Title IX Sexual Harassment Grievance Process

Introduction

The University of San Diego is committed to upholding standards that promote respect and human dignity in an environment that fosters academic excellence and professionalism. Sexual Harassment, in any form, including sexual misconduct and relationship violence, is antithetical to the university’s mission and core values, violate university policy, and may also violate federal and state law.

In support of that commitment, the University of San Diego responds to allegations of sexual harassment, including sexual misconduct and relationship violence, through one of two processes. Formal complaints, as defined by the Title IX Federal Regulations updated in May 2020, follow the requirements of those regulations as outlined below in the Title IX Sexual Harassment Grievance Process. Allegations that do not meet the Title IX Regulations threshold, but nevertheless, may violate the University’s policy, are responded to using the procedures outlined in the Student Code of Rights and Responsibilities [https://www.sandiego.edu/conduct/the-code/].

Title IX of the Education Amendments of 1972 (“Title IX”), 20 U.S.C. §1681 et seq., is a federal law that prohibits discrimination on the basis of sex in education programs and activities by educational institutions that receive federal financial assistance. Prohibited sex discrimination includes sexual harassment. In compliance with the Title IX Federal Regulations published in May 2020, prohibited sexual harassment, including but is not limited to, formal complaints of sexual assault and other forms of sexual violence. The alleged incident(s) needs to have occurred within a University of San Diego education program or activity in the United States of America where the complainant and the respondent are registered students, will follow the protocols outlined in the Title IX Sexual Harassment Grievance Process.

As noted above, the Federal Regulations published in May 2020 inform the Title IX Sexual Harassment Grievance Process. There are other federal guidelines that inform both the Title IX Sexual Harassment Grievance Process and the Student Code of Rights and Responsibilities. This includes the Violence Against Women Reauthorization Act of 2013 (“VAWA”), including the Campus Sexual Violence Elimination Act (“Campus SaVE Act”) amending the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”). These are federal laws that require colleges and universities to have procedures in place to respond to incidents of sexual assault, domestic violence, dating violence, and stalking. All such offenses are prohibited by the university.
The university maintains a Policy Prohibiting Discrimination and Harassment that includes sexual harassment among its prohibited behaviors and that applies to all employees and students. In order to address its responsibilities in support of its’ Mission as well as under Title IX and the VAWA, the university has implemented two reporting and response standards and protocols specifically to address incidents of Sexual Harassment and Sexual Misconduct and Relationship Violence. In addition, and in compliance with the Clery Act, these standards are issued to inform the campus community of the university’s programs to address and prevent sexual assault, domestic violence, dating violence, and stalking, as well as the procedures for institutional disciplinary action in cases that are reported to the university, whether the conduct occurs on or off-campus.

All students, faculty, administrators and staff at the university are expected to be familiar with and to abide by these Standards and Protocols.

Title IX Policies and Processes

Enumerated below are the specific Title IX prohibitions, policies and procedures that are the foundation for individual and group conduct at the University of San Diego. As a member of the University of San Diego community, each student is responsible for understanding and following these standards, policies, and procedures. Students are expected to engage in responsible and appropriate conduct that reflects the University's mission.

The following conduct is prohibited at a University program or activity, wherever they may occur. *This same conduct, though occurring off University premises and not at University events, may nonetheless be subject to University processes outlined in the Student Code of Rights and Responsibilities*. Violation of these standards, policies, and procedures may subject an individual or group to disciplinary action as determined by the Assistant Vice President for Student Affairs/Dean of Students or their designee, pursuant to the provisions of Title IX and the Student Code of Rights and Responsibilities.

Rule of Conduct 7. Any act of sexual harassment, sexual misconduct or relationship violence, as defined in the Title IX Grievance Process or the Sexual Misconduct and Relationship Violence Reporting and Response Standards and Protocols.
Definitions

- The term “University” means the University of San Diego.

- The term “student” includes (a) all persons taking courses or otherwise enrolled at the University, either full-time or part-time, pursuing undergraduate, graduate, or professional studies; (b) persons who withdraw after alleged to have violated Title IX; (c) persons who are not officially enrolled for a particular term but who have a continuing relationship with the University; and (d) persons who are living in University residence halls, although not enrolled in this institution. The University may, at its sole discretion, apply the Title IX Grievance Process described in Title IX Sexual Harassment policy to students who have accepted an offer of admission and have not yet begun classes. Title IX applies to all registered students of the University in the United States.

- The term “Title IX University official” includes the Title IX Coordinator, any person employed in the Title IX office.

- The term “member of the University community” includes any person who is a student, faculty member, University official or any other person employed by the University. A person’s student status in a particular situation shall be determined by the Assistant Vice President/Dean of Students.

- The term “organization” means any number of persons who have complied with the requirements for University registration or other recognition.

- The term Recipient refers to the University of San Diego when a formal Title IX complaint has been received.

- The term “Complainant” means any member of the University community reporting an alleged violation of Title IX.

- The term “Respondent” means any student with whom a Title IX grievance is brought against.

