationship was "flirtatious," but it was not sexual at that point. We would spend time together by taking day trips to parks and museums after class. I did not want to progress our relationship further at this time because I had just recently gotten out of a relationship with another USC student who was in JANE DOE's sorority. I did not want JANE DOE to feel as though she was a rebound.

After we returned to USC in August of 2015, JANE DOE and I started having a romantic relationship. However, I specifically told JANE DOE numerous times in person and via text and Facebook messages that I was not interested in pursuing an exclusive relationship.

My relationship with JANE DOE was unstable and defined primarily by her abrupt and drastic mood changes. She would often engage in dramatic explosions of anger for reasons she claimed were my fault, but stemmed from the fact that she wanted our relationship to be exclusive.

During our relationship, JANE DOE told me she had never had sexual intercourse before. The first time we attempted to have intercourse, even though I was never forceful, JANE DOE complained of pain and we stopped. The same thing happened on a second occasion.

On October 14, 2015, I invited JANE DOE to my room at the Sigma Alpha Mu fraternity house. JANE DOE arrived after midnight. I had consumed approximately three

time to ask. Ms. Means said, "Don't try to game me," and would not answer my questions.

beers during the course of the night, but I recall being conscious and aware of my behavior the entire time I was with JANE'DOE. After my roommate left the room, JANE'DOE and I began cuddling, kissing, and taking off each other's clothes. Because the prior two sexual encounters had been painful for JANE'DOE, I suggested we apply lubricant before attempting intercourse again. JANE'DOE agreed. As confirmed by JANE'DOE, she did not protest and appeared completely fine with everything that was happening up to this point.

When we began having sex, I realized it was still painful for JANE'DOE because she would say, "Ouch," and we would pause for a couple of minutes; however, I was not able to insert my penis into JANE'DOE's vagina. At no point did JANE'DOE tell me to stop, and at no point did I use force or restrain her in any way. From every indication that I had, JANE'DOE and I were simply two people trying something that was new to us as part of our sexual relationship.

I distinctly remember a point during our sexual activity on October 14, 2015 when the intercourse became too painful for JANE'DOE and she pushed herself away and she did say, "Let's stop." At that point, I stopped. At no other point did JANE'DOE give me any indication other than she consented to all aspects of our sexual activity.

After we stopped, we began cuddling and kissing, and became increasingly physical. Again, we attempted unsuccessfully to have intercourse, but again, JANE'DOE indicated she wanted to stop, and I complied.

I fell asleep after our second attempt to have intercourse that night.

The following morning, I woke up and realizing that JANE'DOE was gone. I texted her at 8:01 a.m. to find out why she had left and where she had gone. I noticed that JANE'DOE had left a message on my white board, which stated, "You better have a great apology for this." I did not know what JANE'DOE meant by that. However, since I was accustomed to apologizing to JANE'DOE for things I hadn't done, I texted her,

"I just saw your note. I have no idea what I did, but I'm sorry and I bet you have a good reason to be upset. I know you've had a really hard few weeks, and I feel really bad that I'm contributing to your stress. I really have no idea what I did to upset you, but I know I'm not the best person and I understand if it's not worth it having me in your life right now."

In response, JANE'DOE texted me the following:

"You asked me to come over and cuddle, and I went. It was clear all you wanted was to have sex and you wouldn't stop until you did, which was really uncomfortable for me, and also unwanted. And even though I audibly said things like stop and no, you kept persisting. I had to physically push you off of me multiple times because you wouldn't stop on your own. In addition to being forceful, you also tried to guilt-trip me into feeling bad and having sex. I shouldn't have to give reasons for my decisions. You respect my reasoning, even if you don't agree with it or if it doesn't match yours. And after all this,

07/25/2016

you refused to talk to me. And then you told me to go away, and then I did. It sucks to feel taken advantage of.”

I immediately called JANE DOE to discuss her text. Specifically, I told JANE DOE that I believed our sexual encounter the previous night had been consensual, but I apologized if we had somehow managed to miscommunicate and if I had hurt her physically.

After this encounter, we continued our relationship, including our sexual relationship, and we successfully had intercourse about two weeks later. I was hesitant when we first started being intimate again because I did not want there to be any miscommunication about our actions.

JANE DOE ended our relationship in November of 2015 but reached out to me via Facebook during USC’s Winter Break at the end of December 2015. She sent me a lengthy message explaining that she considered my actions on October 14th “rape”, but not our earlier or later sexual activity. I insisted that I was not a rapist but believed we had miscommunicated with each other on October 14, 2015. JANE DOE informed me that she was considering reporting me for sexual assault, but she was not set on doing so at that time. She also implied she wanted to start dating me again and that she was more ready for the non-exclusive relationship I had wanted.

On January 18, 2016, JANE DOE contacted me via email and again threatened to submit a formal Title IX complaint. Given the serious and potentially devastating nature of JANE DOE’s allegations, I sought legal advice the following day. When April Davis, an independent, licensed investigator retained by my advisor, asked to meet with JANE DOE and obtain her statement, JANE DOE refused. Later that day, JANE DOE sent me a text message stating, “I won’t report anything. Please keep your lawyers out of my life.” PI April Davis made no further effort to speak with JANE DOE.

Then around February 1, 2016, JANE DOE requested my removal from the Sigma Alpha Mu fraternity. She said that if I voluntarily left my fraternity, she would not report that I had sexually assaulted her. I agreed to move out of my fraternity house, and did so on March 1, 2016.

On March 3, 2016, I filed my harassment complaint.

On March 22, 2016 I was notified of the Title IX investigation instigated against me.

II. ISSUES

The personal opinions of Title IX Investigator Patrick Noonan, set forth in his May 20, 2016 narrative Summary Administrative Review, are not supported by reliable evidence that has been disclosed to me. The record that has been disclosed shows that the University’s Title IX personnel simply adopted as true JANE DOE’s allegations and never

07/25/2016

questioned, never doubted, and never confronted her claims, but reject out of hand any denials, statements, and exculpatory or absent evidence contrary to the allegations, a reflection of gender bias.

The University failed to disclose verbatim transcripts or audio recordings of witness interviews, and even failed to provide summaries of at least 11 witness interviews. Further, USC has deprived me of any reasonable opportunity to confront or examine the witnesses adverse to me, either directly or indirectly, a violation of the University's obligation to be fair and equitable.

The University's investigation process is not equitable, reliable, adequate, nor impartial, as required by Title IX. The University deprived me of a fair hearing before a neutral fact-finder, instead requiring me to perform the impossible task to convince the sole, non-neutral "Title IX investigator," who has presumed my guilt from the outset, that I am innocent. The personal opinion of the non-neutral sole investigator that I am responsible for violating campus policy is entirely arbitrary and capricious.

The University impermissibly shifts the burden of proof and places the burden upon me to prove my innocence to a non-neutral investigator, thus removing any requirement that the University prove each element of a violation of its policy and improperly formalizing a presumption of my guilt. This institutionalized gender bias ensures an outcome unfavorable to me and is guaranteed to deprive me of access to educational programs and activities in violation of Title IX.

III. ANALYSIS

A. Procedural Errors Materially Impacted the Fairness of the Investigation.

Students facing suspension or expulsion have interests qualifying for protection of the Due Process Clause, "The Clause requires at least these rudimentary precautions against unfair or mistaken findings of misconduct and arbitrary exclusion from school." *Goss v. Lopez* (1975) 419 U.S. 565, 577. The severity of the deprivation is one of several factors that must be weighed in deciding the exact due process owed the student. *Board of Curators of University of Missouri v. Horowitz* (1978) 435 U.S. 78. In almost every proceeding "where important decisions turn on questions of fact, due process requires an opportunity to confront and cross-examine adverse witnesses." *Goldberg v. Kelly* (1970) 397 U.S. 254, 269. People involved in an administrative proceeding have a right to cross-examine witnesses, this right "is considered as fundamental an element of due process as it is in court trials." *McLeod v. Board of Pension Commissioners* (1970) 14 Cal. App.3d 23, 28. "An improper denial of the right of cross-examination constitutes a denial of due process." *Priestly v. Superior Court* (1958) 50 Cal.2d 812, 822. The right of cross-examination is especially important where findings against a party are based on an adverse witness's testimony. *Manufactured Home Communities, Inc. v. Cnty. of San Luis*

07/25/2016

Obispo (2008) 167 Cal. App. 4th 705, 711-12.

