

THE CALIFORNIA STATE UNIVERSITY  
OFFICE OF THE CHANCELLOR



BAKERSFIELD

June 3, 2014

CHANNEL ISLANDS

CHICO

**MEMORANDUM**

DOMINGUEZ HILLS

**TO:** CSU Presidents

EAST BAY

**FROM:** Timothy P. White  
Chancellor

FRESNO

FULLERTON

**SUBJECT:** Student Conduct Procedures — Executive Order 1098

HUMBOLDT

LONG BEACH

Attached is a copy of Executive Order 1098, Student Conduct Procedures, which supersedes Executive Order 1073.

LOS ANGELES

In accordance with policy of the California State University, the campus president has the responsibility for implementing executive orders where applicable and for maintaining the campus repository and index for all executive orders.

MARITIME ACADEMY

MONTEREY BAY

If you have questions regarding this executive order, please contact the Office of General Counsel at (562) 951-4500.

NORTHRIDGE

POMONA

TPW/eb

SACRAMENTO

Attachment

SAN BERNARDINO

SAN DIEGO

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

SAN FRANCISCO

SAN JOSÉ

SAN LUIS OBISPO

SAN MARCOS

SONOMA

STANISLAUS

THE CALIFORNIA STATE UNIVERSITY  
Office of the Chancellor  
401 Golden Shore  
Long Beach, California 90802-4210  
(562) 951-4500

**Executive Order:** 1098  
**Effective Date:** June 3, 2014  
**Supersedes:** Executive Order 1073  
**Title:** Student Conduct Procedures

**Article I. Authority and Purpose**

These procedures are established pursuant to 5 Cal. Code Regs. § 41301, and govern all student disciplinary matters systemwide.

**Article II. Definitions**

- A. **Campus or University** means the California State University, including its 23 campuses and the Office of the Chancellor.
- B. **Complainant** means an individual who claims to have been injured by, or have knowledge of, a Student's violation of the Student Conduct Code, as defined below.
- C. **Disability** has the meaning defined in Executive Order 1097.
- D. **Discrimination** has the meaning defined in Executive Order 1097.
- E. **DHR (Discrimination, Harassment, and Retaliation) Administrator** means the Management Personnel Plan (MPP) Employee at each Campus who is designated to administer Executive Orders 1096 and 1097 and coordinate compliance with the laws prohibiting Discrimination, Harassment and Retaliation (based on Protected Status). The DHR Administrator may delegate tasks to one or more designees. The president may assign the roles of the DHR Administrator and Title IX Coordinator (defined below) to the same person. The name of, and contact information for, the DHR Administrator shall be made readily available to the Campus community and Third Parties.
- F. **Executive Order** 1095 is the systemwide Implementation of Title IX, VAWA/Campus SaVE Act (as defined below), and related Sex Discrimination, Sexual Harassment and

Sexual Violence Legislation.

- G. **Executive Order 1097** is the Systemwide Policy Prohibiting Discrimination, Harassment and Retaliation Against Students and Systemwide Procedure for Handling Discrimination, Harassment and Retaliation Complaints by Students, and includes any superseding executive orders.
- H. **Executive Order 1096** is the Systemwide Policy Prohibiting Discrimination, Harassment and Retaliation Against Employees and Third Parties and Procedure for Handling Discrimination, Harassment and Retaliation Allegations by Employees and Third Parties, and includes any superseding executive orders.
- I. **Gender** has the meaning defined in Executive Order 1097.
- J. **Harassment** has the meaning defined in Executive Order 1097.
  - 1. **Sexual Harassment** has the meaning defined in Executive Order 1097.
  - 2. **Sexual Violence** has the meaning defined in Executive Order 1097.
  - 3. **Sexual Assault** has the meaning defined in Executive Order 1097.
  - 4. **Sexual Battery** has the meaning defined Executive Order 1097.
  - 5. **Rape** has the meaning defined in Executive Order 1097.
  - 6. **Acquaintance Rape** has the meaning defined in Executive Order 1097.
  - 7. **Consent** has the meaning defined in Executive Order 1097.
  - 8. **Domestic Violence** has the meaning defined in Executive Order 1097.
  - 9. **Dating Violence** has the meaning defined in Executive Order 1097.
  - 10. **Stalking** has the meaning defined in Executive Order 1097.
- K. **Investigator** has the meaning defined in Executive Order 1097.
- L. **MPP Employee**, as defined in 5 Cal. Code Regs. § 42720 *et seq.*, means an employee who has been designated as “management” or “supervisory” under the provisions of the Higher Education Employer-Employee Relations Act.
- M. **Preponderance of the Evidence** means the greater weight of the evidence; i.e., that the evidence on one side outweighs, preponderates over, or is more than, the evidence on the other side. The Preponderance of the Evidence standard is the applicable standard for demonstrating facts in a student disciplinary matter.