- The term “Title IX Grievance Board” refers to individuals hearing and rendering the decision of the Title IX Grievance. The Title IX Grievance Board is composed of one administrator, one faculty member and one student. The Assistant Dean of Students or their designee serves as the Board’s advisor and is present during all Board hearings and deliberations. The Chair shall be the administrator or faculty member serving on the Title IX Grievance Board. Members of the Grievance Board shall be selected by the Assistant Dean of Students from a group of students, faculty, and administrators who are trained in Title IX procedures and receive training on the issues related to domestic violence, dating violence, sexual assault, and stalking and how to conduct an investigation and grievance process.
The “Title IX Appeals Board” reviews all Title IX grievance appeals for complainants and respondents.

The term “Advisor” is a person selected by the Respondent and the Complainant to be present during the live hearing or any component of the Grievance Process, including the investigation. The Advisor serves as the person to ask the other party and any witnesses all relevant questions and follow-up questions during the live hearing. If a party does not have an Advisor present at the live hearing, the University will provide an Advisor on behalf of that party.

“Consent” is an affirmative, conscious and voluntary agreement to engage in sexual activity. It is an informed decision made freely, actively and voluntarily by all parties. It is the responsibility of each person involved in the sexual activity to ensure that they have the affirmative consent of the other or others to engage in the sexual activity. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. Lack of protest or resistance does not mean consent, nor does silence mean consent. Consent cannot be obtained by threat, coercion, or force. Furthermore, a current or previous dating or sexual relationship between the persons involved should never by itself be assumed to be an indicator of consent. Being intoxicated does not diminish one’s responsibility to obtain consent.

A person cannot give consent if they (1) are a minor (under age 18); (2) have a mental disorder or developmental or physical disability that renders them incapable of giving consent, and this is known or reasonably should have been known to the Respondent; (3) are unconscious of the nature of the act, and this is known to the Respondent; or (4) are incapacitated from alcohol or other drugs, and this condition is known or reasonably should have been known to the Respondent. Some indicators that an individual is or may be incapacitated due to intoxication may include, but are not limited to, vomiting, unresponsiveness, inability to communicate coherently, inability to dress/undress without assistance, inability to walk without assistance, slurred speech, loss of coordination, or inability to perform other physical or cognitive tasks without assistance.

For the purpose of this policy, “consent” also includes conduct defined under California Penal Code Section 261.6. California Penal Code definitions are found at www.sandiego.edu/titleix.

In the evaluation of any Title IX Grievance, it shall not be a valid excuse to alleged lack of affirmative consent that the Respondent believed that the Complainant consented to the sexual activity under either of the following circumstances: (a) the Respondent’s belief in affirmative consent arose from the intoxication or recklessness of the Respondent; or (b) the Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the Complainant affirmatively consented.
In the evaluation of any Title IX Grievance, it shall not be a valid excuse that the Respondent believed that the Complainant affirmatively consented to the sexual activity if the Respondent knew or reasonably should have known that the Complainant was unable to consent to the sexual activity under any of the following circumstances: (a) the Complainant was asleep or unconscious; (b) the Complainant was incapacitated due to the influence of drugs, alcohol, or medication, so that the Complainant could not understand the fact, nature, or extent of the sexual activity; (c) the Complainant was unable to communicate due to a mental or physical condition.

- **"Dating Violence"** means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. 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. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence. Dating violence also includes conduct that is in violation of California Penal Code Section 13700. California Penal Code definitions are found at www.sandiego.edu/titleix.

- **"Domestic Violence"** means a felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the victim; by a person with whom the victim shares a child in common; by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner; by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or 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. Domestic violence also includes conduct that is in violation of California Penal Code Section 13700. California Penal Code definitions are found at www.sandiego.edu/titleix.

- **"Relationship Violence"** includes Dating Violence and Domestic Violence.

- **"Sexual Assault"** is any unwanted physical contact of a sexual nature that occurs either without the consent of each participant or when a participant is unable to give consent freely. Physical contact of a sexual nature includes, but is not limited to, touching or attempted touching of another person's breasts, buttocks, inner thighs, groin, or genitalia, either directly or indirectly, or sexual penetration (however slight) of another person's oral, anal or genital opening. Sexual assault includes, but is not limited to, rape, sodomy, oral copulation, sexual battery, sexual penetration with an object, forcible fondling (e.g. unwanted touching or kissing for purposes of sexual gratification), or threat of sexual assault. Sexual assault can occur either forcibly and/or against a person's will, or when a person is unable to give consent freely.
For the purpose of this policy, “sexual assault” also includes any sexual offense, as defined by the Clery Act, which is an offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI’s Uniform Crime Reporting (UCR) program. Those definitions are as follows:

- “**Rape**” is defined as the 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.
- “**Fondling**” is defined as the touching of the private body parts of another person for the purposes of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental incapacity.
- “**Incest**” is defined as sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by laws.
- “**Statutory rape**” is defined as sexual intercourse with a person who is under the statutory age of consent.

Per the National Incident-Based Reporting System User Manual from the FBI UCR program, a sex offense is “any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.”

For the purpose of this policy, sexual assault also includes any conduct in violation of California Penal Code Sections 261, 285, or 243.4. California Penal Code definitions are found at [www.sandiego.edu/titleix](http://www.sandiego.edu/titleix).

