



**SOUTHERN CALIFORNIA UNIVERSITY  
OF HEALTH SCIENCES**

# Title IX Policies & Procedures

**2016**

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## **Taking Action Following Sexual Violence/Assault**

*These steps & resources are meant to immediately assist an individual involved in a sexual violence or sexual assault situation. More details exist in the remainder of this document.*

### **A. Seek Medical Attention**

**If you need immediate medical attention  
call 911**

St. Jude Medical Center  
714-871-3280  
[101 E. Valencia Mesa Drive, Fullerton CA, 92835](#)  
(Link provides directions from SCU)

Presbyterian Intercommunity Hospital  
562-698-0811  
[12401 Washington Blvd, Whittier CA, 90602](#)  
(Link provides directions from SCU)

UCLA Medical Center, Rape Treatment Center  
310-319-4000  
[1250 16<sup>th</sup> Street, Santa Monica, CA 90404](#)  
(Link provides directions from SCU)

**B. Seek Available Assistance**  
Los Angeles Area Community Sexual Assault Crisis Center  
408-843-7138

Peace Over Violence (24/7 hotline)  
310-392-8381  
213-626-3393  
626-793-3385  
[www.peaceoverviolence.org](http://www.peaceoverviolence.org)

Cleveland Rape Crisis Center (24/7 hotline)  
216-619-6192  
[www.clevelandrapecrisis.org](http://www.clevelandrapecrisis.org)

RAINN (Rape, Abuse, & Incest National Network)  
1-800-656-HOPE  
[www.rainn.org](http://www.rainn.org)

### **C. Preserve**

Do everything possible to not disturb the crime scene;  
Preserve all evidence in paper bag (plastic can contaminate evidence);  
Try NOT to: Bathe, Urinate, Douche, Brush Teeth, or Drink Liquids.

### **D. Pursue University conduct charges & policy violations**

Per the details found in this document.

### **E. Pursue criminal prosecution of the offender**

Los Angeles County Sheriff's Department – Norwalk Station  
562-863-8711  
[12335 Civic Center Dr., Norwalk, CA 90650](#)

**F. File a formal complaint with the:**  
Office of Civil Rights (OCR)  
415-486-5555  
[ocr.sanfrancisco@ed.gov](mailto:ocr.sanfrancisco@ed.gov)  
[www.ed.gov/ocr](http://www.ed.gov/ocr)

U.S. Equal Employment Opportunity Commission  
800-669-4000  
[www.eeoc.gov](http://www.eeoc.gov)

**G. California Department of Fair Employment and Housing (DFEH)**  
[www.dfeh.ca.gov](http://www.dfeh.ca.gov)  
800-884-1684

### **H. Contact**

Contact the appropriate Title IX Deputy Coordinator, Administrator or the Coordinator (see Section 5.0 below);  
Call the Biola Counseling Center at [562-903-4800](tel:562-903-4800).

**FOREWARD**

*"No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance..."*

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

*"All students are protected by Title IX, regardless of whether they have a disability, are international or undocumented, and regardless of their sexual orientation and gender identity."*

— Title IX of the Education Amendments of 1972

## PROMULGATION

### *TITLE IX POLICIES & PROCEDURES*

*As an individual, you are unique.  
Because you are unique, you have rights.  
As you have rights, we will uphold and protect them.  
This remains our duty and privilege.  
May it never be otherwise.*

The primary duty of any institution is to provide for the welfare and safety of its community members. SCU remains committed to providing a campus community in which learning and working reflect a safe environment free from sex/gender-based discrimination, harassment, and – especially – violence.

In compliance with Title IX of the Education Amendments of 1972 and other federal, state, and local civil rights laws that prohibit discrimination based on sex in educational programs and activities which receive federal financial assistance, SCU has developed these policies and procedures which prohibit discrimination, harassment, violence, and retaliation on the basis of sex/gender. The guidelines are intended to define expectations, establish an instrument for determining when policies have been violated, and provide clear guidance for those individuals adversely impacted by any type of sexual or gender-based misconduct.

In accordance with the Title IX regulations, the University has designated select qualified individuals to act as SCU's Title IX personnel, headed by Vice President and CFO Mr. Tom Arendt. These individuals are charged with the responsibility of monitoring institutional compliance with regulations promulgated under Title IX, eliminating instances of discrimination, harassment, and violence, as well as promoting overall awareness to the campus community concerning issues related to Title IX.

Therefore, in recognition of the regulatory requirements and safety responsibilities of SCU to its students, staff, faculty, patients, visitors, as well as those of the surrounding community and with the authority vested in me as the Chief Executive Officer of Southern California University of Health Sciences, I hereby promulgate this Title IX Policies and Procedures document.

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John Scaringe, DC, Ed.D

Date:

**President/CEO, Southern California University of Health Sciences**

## APPROVAL AND IMPLEMENTATION

This plan replaces, supersedes, and renders inactive Southern California University of Health Sciences' 2013 *Title IX Policies and Procedures: Discrimination on the Basis of Sex and Sexual Misconduct*, published independently and included as an Appendix to Vol. II of the *SCU Policy Manual*.

Vol. II of the *SCU Policy Manual* designates the Vice-President for Administration & Finance/CFO, Tom Arendt, as the University's Title IX Coordinator with authority to direct the policies and procedures contained herein.

The continual approval and implementation of this document is as follows:

- Document is annually reviewed by SCU Safety & Compliance Committee;
- Recommendations for augmentations and edits are made to the Title IX Coordinator;
- Title IX Coordinator endorses the recommendations of the Safety & Compliance Committee;
- Title IX Coordinator facilitates the approval of revised document by SCU Cabinet; and
- Title IX Coordinator distributes the revised document to the campus community.

**APPROVAL AND SIGNATURES***Southern California University of Health Sciences (SCU), President/CEO*\_\_\_\_\_  
Dr. John Scaringe\_\_\_\_\_  
Date*SCU, Chief of Staff**SCU, Vice President for Administration  
and Finance/CFO*\_\_\_\_\_  
Dr. Todd Knudsen\_\_\_\_\_  
Date\_\_\_\_\_  
Mr. Thomas Arendt\_\_\_\_\_  
Date*SCU, Vice President of Academic  
Affairs/CAO**SCU, Vice President of Enrollment  
Management and Student Affairs*\_\_\_\_\_  
Dr. Sheryl Berman\_\_\_\_\_  
Date\_\_\_\_\_  
Mrs. Debra Mitchell-Benavente\_\_\_\_\_  
Date*SCU, Vice President for SCU Health  
System*\_\_\_\_\_  
Dr. Melissa Kimura\_\_\_\_\_  
Date

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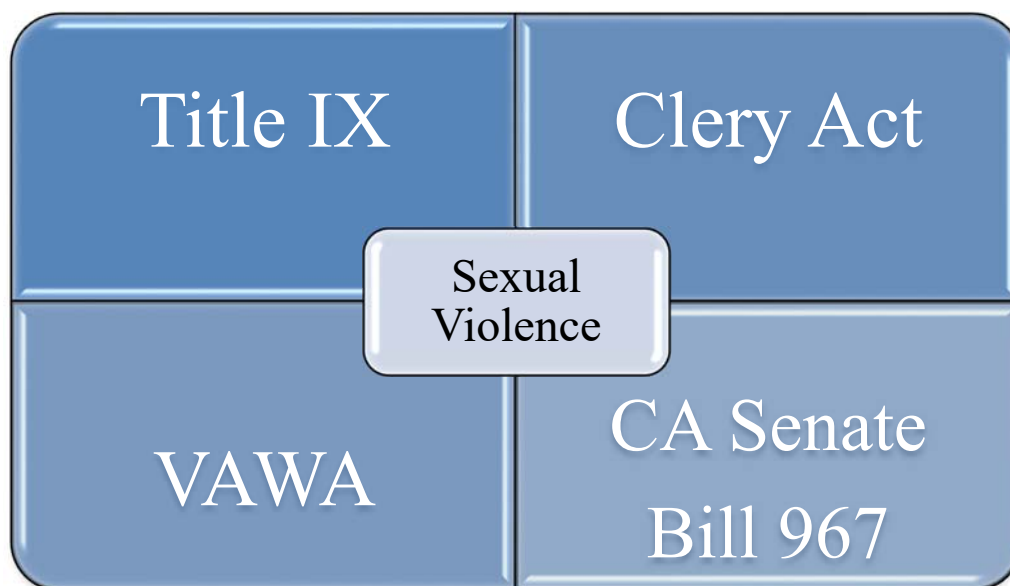


## 1.0 Navigating Title IX & Similar Legislation

The guiding legal regulation for prohibiting discrimination, harassment, and violence as they relate to sex in educational institutions is Title IX of the Education Amendments of 1972. Since the initial codification of the regulations, numerous additional significant guidance documents have been published (especially since 2001) that expand and clarify the rules and regulations of Title IX.

In addition to Title IX, there are three other pieces of legislation that, while separate, do have intersecting causes as part – or all – of their scope. These legislations are: the Jeanne Clery Act, the Violence Against Women Reauthorization Act (VAWA), and California Senate Bill 967. The overlap is most poignant with regards to sexual violence and the prevention thereof.

The information in this section is meant to highlight the different pieces of legislation so as to allow for a more comprehensive understanding of the policies and procedures contained within the remainder of this document.