- N. **Protected Status** means Age, Disability, Gender, Genetic Information, Nationality, Race or Ethnicity, Religion, Sexual Orientation, and Veteran Status, as those terms are defined in Executive Order 1097.
- O. **Remedies and Interim Remedies** have the meanings defined in Executive Order 1097.
- P. **Retaliation** has the meaning defined in Executive Order 1097.
- Q. **Student** means an applicant for admission to the CSU, an admitted CSU student, an enrolled CSU student, a CSU extended education student, a CSU student between academic terms, a CSU graduate awaiting a degree, and a CSU student who withdraws from school while a disciplinary matter (including investigation) is pending.
- R. **Student Conduct Code** means 5 Cal. Code Regs. § 41301, *et seq.*
- S. **Title IX Coordinator** means the Campus MPP Employee appointed by the Campus president to coordinate compliance with Title IX of the Education Amendments of 1972 (Title IX); the Violence Against Women Reauthorization Act of 2013 (which amends the Jeanne Clery Disclosure of Campus Security and Campus Crimes Statistics Act, commonly known as the Clery Act) (20 U.S.C. 1092(f))(VAWA), under its Campus Sexual Violence Elimination Act provision (Campus SaVE Act); and other related state and federal laws prohibiting Discrimination, Harassment and Retaliation based on Gender, including Sex Discrimination, Sexual Harassment, Sexual Violence, Domestic Violence, Dating Violence, and Stalking. (See Executive Orders 1095, 1096 and 1097.) The Title IX Coordinator may delegate tasks to one or more designees. The president may assign the roles of the DHR Administrator and Title IX Coordinator to the same person. The name of, and contact information for, the Title IX Coordinator shall be made readily available to the Campus community and Third Parties as described in Executive Order 1095.
- T. **University Property** means:
1. Real or personal property in the possession or under the control of the University; and
  2. All University facilities whether utilized by a Campus or a Campus auxiliary organization.
- U. **Working Days** are defined as Monday through Friday, excluding all official Campus holidays or Campus closures.

## Article III. General Provisions

### A. Student Conduct Administrator

Each Campus president shall assign an MPP Employee to be the student conduct administrator, whose responsibilities are to perform duties as prescribed in these procedures.

1. All student conduct administrators shall receive appropriate training regarding: (a) the student discipline process (including investigation skills and procedures); (b) the law governing Discrimination, Harassment and Retaliation; (c) student and witness privacy rights; and (d) the Family Educational Rights and Privacy Act of 1974 (FERPA).
2. All student conduct administrators shall receive annual training on issues related to: (a) Title IX, VAWA/Campus SaVE Act, and other related state and federal laws prohibiting Discrimination, Harassment and Retaliation based on Gender, including Sex Discrimination, Sexual Harassment, Sexual Violence, Domestic Violence, Dating Violence, and Stalking; and (b) how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.