On October 14, 2015, there were no witnesses to the sexual activity in question other than me and JANE DOE. Additionally, there is no physical evidence demonstrating that I committed any sexual misconduct. The only indication that JANE DOE did not provide consent on October 14, 2015 is her own statement that she said “no” multiple times during sexual intercourse and that she sustained bruising due to “aggressive” intercourse, which I have consistently refuted. She also appears to falsely claim that she lost her virginity on October 14, 2015. We had consensual sexual activity again a few weeks later.

All witnesses interviewed in this case were identified by JANE DOE and were and are her fellow sorority sisters and friends. All summarized witness testimony included in the Summary Administrative Review indicating that JANE DOE had been sexually assaulted constitutes double or triple hearsay and stems from comments made by JANE DOE that she had been sexually assaulted, not from any legitimate, reliable evidence of sexual assault.

Despite the fact that USC’s entire case against me rests on what witnesses say, the University withholds the Title IX investigator’s notes and verbatim witness statements, thereby denying me any opportunity to examine, confront, or challenge the witnesses against me in any manner, either directly or indirectly. Mr. Noonan merely summarizes what he considers important when he speaks with witnesses, so there is no way of knowing or considering what the witness actually said. Furthermore, statements given by several witnesses interviewed during the course of Mr. Noonan’s investigation were completely excluded from his Summary Administrative Review. Instead, Mr. Noonan generalized the statements taken during 11 witness interviews in a succinct section labeled “Additional Interviews” as follows⁴:

“In addition to the interviews listed above, the Investigator met with multiple witnesses identified by Complainant who all indicated that they heard Complainant’s version of the incident on October 14, 2015. All witnesses described consistent versions of the encounter, which were given by Complainant between October 2015 and January 2016.”

Summarizing and excluding witness testimony does not comply with a fair and equitable process. The complete absence of fairness and balance in this administrative proceeding constitutes a procedural error that has negatively impacted the outcome of this investigation.

USC also shifts the burden of proof onto me to prove that I secured consent from JANE DOE who in this case filed a complaint claiming that no consent was obtained.

⁴ The Summary Administrative Review contains no summary or notes, much less verbatim statement or audio recordings of interviews conducted by Mr. Noonan with Mr. Tamar Fleshler, Alexandra Habberstad, Samuel Picus, Maya Anderman, Sirine Yared, Julianna Coleman, Austin Roy, Brandon Min, Donielle Bunyard, and Rachel Belzer.

Mr. Noonan believes that statements from 19 of JANE DOE's sorority sisters and friends, who were not present during the sexual encounter and whose statements are based on JANE DOE's statements are important evidence against me. This procedure is flawed and untenable if fairness and balance are to be afforded me. I am being punished for not talking about what happened between JANE DOE and I on October 14, 2015 and afterward to all of my friends and acquaintances and having them repeat what I told them.

Further, USC has placed the entire responsibility for the investigation, prosecution, fact-finding, and adjudication, in the hands of a single individual, – a “Title IX Investigator”, who acts as police, prosecutor, and judge. This dual or triple role of a single person investigating complaints and presenting or prosecuting the case on behalf of the University and also adjudicating responsibility or guilt, creates a potential conflict that can deprive complainants and respondents of an adequate, reliable, and impartial investigation. Such arrangements have been discouraged by the U.S. Department of Education, Office for Civil Rights and the U.S. Department of Justice Civil Rights Division. Colleges and university are to ensure that individuals who play a role in receiving, investigating, and processing student complaints of sex-based harassment do not have any actual or perceived conflicts of interest in the process. (See, University of Montana, DOJ Case No. DJ 169-44-9, OCR Case No. 10126001, May 9, 2013.)

In addition, USC conducts no evidentiary hearing at all, relying instead upon the Title IX investigators to form their own personal opinions without a hearing, based upon their own review of the interviews and evidence that they gathered and summarized as part of their own investigation. Here, Title IX investigator Patrick Noonan investigated the alleged incident of misconduct, formed opinions about facts based on his own investigation, and then formed his opinion as to responsibility or guilt for University policy violations based on his own findings.⁵ In doing so, Mr. Noonan heavily favored JANE DOE's claims and ignored evidence favorable to me.

For instance, Mr. Noonan included in his Summary Administrative Review only 12 of the 17 pages of single-line text messages I submitted as evidence in this case. Further, Mr. Noonan included only 98 of the 252 pages of single-line Facebook messages I submitted as evidence in this case. I submitted this evidence to show Mr. Noonan the nature of my relationship with JANE DOE and to place into context the piecemeal selection of texts she chose to submit as evidence to support her claim. Mr. Noonan's failure to include the full body of evidence in his Summary Administrative Review demonstrates that neither he nor the Student Equity Review Panel examined the full body of evidence prior to making their decision finding me responsible for sexual assault and punishing me with expulsion.

Additionally, Mr. Noonan contacted and interviewed 19 of JANE DOE's sorority sisters and friends to testify on her behalf; yet despite being told in an interview with JANE DOE that my former fraternity roommate had knocked on the door during the alleged

⁵ I asked for his background, training and experience as an investigator and Mr. Noonan would not provide that information.

sexual assault and supposedly saw JANE DOE leaving my room in tears on October 14, 2015 (according to JANE DOE), my roommate was never interviewed. The fact that USC's investigator did not bother to interview the sole potential witness to this incident, and who could corroborate or deny JANE DOE's story, casts doubt on Mr. Noonan's diligence and the reliability and adequacy of his investigation.

Finally, USC submits disciplinary cases to an unidentified "Student Equity Review Panel" to determine sanctions. The members' identities, experience, qualifications, and biases have never been revealed to me, even as I have attempt to appeal the panel's determination. In this case, the panel recommended expulsion with a permanent notation of expulsion to appear on my academic transcript. I requested the names of members of the review panel during a phone conversation with Mr. Noonan and Ms. Means on June 7, 2016 but was told it was "not an appropriate question at this time." When I asked when an appropriate time would be, Ms. Means confusingly replied, "Don't try to game me," and refused to divulge any of the panel members' names. Without knowing who these members are and why they reached their decision to apply the harshest sanctions possible, I cannot fully address their concerns in his appeal.

B. Findings Not Supported by the Evidence.

Under the University's policy, a person accused must overcome the presumption inherent in the charge that the violation has been established. He must come forward with an affirmative verbal response that is credible in an environment in which there are seldom, if any, witnesses to an activity which requires intimate interaction between the parties. Under University policy, the accused student must also demonstrate that his belief that he had gained the Complainant's affirmative consent did not arise from his own intoxication or recklessness. Further, the accused student must prove that he took reasonable steps, in the circumstances known to him at the time, to ascertain the Complainant affirmatively consented.

I admittedly engaged in sexual activity with JANE DOE on October 14, 2016 and after (and before), but I did not violate any campus policy. Indeed, I have consistently maintained that JANE DOE affirmatively consented through her actions and behavior. For instance, JANE DOE voluntarily met me at my fraternity house at midnight on a week night, kissed and cuddled alone with me in my room, and took off her own clothes. When I suggested we use lubricant to minimize the discomfort JANE DOE had experienced during previous attempted sexual activity, JANE DOE agreed. I reasonably understood this as consent to engage in sexual intercourse. Although I had consumed three beers during the course of the night, I was in control of my faculties and was well-aware of the physical need to gain JANE DOE's affirmative consent, as she was a virgin and we had not been able to have intercourse on two prior occasions because I could not penetrate JANE DOE's vagina. Further, I never stated that JANE DOE did not affirmatively consent to have intercourse, despite Mr. Noonan's assertion that I "admitted via Facebook message that

07/25/2016

JANE'DOE did not say 'yes' to having sex..."

In his Summary Administrative Review, Mr. Noonan concluded with his opinion that I was responsible for sexually assaulting JANE'DOE because he "[found] the testimony of the Complainant more credible than the testimony of Respondent." However, he does not explain why JANE'DOE's version of these events is somehow more credible than my statements. Mr. Noonan just decides to believe victim and not challenge or doubt her story.

The witness accounts summarized in the Summary Administrative Review were all provided by JANE'DOE's sorority sisters or other friends, and the statements are all based on a claim told to them by JANE'DOE in order to reinforce her claim that she was sexually assaulted. Essentially, the entire basis for Mr. Noonan's determination that JANE'DOE did not consent to intercourse is based solely on JANE'DOE's own self-serving statements without ever being challenged.