### 1.1 Title IX

Title IX of the Education Amendments of 1972 prohibits discrimination based on sex in educational programs and activities that receive federal financial assistance. The United States Department of Education (DOE) maintains an Office for Civil Rights (OCR) which enforces Title IX and its various requirements. Additionally, the United States Department of Justice (DOJ) shares enforcement authority over Title IX with OCR. To ensure compliance with Title IX and other federal and state civil rights law, SCU has developed these policies and procedures that prohibit sex discrimination in all of its forms. Over the years, OCR has clarified the intent, meaning, and scope of Title IX to include harassment, sexual violence (and prevention thereof), equitable treatment of pregnant or parenting individuals, and equitable treatment of transgender persons.

For information on how to file a discrimination complaint with the Office of Civil Rights, visit: [http://www2.ed.gov/about/offices/list/ocr/docs/tix\\_dis.html](http://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html)

## **1.2 The Jeanne Clery Act**

Originally known as the Campus Security Act, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20 USC § 1092(f)) requires colleges and universities across the United States to disclose information about crime on and around their campuses. The Act is enforced by the Department of Education's (DoE) Office for Civil Rights (OCR) and requires institutions to: publish an Annual Security Report, maintain a crime log, issue timely warnings about crimes which poses a serious or ongoing threat to the students and employees, devise an emergency response notification and testing policy, disclose criminal statistic concerning incidents related to the campus proper, the public area surrounding the campus, and at certain non-campus buildings.

More information on SCU's Annual Security Reports and Daily Crime Logs visit: [https://my.scuhs.edu/ICS/Departments/Campus\\_Safety/Annual\\_Security\\_Reports\\_Daily\\_Crime\\_Log.jnz](https://my.scuhs.edu/ICS/Departments/Campus_Safety/Annual_Security_Reports_Daily_Crime_Log.jnz)

## **1.3 The Violence Against Women Re-Authorization Act (VAWA)**

Section 304(b) of the *Violence Against Women Re-Authorization Act of 2013* (VAWA) (Pub. Law 113-4), signed by President Obama in March of 2013, adds three new crime classifications that must be reported in an institution's Annual Security Report. These new definitions are: "dating violence," "domestic violence," and "stalking." Section 304 and the Final Regulations of VAWA also amend certain portions of the Annual Security Report related to sexual assault and requires that all institutions report the contact information for their lead Title IX coordinator in the Campus Safety and Security Survey as well as the Annual Security Report (ASR). Additionally, the final regulations require institutions to report how many crimes are found to be "unfounded" in both the ASR and on the Campus Safety and Security Survey beginning with 2014 calendar year statistics.

More information on VAWA & Section 304(b) can be found at: <http://www.ifap.ed.gov/dpccletters/GEN1515.html>

## **1.4 California Senate Bill No. 967**

Otherwise known as the "Yes Means Yes" law or "Affirmative Consent" law, SB 967 was passed by the state of California on September 28<sup>th</sup>, 2014. The substantive addition to the Education Code necessitated by SB 967 is the insertion of the "affirmative consent" standard to determine whether consent was given by both parties involved in a given sexual activity.

More information on SB No. 967 can be found at: [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201320140SB967](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB967)

## **1.5 Family Education Rights & Privacy Act (FERPA)**

The Family Education Rights and Privacy Act (FERPA) is indirectly applicable to a vast number of University procedures, including those related to Title IX.

More information on FERPA can be found at:

<http://www2.ed.gov/policy/gen/guid/fpco/ferpa/index.html>

[http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104\\_pg13.html](http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104_pg13.html)

### **1.5.1 Directory Information**

SCU will follow its existing FERPA Policy as documented in Section 2.1.8 of the [SCU Policy Manual](#). Said policy allows, in compliance with federal law, the disclosure of certain “directory information” about a student. SCU does not consider sex, gender, gender identify, or any derivative therein to be “directory information” and will not disclose said information as doing so could be harmful or constitute an invasion of privacy.

### **1.5.2 Disclosure Exceptions Related to Title IX**

FERPA generally prohibits the nonconsensual disclosure of personally identifiable information from a student’s “education record.” However, FERPA permits a school to disclose to the student who is the complainant, information about the sanction imposed upon a student who was found to have engaged in violations concerning sexual discrimination, harassment, or violence when the sanction directly relates to the complainant. This includes an order that the respondent stay away from the complainant, or that the respondent is prohibited from attending school for a period of time, or transferred to other classes or another residency.

Disclosure of any other information in the respondent’s “education record,” including information about sanctions that do not relate to the complainant are not permitted under the above mentioned exception.

Further, when the conduct in question involves a crime of violence or a non-forcible sex offense, SCU is permitted to disclose to the alleged complainant the final results of a disciplinary proceeding against the alleged respondent, regardless of whether the institution concluded that a violation was committed. Additionally, SCU may disclose to anyone – not just the alleged claimant – the final results of a disciplinary proceeding if it determines that the respondent is an alleged perpetrator of a crime of violence or a non-forcible sex offense, and, with respect to the allegation made, that the respondent has committed a violation of the University’s rules or policies.

### **1.5.3 FERPA, Jeanne Clery Act, and Title IX Compliance**

Per the requirements of the Jeanne Clery Act, SCU must ensure that both the complainant and the respondent be informed of the outcome of any institutional disciplinary proceeding brought alleging a sex offense. SCU’s continuing compliance with this requirement does not constitute a violation of FERPA. Furthermore, the FERPA limitations on re-disclosure of information do not apply to information that SCU is required to disclose under the Clery Act. Accordingly,

the University may not require a complainant to abide by a nondisclosure agreement, in writing or otherwise, that would prevent the re-disclosure of the information.

## **2.0 Statement of Compliance**

Southern California University of Health Sciences (SCU) prohibits all types of discrimination against any protected characteristic; SCU prohibits all manifestations of sexual misconduct, discrimination, harassment, violence, and all forms of retaliation. Consequently, SCU does not discriminate on the basis of sex in its education programs or any activities that the University operates as required by Title IX of the Education Amendments of 1972.

Questions regarding Title IX may be referred to the University's Title IX Coordinator, Title IX Administrator, or either Deputy Coordinator (see section 5.0). Additionally, individuals may bring their questions or complaints directly to the Department of Education's Office of Civil Rights (OCR) which is responsible for overseeing Title IX compliance (see section 5.0).

The following policy & procedures focus on those types of prohibited behavior(s) concerned with – but not limited to – sex, gender, sexual orientation, pregnancy status, gender identity, gender expression, and gender transition.

For all other situations of prohibited behavior and harassment (e.g. not related to Title IX), refer to Section 2.1.6 of the [SCU Policy Manual](#).

### **2.1 University Non-Discrimination Policy Statement**

Southern California University of Health Sciences (SCU) takes positive action to insure that students and employees are treated in compliance with applicable laws and regulations governing non-discrimination on the basis of race, color, creed, religion, sex, national origin, disability, age, sexual orientation, gender identity, genetic characteristics, marital status, pregnancy, childbirth or related individual conditions, medical condition (as defined by state law), military status, political affiliation, or any other characteristic protected by federal, state or local law. It is therefore a violation of University policy to discriminate in the provision of educational or employment opportunities, benefits, programs, activities, or privileges; to create discriminatory work or academic conditions; or to use discriminatory evaluative standards in employment or educational settings if the basis of that discriminatory treatment is, in whole or part, the person's race, color, creed, religion, sex, national origin, disability, age, sexual orientation, gender identity, genetic characteristics, marital status, pregnancy, childbirth or related individual conditions, medical condition (as defined by state law), military status, political affiliation, or any other characteristic protected by federal, state or local law.

#### **2.1.1 Supplemental Statement on University's Non-Discrimination on the Basis of Sex**

Southern California University of Health Sciences (SCU) is committed to providing a learning and working environment that promotes personal integrity, civility and mutual respect in an environment free of discrimination on the basis of sex, including all forms of sexual discrimination. Sex discrimination violates an individual's fundamental rights and personal dignity. SCU considers sex

discrimination in all its forms to be an egregious offense. This policy refers to all forms of sex discrimination, including but not limited to: sexual harassment, sexual assault, and sexual violence by employees, students, and/or third parties (Cf. 2.1).

### **2.1.2 Supplemental Statement on University's Non-Discrimination on the Basis of Gender Expression, Gender Identity, and Gender Transition**

Southern California University of Health Sciences (SCU) is committed to ensuring equity and full participation of all members of the campus community. Accordingly, it is the policy of the University that discrimination on the basis of gender identity, gender expression, and gender transition is strictly prohibited. The University's non-discrimination policy extends to employment practices, conditions of employment, personnel actions and all other educational programs and activities of the University and its affiliates. It also extends to any retaliatory actions by an individual and associates that may arise as a result of a discrimination complaint.

Furthermore, during such time when the University has been made aware or otherwise officially notified that a student or employee will assert a gender identity that differs from previous representations or records, SCU will without delay and without any prerequisite information begin treating the individual in a manner consistent with their gender identity (including the use of pronouns and names consistent with the individual's gender identity and provide for equitable access to facilities consistent with their gender identity).

Individuals may choose to voluntarily provide identification documents to the University, or in unforeseen circumstances, the University may make a reasonable request to obtain such documents if, and only if, said request does not have the practical effect of limiting or denying the individuals equal access to any educational program, activity, or employment. Should any such request be made of an individual or should an individual voluntarily provide identification documentation, it shall not in any way adversely hinder or otherwise impede the equitable treatment of the individual as described above (C.f. 2.1).