- “**Sexual Exploitation**” is sexual misconduct that occurs when a person takes unjust or abusive sexual advantage of another for their own advantage or benefit or for the benefit or advantage of anyone other than the exploited party; and that behavior does not otherwise constitute sexual assault. Examples of sexual exploitation include, but are not limited to, videotaping or photographing of any type (web-cam, camera, Internet exposure, etc.) without knowledge and consent of all persons; prostituting another person; knowingly transmitting HIV or a sexually transmitted disease to an unknowing person or to a person who has not consented to the risk; or inducing incapacitation with the intent to commit sexual assault, without regard to whether sexual activity actually takes place.

- “**Sexual Harassment**” is a form of sex discrimination prohibited by Title IX. It is unwelcome conduct of a sexual nature when submission to such conduct is made either explicitly or implicitly a term or condition of the person’s employment or education; submission to or rejection of such conduct by a person is used as the basis for a decision affecting the person’s employment or education; or such conduct
has the purpose or effect of unreasonably interfering with a person’s employment or education or creating an intimidating, hostile, or offensive employment or educational environment. Prohibited conduct can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal or physical conduct of a sexual nature. Sexual harassment includes sexual assault, sexual exploitation and stalking.

For the purposes of the Title IX Grievance process, sexual harassment must be considered severe, pervasive and objectively offensive. However, the University of San Diego may define sexual harassment more broadly than the Federal Title IX regulations within the Student Code of Rights and Responsibilities.

- "Stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person’s safety or the safety of others or to suffer substantial emotional distress. For the purpose of this definition:
  - "Course of conduct" means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property.
  - "Reasonable person" means a reasonable person under similar circumstances and with similar identities to the victim.
  - "Substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Stalking also includes any conduct that is in violation of California Penal Code Section 646.9(a). California Penal Code definitions are found at www.sandiego.edu/titleix.

Privacy and Confidentiality

The university is committed to protecting the privacy of all individuals involved in a report of Sexual Harassment, Sexual Misconduct or Relationship Violence. In any report made under the Title IX Grievance Process, the privacy interests of those involved will be protected in a manner consistent with the need to respond to and to conduct a thorough review of the incident reported. Information will be shared only with those individuals who have a legitimate need to know the information in order to assist in the response to, investigation and/or resolution of the complaint. By only sharing personally identifiable information with individuals on a need-to-know basis, the university will maintain as private any accommodations or protective measures to the extent that doing so would not impair the ability of the university to provide those accommodations or protective measures.
Confidentiality, on the other hand, is not the same as privacy. Confidentiality means that the information shared with a certain university employee or outside professional cannot be disclosed to others without the express permission of the individual who shared the information.

Individuals who wish to obtain confidential assistance without making a report to USD may do so by speaking confidentially with professionals who are obligated by law to maintain confidentiality, subject to the stated terms of confidentiality by that office. At USD, students may speak confidentially with any of the following:

- Counseling Center psychologists, psychiatric providers, care coordinators, or psychology trainees
  Saints Tekakwitha and Serra Hall 300
  (619) 260-4655
  www.sandiego.edu/usdcc

- Center for Health and Wellness Promotion providers and psychology trainees
  Hahn University Center 161
  (619) 260-4618
  www.sandiego.edu/health-wellness/

- University Ministry pastoral counselors or members of the clergy who work for USD (provided that the communication occurs with the counselor or clergy member in their pastoral role)
  Ministry Center 20
  (619) 260-4735

- Center for Community Solutions - San Diego County resource that include counselors and legal services
  (858) 272-5777
  www.ccssd.org

Information shared with these confidential sources will not be shared with USD without consent, unless the disclosure is specifically permitted or required by law, such as when the circumstances pose an imminent risk of harm to self or others or where the report involves the suspected abuse of a minor under the age of 18.

The university does not publish the names of crime victims or other identifiable information regarding victims in its daily crime log or in the annual crime statistics that are disclosed in compliance with the Clery Act. Furthermore, if a timely warning is issued pursuant to the Clery Act on the basis of a report of sexual assault, domestic violence, dating violence, or stalking, the name of the victim and other personally identifiable information about the victim will be withheld.
Reporting Procedures and Options

USD strongly encourages all members of the university community to report information about any incident of Sexual Harassment, Sexual Misconduct or Relationship Violence as soon as possible, whether the incident occurred on or off campus. Reports can be made either to USD or to law enforcement. If you wish to proceed with the Title IX Sexual Harassment Grievance Process, a Formal Complaint must be submitted to the Title IX Office.

USD requires all faculty members, administrators, supervisors, and any employees who have responsibility for student welfare to promptly report information about any incident of Sexual Harassment, Sexual Misconduct or Relationship Violence to USD as provided below unless the employee is required by law to keep that information confidential by virtue of their professional role (e.g. the employee received the information in their role as a psychological counselor or a pastoral counselor). In addition, those employees who have been informed by the Department of Public Safety that they are “campus security authorities” under the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”) are legally required to report such incidents to the Department of Public Safety. All such employees to whom an incident is reported should strongly encourage the reporting party, whether it is the individual who allegedly experienced the act or acts of Sexual Harassment, Sexual Misconduct or Relationship Violence or a third party, to speak directly with the Title IX Coordinator, a CARE Advocate, and/or the Department of Public Safety.