### B. Hearing Officers

1. Each Campus president shall appoint one or more persons to serve as hearing officers. They may be University employees (current or retired); managers or directors (current or retired) of a recognized campus auxiliary organization; attorneys licensed to practice in California; or administrative law judges from the Office of Administrative Hearings. Student conduct administrators and their subordinates, persons with a conflict of interest in the matter, and percipient witnesses to the events giving rise to the matter are ineligible to serve as hearing officers.
2. The hearing officer conducts the hearing, determines whether a Student has violated the Student Conduct Code, and prepares a report that includes findings of facts and conclusions about whether the Student violated the Student Conduct Code and any recommended sanctions.
3. All hearing officers shall receive appropriate training regarding: (a) the student discipline process; (b) the law governing Discrimination, Harassment and Retaliation; (c) student and witness privacy rights; and (d) FERPA.
4. All hearing officers shall receive annual training on issues related to: (a) Title IX, VAWA/Campus SaVE Act, and other related state and federal laws prohibiting Discrimination, Harassment and Retaliation based on Gender, including Sex

Discrimination, Sexual Harassment, Sexual Violence, Domestic Violence, Dating Violence, and Stalking; and (b) the duties of the hearing officer (including impartiality, confidentiality and the duty to conduct hearings in a manner that protects the safety of victims and promotes accountability).

**C. Advisors**

Both the Complainant and the Student charged may elect to be accompanied by an advisor to any meetings, conferences, interviews or hearings. The advisor's role is limited to observing and consulting with, and providing support to, the Complainant or Student charged; an advisor may not speak on a Student's or Complainant's behalf. Witnesses who are alleged to be victims of Discrimination, Harassment or Retaliation, including Sex Discrimination, Sexual Harassment, Sexual Violence, Domestic Violence, Dating Violence, and Stalking, may also elect to be accompanied by an advisor on these same terms.

**D. Attorneys**

Student conduct proceedings are not meant to be formal court-like trials. Although University-related sanctions may be imposed, the process is intended to provide an opportunity for learning.

1. Each Campus president determines by Campus directive whether attorneys are permitted to be present in all or some Student conduct proceedings. Any person who has a license (active or inactive) to practice law is considered an attorney for purposes of this Executive Order. The president's determination regarding the presence of attorneys applies to the Student charged; Complainant; any witnesses who are alleged to be victims of Discrimination, Harassment or Retaliation (including Sex Discrimination, Sexual Harassment, Sexual Violence, Domestic Violence, Dating Violence, and Stalking); and the Campus, but not to the hearing officer, who may be an attorney in any case. If the Student charged is permitted to have an attorney present, the Complainant, any alleged victims of Discrimination, Harassment or Retaliation (including Sex Discrimination, Sexual Harassment, Sexual Violence, Domestic Violence, Dating Violence, and Stalking), and the Campus shall also be permitted to have an attorney present.
  - a. Any party may consult attorneys outside of the actual proceedings irrespective of the president's directive.
  - b. Notwithstanding any Campus directive, attorneys may attend hearings: (a) where there are pending criminal (felony) charges arising out of the same facts that are the subject of the disciplinary proceeding; or (b) where the recommended sanction is expulsion.
2. If authorized by the president's directive, attorneys may participate (if at all) only as advisors, and may not speak on behalf of their clients. Any person who wishes

to have an attorney present at the hearing must notify the student conduct administrator in writing of the attorney's name, address and phone number at least five Working Days prior to the hearing.

3. In the absence of a president's directive, attorneys shall be excluded from disciplinary conferences and hearings, subject to the two exceptions set forth in D.1.b, above.

**E. Confidentiality**

Information provided to University employees shall be considered private and shall be shared with other University employees and law enforcement exclusively on a "need to know" basis. University employees shall endeavor to honor any Complainant's or alleged victim's request for confidentiality; however, the University shall also weigh requests for confidentiality against its duty to provide a safe and nondiscriminatory environment for all members of the Campus community. **Confidentiality, therefore, cannot be ensured.** Executive Orders 1095 and 1097 identify those categories of University employees who are required by law to maintain near or complete confidentiality (for example, in connection with allegations of Sexual Violence). Questions about rights and options with respect to confidentiality should be directed to the Title IX Coordinator.

**F. Correspondence**

The student conduct administrator shall deliver all correspondence to Students (including the Student charged) at the University-assigned, or other primary, email address linked to the Student's account in the registrar's office.

**G. Other Student Conduct Code Violations Related to Incidents of Sexual Violence**

Alleged victims should not be deterred from reporting incidents of Sexual Violence out of a concern that they might be disciplined for related violations of drug, alcohol, or other University policies. The University's primary concern is Student safety; therefore, except in extreme circumstances, alleged victims of Sexual Violence shall not be subject to discipline for related violations of the Student Conduct Code.