### **Terminology**

#### **2.1.2.1.1 Gender Identify**

Refers to an individual's internal sense of gender. A person's gender identity may be different from or the same as the person's sex assigned at birth.

#### **2.1.2.1.2 Transgender**

Describes those individuals whose gender identity is different from the sex they were assigned at birth. A transgender male is someone who identifies as male, but was assigned the sex of female at birth; a transgender female is someone who identifies as female but was assigned the sex of male at birth.

### **2.1.2.2 Gender Transitions**

Refers to the process in which transgender individuals begin asserting the sex that corresponds to their gender identity instead of the sex they were assigned at birth. During gender transition, individuals begin to live and identify as the sex consistent with their gender identity and may dress differently, adopt a new name, and use pronouns consistent with their gender identity. Transgender individuals may undergo gender transition at any stage of their lives, and gender transition can happen swiftly or over a long duration or time.

### **2.1.3 Supplemental Statement on University's Non-Discrimination on the Basis of Pregnant and Parenting Individuals**

Southern California University of Health Sciences (SCU) is committed to providing a learning and working environment void of discrimination and harassment as it might relate to pregnant or parenting individuals. Any discrimination or harassment of individuals based on pregnancy or related conditions shall not be tolerated as it represents a severe violation of SCU Policy and will be enforced accordingly.

Pregnant and parenting individuals shall not be excluded from University activities, events, clubs, leadership positions, classes, programs, or any other University sponsored or sanctioned offerings on the basis of their pregnant or parenting status. However, in order to ensure a pregnant individual's access to its educational program, the University, when necessary, will make adjustments to its regular program(s) that are both reasonable and responsive to the individual's temporary pregnancy status. As such, SCU may offer or make available separate programs, classes, and/or activities for individuals who are pregnant, but the participation in these offerings is strictly voluntary on behalf of the individual. SCU will not pressure or force a pregnant individual into an alternative offering separate from their regular classes, programs, and activities. Any such alternative offerings will be comparable (though not identical) to regular offerings.

The University does not require pregnant individuals (regardless of the stage of pregnancy) to produce a health professional's note or any such similar document in order to remain in school or participate in activities on the basis of their pregnancy. Pregnant individuals, during time away from the University concerning activities related to their status, will be treated in the same manner as any other individual that is under the care of a health professional.

## **3.0 Scope**

These policies and procedures apply to the on campus conduct of University constituents, potential students, current students, student workers, faculty, staff, all other employees, vendors, and visitors whether or not the individuals as stated above are considered temporary, full-time, part-time, adjunct, or any other sub-designation. Additionally, these policies and procedures are

equally applicable to off campus conduct of the above mentioned personnel when said conduct: occurred in the context of an education program, an activity of the University, or when it contributes – in some manner – to a hostile learning or working environment at the campus proper.

Further, SCU strongly encourages the reporting of all prohibited conduct regardless of who engaged in the conduct. Even if the University does not have jurisdiction over the respondent, the University will take prompt action to provide for the safety and well-being of the complainant and the broader campus community.

Lastly, Title IX regulations require that these same policies and procedures apply to recruiting, admissions, counseling, financial assistance, athletics (including student interests and abilities, athletic benefits and opportunities, and athletic financial assistance), sex-based harassment, single-sex education, pregnant and parenting students, employment, retaliation, as well as information collection and reporting.

*Of note: At this time SCU does not maintain or promote any single-sex educational programs, nor does it maintain or promote an athletics program.*

## **4.0 Definitions**

### **4.1 Sexual Misconduct**

*Sexual misconduct is a broad term used to encompass unwelcome behavior of a sexual nature. Sexual misconduct may vary in its severity and consists of a range of behaviors including (but not limited to) sexual discrimination, sexual harassment, sexual violence/assault, sexual exploitation, and stalking. Sexual misconduct can occur in any sex and gender configuration (i.e. between the opposite sex and/or the same sex) regardless of sex and gender identity.*

### **4.2. Sex/Gender Discrimination**

*Any act that treats someone unfavorably because of that person's gender, their gender status, or gender identity and/or inequitable treatment of individuals on the basis of gender, gender status, or gender identity (can include both sexual harassment and sexual violence).*

### **4.3 Sexual Harassment**

*Any unwanted or unwelcomed sexual advances, or visual, verbal, or physical conduct of a sexual nature. This definition includes many forms of offensive behavior and includes gender-based harassment of a person of the same sex as the harasser.*

#### **4.3.1 Quid Pro Quo Sexual Harassment**

*Occurs when a University employee causes a student to believe that he or she must submit to unwelcome sexual conduct in order to participate in a University program or activity. It can also occur when an employee causes a student to believe that the employee will make an educational decision based on whether or not the student submits to unwelcome sexual conduct. It can further manifest in*

*other forms including – but not limited to – University employee on employee or employees and their superiors.*

#### **4.3.1.1 Example(s)**

- a) Unwelcome sexual advances (either verbal or physical), requests for sexual favors, and other verbal or physical conduct of a sexual nature when:
  - i. Submission to such conduct, communication, or solicitation is made either explicitly or implicitly a term or condition of an individual's employment or academic status or progress; or
  - ii. Submission to or rejection of such conduct, communication, or solicitation is used or threatened as the basis for employment, academic, or student life decisions.

#### **4.3.2 Hostile Environment Sexual Harassment**

*Occurs when unwelcome conduct of a sexual nature is sufficiently serious that it affects a student's ability to participate in or benefit from an education program or activity, or creates an intimidating, threatening or abusive educational environment. A hostile environment can be created by a University employee, another student, or even someone visiting the University, such as a student or employee from another University. A hostile environment can be present in any combination of the above mentioned roles, i.e. student on student, employee on employee, etc. and must be evaluated from the perspective of a reasonable person in the alleged complainant's position, considering all 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.*

#### **4.3.2.1 Example(s)**

- a) Making or threatening reprisals after a negative response to sexual advances;
- b) Visual conduct that includes leering, making sexual gestures, or displaying of sexually suggestive objects or pictures, cartoons or posters;
- c) Verbal conduct that includes making or using derogatory comments, epithets, slurs, or jokes;
- d) Verbal sexual advances or propositions;
- e) Verbal abuse of a sexual nature, graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual, or suggestive or obscene letters, notes, or invitations;
- f) Physical conduct that includes touching, assaulting, or impeding or blocking movements; or
- g) Harassing a student based solely on their gender identity, their transgender status, or their gender transition.

## **4.4 Sexual Violence**



*Any physical sexual act perpetuated against a person's will or where the person is incapable of giving consent due to that person's mental faculties or use of substances. Sexual violence may include: the intentional touching, either of the victim or when the victim is forced to touch, directly or through clothing, of another person's genitals, breasts, groin, or buttocks; sexual penetration or sexual penetration with an object. It should be noted that the lack of consent exists when force, intimidation or threat, temporary or permanent mental incapacity on the part of the victim, temporary or permanent physical helplessness on the part of the victim, or incapacity to consent due to the youth of the victim are factors. Sexual violence can be carried out by University employees, other students, or third parties and all such acts are forms of sexual discrimination prohibited by Title IX.*

#### **4.4.1 Example(s)**

##### **a) Rape**

- i. Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
  - a. Includes attempts or assaults to commit rape.
- ii. Any nonconsensual sexual intercourse accomplished by means of threat, force, or fraud.

##### **b) Statutory Rape**

- i. The engaging in of sexual intercourse wherein at least one individual is a minor (under 18 and not the spouse of the other individual), even when the underage party consents to the act.

##### **c) Sexual Assault**

- a. Includes, but is not limited to, all of the following:
  - i. Sexual contact between the genitals or anal opening of one person and the mouth or tongue of another person;
  - ii. Intrusion by one person into the genitals or anal opening of another person, including the use of an object for this purpose (except during acts performed for a valid medical reason);
  - iii. Intentional touching of the genitals or intimate parts, including the breasts, genital area, groin, inner thighs, and buttocks, or the clothing covering them for the purposes of sexual arousal or gratification (except during acts performed for a valid medical reason or as acts that can reasonably be construed to be normal caretaker responsibilities); or
  - iv. Intentional masturbation of the perpetrators genitals in the presence of another individual.

##### **d) Sexual Abuse**

- i. Forced undesired sexual behavior by one person upon another; usually over a period of time;
- ii. Molestation.

##### **e) Sexual Battery**

- i. Any person who touches an intimate part of another person while that person is unlawfully restrained by the accused or an accomplice, and if

the touching is against the will of the person touched and is for the purpose of sexual arousal, sexual gratification, or sexual abuse.

- f) Sexual Coercion
  - i. Pressuring an individual to perform sexual acts after a date because individual feels that it is “owed” to them; or
  - ii. Pressuring an individual to perform sexual acts after they have stated “NO.”

#### **4.5 Sexual Exploitation**

*Occurs when a person takes non-consensual, unjust, or abusive sexual advantage of another, for their own advantage or benefit, or for the benefit or advantage of anyone other than the one being exploited.*

##### **4.5.1 Example(s)**

- a) Photographing or video/audio taping of sexual contact/activity without consent;
- b) Observing someone involved in sexual contact/activity, sexual intercourse/penetration or in a state of undress, without their knowledge; or
- c) Inducing intoxication/incapacitation for the purpose of sexual activity.

