

merit or lack of merit to the charges. The chair of the committee shall meet with the appropriate personnel officers (viz., Associate Vice President for Faculty Affairs, Director of the Center for Human Resources, and Research Foundation Director of Human Resources) regarding existing procedures and safeguards to protect all parties' rights and reputations before carrying out the investigation. Diligent efforts shall be made to protect the positions and reputations of those who, in good faith, made allegations of scientific misconduct. The committee shall begin its investigation promptly and shall provide a written report of its findings and recommendations to the Vice President for Research or designee no later than 60 days after beginning the formal investigation. The Vice President for Research or designee may either accept the report or return it to the committee for further information or clarification. The committee shall also forward the final copy of this report to the accused parties, who shall have an opportunity to comment on the findings. The investigation shall be completed within 120 calendar days. For PHS funded research, the Vice President for Research or designee shall notify the Office of Research Integrity (ORI) of the Public Health Service within 24 hours of a reasonable indication of possible criminal violations are found or about an immediate health hazard, need to protect Federal funds or equipment and individuals affected by the investigation and that the alleged incident may be publicly reported. Appropriate interim administrative action shall be taken to protect Federal funds and ensure that the purposes of the Federal financial assistance are being carried out. ORI shall be promptly advised of any developments during the course of the investigation which disclose facts that may affect current or potential DHHS funding for individual(s) under investigation or that the PHS needs to know to ensure appropriate use of Federal funds and otherwise protect the public interest. If the investigation cannot be completed within 120 days, a request for extension shall be made to the ORI with an explanation for the delay, an interim report on progress to date, an outline of what remains and an estimated date of completion.

- 3.8 If from the findings and recommendations of the committee the Vice President for Research or designee determines that no unethical or fraudulent acts have been committed, all parties shall be notified accordingly. The Vice President for Research or designee and the college dean shall undertake all necessary efforts to restore fully and promptly the reputation and credibility of the researcher(s) under investigation when allegations are not confirmed. All interim restrictions on research activity shall be promptly removed.
- 3.9 If from the findings and recommendations of the committee, the Vice President for Research or designee determines that there is evidence of misconduct, he or she shall report to the Provost this conclusion and recommendations regarding the imposition of sanctions or disciplinary action. The President shall make the final determination regarding the appropriateness of the recommendations. Sanctions may include (a) termination of current research or scholarly activity, (b) public disassociation of the University from future unauthorized research or scholarly activity, (c) restriction from future research or scholarly activity for some period of time, (d) special prior review and approval requirements in future research or scholarly activities, and (e) debarment from intramurally funded research or scholarly programs. The President may also determine whether the matter warrants a reprimand or disciplinary action pursuant to the Memorandum of Understanding or sec. 89535–89539 of the Education Code or should be referred to the cognizant auxiliary organization for appropriate action.
- 3.10 The President shall determine whether information about the charges, the investigation, or their disposition shall be released to the public, the press, or specific parties (e.g., editors of journals in which papers or reports of the research in question may have appeared). For externally funded research, the sponsoring agency shall be notified of the findings of the investigation and the final disposition of any sanctions, disciplinary action, or restitution to be made. For PHS funded research, a written report documenting the investigative process, summary of information obtained relevant to the investigation, findings to include the actual text or summary of the views of individual(s) found to have engaged in misconduct, and sanctions taken by the institution shall be made available to the Director of the ORI, who shall decide whether

that office shall proceed with its own investigation. The University shall maintain such documentation for at least three years after PHS acceptance of the final report.

Sexual Assault, Domestic Violence, and Stalking

- 1.0 San Diego State University shall be committed to creating a community free from the crimes of sexual assault, domestic violence, and stalking. All members of the San Diego State University community shall uphold this policy.
- 2.0 The university shall cooperate fully in any criminal prosecution or civil litigation that may occur as a result of crimes of sexual assault, domestic violence, or stalking that are committed on the campus, at an off-campus facility, or at a university function.
- 3.0 A person who is convicted of committing these crimes on university property, at a university off-campus facility, or at a university function shall face maximum campus sanctions as prescribed by policies, codes, and collective bargaining agreements that govern the behavior of students, faculty, staff, and guests or visitors.
- 4.0 Members of the campus community and their guests or visitors should report crimes of sexual assault, domestic violence, and stalking to the appropriate university officials. A list of those appointed to receive these complaints and a summary of campus resources available to survivors of these crimes shall be made available.
 - 4.1 Those who have experienced or witnessed the crimes of sexual assault, domestic violence, and stalking should seek immediate assistance from the University Police and campus caregivers. Those seeking assistance shall be treated with respect and dignity, and their concerns shall be responded to in a timely and professional manner. To ensure a responsive environment to victim, the university shall provide support services to address the personal and academic needs of those surviving sexual assault, domestic violence, and stalking while these crimes are being investigated and prosecuted on and off the campus.
 - 4.2 University officials responding to charges of sexual assault, domestic violence, and stalking shall inform victims of their rights and the various options for relief, including the necessary steps and potential consequences of each option. These shall include but may not be limited to support in pursuing criminal prosecution, civil litigation, campus disciplinary action, and campus grievance procedures. Victims shall also be counseled about various options including mediation, alternative housing assignments, and academic scheduling assistance.
- 5.0 This policy has been enacted by San Diego State University in accordance with California State Law, Assembly Bill 3098, Postsecondary Education: Student Safety (July 1990).