Mr. Noonan also incorrectly characterizes the relationship between JANE'DOE and some of the witnesses. For example, Mr. Noonan asserts that Caroline Vance is or was Joelle Burkhardt's roommate. This is untrue and an example of Mr. Noonan's inability to accurately report undisputed, objective facts.

Mr. Noonan seems to base the veracity of JANE'DOE's statements on the fact that her story has been consistent since the day after the incident on October 15, 2015. However, I have also consistently described the incident as a miscommunication in Facebook messages to JANE'DOE and statements to witnesses Joelle Burkhardt and Seth Schachter. If consistency is the tool Mr. Noonan uses to gauge witness credibility, then my statements should be afforded the same weight as JANE'DOE's.

JANE'DOE's statements aren't even entirely consistent. For instance, according to JANE'DOE, and adopted as fact by Mr. Noonan, Complainant "told Respondent 'No,' ten to fifteen times and tried to push him off." However, in a Facebook message JANE'DOE sent to me on December 29, 2015, she admits that her words and actions could have been misconstrued or overlooked that night:

"If a complete stranger were trying to have sex with me, I would have been screaming at him, but it's so hard to do that with someone I actually like. It was an awkward situation because I wanted to tell you to stop then but I didn't want to get mad at you because I knew you hated it when I told you about any problems that were happening between us. So I used phrases like 'hey can you get off of me please' or 'let's do this another night' and then eventually just started saying 'okay let's stop' repeatedly ... I also understand that in the heat of the moment, it was easy to overlook my resistances."

The possibility that JANE'DOE's claims are based on a miscommunication are further corroborated by statements JANE'DOE's made to John Henry Kurtz on October 15, 2015:

07/25/2016

"I keep thinking this is my fault and I'm the one to blame for it [...] Like if I hadn't have led him on this wouldn't have happened. Or if I had been more firm in saying not [...] But like I wasn't super clear that I was opposed to it. Like we were hooking up and I was fine with that but hen I didn't want to have sex but idk[...] Like I guess I could have spoken up louder."

JANE DOE never stated she did not want to have sex, and her behavior and actions show she was a willingly participating in our activity that night.

JANE DOE also claimed in her original story to her friends that I kicked her out of my room after I sexually assaulted her. However, why would I have to kick her out of my room if I sexually assaulted her? Wouldn't she have wanted to leave immediately at that point? If she wanted to stay in my room and I did kick her out, wouldn't that suggest I didn't assault her? More succinctly, if she had just been raped, she would have taken the first opportunity to leave the room instead of claiming I forced her to leave. She also wouldn't have thought to write me an intimidating message on my whiteboard. In her Evidence Review and Response, JANE DOE changed her statement to reflect that I immediately fell asleep after intercourse: "... I left right after he let go of me and turned to face the wall and fell asleep." This major alteration to JANE DOE's story was never investigated. Instead, Mr. Noonan took her at her word, no matter what she said, even though her description of this occasion is inconsistent both with itself and with the actions of someone who had actually just been forcibly restrained and raped.

Mr. Noonan cites numerous text and Facebook messages between me and JANE DOE between October 2015 and January 2016 to support his opinion. Out of context, Mr. Noonan confuses my profuse apologies to JANE DOE following the incident with confessions. However, it is important to understand that our relationship was rife with quarrels, jealousy, and tension, stemming largely from the fact that JANE DOE wanted to pursue an exclusive relationship, while I did not, which I made clear to her. As evidenced by the following Facebook message I sent to JANE DOE on December 29, 2015, my apologies were not intended as confessions to sexual assault,

"For the record I never forced you to have sex with me. Yes it hurt you but when you told me to stop I did. I'm very very very sorry that us having sex has scarred you, but I draw the line with you equating what happened with us as rape. I admit guilt that I treated you unfairly and that the aftermath of our sexual experience was less than romantic. But at no time did I force you to have sex with me. I will do just about anything I can to make you feel better, but if you are going to be calling me a rapist then you are misrepresenting what emotional relationship we did have."

During our relationship, I often apologized to JANE DOE, even if I didn't believe I'd done anything wrong. I found it was the best way – and sometimes the only way – to diffuse the situation and maintain any semblance of a civil relationship with her.

07/25/2016

Despite my attempts at civility, even after we broke up, JANE DOE continued to voice her opinion that I should somehow suffer because she was unhappy our relationship ended:

“[I]n a twisted way, [I] want to gain happiness from knowing you're not doing okay. And I'm frustrated because you're doing way better than I am when I deserve happiness more than you do.”

Mr. Noonan did not investigate this or any other potential motive JANE DOE had for filing a formal Title IX complaint against me. Again, he accepted her statements as truth instead of performing a thorough investigation and considering my side of the story.

There is no physical evidence in this case that supports the opinion that it is more likely than not that I sexually assaulted JANE DOE. Although JANE DOE claims her genitals and thighs were bruised during “aggressive” intercourse, there is no medical or photographic evidence demonstrating either that JANE DOE sustained injury, or that the injury was caused by me. By her own admission, JANE DOE suffered from depression and often physically harmed herself to combat emotional issues. In a Facebook message she sent to me on January 1, 2016, JANE DOE stated,

“Yeah I usually wake up depressed then get to a really good point later in the day but only after hanging out with people or listening to music or something. And yeah harming myself is helping a lot because it allows me to take control of my emotions. Like if I give myself a bruise, I'm in pain. And that physical pain distracts me from the emotional pain and its empowering because I caused myself that pain and I'm in control of it, unlike the emotional pain that is reliant on someone else.”

Although Mr. Noonan was in possession of this Facebook message clearly indicating JANE DOE's habit of self-inflicting physical injury, he never questioned the existence or source of JANE DOE's alleged bruising. He simply adopted JANE DOE's averments as fact. An investigation that purposely ignores or discounts any contrary evidence is not fair, equitable, or adequate. Further, every story has two sides, and an investigation that presents only the evidence that strengthens one and undercuts the other does not provide a fair balance to weight the preponderance of the evidence.

As an example of further imbalance, Mr. Noonan falsely accuses me of attempting to somehow undermine this investigation by omitting text or Facebook messages from evidence or providing these messages out of order to bolster my case. In fact, this claim amounts to half of his argument and supposedly erodes my credibility. These allegations are off base and unfair, and one of the main pillars of Mr. Noonan's rationale is unquestionably factually inaccurate.

JANE DOE submitted fewer than 65 screen shots of text messages from October 15, 2016, December 29, 2016, and January 1, 2016 to support her claim that I assaulted her.

07/25/2016

Conversely, I submitted 252 pages containing single lines of Facebook messages and 17 pages containing single lines of text messages dating back to July of 2015 to support my position – in total, thousands of lines of conversation reflecting the entire history of my relationship with JANE DOE. I obtained the Facebook messages between me and JANE DOE by using the free Google Chrome app “Facebook Chat Downloader” which is available on the Chrome Web Store. I obtained the text messages between us by using the free Android app “SMS Backup and Restore” which is available on the Google Play Store. I printed this information for Mr. Noonan and submitted the documents as Excel spreadsheets when Mr. Noonan requested digital files. I printed and transmitted these files exactly the way I received them from the mobile applications.

In his Summary Administrative Review, Mr. Noonan falsely implies that I purposely submitted two text messages that were supposedly damning to my argument in a non-sequential order for some nefarious, unstated purpose. I assume the implication is that I attempted to bury these texts so they would not be read. On the contrary, I submitted all of this information for the express purpose that my claim would be diligently investigated and thoroughly reviewed. I cooperated with this investigation, knowing there were texts and Facebook messages Mr. Noonan could and likely would use to paint me in a bad light, but also trusting the integrity of my University to conduct a fair and impartial investigation.

1. No Evidentiary Anomalies.

Regarding the specific text messages Mr. Noonan describes as “Evidentiary Anomalies,” Mr. Noon never asked me to explain how I got the text message files or given the opportunity to show how Facebook Chat Downloader and SMS Backup and Restore produced the records I gave to Mr. Noonan. In my own investigation, I found at least two other text messages that had also been displaced – one that said “Also I took a great candid yesterday” and another that said “You should apply.” Both of these messages had images associated with them, and as such were transmitted as MMS (Multimedia Messaging Service) messages rather than the typical SMS (Short Message Service) text messages. The texts Mr. Noonan pointed out were moved to the bottom of the SMS Backup and Restore file were the two lengthiest texts JANE DOE and I had exchanged. The most likely explanation is that these texts were converted to MMS text messages due to their length, and the SMS Backup & Restore application moved them to the bottom of the file, as it had done with the other MMS text messages.