#### **4.6 Stalking**

*An intentional course of repeated conduct or behavior over a period of time, directed at a specific person, which causes a person to feel harm, annoyance, emotional distress and/or fear. Stalking can also be done via usage of electronic medium/devices (cyber stalking) and is no less of an egregious offense. When performed based on the victim’s gender, stalking is considered sexual misconduct.*

##### **4.6.1 Example(s)**

- a) Intentionally following an individual;
- b) Appearing at a person’s home, class, or place of work;
- c) Making frequent phone calls, emails, SMS messages, tweets, digital posts, etc. to an individual;
- d) Leaving frequent written messages or objects for an individual; or
- e) Vandalizing an individual’s property.

#### **4.7 Dating Violence**

*Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.*

##### **4.7.1 Example(s)**

- a) Abusing – sexually or physically – one’s ex-boyfriend/ex-girlfriend/boyfriend/girlfriend or someone with whom you’ve had sexual contact; or

- b) Threatening to abuse – sexually or physically – one’s ex-boyfriend/ex-girlfriend/boyfriend/girlfriend or someone with whom you’ve had sexual contact.

#### **4.8 Domestic Violence**

*Any felony or misdemeanor crime of violence committed:*

- a) *By a current or former spouse or intimate partner of the victim;*
- b) *By a person with whom the victim shares a child in common;*
- c) *By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;*
- d) *By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or*
- e) *By any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.*

*Additionally, in order for an incident to be considered Domestic Violence, the relationship between the perpetrator and the victim must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.*

#### **4.9 Consent Summary**

The term “consent” means a freely given agreement to the conduct at issue by a competent person.

- a) An expression of lack of consent through words or conduct means there is no consent as consent cannot be assumed;
- b) Lack of verbal or physical resistance or submission resulting from the use of force, threat of force, or placing another person in fear does not constitute consent;
- c) Consent to one form of sexual activity does not imply consent to other forms of sexual activity;
- d) A current or previous dating or social or sexual relationship by itself or the manner of dress of the person involved with the accused in the conduct at issue shall not constitute consent.

A sleeping, unconscious, or incompetent person cannot consent, nor can a minor. A person cannot consent to force causing or likely to cause death or grievous bodily harm or to being rendered unconscious. A person cannot consent while under threat or in fear or when:

- a) [A person is] making a fraudulent representation that the sexual act serves a professional purpose; or
- b) [A person is] inducing a belief by any artifice, pretense, or concealment that the person is another person.

Lack of consent may be inferred based on the circumstances of the offense. All the surrounding circumstances are to be considered in determining whether a person gave consent, or whether a person did not resist or ceased to resist only because of another person's actions.

It is the responsibility of the initiator of sexual contact to:

- a) Ensure they understand fully what the person(s) with whom they are involved wants and does not want sexually; and
- b) Ensure that affirmative consent is present during the entirety of any given sexual activity and must cease a given sexual activity during such time as affirmative consent is no longer present or has been revoked by the other person(s) involved.

## 5.0 Title IX Coordinators

### 5.1 University Title IX Personnel

The University has identified the following individuals as those responsible for addressing concerns, conducting investigations, and ensuring compliance concerning sexual misconduct, sex discrimination, sexual violence, and harassment policies. Each of the individuals listed below are openly available to meet with students and/or employees who believe that any of the situations listed in Section 4.0 above have occurred:

#### **Title IX Coordinator**

Thomas Arendt  
*Vice-President for Administration & Finance/CFO*  
[tomarendt@scuhs.edu](mailto:tomarendt@scuhs.edu)  
 (562) 902-3355  
 16200 Amber Valley Drive  
 Whittier, CA 90604 [Bldg. A]

#### **Title IX Administrator**

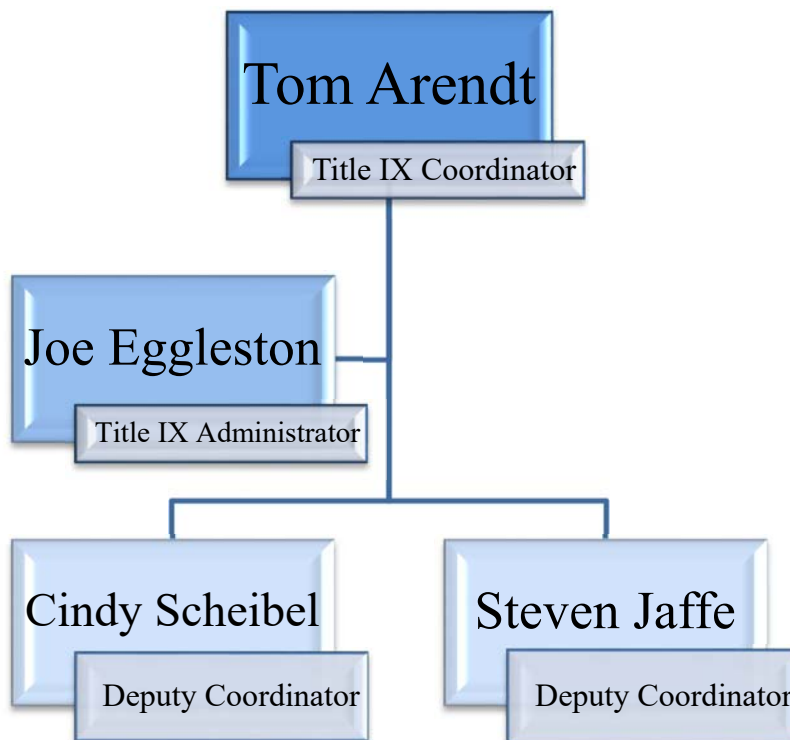
Joseph Eggleston  
*Executive Director of Auxiliary Operations & Physical Plant*  
[josepheggleston@scuhs.edu](mailto:josepheggleston@scuhs.edu)  
 (562) 947-8755 x515  
 16200 Amber Valley Drive  
 Whittier, CA 90604 [Bldg. C]

#### **Title IX Deputy Coordinator**

Dr. Steven Jaffe  
*Executive Director of Student Affairs*  
[stevenjaffe@scuhs.edu](mailto:stevenjaffe@scuhs.edu)  
 (562) 902-3384  
 16200 Amber Valley Drive  
 Whittier, CA 90604 [Bldg. B]

#### **Title IX Deputy Coordinator**

Cindy Scheibel  
*Human Resources Specialist*  
[cindyschiebel@scuhs.edu](mailto:cindyschiebel@scuhs.edu)  
 (562) 902-3309  
 16200 Amber Valley Drive  
 Whittier, CA 90604 [Bldg. C]



### 5.1.1 Roles of University Title IX Personnel

#### **Title IX Coordinator**

- a. Maintains ultimate oversight responsibility for all Title IX investigations, requirements, proceedings, and – if warranted – corrective actions;
- b. Monitors outcomes of any complaints/incidents;
- c. Identifies and addresses and patterns concerning sexual discrimination;
- d. Assesses effects of Title IX preventive and – if present – corrective actions on the campus climate; and
- e. Reports directly to University President
  - i. Can function entirely independent of Administrator and Deputy Coordinators.

#### **Title IX Administrator**

- a. Coordinates investigations, regulatory updates, trainings (student and employee), Title IX personnel trainings, publications, and distributions;
- b. Composes and distributes campus climate surveys; and
- c. Ensures compliance with related legislation, i.e. Clery and VAWA.
  - i. Assists Deputies with investigations, interviews, and resources; and
  - ii. Makes recommendations regarding preliminary investigations to Coordinator.

#### **Deputy Coordinators**

- a. Serves as preferred initial contact for Title IX complaints or questions,
- b. Serves as specialized investigators in each of their respective areas, and
- c. Makes recommendations regarding preliminary investigations to Coordinator.

## **5.2 Office for Civil Rights**

In addition to the persons listed above in 5.1, an individual has the option and the right to contact the Office for Civil Rights (OCR) directly with any complaints or questions they may have.

### **Office for Civil Rights**

*San Francisco Office*

50 Beal Street (Suite 7200)

San Francisco, CA 94105

Phone: (415) 486-5555

Fax: (415) 486-5570

TDD: (877) 521-2172

Email: [ocr.sanfrancisco@ed.gov](mailto:ocr.sanfrancisco@ed.gov)

Web: [www.ed.gov/ocr](http://www.ed.gov/ocr)

## **5.3 Updated Title IX Coordinator Information**

Federal requirements mandate that the title and name of the individuals above be listed; however, the following link has been made available so that the most current titles and names for any of the above mentioned roles can be easily attained should they have changed since the publication of this document:

[https://my.scuhs.edu/ICS/Departments/Campus\\_Safety/Title\\_IXSexual\\_Misconduct.jnz](https://my.scuhs.edu/ICS/Departments/Campus_Safety/Title_IXSexual_Misconduct.jnz)

## **5.4 Title IX Personnel Succession Protocol**

Federal guidelines mandate that the Title IX Coordinator position at any given institution not be left vacant. Though not required directly by legislation, SCU has opted to establish the Title IX personnel structure referenced above (5.1) and the following succession chain.