Sexual Harassment

- 1.0 San Diego State University shall be committed to preventing sexual harassment and to promptly addressing violations of this policy. The university shall create and maintain a positive learning and working environment for its students and employees and shall not tolerate sexual harassment. Nothing herein shall contravene rights guaranteed in the Constitution of the State of California or the Constitution of the United States.
- 2.0 Sexual harassment and its behaviors shall be prohibited by the university: Sexual harassment is demeaning and degrading and a form of prohibited discrimination on the basis of sex. As an affront to one's dignity, sense of self, and self-esteem, it can negatively impact performance at work or in an academic setting.
- 3.0 Sexual harassment is illegal: It is a violation of state and federal laws including the California Education Code, sec. 212.5, Title VII of the Civil Rights Act of 1964, and Title IX of the Education Amendments of 1972. Sexual harassment is specifically prohibited in The California State University by CSU Executive Order 927.
- 4.0 Scope
 - 4.1 This policy shall apply to all persons at the university or attending university sponsored classes, events, and programs. Visitors to the campus and workers employed by private firms engaged in business on

the campus shall comply with this policy.

4.2 The SDSU Research Foundation, the Campanile Foundation, Aztec Shops, and the Associated Students, as auxiliaries of the university, also have policies that prohibit sexual harassment. These policies apply to programs and employees of the respective auxiliaries and each has a procedure and office designated for receiving reports of sexual harassment. Complaints related to auxiliaries may also be reported to the Office of Diversity and Equity.

4.3 The university and its auxiliaries shall promptly and reasonably investigate complaints of sexual harassment. If the alleged harasser is an employee of the university or of an auxiliary, the employer shall investigate and implement remedies and discipline as appropriate. Wherein the alleged harasser is not an employee or student, the university or auxiliary shall take action to minimize the recurrence of the harassing behavior. Although each auxiliary has a reporting procedure, complaints may be reported to the Office of Diversity and Equity, which shall redirect the complainant to the appropriate auxiliary.

5.0 Definitions

5.1 Sexual harassment shall be the unwelcome imposition of sexual attention often in the context of a relationship of unequal power. This policy shall apply to men and women equally with regard to both opposite sex and same sex harassment.

5.2 Sexual harassment shall be any conduct, physical or verbal, that is sexual and has the effect of unreasonably interfering with a person's or a group's educational or work performance or that creates an intimidating, hostile, or abusive educational or work environment.

5.3 Because academic freedom shall be safeguarded and the openness and integrity of the teaching process shall be protected, discussion of sexual topics and the discussion and display of sexually explicit materials and the touching of students in certain classroom settings may be professionally appropriate and shall not necessarily constitute "sexual harassment."

5.4 The California Education Code, sec. 212.5, states: "Sexual harassment means unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the work or educational setting, under any of the following conditions:

5.41 "Submission to the conduct is explicitly or implicitly made a term or a condition of an individual's employment, academic status, or progress.

5.42 "Submission to, or rejection of, the conduct by the individual is used as the basis of employment or academic decisions affecting the individual.

5.43 "The conduct has the purpose or effect of having a negative impact upon the individual's work or academic performance, or of creating an intimidating, hostile, or offensive work or educational environment.

5.44 "Submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the educational institution."

5.5 Examples of sexually harassing conduct may include but shall not be limited to the following: (a) sexual assault, (b) derogatory comments of a sexual nature, (c) displaying sexually suggestive pictures or objects, (d) graphic verbal commentaries about a person's body, (e) impeding or blocking movements, (f) jokes of a sexual nature, (g) slurs of a sexual nature, (h) suggestive gestures, (i) unwelcome touching. Some of these examples may not, however, constitute sexual harassment if appropriate to reasonable academic purposes.