Mr. Noonan’s willingness to so quickly accuse me of “evidentiary anomalies” shows his bias against me.

If I had not turned over all the messages just as I obtained them, Mr. Noonan would likely claim that I was picking and choosing, which is what Ms. Stutil did. Accusing me of manipulating the evidence for my own benefit without proof is unfair and shows bias, especially when I have provided significant evidence of my innocence.

Even more compelling is the fact that Mr. Noonan’s Summary Administrative

07/25/2016

Review Exhibit B2 appears to include only 12 of the 17 pages of text messages I submitted, and Exhibit C2 only includes 98 of the 252 pages of Facebook messages I submitted to assist Mr. Noonan during his investigation. Basing a decision and enforcing sanctions justified by merely a fraction of the complete log of text and Facebook messages I submitted, while relying on 100 percent of the incomplete text messages [REDACTED] submitted is unjust and an obvious sign of favoritism toward [REDACTED] JANE DOE's claim.

I question the University's authority to punish me with expulsion or any other sanctions when I had every reason to consider [REDACTED] JANE DOE's active participation in our sexual activity was consensual, and when the University has supported its claim entirely on hearsay statements and a subjective, biased, and selective interpretation of the Facebook and text exchanges, witness statements, and physical evidence.

C. New Evidence Has Become Available to Alter the Decision.

On June 7, after I was informed about the outcome of the investigation and my expulsion, I participated in a phone conversation with USC Title IX Investigator Patrick Noonan and USC Title IX Director Gretchen Dahlinger Means to discuss the University's decision and the appeal process. My advisor, Mark Hathaway, and associate Jenna Eyrich, were included on the conference call.

During the call I requested the identity of the panel members who had decided the case and the panel members who would consider my appeal. Ms. Means replied that two members of a five member panel had made the decision against me, but that it was not the appropriate time for me to ask such questions. I then asked when would be the appropriate time and if the information was restricted. Ms. Means replied, "Don't try to game me," and would not answer the questions.

At the conclusion of the call, Mr. Hathaway, Ms. Eyrich and I were waiting for Ms. Means and Mr. Noonan to drop off the call so we could speak further. Ms. Means and Mr. Noonan, however, began speaking to each other, apparently unaware that Ms. Means had not disconnected from the conference call. We heard Ms. Means say almost immediately, "Who do those motherfuckers think they are?" And, "That question is totally inappropriate. Does that college motherfucker know who I am?"

Both Ms. Means and Mr. Noonan referred to me and my advisors as "motherfuckers." Ms. Means also said "Do they think I'm fucking stupid?" Mr. Noonan and Ms. Means then said that the complainant [REDACTED] JANE DOE was such a "catch" because she is "so cute and intelligent. What was she doing with that?" referring to me. Both of them were laughing about me. Ms. Means and Mr. Noonan then apparently noticed that the conference call was still connected and hung up the call.

The conversation between Ms. Means and Mr. Noonan confirms unacceptable gender bias and personal animus against me and favoritism toward [REDACTED] JANE DOE in a process that is to be equitable, fair, and impartial.

These extremely derogatory statements should constitute new evidence of bias

07/25/2016

toward me. This evidence became available after the decision, and I was not aware of it, nor could I have reasonably obtained evidence of this bias at the time of the original review.

D. Sanction Imposed Is Grossly Disproportionate to the Violation Found and Not Supported by the Findings.

The Student Equity Review Panel has determine adequate sanctions for the offense of sexual assault is expulsion. Unarguably, sanctions for such an offense, if proven based on credible evidence beyond a reasonable doubt, would be appropriate. But the low standard of proof ("the greater probability of truth") coupled with the lack of factual evidence in this case are disproportionate to the absolute havoc an expulsion and permanent mark of expulsion on my transcript will undoubtedly wreak on my life for years to come. I stand to lose my position as a student at the University I worked hard my entire life to attend, my reputation, and likely my ability to transfer to another University or graduate school, and potentially my ability to ever have a promising career. Please do not take my future away from me for a misconduct violation I did not commit.

IV.
CONCLUSION

For the foregoing reasons, the Title IX Appeals Advisor should reject the opinion of the sole Title IX investigator and dismiss the matter outright in my favor.

Dated: June 21, 2016

Respectfully submitted,

JOHN DOE

07/25/2016

07/25/2016

Exhibit 13

07/25/2016



June 21, 2016

Mark Hathaway
888 West Sixth Street, Fourth Floor
Los Angeles, Ca 90017
Facsimile: (213) 624-1942

Via Facsimile and email

Dear Mr. Hathaway,

I am in receipt of your letter dated June 14, 2016 to Dr. Ainsley Carry alleging gender bias against your client. Although you otherwise misquote me, I do acknowledge my intemperate use of profanity, and for that I apologize.

These comments, however, were not made to you or your client, but in what I believed to be a private space. The conversation between my investigator and I lasted several minutes, and took place after the conclusion of our conference call. You acknowledged that our call had ended, and I believed I had disconnected the line. At no time while listening to my private conversation did you announce your appearance, indicate that you could hear me, or disconnect the call. Instead, you intentionally and silently continued to listen. This type of eavesdropping is unethical, unprofessional, and potentially criminal under California Penal Code section 632.

Further, these private statements were not based on gender bias, but were made in deep frustration over your treatment of my staff, our process, and our investigation. Nonetheless, USC's Office of the General Counsel will be referring your complaint for review by an impartial investigator.

Your behavior throughout the course of the investigation was disruptive and of significant concern. You have served in an advisory position before, are familiar with our advisor policy, and acknowledged the parameters of your role by signing our disclosure form at the beginning of the investigation. Nonetheless, at the evidence review meeting and in front of your client, you made several denigrating comments about the investigation, disparaged another USC Title IX investigator, and accused the investigator in this case of trying to call your client a liar when he simply asked your client to explain various statements.

Of most concern in this case, especially given your stated concern for the integrity of USC's Title IX process, was your submission of evidence that was materially altered to delete key admissions from your client, and your representation that this altered material was a complete copy of the text messages exchanged between the parties, when in fact it was not.

07/25/2016



USC University of
Southern California

OFFICE OF EQUITY AND DIVERSITY
Title IX

It was with this background that I made private statements to my investigator after our recent conference call reflecting an understandable frustration with your misconduct.

Sincerely,

Gretchen Dahlinger Means J.D.
Executive Director, Office of Equity and Diversity
Title IX Coordinator

cc: Dr. Ainsley Carry
Carol Mauch Amir

07/25/2016

07/25/2016

Exhibit 14

07/25/2016

MARK J. WERKSMAN
ALAN J. JACKSON
MARK M. HATHAWAY*
KELLY C. QUINN**
JOSHUA E. RITTER
INBAL D. ZEEVI
MARK W. ALLEN
ELIZABETH S. LITTLE
JENNA E. EYRICH

WERKSMAN JACKSON
HATHAWAY & QUINN LLP
888 WEST SIXTH STREET
FOURTH FLOOR
LOS ANGELES, CALIFORNIA 90017
TELEPHONE (213) 688-0460
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www.WERKSMANJACKSON.COM

*ADMITTED IN CALIFORNIA, NEW YORK, AND
WASHINGTON, D.C.

*CERTIFIED SPECIALIST – TAXATION LAW
THE STATE BAR OF CALIFORNIA
BOARD OF LEGAL SPECIALIZATION

**CERTIFIED SPECIALIST – APPELLATE LAW
THE STATE BAR OF CALIFORNIA
BOARD OF LEGAL SPECIALIZATION

June 30, 2016

VIA FACSIMILE TO (213) 740-5090 AND EMAIL TO dahlinge@usc.edu

Gretchen Dahlinger Means, Esq.
Executive Director, Office of Equity and Diversity
Title IX Coordinator
University of Southern California
3720 S. Flower Street, 2nd Floor
Los Angeles, CA 90089-0704

Ms. Means,

I finally have an opportunity to reply to your June 21st letter of apology directed to me. Any apology should be directed to the student, Mr. **JOHN DOE** who has to rely on USC Title IX personnel to be fair and impartial throughout this process. I know Mr. **JOHN DOE** would appreciate hearing directly from you and Mr. Noonan, as he is the person injured by your remarks.

To be blunt, your letter to me is less of an apology and more of an accusation and attempt at self-justification. Since the matter of your conduct, and that of Mr. Noonan's conduct, is under investigation by USC's Office of General Counsel, several points in your letter should be addressed.