- a) In the event the individual serving as Title IX Coordinator can no longer perform their duties as prescribed by federal and state law, as well as this University guidance document; the Title IX Administrator will immediately begin serving as the University Title IX Coordinator until such time as a new Title IX Coordinator is appointed.
- b) In the event both the individuals serving as Title IX Coordinator and Title IX Administrator respectively can no longer perform their duties as prescribed by federal and state law, as well as this University guidance document; the Deputy Coordinator for Students will immediately begin serving as the University Title IX Coordinator until such times as a new Title IX Coordinator and/or Title IX Administrator is appointed.

## **5.4 Conflict of Interest involving University Title IX Personnel**

Should the involvement of any of the above mentioned individuals, whether in their predefined roles or outside of them, represent a conflict of interest concerning a Title IX complaint or investigation, another member from 5.1 above will take their place.

Additionally, each of the individuals listed in 5.1 above are prohibited from serving on judicial/hearing boards or hearing appeals as they might relate to Title IX complaints or investigations.

#### **5.4 University Title IX Individual Listed as Respondent**

Should the alleged respondent be either the designated Coordinator, the Administrator, or one of the Deputy Coordinators, a non-alleged individual from 5.1 above will handle the complaint.

#### **5.5 University Title IX Personnel Listed as Respondent(s)**

Should neither of the Deputy Coordinators, the Administrator, nor the Coordinator be eligible to handle the complaint because they are alleged perpetrators, the University President, Dr. John Scaringe, will investigate and process the complaint.

### **6.0 Reporting Sexual Discrimination, Harassment, Violence, & Analogous Behavior**

Southern California University of Health Sciences (SCU) considers all complaints seriously and will diligently strive to remedy the situation and ensure the safety of complainants while respecting the rights of respondents. SCU encourages those who have experienced or observed any form of sexual discrimination, harassment, assault or analogous behavior to report the incident promptly per the following methods:

- a) Complainants should report the incident to the either Deputy Coordinator (contact information in 5.1);
  - i. If the Deputy Coordinator is not available, report the incident to the Title IX Administrator (contact information in 5.1);
  - ii. If the Title IX Administrator is not available, report the incident to the Title IX Coordinator (contact information in 5.1).
- b) If the complainant is an employee, they may also notify their immediate supervisor, but are not obligated to do so prior to bringing the matter to the University Title IX Personnel;
  - i. Employees may also notify ADP Total Source Employee Service Center by calling (800) 554-1802;
  - ii. Employees who make a complaint under this policy who do not feel they have received a satisfactory response, should contact the ADP Total Source Employee Service Center at (800) 554-1802.

#### **6.1 Responsible Employees**

According to Title IX and the Office for Civil Rights (OCR), a responsible employee is:

- a) An employee who has the authority to take action to redress sexual violence;
- b) An employee who has been given the duty of reporting incidents of sexual violence or any other misconduct by students to the Title IX Coordinator; and

- c) An employee whom a student could reasonably believe has this authority or duty as mentioned above.

SCU has interpreted the above guidance to mean that the following employee categories constitute “responsible employees:”

- a) Title IX Personnel (per Section 5.1);
- b) Any full time employee who directly supervises at least one additional individual;
- c) Any faculty member that engages in teaching; and
- d) Any faculty member than engages in patient care.

*Federal Work Study students are not considered responsible employees even if they qualify under one of the above mentioned categories.*

Employees, whether full-time, part-time, or contracted that do not fit into any of the above categories are not considered “responsible employees” under SCU’s interpretation of both Title IX and OCR guidance. Differentiating between “responsible employees” and “non-responsible employees” allows the University to focus educational and training efforts so as to provide for the most efficient and accurate interaction with any given individual should they allege a sexual discrimination, harassment, violence, or related concern. However, SCU does, and will continue to, encourage all members of the campus community to bring forth issues related to prohibited behaviors and practices to the appropriate parties (in this case, members of SCU’s Title IX Personnel 5.0) that they may be investigated and addressed appropriately.

### **6.1.1 Responsible Employee Obligations & Duties**

A responsible employee must report to the Title IX Coordinator, Administrator, or Deputies, all relevant details about an allegation concerning sexual discrimination/harassment/violence that an individual has shared in order that the University may determine what occurred and seek to resolve the situation.

Responsible employees must disclose the names of the alleged perpetrator (if known), the individual who experience the alleged discrimination/harassment/violence, other individuals involved in the allegation, as well as relevant facts such as date, time, and location.

Prior to the disclosure of any information that an individual may desire to keep confidential, responsible employees must make every effort to ensure that the individual fully understands:

- a) The employee’s obligation to report the names of the alleged perpetrator and claimant involved in the allegation, as well as relevant facts regarding the alleged incident (including the date, time, and location), to the Title IX Coordinator or other appropriate University officials;
- b) The individual’s option to request that the University maintain his or her confidentiality, which the Title IX Personnel will consider; and
- c) The individual’s ability to share the information confidentially with counseling, advocacy, health, mental health, or sexual-assault-related services.



If the individual requests confidentiality, the Title IX Personnel should make every effort to respect this request and should evaluate the request in the context of the University's responsibility to provide a safe and nondiscriminatory environment for all individuals.

## **7.0 Grievance Procedure**

The University's grievance procedure set forth in this policy meets Title IX requirements and affords complainants a prompt and equitable resolution utilizing the preponderance of evidence standard, while additionally upholding due process as it relates to the respondent so as to protect the integrity of either party's rights. Moreover, as it pertains to allegations concerning sexual violence, the University Grievance Procedure shall not – at any time – permit, encourage, or allow for questions pertaining to the complainant's sexual history with anyone other than the alleged perpetrator. Furthermore, the University understands that the mere fact of a current or previous consensual dating or sexual relationship between two parties does not itself imply consent or in any way preclude a judicious pursuance of University Grievance Procedures.

The first step in addressing any complaint is for the Title IX coordinator to conduct an initial assessment which will determine whether or not the complaint constitutes a violation under Title IX. If this policy is invoked, then a Preliminary Investigation (7.1 below) shall be conducted to determine whether or not there is sufficient evidence and/or merit to the allegation. Once substantiation has been achieved through the Preliminary Investigation, all parties involved in the complaint are afforded the right to proceed with the University Grievance Procedure.

The appropriate Deputy Coordinator, Administrator, or Coordinator will provide for the adequate, reliable, and impartial investigation of all complaints.

- a) Reporting incidents or complaints directly to the appropriate Title IX Deputy Coordinator is the most efficient way of beginning the grievance procedure.
  - i. Refer to Section 5.0 above for a list of responsible Coordinators and their contact information;
  - ii. Refer to Section 6.0 above for additional reporting options.
- b) There is no time limit for the reporting of an incident or complaint of sexual discrimination or sexual violence, nor beginning the grievance procedure; however, all incidents of sex discrimination, including sexual violence, sexual misconduct, or retaliation, etc. should be reported immediately.
  - i. Timely reporting is essential for an efficient investigation and the prevention of any future discriminatory actions;
  - ii. Responsible employees are obligated to report any behavior they feel is in violation of this policy,

### **7.1 Preliminary Investigation**

The preliminary investigation will be completed over the course of thirty (30) business days from the date the complaint was filed; however, if circumstances permit, more time may be required and an extension warranted. The purpose of this investigation is to establish whether there is a reasonable basis for believing that the alleged violation has occurred.

The Title IX Coordinator, Administrator, and/or Deputy Coordinators have the authority to investigate concerns without the request of a formal inquiry.

The Title IX Coordinator, Administrator, or Deputy Coordinator responsible for the investigation shall promptly provide the person against whom the complaint is made with a copy of the formal complaint and shall notify the appropriate University officer or supervisor of the nature of the complaint and of the identity of the parties. In conducting the investigation, the Title IX Coordinator, Administrator, or Deputy Coordinator may interview the complainant, the person against whom the complaint is made, and any other person(s) believed to have relevant factual knowledge. At all times, the investigator shall make a demonstrated and documented effort to maintain confidentiality; however, the University cannot guarantee complete confidentiality where it would conflict with the obligation to investigate meaningfully and, where warranted, take disciplinary action. Additionally, the University will act to ensure that all participants involved maintain confidentiality to the degree possible.

If the investigation reveals that there is insufficient evidence to support the allegation, the complaint will be dismissed by the Title IX Coordinator. Notice of dismissal, along with a summary of the reason for dismissal, shall be provided to both the respondent and complainant within five (5) business days of the decision.

If, however, the Title IX Coordinator determines that there is sufficient evidence to support the allegation, both the complainant and respondent shall be notified within five (5) business days of the decision, accompanied by the rights and procedures concerning the appropriate grievance process.

In either case, the Title IX Coordinator will, based on the preponderance of the available evidence, issue a finding as to whether or not they, as a representative of the University, consider that the alleged conduct which necessitated the investigation did, or did not, occur. Both of the parties involved in the allegation are to be provided this finding and said finding will be filed by the Title IX Coordinator.

## **7.2 Notice of Grievance Procedure(s)**

The University's Grievance Procedure is applicable for all complaint scenarios (student against student, employee against student, employee against employee, student against third party, etc.). It is applicable whether the complainant filed the complaint directly or if it was filed on their behalf by another party.

The University has both an informal and formal grievance procedure for Title IX related incidents and complaints. In instances where the parties involved do not want to engage in the informal procedure, where informal resolution is not appropriate, or in situations where attempts at the informal process are unsuccessful, the formal procedure may be followed.