- Making a Formal Report

A Title IX Grievance and investigation in response to sexual harassment as defined by the 2020 Department of Education Regulations (link to definition) will be conducted under the following circumstances:

- A formal complaint is filed by a person with actual knowledge of the alleged sexual harassment.
- A formal complaint is filed with the Title IX Office.
- An allegation(s) must constitute sexual harassment as defined by the University and Federal Regulations for Title IX (link to new definition - severe, pervasive and objectively offensive).
- Alleged incident(s) occurred at a USD education program or activity.
- Alleged incident(s) occurred against a person in the United States.

If the complaint does not meet the criteria under the Title IX Regulations, other University policies and procedures including the Student Code of Rights and Responsibilities may apply and will be investigated and adjudicated appropriately.
Resources for Reporting to the University of San Diego

A report to USD of an incident of Sexual Harassment, Sexual Harassment, Sexual Misconduct or Relationship Violence should be made to any of the following:

- **Title IX Coordinator.** The Title IX Coordinator can be reached in Maher Hall 101 in the Department of Human Resources, TitleIX@sandiego.edu or at (619) 260-4594. For more information about the Title IX Coordinator, please see [www.sandiego.edu/titleix/](http://www.sandiego.edu/titleix/).

- **Campus Assault Resources and Education (CARE) Advocate.** You may reach a CARE Advocate at any time, 24 hours a day/7 days a week, through the Department of Public Safety's Dispatch Office at (619) 260-2222. When you call, you should ask specifically to speak with a CARE Advocate and you may do so without providing any information other than your contact information so that a CARE Advocate can contact you.

  CARE Advocates are specially trained to provide support to USD students who are impacted by Sexual Misconduct or Relationship Violence. For more information about the CARE Advocate Program, including a list of CARE Advocates with their direct contact information during regular business hours, please see [www.sandiego.edu/CARE](http://www.sandiego.edu/CARE).

- **USD’s Department of Public Safety.** You may reach USD’s Department of Public Safety by calling (619) 260-2222 at any time, 24 hours a day/7 days a week. For more information about the Department of Public Safety, please see [www.sandiego.edu/safety](http://www.sandiego.edu/safety).

Where the matter involves allegations of sexual harassment, sexual assault or other criminal conduct and/or the matter involves the safety of any member of the USD community, the Department of Public Safety will notify law enforcement of a report of Sexual Harassment, Sexual Misconduct or Relationship Violence. If the incident is alleged to have been perpetrated against an individual under age 18, appropriate notifications will be made as required by California law addressing the mandatory reporting of incidents of child abuse and neglect.

In every case, the CARE Advocate or the Department of Public Safety will inform the Title IX Coordinator of the report. In addition, if the incident involves a university employee, the Chief Human Resources Officer will be informed of the report.

An individual who has experienced an incident of Sexual Harassment, Sexual Misconduct or Relationship Violence may report the incident at any time, regardless of how much time has elapsed since the incident occurred. USD is committed to
supporting the rights of a person reporting an incident of Sexual Harassment, Sexual Misconduct or Relationship Violence to make an informed choice among options and services available.

USD will respond to all reports in a manner that treats each individual with dignity and respect and will take prompt responsive action to end any harassment, misconduct, prevent its recurrence, and address its effects.

- **Reporting to Law Enforcement**

An incident of Sexual Harassment, Sexual Misconduct or Relationship Violence can be reported to law enforcement at any time, 24 hours a day/7 days a week, by calling 911.

At the Complainant’s request, USD will assist the Complainant in contacting law enforcement. If the Complainant decides to pursue the criminal process, USD will cooperate with law enforcement agencies to the extent permitted by law. A Complainant has the option to decline to make their report to law enforcement but is strongly encouraged to do so.

As stated above, where the matter involves allegations of sexual harassment or other criminal conduct and/or the matter involves the safety of any member of the USD community, the Department of Public Safety will notify law enforcement of a report of Sexual Harassment, Sexual Misconduct or Relationship Violence. A Complainant has the option to decide whether or not to participate in any investigation conducted by law enforcement.

- **Making an Anonymous Report**

An individual may report an incident of Sexual Harassment, Sexual Misconduct or Relationship Violence anonymously to USD through our third-party EthicsPoint [link](https://secure.ethicspoint.com/domain/media/en/gui/44558/index.html)

An anonymous report does not require the disclosure of the name of the person making the report or the names of individuals involved, and the anonymous report may, but need not, request any particular action. Depending on the amount of information available about the incident or the individuals involved, USD’s ability to respond may be limited.

**Preservation of Evidence and Identifications of Witnesses**

Any individual who has experienced an act or acts of Sexual Harassment, Sexual Misconduct or Relationship Violence is encouraged to take steps to preserve evidence,
as doing so may be necessary to the proof of a criminal act or to obtain a protection order from the court.

In order to preserve evidence, the urge to change clothes, bathe, shower, douche, change clothing or clean the bed or linens where the incident occurred should be resisted. If clothing is changed, each garment should be placed in a separate paper (not plastic) bag. If the incident involves any written or electronic communications (e.g. pictures, texts, social media posts, videos, etc.), preserve copies.