First, the mention of "potentially criminal" and Penal Code § 632 in writing by a former deputy district attorney appears to be nothing but a thinly veiled threat to present criminal or disciplinary charges, which is itself a violation of Rule 5-100 of the California Rules of Professional Conduct.

Second, my conduct throughout the course of this investigation, and other investigations at USC, has fully comported with my responsibilities as an advisor and attorney. Giving advice to the student is part of my responsibilities under USC policy and Title IX. At no time during either meeting with Mr. Patrick Noonan and Mr. **JOHN DOE** did Mr. Noonan state that I was disruptive or ask me not to speak. When Mr. Noonan told me that I was not permitted to take any notes of any kind, I complied with his instructions.

07/25/2016

June 30, 2016

Page 2

Third, the ease at which you repeat the false accusation that "evidence [] was materially altered to delete key admissions from your client" is indicative of incompetence and lack of objectivity in the investigation process. JOHN DOE submitted the AT&T messages as printouts and digitally as Excel files in the format that the AT&T messages were extracted from his AT&T Samsung Galaxy phone. Rather than ask JOHN DOE Title IX investigator Patrick Noonan immediately jumped to the wrong conclusion, as you have, that the texts were intentionally misplaced or changed by the student.

Describing the process is somewhat technical, but in summary JOHN DOE downloaded text and Facebook messages he exchanged with JANE DOE using the free Android app "SMS Backup & Restore," which is available on the Google Play Store and the Google Chrome app, "Facebook Chat Downloader," which is available on the Chrome Web Store. According to AT&T's website, text messages longer than 160 characters are broken up into separate text messages, with an 800 character limit on the size of any set of text segments. Text messages that exceed 800 characters are converted from the SMS (Short Message Service) format to an MMS (Multimedia Messaging Service) format. The text messages referenced by Mr. Noonan, without checking with JOHN DOE exceed 800 characters and were converted into the MMS format. All MMS text messages exchanged between JANE DOE and JOHN DOE appear in the same section of the Excel file in column BY between rows 1002 and 1039. This production process can be easily verified and duplicated by any objective investigator.

Nothing in your apology letter justifies the reprehensible and derogatory remarks you and Mr. Noonan directed at the student. I request that you take immediate action to correct the false accusation concerning the production of the text messages.

Sincerely yours,



MARK M. HATHAWAY

cc: Dr. Ainsley Carry (via E-Mail uscprovost@usc.edu and via fax to (213) 740-7606)
Vice Provost for Student Affairs

Carol Mauch Amir, Esq. (via facsimile to (213) 740-3249)
General Counsel and Secretary, University of Southern California

07/25/2016

**WERKSMAN JACKSON
HATHAWAY & QUINN**

888 West Sixth Street, Fourth Floor

los angeles, california 90017

telephone (213) 688-0460

facsimile (213) 624-1942

FROM Mark M. Hathaway,

Fax Cover

To: Ainsley Carry

Fax: (213) 740-7606

Company: University of Southern California **Voice #:** (213) 740-2101

From: Mark M. Hathaway

Pages: 3, incl cover

Date: 6/30/2016 8:43:51 PM

Subject: Correspondence re Gender Bias

Notes:

This facsimile transmission message contains information that (a) is or may be LEGALLY PRIVILEGED, CONFIDENTIAL, PROPRIETARY IN NATURE, OR OTHERWISE PROTECTED BY LAW FROM DISCLOSURE, and (b) is intended only for the use of the Addressee(s) named herein. If you are not the intended recipient, an addressee, or the person responsible for delivering this to an addressee, you are hereby notified that reading, using, copying, or distributing any part of this message is strictly prohibited. If you have received this electronic mail message in error, please contact us immediately and take the steps necessary to delete the message completely from your computer system. Thank you.

Circular 230 Disclosure: To assure compliance with Treasury Department rules governing tax practice, we hereby inform you that any advice contained herein (including in any attachment) (1) was not written or intended to be used, and cannot be used, by you or any taxpayer for the purpose of avoiding any penalties that may be imposed on you or any taxpayer and (2) may not be used or referred to by you or any other person in connection with promoting, marketing or recommending to another person any transaction or matter addressed herein.

6/30/2016

**WERKSMAN JACKSON
HATHAWAY & QUINN**

888 West Sixth Street, Fourth Floor

los angeles, california 90017

telephone (213) 688-0460

facsimile (213) 624-1942

FROM Mark M. Hathaway,

Fax Cover

To: Carol Mauch Amir

Fax: (213) 740-3249

Company: University of Southern California **Voice #:** (213) 740-7922

From: Mark M. Hathaway

Pages: 3, incl cover

Date: 6/30/2016 8:45:01 PM

Subject: Correspondence re Gender Bias

Notes:

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07/25/2016

**WERKSMAN JACKSON
HATHAWAY & QUINN**

888 West Sixth Street, Fourth Floor

los angeles, california 90017

telephone (213) 688-0460

facsimile (213) 624-1942

FROM Mark M. Hathaway,

Fax Cover

To: Gretchen Dahlinger Means

Fax: (213) 740-5090

Company: University of Southern California **Voice #:** (213) 7405086

From: Mark M. Hathaway

Pages: 3, incl cover

Date: 6/30/2016 8:40:31 PM

Subject: Correspondence re Gender Bias

Notes:

This facsimile transmission message contains information that (a) is or may be LEGALLY PRIVILEGED, CONFIDENTIAL, PROPRIETARY IN NATURE, OR OTHERWISE PROTECTED BY LAW FROM DISCLOSURE, and (b) is intended only for the use of the Addressee(s) named herein. If you are not the intended recipient, an addressee, or the person responsible for delivering this to an addressee, you are hereby notified that reading, using, copying, or distributing any part of this message is strictly prohibited. If you have received this electronic mail message in error, please contact us immediately and take the steps necessary to delete the message completely from your computer system. Thank you.

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6/25/2016

TRANSMISSION VERIFICATION REPORT

TIME : 06/30/2016 08:53PM
NAME : Werksman Jackson
FAX : 2136241942
SER.# : U64069D6H301222

DATE, TIME
FAX NO./NAME
DURATION
PAGE(S)
RESULT
MODE

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97407606
00:02:10
03
OK
FINE PC-FAX
ECM

06/30/2016 20:48

213-624-1942

Mark Hathaway

Page 1/3

**WERKSMAN JACKSON
HATHAWAY & QUINN**

888 West Sixth Street, Fourth Floor
los angeles, california 90017
telephone (213) 688-0460
facsimile (213) 624-1942

FROM Mark M. Hathaway,

Fax Cover

To: Ainsley Carry

Fax: (213) 740-7606

Company: University of Southern California Voice #: (213) 740-2101

From: Mark M. Hathaway

Pages: 3, incl cover

Date: 6/30/2016 8:43:51 PM

Subject: Correspondence re Gender Bias

Notes:

07/25/2016

TRANSMISSION VERIFICATION REPORT

TIME : 06/30/2016 08:49PM
NAME : Werksman Jackson
FAX : 2136241942
SER.# : U64069D6H301222

DATE, TIME
FAX NO./NAME
DURATION
PAGE(S)
RESULT
MODE

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97403249
00:02:07
03
OK
FINE PC-FAX
ECM

06/30/2016 20:47

213-624-1942

Mark Hathaway

Page 1/3

**WERKSMAN JACKSON
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07/25/2016

TRANSMISSION VERIFICATION REPORT

TIME : 06/30/2016 08:45PM
NAME : Werksman Jackson
FAX : 2136241942
SER. # : U64069D6H301222

DATE, TIME	06/30 08:43PM
FAX NO./NAME	97405090
DURATION	00:02:02
PAGE(S)	03
RESULT	OK
MODE	FINE PC-FAX

06/30/2016 20:43

213-624-1942

Mark Hathaway

Page 1/3

**WERKSMAN JACKSON
HATHAWAY & QUINN**

888 West Sixth Street, Fourth Floor

los angeles, california 90017

telephone (213) 688-0460

facsimile (213) 624-1942

FROM Mark M. Hathaway,

Fax Cover

To: Gretchen Dahlinger Means **Fax:** (213) 740-5090

Company: University of Southern California **Voice #:** (213) 7405086

From: Mark M. Hathaway **Pages:** 3, incl cover

Date: 6/30/2016 8:40:31 PM

Subject: Correspondence re Gender Bias

Notes:

07/25/2016

07/25/2016

Exhibit 15

07/25/2016

JOHN DOE

July 8, 2016

Roopali Malhotra
Title IX Appeals Advisor
University of Southern California
Student Union Building 201
Los Angeles, CA 90089-4891
titleixappeals@usc.edu

RE: SUPPLEMENTAL
JOHN DOE – Case #201502017

The attached exhibits/correspondence are submitted in support of my appeal, specifically section C regarding new evidence.