Regardless of which procedure is to be followed, the University will be adamant concerning the fair and equitable treatment of all parties involved. Additionally, irrespective of which internal resolution method is utilized, the complainant has the right to file criminal charges of their own accord (the University can assist where appropriate and warranted), and the procedures described below are in no way meant to discourage pursuit of said charges outside the institution. Further, either party may have a support person or advisor of their choosing at any stage of the process.

### **7.2.1 Informal Procedure**

Regardless of classification, either student or employee, the Title IX Coordinator may recommend, based on the results of the preliminary investigation that the respondent and complainant engage in informal mediation (coordinated by the Title IX Coordinator) in order to address any issues of sexual discrimination or harassment. The Informal Procedure is never to be applied in cases involving violence or non-consensual sexual intercourse and is further never to imply that a complainant work out issues/problems directly with the accused individual.

Either party has the right to terminate the informal procedure at any time in order to pursue the formal procedure. Should either party be unsatisfied with the outcome of the informal procedure, the formal procedure may be pursued.

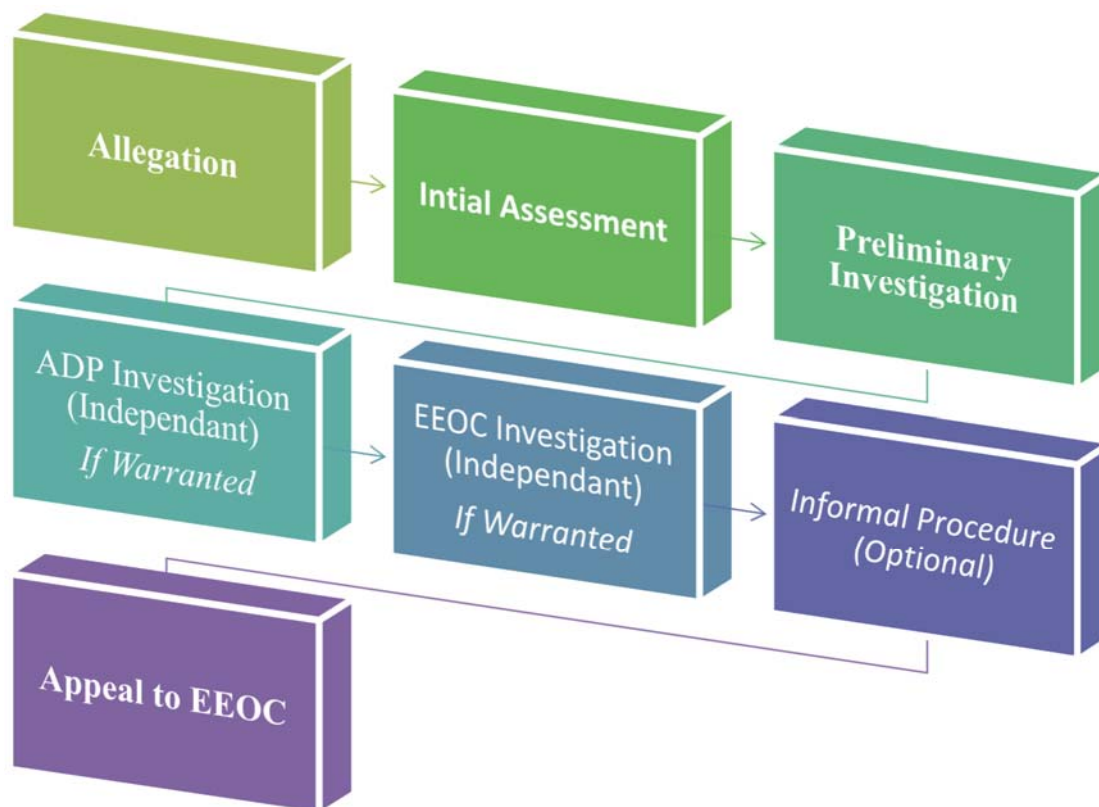
Once the informal resolution procedure is complete, written notification of the outcome shall be distributed to all parties by the Title IX Coordinator within five (5) business days of the determination of completion. The University shall take reasonable steps to prevent the recurrence of sexual misconduct, discrimination, and harassment in any form. If such reoccurrence takes place, those responsible for such behavior may be subject to actions under the Student Code of Ethics ([SCU Policy Manual Vol. VI](#)) or the Employee Handbook ([SCU Policy Manual Vol. III](#)). The University will take all necessary steps to remedy the discriminatory effects on the affected party and others.

### **7.2.2 Formal Procedure(s)**

Separate formal procedures exist depending on the classification of the complainant; either student or employee.

#### **7.2.2.1 Employee Formal Grievance Process**

The Employee Formal Grievance Procedure for Title IX allegations is based on the process described in 2.1.6 of the [SCU Policy Manual Vol. II](#).



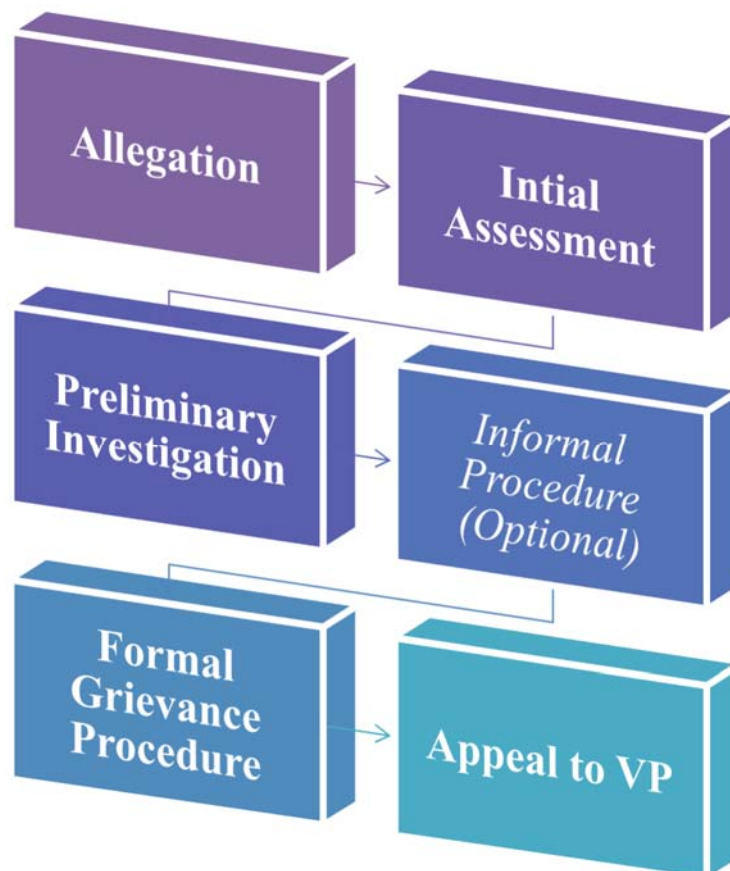
Upon the completion of the preliminary investigation described in 7.1 above, the University will take such action as is necessary and appropriate in light of the investigation's findings, consistent with the process specified in Section 2.1.6 of the [SCU Policy Manual](#). In addition, ADP, as well as the EEOC, may at their discretion, perform an independent investigation separate from the investigation described above, which may influence the University's ultimate findings and decisions regarding appropriate corrective action(s).

Any employee who is dissatisfied with the University's procedures utilized for handling the allegation, or who is dissatisfied with the result of the investigation or the sanctions imposed, may seek redress through the EEOC, to the extent allowed by law.

In the event that a complaint is filed with an external agency or court, the University reserves the right to determine, in its discretion, whether the University's complaint resolution procedure should be discontinued or continued separately.

### 7.2.2.2 Student Formal Grievance Procedure

The Student Formal Grievance Procedure for Title IX allegations is based on the disciplinary process for other alleged Student Code of Ethics breaches ([SCU Policy Manual Vol. VI](#)).



#### 7.2.2.2.1 Investigation

If the preliminary investigation determines that the allegation appears to have merit, the person(s) filing the report, the person(s) alleged to be involved or impacted by in the violation question, and/or the person(s) who may have witnessed pertinent acts or who may have pertinent information about the incident may be summoned to provide information prior to judicial charges being issued. The respondent and complainant are never to have direct interaction or exchange any communication during this process. A student who fails to appear when summoned during investigations may be charged with a violation of the Student Code of Ethics.

#### 7.2.2.2.2 Judicial Charges

A student will be charged and summoned to a judicial hearing when there is reasonable basis to believe that the student may have committed a violation of the student code of ethics per the preliminary investigation. A written notice of charges shall be

presented to the respondent by the Executive Director of Student Affairs (or designee). The written notice will specify the policy or regulation that the student or organization is alleged to have violated, state the time, date, and place of the occurrence, and include the possible sanctions that will be enforced if the student or organization is determined to have violated the policy or regulation. In addition, prior to and during the hearing, the student or organization shall be afforded reasonable access to review the “Case File” and will be provided with materials concerning their student rights. The Case File includes documents pertaining to the matter. The personal notes of faculty and staff members and privileged information of other students are not included in the Case File, and thus are not accessible.

#### **7.2.2.2.3 Scheduling**

Cases will be scheduled for formal hearing, which shall be not less than three (3) or more than fifteen (15) business days after the respondent has been notified. Maximum time limits for scheduling hearings may be extended at the discretion of the Executive Director of Student Affairs (or a designee).