5.6 Conduct may be found to be sexually harassing if it is pervasive or repetitive and sufficiently severe to alter the conditions of employment, education, or participation in university-sponsored activities or is a single incident sufficiently outrageous or harmful in and of itself that it substantially alters the conditions of the environment for the

complainant or interferes with a person's right to pursue an education or to perform a job-related responsibility.

6.0 Intent of Sexually Harassing Behavior: A claim by an alleged harasser that he or she did not intend to commit sexual harassment is not, as the law currently stands, a defense to a complaint of sexual harassment. Regardless of intent, the effect, characteristics, and context of the behavior shall determine whether the behavior constitutes sexual harassment.

7.0 Sanctions for Sexual Harassment

7.1 Sanctions that San Diego State University may impose for sexually harassing behavior or other unprofessional conduct by a faculty or staff member shall include but not be limited to reprimand, mandatory attendance at sexual harassment training programs, suspension, demotion, and dismissal (loss of tenure).

7.2 Sanctions imposed for sexually harassing behavior by a student shall include but are not limited to mandatory attendance at sexual harassment training program, probation, suspension, and expulsion.

7.3 Sexually harassing behavior by nonstudents or nonemployees may result in restricting the harasser's access to campus.

7.4 In addition to university-imposed sanctions, persons who commit sexual harassment shall be subject to personal liability for damages suffered by the complainant.

8.0 Consensual Relationships: For purposes of this policy, a consensual relationship shall be any freely and mutually agreed-to dating, romantic, or sexual relationship between persons. The previous existence of a consensual relationship shall not be considered a defense in the context of a sexual harassment complaint.

9.0 Administrative Office for Coordinating Complaints: The Office of Diversity and Equity shall coordinate the university response to complaints of sexual harassment and shall educate the university community about sexual harassment. It shall be a clearinghouse for university sexual harassment complaints and investigations, including those that arise in auxiliary corporations. It shall develop and disseminate sexual harassment complaint procedures to implement this policy and shall disseminate applicable state and federal regulations. Copies of these procedures shall be available at the Office of Diversity and Equity and on its Website.

10.0 Mandatory Reporting by University Officers: Upon learning of allegations of sexual harassment from the alleged victim, deans, directors, department chairs, and other officers of the university shall report the allegations to the Office of Diversity and Equity within five working days.

11.0 Procedures for Reporting Sexual Harassment

11.1 A student, staff, or faculty member who believes that he or she has been sexually harassed may initiate a complaint with the Office of Diversity and Equity or the designated office in the appropriate auxiliary. The Office of Diversity and Equity or the auxiliary shall investigate complaints of sexual harassment and coordinate a formal investigation, a mediated intervention, or a formal mediation.

11.2 A formal investigation shall be initiated by the complainant filing and submitting a Formal Complaint Form with the Office of Diversity and Equity or by lodging a complaint with the appropriate auxiliary office. The procedures and time schedule for a formal investigation shall be available from the investigating office.

11.3 Mediated interventions shall include but not be limited to steps to stop the harassing behavior or to remove the complainant or alleged harasser from the harassing environment.

11.4 At any time from the initiation of a complaint to the conclusion of the campus investigation, either party or the university may suggest a confidential, nonbinding formal mediation of the dispute. Both parties and the University shall agree to any formal mediation and any resolution that arises therefrom.

11.5 Without filing a formal complaint, a student, faculty member, or staff member may discuss with staff in the Office of Diversity and Equity behaviors that could be sexual harassment. If a described behavior fits the definition of sexually harassing behavior, some intervention may be required.

11.6 The university shall ensure that formal procedures appropriate to university complaints are followed. These procedures shall be governed by law, labor agreements, and university policy.

12.0 Other Persons to Contact

12.1 The Office of Diversity and Equity shall coordinate the university response to complaints of sexual harassment. A list of other personnel trained to receive complaints of sexual harassment shall be available at the Office for Diversity and Equity and in informational material regarding the Sexual Harassment Prevention policy. Lists shall also be available in the auxiliaries.

12.2 Conversations with persons other than those designated shall not constitute notice to the university or its auxiliaries of allegations of sexual harassment.

13.0 University Support: Upon receiving a complaint of sexual harassment, the Office of Diversity and Equity shall inform the complainant of the support services available at the university and in the community. At the university this may include the Office of Counseling and Psychological Services, the Office of the Ombudsmen, the Women's Resource Center, Student Health Services, Employee Assistance Programs, and Campus Police.

14.0 Confidentiality

14.1 The Office of Diversity and Equity and each designated auxiliary office shall maintain confidentiality for all parties to the extent permitted by law. The university or auxiliary shall take prompt action to correct sexually harassing behavior when it is reported. At the complainant's request, the university or auxiliary shall attempt to intervene in a manner that shall maintain the complainant's anonymity. However, complainants should be aware that in a formal investigation due process requires that the identity of the charging party and the substance of the complaint be revealed to persons charged with harassment.