C. New Evidence Has Become Available to Alter the Decision.

Exhibit 2, Correspondence from my advisor Mark Hathaway to Dr. Ainsley Carry dated June 14, 2016 regarding derogatory statements made by Title IX Coordinator Gretchen Dahlinger Means and Title IX Investigator Patrick Noonan.

Exhibit 3, Confirming letter from Dr. Ainsley Carry dated June 17, 2016.

Exhibit 4, Letter of Title IX Coordinator Gretchen Means, June 21, 2016.

Exhibit 5, Letter of advisor Mark Hathaway to Title IX Coordinator Gretchen Dahlinger Means dated June 30, 2016.

07/25/2016

07/25/2016

Exhibit 16

07/25/2016

USC Student Affairs

MEMORANDUM

To: Ainsley Carry, Vice President for Student Affairs

From: Roopali Malhotra, Senior Advisor to the Vice President for Student Affairs

Date: July 18, 2016

Subject: Student Behavior Appeal Panel Recommendation, Title IX Case 201502017

Authority

The University of Southern California (USC) is primarily an academic community. As such, the university seeks to maintain an optimal learning environment. To achieve this objective, the university exercises certain disciplinary and discretionary powers. It protects its educational environment by establishing and maintaining standards of conduct for its students as individuals and as groups. These standards reflect the very nature of an academic community and the need to preserve an effective educational environment.¹

USC jurisdiction and discipline extends to the whole university community, including conduct which adversely affects the university community and/or the pursuit of its objectives, including student-to-student sexual misconduct.²

Procedural History

The original complaint alleged that Respondent violated the USC Student Conduct Code when he engaged in sex with the Complainant, without her consent, on October 14, 2015.

An investigation was conducted by a Title IX Investigator, who reports to USC's Title IX Coordinator. The investigation included interviews with both parties and eighteen witnesses, as well as evidence in the form of text message screenshots, Facebook messages, and emails.

The Investigator's initial intake interviews with the Complainant, for a complaint of sexual assault, took place on January 28, and March 3, 2016. The Respondent filed his own complaint of harassment, threats, and stalking, with the Office of Equity & Diversity on March

¹ SCampus Section 10.10.I.

² SCampus Section 10.10.II.D.



3, 2016.

The Investigator conducted an initial intake interview with the Respondent on April 7, 2016. The Investigator concluded the case on May 20, 2016.

The Student Equity Review Panel met on June 3, 2016 to review the Investigator's findings of fact; the Panel concluded that the Respondent was responsible for violating Section 11.53 C of the USC Student Conduct Code³, and recommended a sanction of expulsion. Notice of the Panel's recommendation was provided to both parties on June 7, 2016.

Respondent submitted his appeal on June 21, 2016, and Complainant submitted her response to the appeal on June 27, 2016. The Student Behavior Appeal Panel met on July 8, 2016 to review the appeal file.

Summary of the Events

Below are the events as shown by a preponderance of the evidence.

Complainant and Respondent had known one another for approximately four months prior to the incident. They had past romantic encounters, though they had not had sexual intercourse.

Respondent texted Complainant on October 14, 2015, 11:52 p.m., inviting her to sleep over. Complainant agreed, and arrived at his residence at approximately 12:10 a.m. While in his bed in his bedroom, Respondent and Complainant engaged in consensual kissing and touching. Respondent then engaged in sex with Complainant, without her consent.

Complainant left Respondent's residence shortly afterwards, leaving a note on his bedroom door demanding he apologize for his conduct. The Complainant and Respondent began communicating at approximately 8:00 a.m. on October 15, 2015, to discuss the conduct.

Additional findings will be discussed below as relevant.

Issues Raised on Appeal

Respondent raised four grounds on appeal, which are discussed below:

1. Procedural errors had a material impact on the fairness of the investigation.
 - a. The Respondent claimed that the University's process failed to adhere to due process requirements as the process did not allow for cross-examination of witnesses, or an evidentiary hearing.

³ SCampus Section 11.53 C. Engaging in any actual or attempted non-consensual physical sexual act including, but not limited to, vaginal, oral or anal penetration using a body part of object.

The Appeal Panel does not agree. Due Process requires notice and an opportunity for a hearing appropriate to the nature of the case; significantly, the process need not be the same as a court's.⁴ A formal hearing with the opportunity to cross examine witnesses is not required.⁵ Rather, the contours of due process are flexible and must be tailored to each specific situation.⁶ A decision to suspend a student from an academic institution requires, at the very least, an explanation of the evidence against the student and an opportunity to present his side of the story.⁷ USC followed its written procedures here, and these procedures comport with due process. Respondent was interviewed twice and permitted to provide his version of the events, along with evidence and witnesses.

Furthermore, USC's process follows the instructions from the Office of Civil Rights, the office authorized by the Department of Education to provide clarification and guidance regarding Title IX matters. The OCR's instruction is that the grievance/adjudication procedure: (A) Explain the grievance/adjudication process, (B) outline the rights and roles of both parties in the process, (C) Explain the possible results of the process, (D) Outline how the parties will be informed of the results, and (E) Describe the appeals procedure, if appeals are permitted.⁸ USC's process fully meets those requirements.

- b. The Respondent claimed that the University withheld the Title IX Investigator's notes and witness statement from the Respondent.

The Appeal Panel does not agree. SCampus grants the Respondent the right to inspect documents and/or relevant information gathered as part of the investigation.⁹ The case file shows that the Respondent and his advisor met with the Title IX Investigator on May 10, 2016, and both were permitted to review and comment on each piece of evidence in the case file, including the investigator's notes from each of the witness interviews.

- c. The Respondent claimed that the University erred in shifting the burden of proof onto him to prove that he secured consent.

The Appeal Panel does not agree. The University's Student Code of Conduct explicitly requires students engaging in sexual activity to obtain affirmative consent.¹⁰ The Respondent's own text messages to the Complainant indicate he

⁴ *Goss v. Lopez*, 419 U.S. 505, 577 (1975).

⁵ *Board of Curators of University of Missouri v. Horowitz*, 435 U.S. 78, 89 (1978).

⁶ *Id.* at 85-86.

⁷ *Goss*, *supra*, at 581.

⁸ Checklist for Campus Sexual Misconduct Policies, available at <https://www.notalone.gov/assets/checklist-for-campus-sexual-misconduct-policies.pdf>

⁹ SCampus Section E.12.II.

¹⁰ SCampus Section E.5.IV.d.

did not abide by the rules set forth in the Code of Conduct in that he did not obtain ongoing, affirmative agreement from the Complainant to engage in sexual activity on the night of October 14, 2015.

- d. The Respondent claimed that the University's process creates a conflict of interest as a single individual is responsible for the investigation, prosecution, fact-finding, and adjudication in the hands of a single individual.

The Appeal Panel does not agree. The University's Title IX procedure requires the Title IX Investigator to conduct an investigation and make findings of fact; a separate Student Equity Review Panel makes a finding of violation and recommends a sanction; a separate Appeal Panel reviews the case in the event of an appeal; and the Vice President for Student Affairs conducts a final review and makes a final determination. This process provides the administrators and faculty involved, who are familiar with university practice, the opportunity to review and disagree with the findings and/or recommended sanctions.

- e. The Respondent claimed that specific evidence was excluded from review, specifically, 154 pages of a transcript of his Facebook conversations with Complainant, as well as an interview with his roommate.

The Appeal Panel does not agree. SCampus grants the Investigator the authority to determine which evidence is relevant in making the findings of fact.¹¹ Here, the Investigator included 98 pages of the Respondent's submitted 252 pages of the transcript of Facebook conversations between him and the Complainant; the remainder was not included as it was not relevant to the case.

Additionally, according to the case file, the Respondent's roommate was not interviewed during the investigation process given his status at the University. Respondent was informed of this fact during his May 10, 2016 meeting with the Investigator.

- f. The Respondent claimed that the University denied him access to the identities, experience, qualifications, and biases of the members of the Student Equity Review Panel.