Additional steps that can be taken to preserve evidence include, but are not limited to, the following:

- **Medical-Legal Evidence Collection (SART Exam)**

  A person who has experienced an incident of Sexual Harassment, Sexual Misconduct or Relationship Violence (particularly rape, forcible oral copulation, or sodomy) is encouraged to request collection of medical-legal evidence. The collection of evidence entails a police report and interaction with the police and the County’s Sexual Assault Response Team (SART) at an off-campus medical facility. Prompt collection of physical evidence through an exam is important should a person later decide to pursue criminal prosecution and/or civil action. For more information regarding the SART exam, or if you wish to get a SART exam without reporting the incident to USD, please contact the Center for Community Solutions Hotline (888-385-4657) (www.ccssd.org/get-help/hotline).

- **Non-Investigative Report (NIR)**

  A person who wishes to have physical evidence collected pursuant to an incident of Sexual Harassment, Sexual Misconduct or Relationship Violence, but does not wish to have law enforcement investigate the incident, may have this evidence collected at one of the SART facilities in San Diego County. This non-investigative SART reporting process is to allow DNA and other physical evidence to be collected and stored in the event a victim decides to initiate the investigative process at a later time. This evidence may include SART kits, clothing, or other items collected, sexual assault exam report forms, and photographs. For more information regarding the NIR option, or if you wish to pursue the NIR option without reporting the incident to USD, please contact the Center for Community Solutions Hotline (888-385-4657) (www.ccssd.org/get-help/hotline).

  In addition, an individual who has experienced an act or acts of Sexual Harassment, Sexual Misconduct or Relationship Violence is encouraged to identify potential witnesses.
Medical and Mental Health Treatment

A person who has experienced or otherwise been impacted by an incident of Sexual Harassment, Sexual Misconduct or Relationship Violence is urged to seek appropriate medical and/or mental health treatment as soon as possible. When the incident is reported to USD, USD will help the individual get to a safe place and seek medical attention.

The following medical treatment options are available:

- For emergency situations, contact 911 or go to the nearest hospital emergency room.
- A list of local hospitals can be found on the USD Student Health Center website at www.sandiego.edu/healthcenter/resources.
- For non-emergency situations during regular business hours, students may visit the USD Student Health Center, located in Maher Hall, Room 140, (619) 260-4595, www.sandiego.edu/healthcenter. To contact a provider after regular business hours, contact the Department of Public Safety at 619-260-2222.

For other resources offered at USD or in the San Diego community, please see the On-Campus and Off-Campus Resources section below.

Protective Orders and Restraining Orders

A Complainant may seek a protective order, a restraining order, or other similar order issued by the court. At the Complainant’s request, the Department of Public Safety will assist the Complainant in making the request. If an order is issued by the court, and if USD is notified of the order, the Department of Public Safety will take appropriate action to support its enforcement on USD property or at USD-sponsored events. Additional information about protective orders and restraining orders that can be obtained through the court is available through the Center for Community Solutions (www.ccssd.org) and through the San Diego Superior Court (www.sdcourt.ca.gov).

Accommodations, Safety Measures, Interim Measures and Emergency Removals

After a grievance/report is made and prior to a final determination, USD will provide written notification to the Complainant of options for accommodations, safety measures, and interim measures. USD will implement appropriate accommodations, safety measures, and interim measures to protect the Complainant and the needs of others involved in the incident, if so requested by the Complainant or others involved in the
incident and if such measures are reasonably available, regardless of whether the Complainant chooses to make their report to local law enforcement or participate in any law enforcement investigation. The implementation of these measures typically is coordinated by or under the supervision of the Title IX Coordinator or the Assistant Vice President of Student Affairs (or designee).

These measures may include, but are not limited to:

- the implementation of a USD-issued No Contact Order
- academic accommodations
- residential accommodations
- transportation accommodations
- employment accommodations
- safety consultations with the Department of Public Safety
- personal protection devices
- on-campus escorts

If USD receives a report that a USD-issued No Contact Order has been violated, USD will investigate the report and initiate appropriate disciplinary proceedings and sanctions if the individual is found responsible for the violation.

Referrals also may be made to on-campus offices for information regarding student financial aid, immigration and visa assistance, leaves of absence, or other matters relating to the student’s enrollment.

Until the matter is resolved, and when necessary and appropriate to protect the safety and well-being of the parties involved, the Assistant Vice President for Student Affairs (or designee), in consultation with the Title IX Coordinator and Critical Incident Response Team, may limit a Respondent’s access to certain USD facilities or activities or may impose an emergency removal. If an emergency removal is deemed necessary, a Respondent has the opportunity to challenge this decision. Challenges to an emergency removal are reviewed by the Assistant Vice President for Student Affairs/Dean of Students (or designee).

INTERIM MEASURES

The Assistant Vice President for Student Affairs (or designee) may temporarily remove the Respondent from the University and/or from the residence halls on an interim basis prior to the Grievance Process.

a. Emergency Removal

i. An emergency removal may be imposed to ensure the safety or well-being of any member of the University community; to preserve
or protect University of San Diego property; to ensure the student’s own physical or emotional safety and well-being; or if the Respondent poses an ongoing threat to, disruption to, or interference with the regular operations of the University.

ii. During the emergency removal, the Assistant Vice President for Student Affairs (or designee), in consultation with the Title IX Coordinator and Critical Incident Response Team, may restrict or deny access by the Respondent to the residence halls and/or to the campus (including classes) and/or any or all other University activities or privileges for which the Respondent might otherwise be eligible.

iii. A student who is placed on an emergency removal status shall continue to be subject to the Title IX Grievance Process.

iv. If an emergency removal is deemed necessary, a Respondent has the opportunity to challenge this decision. Challenges to an emergency removal are reviewed by the Assistant Vice President of Student Affairs/Dean of Students (or designee).