#### **7.2.2.2.4 Judicial Hearings**

All hearings shall be conducted in private under the coordination of the Executive Director of Student Affairs (or designee).

Both the respondent and complainant have the right to be accompanied by an advisor (including legal counsel) of their choosing (legal counsel will not be provided by the University); however, advisors may be immediately dismissed for disrupting the hearing and the hearing will continue unless rescheduled by the Executive Director of Student Affairs (or designee).

Besides the complainant, respondent, and their respective advisors (if any), admission of any other person to the hearing would be unusual and only at the discretion and with the permission of the Executive Director of Student Affairs (or designee).

Judicial hearings will be governed by the following rules:

- a) In situations where more than one student is charged with an alleged violation, the Executive Director of Student Affairs (or designee) will determine whether to hold one hearing for all charged students or a separate hearing for each student.
- b) A student charged with alleged misconduct may offer documentary evidence for consideration prior or during the hearing. Evidence may include pertinent records, exhibits, and other written statements.

- c) A student charged with alleged misconduct may offer names of witnesses to the Executive Director of Student Affairs (or designee), but must do so prior to the hearing.
- d) When a student is charged with a violation and fails to attend the pertinent hearing, the Student Judicial Board or University official may proceed with the hearing despite the student's absence and shall base any determination upon the preponderance of evidence. If witnesses are unable to appear, a statement by the witness can be read into the record. The Board can also choose to once again convene when the witness can appear.
- e) The Executive Director of Student Affairs (or designee) will inform both the respondent and complainant in writing of the results of the judicial hearing.
- f) All procedural questions are subject to the final decision of the Executive Director of Student Affairs.

#### **7.2.2.2.5 Judicial Hearing Process**

##### **Introduction**

- a) Prior to the hearing, the Judicial Board will conduct a pre-hearing review, to familiarize themselves with the facts of the case.
- b) The hearing shall be in private, to protect the confidentiality of those involved.
- c) The respondent and complainant are not permitted to be inside the hearing at the same time; consequently, the hearing will begin with the complainant and follow the same procedure (as described below) for the respondent once the complainant has been dismissed and the respondent brought in to the hearing.
- d) The Judicial Board shall provide an overview of the hearing process for the student and answer any questions the student may have about the process or the student code of ethics.
- e) The student may challenge any member of the Board on grounds of prejudice. The Board shall deliberate in private and determine, by majority vote (excluding the member being challenged), whether the member should be replaced by an alternate member who will be designated by the Executive Director of Student Affairs (or designee).
- f) The Chairperson shall read the alleged violations as identified in the notification letter to respondent and the letter of complaint. The honesty statement is also read.
- g) The Chairperson asks if there are any questions of procedure to resolve. The student is asked if they are ready to proceed.

##### **Discussion and Questioning**

- a) After the student has indicated they are ready to proceed, the Chairperson asks the student if they would like to make a brief opening statement. A time limit may be set for this statement.
- b) The student is asked to make a narrative statement regarding the incident.
- c) Board members may pose questions as necessary. The chairperson will recognize each person who would like to ask a question and insure that each person has an opportunity to respond, uninterrupted.
- d) The student is asked to identify the witnesses to be called and the relevancy of their testimony. The Chairperson should be liberal in allowing relevant witnesses. The Chairperson will approve all witness before the start of the hearing.
- e) Witnesses are brought it one at a time to be heard as follows:
  - i. Each witness provides a narrative account. The specific charges may be shared with the witness.
  - ii. Questions are asked by Board members, followed by the student, provided the questions are not redundant.
  - iii. The Board may ask additional questions, as necessary.
- f) *OPTIONAL*: Brief summary statements may be made by the student. A time limit may be set for this statements.
- g) The student is dismissed.

#### **Deliberation & Recommended Action**

- a) When the Judicial Board has gathered the pertinent information, the student's responsibility with each charge will be determined by a majority vote of the Judicial Board, and any recommended sanctions to be imposed. No charge shall be found to be substantiated unless there is clear, convincing, and reliable evidence in support of the charge established in the hearing.
- b) The Judicial Board may continue the judicial hearing on a future date, if needed.
- c) The Board deliberates and prepares a final sanction recommendation. The Chairperson prepares a case opinion, which includes the Board's recommended decision and – if any – recommended sanctions.
- d) The Chairperson will provide the Executive Director of Student Affairs (or designee) with the case opinion.
- e) The Executive Director of Student Affairs (or designee) will make a final decision based on the recommendations and will communicate in writing the final decision, sanctions, and right to appeal to both the respondent and complainant within five (5) business days of the conclusion of the hearing.

#### **7.2.2.2.6 Appeals Process**



Any decision recommended by the Student Judicial Board and determined by the Executive Director of Student Affairs (or designee) may be appealed by the respondent (or by the complainant, if there is one) to the Vice-President of Enrollment Management and Student Affairs within five (5) business days of the decision. Such appeals shall be in writing and delivered to the Vice-President of Enrollment Management and Student Affairs.

The basis for appeal shall only include the following:

- a) A claim that the original hearing was not conducted fairly in light of the charges and information presented.
- b) A claim that the decision reached was not based on substantial evidence.
- c) A claim that the sanction(s) imposed was/were not appropriate for the violation of the Student Code of Ethics.
- d) A claim that the student has new evidence to present that is sufficient to alter a decision or relevant facts that were not brought out in the original hearing.

A student's notice of appeal does not suspend the imposition of sanctions or interim measures until the appeal is finally decided. If an appeal is upheld, the sanctions will be reversed and the affected party will be made whole.

If the Vice-President of Enrollment Management and Student Affairs determines there is merit for an appeal, the facts of the incident will be reviewed with the respondent, typically in a personal meeting between the Vice-President of Enrollment Management and Student Affairs and the respondent (or independently with complainant if there is one). Appeals, if granted, can result in one of the following:

- a) The original sanction will be upheld.
- b) The original sanction will be modified.
- c) A new judicial hearing will be scheduled.

The standard of preponderance of evidence (more likely than not) will be used in all decision-making. Once the Vice-President of Enrollment Management and Student Affairs has rendered a decision, both the complainant and respondent will receive a written notice of the outcome within five (5) business days.

#### **7.2.2.2.7 Consequences/Sanctions to Allegations of Sexual Assault**

As either the informal or formal process is being pursued, necessary measures will be instituted for the safety of the victim, accused, and campus community. The University Title IX

Coordinator and/or Deputy Coordinators, the Executive Director of Student Affairs, Human Resources personnel and any additional necessary individuals will be contacted to set up such measures.

Examples include (but are not limited to):

- a) Assuring no contact between the victim and the accused
- b) Academic/Work scheduling changes
- c) Sanctions
- d) Disciplinary Warning
- e) Suspension
- f) Expulsion
- g) Declaration of *persona non grata*

## **8.0 Anti-Retaliation & False Reports**

### **8.1 Retaliation**

Retaliation against anyone who files a complaint, serves as a witness, or otherwise participates in the enforcement of this policy is strictly prohibited. Initiating a complaint of sexual misconduct and/or sexual discrimination will not affect a complainant's employment, compensation or work assignments or, in the case of students, grades, class selection, or any other matter pertaining to student status. Distinguishing between harassing or discriminatory conduct and conduct that is purely personal or social without a harassing or discriminatory work or educational effect requires a determination based on all the facts pertaining to the situation.

Additionally, these policies should not, and may not, be used as a basis for excluding or separating individuals of a particular gender, or any other protected characteristic, from participating in business, work-related, academic, or student social activities or discussions in order to avoid allegations of harassment. The law and the policies of the University prohibit disparate treatment on the basis of protected characteristics, with regard to terms, conditions, privileges and perquisites of employment or admission as a student. The prohibitions against harassment, discrimination and retaliation are intended to complement and further these policies, not to form the basis of an exception to them.

### **8.2 False Reports**

False accusations and reports of sexual discrimination, harassment, or violence can seriously injure innocent persons and their reputation. It is a violation of this policy, therefore, for anyone knowingly to make false accusations. If, during the conducting of the investigation, it is determined that the evidence demonstrates the accusation was made falsely, appropriate disciplinary action will be instituted by the University and will follow the Formal Grievance Process as defined in 7.2.2. A determination that a complaint is not meritorious is not necessarily equivalent to a false allegation. A finding for the accused does not constitute a finding the complaint was in bad faith.

## **9.0 Confidentiality & Disclosure Obligations**

## **9.1 University Confidentiality Policy Statement**

Investigations under this policy shall be conducted in a manner that will protect, to the extent possible, the confidentiality of all parties. The University, however, cannot guarantee complete confidentiality where it would conflict with the University's obligation to investigate meaningfully and, where warranted, take disciplinary action.

### **9.1.1 Factors Concerning Requests for Confidentiality Related to Sexual Violence**

When weighing an individual's request for confidentiality that could preclude a meaningful investigation or potential discipline of the alleged perpetrator, SCU's Title IX personnel will 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 at a given location or by a particular group).

Other factors that should be considered in assessing an individual's request for confidentiality include whether the sexual violence was perpetrated with a weapon; the age of the individual subjected to the sexual violence; and whether the University possesses other means to obtain relevant evidence (e.g., security cameras or personnel, physical evidence).