The Appeal Panel does not agree. In making this claim, the Respondent implies that the University's rules grant him a right to this information. While SCampus provides a procedure for Title IX adjudication, as well as a list of rights with respect to each party¹², SCampus does not require the university to provide either party with access to the "identities, experience, qualifications, and biases" of the members of the Student Equity Review Panel.

¹¹ SCampus Section E.8.I.m.

¹² SCampus Part E, generally, and Section E.12.II for a list of rights.

2. New evidence has become available which is sufficient to alter the decision and which the appellant was not aware of or which could not have been reasonably obtained at the time of the original review.

Respondent claimed that the University's Title IX Coordinator and Investigator made remarks during a personal conversation (and unbeknownst to the Title IX Coordinator and Investigator, overheard by Respondent and his attorney), which demonstrate gender bias, personal animus against the Respondent, and favoritism toward the Complainant.

The Appeal Panel does not agree. This does not constitute new evidence regarding whether or not the alleged misconduct occurred. Furthermore, even assuming the Respondent's recitation of the comments he overheard is correct, those comments are not sufficient to reverse the findings of fact made by the Investigator or the conclusions made by the Student Equity Review Panel.

3. The findings are not supported by the evidence in light of the whole record.

Respondent claimed that the Investigator: did not provide a basis for his determination that the Complainant was the more credible party; inappropriately concluded that the Respondent was not a credible party; and did not properly weigh the evidence provided by the Respondent.

The Appeal Panel agrees that the Investigator concluded in the Summary Administrative Review that the Respondent deliberately manipulated evidence, without first asking the Respondent to clarify why the evidence was submitted in the order in which it was. The explanation provided by the Respondent in his appeal could have been provided in response to an inquiry by the Investigator.

Despite this, however, the Appeal Panel believes the Investigator otherwise clearly articulated the issue of credibility in the Summary Administrative Review, and appropriately arrived at findings of fact using a preponderance of the evidence standard. That the Respondent disagrees with the weight given to all of the evidence in arriving at the findings of fact, is not a sufficient ground for reversing the findings.

4. The sanction imposed is grossly disproportionate to the violation found.

The Appeal Panel does not agree. SCampus grants the university discretion in determining appropriate sanctions, and clearly provides examples of such sanctions.¹³ The sanctions recommended by the Student Equity Review Panel are within the parameters of SCampus, and the Appeal Panel believes the sanctions are appropriate for Respondent's violation of the Student Conduct Code.

Conclusion

¹³ SCampus Section E.8.VI.

The Student Behavior Appeal Panel concludes that the Respondent did not provide sufficient grounds for reversal, and as such, the sanction of expulsion recommended by the Student Equity Review Panel should be upheld.

07/25/2016

07/25/2016

Exhibit 17

07/25/2016



July 19, 2016

JOHN DOE
JOHN.DOE@usc.edu

Dear JOHN DOE,

This letter is your written notification of the decision resulting from the Respondent's appeal of the Title IX Investigator's decision in Case 201502017.

I have reviewed the Summary Administrative Review for this case, the appeal, the response to the appeal, and the recommendation of the Student Behavior Appeals Panel. I accept the decisions of the Title IX Investigator and the Student Behavior Appeals Panel that the Respondent is responsible for violating Section 11.53 C of the USC Student Conduct Code for the events that occurred on October 14, 2015.

I also approve the sanction of expulsion recommended by the Title IX Investigator and the Student Behavior Appeals Panel. This sanction is effective June 7, 2016.

This decision is final and binding on all parties involved, and there is no further avenue of appeal.

Sincerely,

Ainsley Carry
Vice President for Student Affairs

Encl.: Student Behavior Appeals Panel Recommendation

C: Gretchen Dahlinger Means, Title IX Coordinator

07/25/2016

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): MARK M. HATHAWAY, SBN 151332 JENNA E. EYRICH, SBN 303560 WERKSMAN JACKSON HATHAWAY & QUINN LLP 888 WEST SIXTH STREET, FOURTH FLOOR LOS ANGELES, CA 90017 TELEPHONE NO.: (213) 688-0460 FAX NO.: (213) 624-1942 ATTORNEY FOR (Name): JOHN DOE		FOR COURT USE ONLY FILED Superior Court of California County of Los Angeles JUL 25 2016 Sherri R. Carter, Executive Officer/Clerk By <u>Cristina Grijalva</u> Deputy Cristina Grijalva	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES STREET ADDRESS: 111 NORTH HILL STREET MAILING ADDRESS: 111 NORTH HILL STREET CITY AND ZIP CODE: LOS ANGELES 90012 BRANCH NAME: CENTRAL DISTRICT		CASE NUMBER: BS 163736 JUDGE: DEPT:	
CASE NAME: DOE v. CARRY, ET AL.			
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)		Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	

Items 1-6 below must be completed (see instructions on page 2).

1. Check **one** box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input checked="" type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. ☐ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☐ punitive
4. Number of causes of action (specify): WRIT OF ADMINISTRATIVE MANDATE
5. This case ☐ is ☒ is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date:

MARK M. HATHAWAY, SBN 151332

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

CM-010

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (*not medical or legal*)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award (*not unpaid taxes*)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint Case (*non-tort/non-complex*)
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief from Late Claim
Other Civil Petition

SHORT TITLE: DOE v. CARRY, ET AL.

CASE NUMBER **BS 163736**

**CIVIL CASE COVER SHEET ADDENDUM AND
STATEMENT OF LOCATION
(CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)**

This form is required pursuant to Local Rule 2.0 in all new civil case filings in the Los Angeles Superior Court.

Item I. Check the types of hearing and fill in the estimated length of hearing expected for this case:

JURY TRIAL? ☐ YES CLASS ACTION? ☐ YES LIMITED CASE? ☐ YES TIME ESTIMATED FOR TRIAL _____ HOURS/ 1 DAYS

Item II. Indicate the correct district and courthouse location (4 steps – If you checked “Limited Case”, skip to Item III, Pg. 4):

Step 1: After first completing the Civil Case Cover Sheet form, find the main Civil Case Cover Sheet heading for your case in the left margin below, and, to the right in Column **A**, the Civil Case Cover Sheet case type you selected.

Step 2: Check one Superior Court type of action in Column **B** below which best describes the nature of this case.

Step 3: In Column **C**, circle the reason for the court location choice that applies to the type of action you have checked. For any exception to the court location, see Local Rule 2.0.

Applicable Reasons for Choosing Courthouse Location (see Column C below)

- | | |
|--|--|
| 1. Class actions must be filed in the Stanley Mosk Courthouse, central district. | 6. Location of property or permanently garaged vehicle. |
| 2. May be filed in central (other county, or no bodily injury/property damage). | 7. Location where petitioner resides. |
| 3. Location where cause of action arose. | 8. Location wherein defendant/respondent functions wholly. |
| 4. Location where bodily injury, death or damage occurred. | 9. Location where one or more of the parties reside. |
| 5. Location where performance required or defendant resides. | 10. Location of Labor Commissioner Office |

Step 4: Fill in the information requested on page 4 in Item III; complete Item IV. Sign the declaration.

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Auto Tort	Auto (22)	<input type="checkbox"/> A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1., 2., 4.
	Uninsured Motorist (46)	<input type="checkbox"/> A7110 Personal Injury/Property Damage/Wrongful Death – Uninsured Motorist	1., 2., 4.
Other Personal Injury/ Property Damage/ Wrongful Death Tort	Asbestos (04)	<input type="checkbox"/> A6070 Asbestos Property Damage <input type="checkbox"/> A7221 Asbestos - Personal Injury/Wrongful Death	2. 2.
	Product Liability (24)	<input type="checkbox"/> A7260 Product Liability (not asbestos or toxic/environmental)	1., 2., 3., 4., 8.
	Medical Malpractice (45)	<input type="checkbox"/> A7210 Medical Malpractice - Physicians & Surgeons <input type="checkbox"/> A7240 Other Professional Health Care Malpractice	1., 4. 1., 4.
	Other Personal Injury Property Damage Wrongful Death (23)	<input type="checkbox"/> A7250 Premises Liability (e.g., slip and fall)	1., 4.
		<input type="checkbox"/> A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.)	1., 4.
<input type="checkbox"/> A7270 Intentional Infliction of Emotional Distress		1., 3.	
<input type="checkbox"/> A7220 Other Personal Injury/Property Damage/Wrongful Death		1., 4.	