The student will be notified in writing of this action and the reasons for the emergency removal. The notice will also include instructions regarding the process in which they may show cause why their continued presence on campus does not constitute a threat.

b. Change in Living Arrangements

As stated in the Campus Housing and Dining Services Agreement, the University reserves the right to assign roommates, to change room or hall assignments, and/or to consolidate vacancies by requiring residents to move from one accommodation to another in the event such reassignments are determined to be necessary by the University.

Interim measures taken with respect to USD employees will be implemented in consultation with the Title IX Coordinator in a manner consistent with the university’s processes applicable to the employee.

Investigation

USD will respond promptly and equitably to all reports of Sexual Harassment, Sexual Misconduct or Relationship Violence to ensure the safety of the individuals involved and the USD community, in order to provide an environment that is free from gender and sex discrimination.
When a formal complaint is made to the Title IX Coordinator, employee in the Title IX Office or the Department of Public Safety, USD will initiate a Title IX investigation. Title IX investigations are typically conducted by a trained investigator in the Department of Public Safety and with oversight from the Title IX Coordinator.

A draft of the Title IX investigative report will be sent to the Complainant and the Respondent prior to the completion of the Title IX investigation. Both the Complainant and the Respondent will be given ten (10) calendar days to submit a written response to the draft investigative report if they choose to do so. Upon receiving any written response from either party, the Title IX Investigator will consider the content of written response(s) and provide any additional follow up to the investigation or the written report before the final report is issued. A copy of the final report is given to the Complainant and the Respondent and the final report is shared with those individuals at USD who have a legitimate need to know the information in order to respond to or resolve the Title IX Grievance.

The University will provide at least ten (10) calendar days before the live Title IX Grievance Board convenes.

The Respondent and the Complainant and their respective Advisors may review the investigative report(s) with the Title IX Grievance Board, but may not share the document, make copies or take images of the reports in any form.

**Title IX Grievance Process and USD Disciplinary Procedures**

Complaints of Sexual Harassment, Sexual Misconduct or Relationship Violence against a USD student will be addressed pursuant to Title IX Regulations and Title IX Sexual Harassment Grievance Process or the Student Conduct Procedures contained in USD’s Student Code of Rights and Responsibilities.

Complaints of Sexual Harassment, Sexual Misconduct or Relationship Violence against a USD employee will be addressed pursuant to USD’s Policy Prohibiting Discrimination and Harassment and the procedures applicable to the employee. If termination of a faculty member is contemplated, applicable rules governing dismissal for serious cause will be followed.

If at least one alleged incident(s) falls within the scope of Title IX Sexual Harassment, the Title IX Grievance Process will be initiated.

The University will be as timely as possible in conducting its Title IX Grievance Process. This timeframe may be extended for good cause, which may exist if additional time is necessary to ensure the integrity and completeness of the investigation, to comply with
a request by law enforcement for a temporary delay to gather evidence for a criminal investigation, to accommodate the availability of witnesses, to account for USD breaks or vacations, to account for the complexities of a case, including the number of witnesses and amount of information provided by the parties, and for other legitimate reasons. The Complainant and the Respondent will be provided with periodic updates as to the status of the investigation.

In matters involving allegations of Title IX Sexual Harassment, the following decorum are expected:

a. Both the Respondent and the Complainant will have the same opportunity to present evidence to the Title IX Grievance Board.

b. Both the Respondent and the Complainant may be present for the entirety of the hearing. Neither party may be present during the deliberations of the Title IX Grievance Board.

c. Both the Respondent and the Complainant are entitled to the opportunity to be accompanied to any related meeting or proceeding by an Advisor of their choice. The University will provide the Respondent and the Complainant with an Advisor if they do not identify an Advisor themselves. Neither the Respondent nor the Complainant shall be limited in their choice of advisor or presence in any meeting or proceeding; the University of San Diego will provide an advisor if a student has not identified their own advisor; during the cross-examination portion of the hearing, the advisors will ask the questions. Advisors are expected to behave in a manner that is in alignment with the University’s Catholic identity and core value of Community that highlights the “protection of the rights and dignity of the individual.”

d. Neither the Respondent nor the Complainant may personally question one another at any time during the hearing.

e. Questions about the Complainant’s past sexual history with anyone other than the Respondent, or about the Respondent’s past sexual history with anyone other than the Complainant, are not permitted. Past consent between the parties does not imply present or future consent.

f. The Respondent and the Complainant will be simultaneously informed, in writing, of the result of the hearing, the procedures for the Respondent and/or the Complainant to appeal the results of the hearing, any change to the results that occurs before the results become final, and when the results become final.

g. The notice of the outcome to the Complainant must include whether or not the alleged incident was found to have occurred, any individual remedies offered or provided to the Complainant, and any sanctions imposed on the Respondent that directly relate to the Complainant, the rationale for the result and sanctions, and any other steps taken to eliminate any hostile environment found to exist.
h. Both the Respondent and the Complainant are entitled to the appeal rights described in Title IX Appeals Process section. Each party shall be entitled to submit no more than one appeal arising from the decision of the Title IX Grievance Board.

i. A complainant or witness who participates in an investigation of sexual harassment will not be subject to disciplinary sanctions for a violation of the Code at or near the time of the incident, unless the university determines that the violation was egregious, including but not limited to an action that places the health or safety of any other person at risk or involves plagiarism, cheating, or academic dishonesty.