14.2 Students who wish complete confidentiality may obtain confidential counseling and advice about sexual harassment from counselors in the Office of Counseling and Psychological Services or Student Health Services. Faculty and staff may obtain confidential counseling and advice through employee assistance programs. Since university officials and auxiliary officials shall not be informed about such counseling, the university and its auxiliaries shall not be in a position to eliminate the alleged behavior that gave rise to the complaint.

14.3 Nonparty witnesses participating in sexual harassment investigations shall not share with parties, other witnesses, or any others information revealed to them during the investigation.

15.0 Record Keeping: The Office of Diversity and Equity and each designated auxiliary office shall keep the written records of mediated interventions, formal mediations, and formal complaints with final dispositions in a confidential, secure location with access to the records limited to those persons with a need to know. Records shall be kept for 10 years.

16.0 Retaliation against Persons Reporting Sexually Harassing Behaviors

16.1 It is illegal to retaliate against anyone reporting or thought to have reported sexual harassment behaviors or who is a witness or otherwise is involved in a sexual harassment proceeding. Encouraging others to retaliate also is illegal. Examples include but are not limited to retaliatory grading, evaluation, assignment or ridicule, threats, and withholding information to which a person is entitled.

16.2 Sanctions imposed for retaliatory behavior by a faculty or staff member shall include but not be limited to reprimand, suspension, demotion, and dismissal (loss of tenure). The sanctions imposed for retaliatory behavior by a student shall include but not be limited to probation, suspension, and expulsion.

17.0 False Charges

17.1 To make false charges of sexual harassment shall be a serious offense. A false charge shall be one in which the charging party knowingly or recklessly alleges sexual harassment for which there is no basis.

17.2 Sanctions imposed for false charges of sexual harassment by a faculty or staff member shall include but not be limited to mandatory attendance at a sexual harassment training program, reprimand, suspension, demotion, and dismissal (loss of tenure).

17.3 The sanctions imposed for false charges of sexual harassment by a student shall include but not be limited to mandatory attendance at a sexual harassment training program, probation, suspension, and expulsion.

18.0 Other Legal Remedies: Complainants not satisfied with the disposition of their complaint at the university may contact the Fair Employment and Housing Office of the State of California, the United States Department of Education Office for Civil Rights, or the Equal Employment Opportunity Commission. Contact information shall be available at the Office of Diversity and Equity.

19.0 Policy Review, Evaluation, and Improvement: This policy shall be evaluated every two years by the Office of Diversity and Equity. Proposed changes shall be forwarded to the Senate.

20.0 Information Distribution and Training: The Office of Diversity and Equity shall distribute this policy to the university community and shall provide educational opportunities appropriate to faculty, staff, and students.

Student Conduct Procedures

(04/10/07)

The Student Conduct Procedures of The California State University are outlined in Executive Order 970 (February 2, 2006). The Executive Order may be found at <http://www.calstate.edu/eo/EO-970.html>.

Student Grievance Procedures

1.0 A grievance shall be a complaint arising out of any alleged unauthorized or unjustified act or decision by a member of the faculty, administration, or staff that in any way adversely affects the status, rights, or privileges of a member of the student body. The burden of proof shall lie with the complainant.

2.0 The Student Grievance Committee shall hear and seek redress of student grievances concerning members of the faculty, administration, or staff, and shall recommend concerning disciplinary actions.

2.1 The voting members of the Student Grievance Committee shall be:

a. Five students and three alternates named by the Associated Students Council. Undergraduate students serving on this committee shall be regular students in good standing. Graduate students shall have been admitted to an authorized advanced degree or credential program;

b. Three full-time faculty members and two alternates named by the Senate;

c. Two full-time members of the administration and two alternates named by the President; and

d. One full-time staff representative and one alternate named by the Senate.

2.2 An Ombudsmen shall be a nonvoting ex officio member.

2.3 Seven voting members shall constitute a quorum. Decisions shall be reached by a majority of those present and voting, except where otherwise indicated (see sec. 4.3).

2.4 Each student member shall be appointed for two years. Nonstudent members shall be appointed for three years. No member shall serve more than two terms consecutively.

2.5 A nonvoting Chair shall be appointed for two years by the President of the university. A nonvoting Vice Chair shall be selected by the Associated Students Council. No member shall serve as Chair more than two consecutive terms. The Chair shall be the Committee's administrative officer whose duties shall include the following: (a) arranging for appropriate times and places for meetings and hearings,