SCU will always take requests for confidentiality seriously, while at the same time considering its responsibility to provide a safe and nondiscriminatory environment for all members of the campus community, including the individual who reported the sexual violence. For example, if the University has credible information that the alleged perpetrator has committed one or more prior rapes, the balance of factors would compel the University to investigate the allegation of sexual violence, and if appropriate, pursue disciplinary action in a manner that may require disclosure of the individual's identity to the alleged perpetrator. If the University determines that it must disclose an individual's identity to an alleged perpetrator, it should inform the student prior to making this disclosure. Accordingly, in these types of cases, the University will promptly take whatever interim measures are necessary to protect the individual and ensure the safety of the campus community.

Conversely, should, for example, the University have 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 University to respect the individual's request for confidentiality. In this case the University will still take all reasonable steps to respond to the complaint consistent with the individual's confidentiality request and determine whether interim measures are appropriate or necessary.

Of importance, any individual who initially requests confidentiality might later request that a full investigation be conducted.

### **9.1.2 Exception for Counseling Personnel**

The University offers counseling resources through an external institution, Biola University (562) 903-4800). OCR does not require licensed counselors to report – without an individual's consent – incidents of sexual discrimination/harassment/violence to SCU in a manner that identifies the individual and encourages all counselors to, if and when they deem it appropriate, inform any individuals they are counseling about their right to pursue charges as well as the ability to report crimes or file a Title IX complaint on a voluntary or confidential basis to SCU. Consequently, only aggregate (non-specific) data provided by counselors is considered for the inclusion of the incident(s) in the annual publication of crime statistics per Clery Act requirements (see 9.2).

### **9.1.3 Exception for University Awareness Events & Programs**

SCU ardently desires to make all members of the campus community aware of their individual rights and responsibilities as it relates to sexual discrimination, harassment, violence, and analogous behaviors. Accordingly, the University sponsors various campus events and campaigns aimed at keeping the community informed and safe.

Should an individual disclose experiences relates to sexual discrimination/harassment/violence as part of the aforementioned events and/or campaign, the University will not – by default – open a Title IX investigation. SCU wants all campus members to feel free to participate in such preventive measures and utilize available resources. As such, information shared at these events or as part of preventive education campaigns will aid SCU Administration and the designated Title IX personnel in reviewing our policies, creating campus-wide educational programs, and conducting climate surveys to learn more about the prevalence of sexual discrimination, harassment, and violence that may be present at the University.

## **9.2 Jeanne Clery Act**

In compliance with Public Law 101-542, the Student Right to Know and Security Act, the University will provide information on campus security policies and campus crime

statistics to current and prospect students and other. The University will make available, upon request to all interested people, information on policies regarding the use of campus facilities; the reporting of criminal actions and/or emergencies which have occurred on campus; a statement of current procedures regarding campus security, campus law enforcement, the authority of security personnel to perform their duties and their liaison with state and local police; policies which include a prompt reporting of any problems and/or crimes on campus; policies which might deter crime; statistical reporting for a calendar year of all crimes and/or problems, as well as a statistical report of the number of arrests on campus during that time period. The Campus Safety Office and the Office of Student Affairs shall maintain copies of the entire text of the act for use by students, faculty, and staff.

### **9.2.1 Timely Warnings**

In the event that a situation arises, either on or off campus, that, in the judgment of the Campus Safety Office, University Administration, or local law enforcement, constitutes an ongoing continuing threats, a campus wide “timely warning” will be issued. The warning will be issued through the University email system and MySCU portal. In the event a given incident jeopardized the technological infrastructure, a hard copy of the warning will be posted throughout the campus. Timely warning are usually issued for arson, burglary, robbery, aggravated assault, criminal homicide, motor vehicle theft, sex offenses, hate crimes, arrests/referrals for disciplinary actions, and any other crimes as deemed necessary. Anyone with information warranting a timely warning should immediately report the circumstances to the Campus Safety Office, by phone (562) 902-3333, in person (F Bldg, Room 20), or by utilizing any of the yellow phone boxes located throughout campus or the blue poles located in the parking lots.

Complainants of sexual misconduct, discrimination, harassment, or violence should be aware that University administrators must issue timely warnings for certain types of incidents reported to them that pose a substantial threat of bodily harm or danger to members of the campus community per these Clery Act guidelines. The University will make every effort to ensure that a victim’s name and other identifying information is not disclosed, while still providing enough information for community member’s safety decision is light of any potential danger.

### **9.2.2 Campus Crime Log**

Clery Act requirements mandate that the Campus Safety Office keep a daily crime log of all alleged criminal incidents and make said log publicly available. Complainants of sexual misconduct and/or sexual discrimination should be aware that allegations of criminal activity associated with their complaint will be placed on the daily crime log; however, any and all personally identifying information is not required to be recorded and will not be disclosed.

## **9.3 Campus Sex Crimes Prevention Act**

The Campus Sex Crimes Prevention Act is a federal law that provides the tracking of convicted, registered sex offenders enrolled as students at institutions of higher education, or working or volunteering on campus. It also amended the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act to require institutions of higher education to issue a statement, in addition to other disclosures required under the Act, advising the campus community where law enforcement agency information provided by a State concerning registered sex offenders may be obtained. In compliance with the Act, please note that law enforcement agency information by the State of California concerning registered sex offenders may be obtained by accessing the California Sex Offender Registry.

## **10.0 Training & Dissemination**

### **10.1 Employee Training & Dissemination**

Employees of the University will be provided a copy of this policy during the new hire orientation process and when any augmentation is made to this policy.

Additionally, employees will be required to complete a comprehensive online training concerning this policy and relevant federal, state, and local regulations during the new hire orientation process and annually thereafter.

#### **10.1.1 Training for Responsible Employees**

The Title IX Administrator arranges for updates, reminders, and trainings (beyond those listed in 10.1 above) for all responsible employees.

### **10.2 Student Training & Dissemination**

All students of the University will be provided a copy of this policy during the application process, during the orientation process, and at the beginning of each calendar year. Students will also be provided a copy of this policy when any augmentation is made.

Additionally, all students will be required to complete a comprehensive online training concerning this policy and relevant federal, state, and local regulations during their first week of instruction and annually thereafter.

### **10.3 Training for Campus Safety Personnel**

Campus Safety Officers will be held to the same standards in 10.1 above. Additional training may be provided by SCU or officer's parent company as appropriate.

### **10.4 Training for SCU Title IX Personnel**

Because of their importance to the policies and procedures outlined in this document, Title IX personnel are required to take an additional annual training beyond that listed in 10.1 Further, each representative will be required to participate in an annual review of this policy in order to propose the addition of relevant contemporary standards or augment the existing language so as to better serve the campus community.

## 11.0 References and Permissions

### 11.1 References

The following were consulted during the revision of this document:

- a) Association of Title IX Administrators (atIXa)
  - a. <https://atixa.org/>
- b) Title IX Resource Guide
  - a. <http://www2.ed.gov/about/offices/list/ocr/docs/dcl-title-ix-coordinators-guide-201504.pdf>
- c) Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, Title IX, January 19<sup>th</sup>, 2001
  - a. <http://www2.ed.gov/about/offices/list/ocr/docs/shguide.pdf>
- d) DLC April 4<sup>th</sup>, 2011
  - a. <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf>
- e) DLC April 24<sup>th</sup>, 2013
  - a. <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201304.pdf>
- f) DLC June 25<sup>th</sup>, 2013
  - a. <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201306-title-ix.pdf>
- g) DLC May 13<sup>th</sup>, 2016
  - a. <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201605-title-ix-transgender.pdf>
- h) Questions & Answers on Title IX and Sexual Violence
  - a. <http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf>
- i) Dear Title IX Coordinator, April 24<sup>th</sup>, 2015
  - a. <http://www2.ed.gov/about/offices/list/ocr/docs/dcl-title-ix-coordinators-letter-201504.pdf>
- j) Guidance on Supporting the Academic Success of Pregnant & Parenting Students: Under Title IX of the Education Amendments of 1972
  - a. <http://www2.ed.gov/about/offices/list/ocr/docs/pregnancy.pdf>
- k) Examples of Policies and Emerging Practices for Supporting Transgender Students
  - a. <http://www2.ed.gov/about/offices/list/oese/osh/emergingpractices.pdf>
- l) Know Your Rights: Title IX Requires Your School to Address Sexual Violence
  - a. <http://www2.ed.gov/about/offices/list/ocr/docs/know-rights-201404-title-ix.pdf>
- m) FERPA
  - a. <http://www2.ed.gov/policy/gen/guid/fpco/ferpa/index.html>
- n) The Handbook for Campus Safety & Security Reporting 2016 Edition
  - a. <http://www2.ed.gov/admins/lead/safety/handbook.pdf>
- o) Title IX and Beyond: The Adjudicatory Process – United Educators
  - a. <https://www.edurisksolutions.org/Templates/template-article.aspx?id=2571&pageid=94>
- p) California Senate Bill no. 967
  - a. [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=20132014\\_0SB967](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=20132014_0SB967)
- q) Higher Education Law Report
  - a. <http://www.higheredlawreport.com/2014/05/responsible-employees-and-title-ix/>

**11.2 Permissions**

This policy and the procedures documented herein (originally published in 2013) was developed with the assistance & permission of the following institutions:

- a) United Educators
- b) Whittier College
- c) Notre Dame College
- d) Tufts University
- e) California State University, Fullerton
- f) Mount Vernon Nazarene University