**Title IX Appeals Process**

j. A Respondent and Complainant may appeal a decision by the Title IX Grievance Board. In addition, both the Respondent and Complainant may appeal any sanction imposed by the Assistant Dean of Students or designee.

k. An appeal must be submitted by the Respondent in writing to the Assistant Vice President for Student Affairs/Dean of Students within five (5) business days of the decision. The written appeal must identify one or more purposes for the appeal. The Assistant Vice President for Student Affairs/Dean of Students or their designee may uphold the sanction(s) until the appeal process is completed.

l. Appeals shall be considered by a Title IX Appeals Board.

m. The Title IX Appeals Board shall be comprised of one student, one faculty member, and one administrator. Members of the Title IX Appeals Board shall be selected by the Assistant Vice President for Student Affairs/Dean of Students from a group of faculty, administrators and students who have been trained in Title IX Grievance procedures.

n. Except as required to explain the basis of new information, an appeal shall be limited to a review of the record of the Title IX Grievance Board and supporting documents for one or more of the following purposes:
   
   i. To determine whether the grievance process was conducted fairly in light of the charges and information presented, and in conformity with applicable procedures. Deviations from applicable procedures will not be a basis for sustaining an appeal unless the deviation resulted in significant prejudice to the Respondent.

   ii. To determine whether the decision reached regarding the Respondent was reasonably based on the information made available to the Title IX Grievance Board or hearing officer (i.e., whether there were facts in the case that, if believed by the Title IX Grievance Board or hearing officer, were sufficient to establish that a violation of Title IX occurred).
iii. To consider new and significant information that is sufficient to alter a decision because such information was not known to the Respondent and could not have been reasonably discovered at or before the time of the original hearing.

iv. To determine whether the sanction imposed was inappropriate and excessive under the circumstances. (This criterion is only to be considered in cases where the sanction is suspension, expulsion, or the loss of the privilege to live in University housing).

v. To determine whether the decision reached was done so without any bias on the part of the decision-makers.

o. Following its review, the Title IX Appeals Board may:
   i. Uphold the original decision of the Title IX Grievance Board.
   ii. Conclude that the Respondent has not violated any, or all, of the Title IX specific policies determined by the Title IX Grievance Board. The Title IX Appeals Board may determine that different policies were violated.
   iii. Recommend a change to the sanction(s) imposed.

p. The Title IX Appeals Board decision, including any recommended changes to the sanction imposed, shall be forwarded in writing to the Vice President of Student Affairs. The Vice President of Student Affairs or their designee shall communicate the final decision in writing to the Respondent.

Records of individuals processed through the Title IX Grievance Hearing Process are maintained in the Office of Ethical Development and Restorative Practices [https://www.sandiego.edu/conduct/the-code/student-conduct-procedures.php#F].

Sanctions

Engaging in Sexual Harassment, Sexual Misconduct or Relationship Violence is a violation of Title IX or USD’s Student Code of Rights and Responsibilities and will result in the imposition of one or more such sanctions against the Respondent, up to and including suspension or expulsion.

Sanctions against an employee who is found to have engaged in Sexual Harassment, Sexual Misconduct or Relationship Violence may include, but are not limited to, verbal or written warnings, suspension, or termination from employment with USD. If termination of a faculty member is contemplated, applicable rules governing dismissal for serious cause will be followed.

Student Title IX Grievances and Student Conduct sanctions at the University of San Diego are intended to be educational and consistent with the mission and values of the institution. Student conduct is understood to be a learning experience for students and
the community. When students are found in violation of Title IX or the Student Code of Rights and Responsibilities, efforts are made to reconcile the student to the community via a multitude of sanction options. In some circumstances a student’s behavior warrants suspension or expulsion from the university. The sanctions, as listed in the Student Code of Rights and Responsibilities, may be applied separately or in combination. Other appropriate sanctions, which would enhance the educational value of the grievance or disciplinary proceedings, may be applied in a given case. A list and description of all sanctions can be found in the Student Code of Rights and Responsibilities [https://www.sandiego.edu/conduct/the-code/sanctions.php].

**Alternative Resolutions**

The Complainant and the Respondent may elect to resolve the alleged grievance through an alternative resolution other than the formal Title IX Grievance Process. Both parties would need to agree at the outset to the terms of the alternative resolution before agreeing to proceed with the process.

**No Retaliation**

USD prohibits retaliation against any person who makes a good faith complaint of an incident of Sexual Harassment, Sexual Misconduct or Relationship Violence or any other person who participates in the investigation of any such complaint. Any incident of retaliation should be promptly reported to the Title IX Coordinator, the Dean of Students, the Department of Public Safety, or the Chief Human Resources Officer.

**Timely Warnings**

When an incident of Sexual Harassment, Sexual Misconduct or Relationship Violence that is reported to USD discloses an alleged crime that constitutes an ongoing or continuing threat to the USD campus community, USD may issue a timely warning in a manner consistent with the requirements of the Clery Act and USD’s Timely Warning Policy.