SHORT TITLE: DOE v. CARRY, ET AL.

CASE NUMBER

Non-Personal Injury/ Property
Damage/ Wrongful Death Tort

A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Business Tort (07)	<input type="checkbox"/> A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1., 3.
Civil Rights (08)	<input type="checkbox"/> A6005 Civil Rights/Discrimination	1., 2., 3.
Defamation (13)	<input type="checkbox"/> A6010 Defamation (slander/libel)	1., 2., 3.
Fraud (16)	<input type="checkbox"/> A6013 Fraud (no contract)	1., 2., 3.
Professional Negligence (25)	<input type="checkbox"/> A6017 Legal Malpractice <input type="checkbox"/> A6050 Other Professional Malpractice (not medical or legal)	1., 2., 3. 1., 2., 3.
Other (35)	<input type="checkbox"/> A6025 Other Non-Personal Injury/Property Damage tort	2., 3.
Wrongful Termination (36)	<input type="checkbox"/> A6037 Wrongful Termination	1., 2., 3.
Other Employment (15)	<input type="checkbox"/> A6024 Other Employment Complaint Case <input type="checkbox"/> A6109 Labor Commissioner Appeals	1., 2., 3. 10.
Breach of Contract/ Warranty (06) (not insurance)	<input type="checkbox"/> A6004 Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction) <input type="checkbox"/> A6008 Contract/Warranty Breach -Seller Plaintiff (no fraud/negligence) <input type="checkbox"/> A6019 Negligent Breach of Contract/Warranty (no fraud) <input type="checkbox"/> A6028 Other Breach of Contract/Warranty (not fraud or negligence)	2., 5. 2., 5. 1., 2., 5. 1., 2., 5.
Collections (09)	<input type="checkbox"/> A6002 Collections Case-Seller Plaintiff <input type="checkbox"/> A6012 Other Promissory Note/Collections Case	2., 5., 6. 2., 5.
Insurance Coverage (18)	<input type="checkbox"/> A6015 Insurance Coverage (not complex)	1., 2., 5., 8.
Other Contract (37)	<input type="checkbox"/> A6009 Contractual Fraud <input type="checkbox"/> A6031 Tortious Interference <input type="checkbox"/> A6027 Other Contract Dispute(not breach/insurance/fraud/negligence)	1., 2., 3., 5. 1., 2., 3., 5. 1., 2., 3., 8.
Eminent Domain/Inverse Condemnation (14)	<input type="checkbox"/> A7300 Eminent Domain/Condemnation Number of parcels _____	2.
Wrongful Eviction (33)	<input type="checkbox"/> A6023 Wrongful Eviction Case	2., 6.
Other Real Property (26)	<input type="checkbox"/> A6018 Mortgage Foreclosure <input type="checkbox"/> A6032 Quiet Title <input type="checkbox"/> A6060 Other Real Property (not eminent domain, landlord/tenant, foreclosure)	2., 6. 2., 6. 2., 6.
Unlawful Detainer-Commercial (31)	<input type="checkbox"/> A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction)	2., 6.
Unlawful Detainer-Residential (32)	<input type="checkbox"/> A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction)	2., 6.
Unlawful Detainer- Post-Foreclosure (34)	<input type="checkbox"/> A6020F Unlawful Detainer-Post-Foreclosure	2., 6.
Unlawful Detainer-Drugs (38)	<input type="checkbox"/> A6022 Unlawful Detainer-Drugs	2., 6.

SHORT TITLE: DOE v. CARRY, ET AL.

CASE NUMBER

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Judicial Review	Asset Forfeiture (05)	<input type="checkbox"/> A6108 Asset Forfeiture Case	2., 6.
	Petition re Arbitration (11)	<input type="checkbox"/> A6115 Petition to Compel/Confirm/Vacate Arbitration	2., 5.
	Writ of Mandate (02)	<input checked="" type="checkbox"/> A6151 Writ - Administrative Mandamus <input type="checkbox"/> A6152 Writ - Mandamus on Limited Court Case Matter <input type="checkbox"/> A6153 Writ - Other Limited Court Case Review	2., 8. 2. 2.
	Other Judicial Review (39)	<input type="checkbox"/> A6150 Other Writ /Judicial Review	2., 8.
Provisionally Complex Litigation	Antitrust/Trade Regulation (03)	<input type="checkbox"/> A6003 Antitrust/Trade Regulation	1., 2., 8.
	Construction Defect (10)	<input type="checkbox"/> A6007 Construction Defect	1., 2., 3.
	Claims Involving Mass Tort (40)	<input type="checkbox"/> A6006 Claims Involving Mass Tort	1., 2., 8.
	Securities Litigation (28)	<input type="checkbox"/> A6035 Securities Litigation Case	1., 2., 8.
	Toxic Tort Environmental (30)	<input type="checkbox"/> A6036 Toxic Tort/Environmental	1., 2., 3., 8.
	Insurance Coverage Claims from Complex Case (41)	<input type="checkbox"/> A6014 Insurance Coverage/Subrogation (complex case only)	1., 2., 5., 8.
Enforcement of Judgment	Enforcement of Judgment (20)	<input type="checkbox"/> A6141 Sister State Judgment <input type="checkbox"/> A6160 Abstract of Judgment <input type="checkbox"/> A6107 Confession of Judgment (non-domestic relations) <input type="checkbox"/> A6140 Administrative Agency Award (not unpaid taxes) <input type="checkbox"/> A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax <input type="checkbox"/> A6112 Other Enforcement of Judgment Case	2., 9. 2., 6. 2., 9. 2., 8. 2., 8. 2., 8., 9.
	RICO (27)	<input type="checkbox"/> A6033 Racketeering (RICO) Case	1., 2., 8.
	Other Complaints (Not Specified Above) (42)	<input type="checkbox"/> A6030 Declaratory Relief Only <input type="checkbox"/> A6040 Injunctive Relief Only (not domestic/harassment) <input type="checkbox"/> A6011 Other Commercial Complaint Case (non-tort/non-complex) <input type="checkbox"/> A6000 Other Civil Complaint (non-tort/non-complex)	1., 2., 8. 2., 8. 1., 2., 8. 1., 2., 8.
	Partnership Corporation Governance (21)	<input type="checkbox"/> A6113 Partnership and Corporate Governance Case	2., 8.
	Other Petitions (Not Specified Above) (43)	<input type="checkbox"/> A6121 Civil Harassment <input type="checkbox"/> A6123 Workplace Harassment <input type="checkbox"/> A6124 Elder/Dependent Adult Abuse Case <input type="checkbox"/> A6190 Election Contest <input type="checkbox"/> A6110 Petition for Change of Name <input type="checkbox"/> A6170 Petition for Relief from Late Claim Law <input type="checkbox"/> A6100 Other Civil Petition	2., 3., 9. 2., 3., 9. 2., 3., 9. 2. 2., 7. 2., 3., 4., 8. 2., 9.

SHORT TITLE: DOE v. CARRY, ET AL.

CASE NUMBER

Item III. Statement of Location: Enter the address of the accident, party's residence or place of business, performance, or other circumstance indicated in Item II., Step 3 on Page 1, as the proper reason for filing in the court location you selected.

REASON: Check the appropriate boxes for the numbers shown under Column C for the type of action that you have selected for this case.

☐ 1. ☒ 2. ☐ 3. ☐ 4. ☐ 5. ☐ 6. ☐ 7. ☒ 8. ☐ 9. ☐ 10.

ADDRESS: University of Southern California,
3601 Trousdale Prkwy, #206

CITY:

Los Angeles

STATE:

CA

ZIP CODE:

90089

Item IV. Declaration of Assignment: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that the above-entitled matter is properly filed for assignment to the Stanley Mosk courthouse in the Central District of the Superior Court of California, County of Los Angeles [Code Civ. Proc., § 392 et seq., and Local Rule 2.0, subds. (b), (c) and (d)].

Dated: July 22, 2016



(SIGNATURE OF ATTORNEY/FILING PARTY)

MARK M. HATHAWAY

PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet, Judicial Council form CM-010.
4. Civil Case Cover Sheet Addendum and Statement of Location form, LACIV 109, LASC Approved 03-04 (Rev. 03/11).
5. Payment in full of the filing fee, unless fees have been waived.
6. A signed order appointing the Guardian ad Litem, Judicial Council form CIV-010, if the plaintiff or petitioner is a minor under 18 years of age will be required by Court in order to issue a summons.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.

07/25/2016