**On-Campus and Off-Campus Resources**

Any individual who has been impacted by Sexual Harassment, Sexual Misconduct or Relationship Violence is encouraged to seek appropriate help, whether or not the individual chooses to report the incident to USD. Specific on-campus and off-campus
resources for counseling, health, mental health, victim advocacy, legal assistance and other services are listed below, and information about those resources is provided in writing to students and employees.

- **USD Campus Resources**
  - **CARE Advocates**, (619) 260-2222 *(Public Safety Dispatch)*, [www.sandiego.edu/CARE](http://www.sandiego.edu/CARE)
    Specially trained USD community members are available to support students impacted by Sexual Misconduct or Relationship Violence. CARE Advocates will help students understand reporting options, access support services, and identify concerns and accommodations. In addition, CARE Advocates will facilitate a report to the Title IX Coordinator, the Department of Public Safety and/or law enforcement.
  - **Counseling Center, Saints Tekakwitha and Serra Hall 300**, (619) 260-4655 *(for after-hour emergencies, call (619) 260-2222)*, [http://www.sandiego.edu/uscpc](http://www.sandiego.edu/uscpc)
    Students may access confidential counseling services from licensed professionals and interns through the Counseling Center. See Privacy and Confidentiality, section above.
    Student Health Center professional staff members are available to provide primary health care to and promote the health and well-being of USD students. If a Student Health Center health practitioner treats a student who is suffering from a physical injury that is the result of assaultive or abusive conduct, reports to local law enforcement will be made as required by California Penal Code Section 11160.
  - **Center for Health and Wellness Promotion, Hahn University Center 161**, (619) 260-4618, [http://www.sandiego.edu/health-wellness/](http://www.sandiego.edu/health-wellness/)
    The Center for Health and Wellness Promotion provides USD students with a comprehensive array of health and wellness promotion initiatives and clinical alcohol and other drug services. See Privacy and Confidentiality, Section III above.
  - **Title IX Coordinator, Department of Human Resources, Maher 101**, [TitleIX@sandiego.edu](mailto:TitleIX@sandiego.edu), (619) 260-4594, [http://www.sandiego.edu/titleix/](http://www.sandiego.edu/titleix/)
    The Title IX Coordinator monitors and oversees USD’s compliance with Title IX and the prevention of sex harassment and discrimination, including the coordination of education and training activities and the response to Title IX complaints. The Title IX Coordinator receives complaints of sex harassment and participates in the coordination of accommodations and interim measures for parties impacted by an incident, including those described in Section VIII above and facilitating access to on-campus resources and offices.
University Ministry, Ministry Center 20, (619) 260-4735, http://www.sandiego.edu/ministry/
University ministers are available to provide support and confidential pastoral care to students in need. See Privacy and Confidentiality, Section III above.

The Assistant Vice President for Student Affairs/Dean of Students or their designee is available to provide support to students and to facilitate the response to and resolution of any complaints made under USD’s Student Code of Rights and Responsibilities.

Department of Public Safety, Hughes Administration Center 144, (619) 260-2222 (available 24/7), http://www.sandiego.edu/safety/
The Department of Public Safety is responsible for a wide range of activities that contribute to the safety and security of the USD campus community, including but not limited to crime prevention programs, responding to reports of crimes and medical emergencies, facilitating reports made to the law enforcement, and providing other general assistance.

The USD Women’s Center is a student-centered learning community that provides resources and engages women and men in educational dialogue around gender-related issues. The Women’s Center advocates for a safe, supportive campus environment that promotes equity among all voices.

San Diego Community Resources

Center for Community Solutions, (858) 272-5777, www.ccssd.org
The Center for Community Solutions (CCS) is an organization whose mission is to end relationship and sexual violence by being a catalyst for caring communities and social justice. CCS provides a wide range of prevention and education programs and response services for those impacted by domestic violence and sexual assault. CCS provides a 24-hour hotline and legal, victim advocacy, counseling, and shelter and transitional services.

San Diego Domestic Violence Hotline, (888) 385-4657

San Diego Community Medical Resources
See Section VI above.

Located in downtown San Diego at 1122 Broadway, Suite 200, San Diego, CA 92101, the San Diego Family Justice Center is a public safety initiative launched by the City of San Diego to assist victims of family violence.
Education and Prevention

USD provides prevention and awareness programs on Sexual Harassment, Sexual Misconduct and Relationship Violence to the campus community in order to create and maintain an environment that is safe and inclusive and that respects the dignity of each USD community member. USD is committed to the prevention of Sexual Harassment, Sexual Misconduct and Relationship Violence through regular and ongoing education and awareness programs. Incoming students and new employees receive primary prevention and awareness programming, and returning students and current employees receive ongoing training and related education. USD also provides programs addressing safe and positive options for risk reduction and bystander intervention.

USD strongly encourages all USD community members to take reasonable and prudent actions to prevent or stop an act of Sexual Harassment, Sexual Misconduct or Relationship Violence. Taking action may include direct intervention (where doing so does not present a safety risk), calling USD’s Department of Public Safety or law enforcement, or seeking assistance from a person in authority.

(August 14, 2020)