**H. Interpretation of the Student Conduct Code and this Executive Order**

All issues regarding the hearing described in Article IV.D except those specifically noted are within the purview of the hearing officer for final determination. Questions of interpretation of the Student Conduct Code or this Executive Order are outside the purview of the hearing officer and are determined by the Campus vice president for Student Affairs or designee.

**I. Delegation of Duties**

The duties of the president in these proceedings may be delegated to a vice president.

**J. Timelines**

The Campus may (but is not required to) extend timelines set forth in this Executive Order. Extensions shall be determined by the Campus president, vice president for Student Affairs, or a designee. The student conduct administrator shall notify the Student charged, Complainant, witnesses and involved Campus administrators of any revised timeline.

**K. Parallel Judicial Proceedings**

Student Conduct Code proceedings are independent from court or other administrative proceedings. Discipline may be instituted against a Student also charged in civil or criminal courts based on the same facts that constitute the alleged violation of the Student Conduct Code. The Campus may proceed before, simultaneously with, or after any judicial or other administrative proceedings, except in cases involving Discrimination, Harassment or Retaliation (including Sex Discrimination, Sexual Harassment, Sexual Violence, Domestic Violence, Dating Violence, and Stalking). In such cases, the Campus shall proceed without delay pursuant to Article IV.A.4.a, below.

**L. Cases Involving Academic Dishonesty**

Academic dishonesty cases that occur in the classroom shall be handled by faculty members according to applicable Campus procedures. After action has been taken in any such case, the faculty member shall promptly notify the vice president for Student Affairs (or designee) and the student conduct administrator of the matter so that the circumstances of the misconduct can be considered in their totality. A department's procedure for responding to cases of academic dishonesty is, by its nature, limited to the instance presented in a particular class. The Student Conduct Code process provides the Campus with an opportunity to consider the Student's entire circumstances, including whether the reported instance is part of a larger pattern of misconduct.

**Article IV. Proceedings**

**A. Complaint Intake/Investigation**

1. **Complaint.** Whenever it appears that the Student Conduct Code has been violated, an oral or written complaint should be directed to the student conduct administrator as soon as possible after the event takes place.
2. **Investigation.** Subject to section 4 below, the student conduct administrator shall promptly: investigate each complaint submitted; determine whether it is

appropriate to charge a Student with violation of the Student Conduct Code; and consider whether the University should implement an interim suspension (pursuant to Article VI), withdrawal of consent to remain on Campus,<sup>1</sup> no contact orders concerning one or more members of the University community, or other Interim Remedies for the protection of any Complainant/victim or witnesses.

3. **Timelines.** Investigations shall be concluded within 40 Working Days after a complaint has been made. (In cases alleging DHR, investigations shall be concluded within 60 Working Days.)
4. **Cases Involving Allegations of Discrimination, Harassment or Retaliation.**

- a. Complaints by Students alleging Discrimination, Harassment or Retaliation including Sex Discrimination, Sexual Harassment, Sexual Violence, Domestic Violence, Dating Violence, and Stalking against other Students shall be filed and investigated according to the procedures set forth in Executive Order 1097. The DHR Administrator (or the Title IX Coordinator, where the allegations involve Sex Discrimination, Sexual Harassment or Sexual Violence) shall notify the student conduct administrator of the status of any such complaint or appeal to the Chancellor's Office, as well as the investigation results (including findings and any Interim Remedies afforded to the Complainant/victim), so that the student conduct administrator may determine whether to initiate student conduct proceedings.

- b. Complaints by CSU employees or Third Parties, as defined in Executive Order 1096 (e.g., vendors, auxiliary employees or Campus visitors), alleging Discrimination, Harassment or Retaliation (including Sex Discrimination, Sexual Harassment, Sexual Violence, Domestic Violence, Dating Violence, and Stalking) against Students shall be filed and investigated according to the procedures set forth in Executive Order 1096. The DHR Administrator (or the Title IX Coordinator, where the allegations involve Sex Discrimination, Sexual Harassment or Sexual Violence) shall notify the student conduct administrator of the status of any such complaint or appeal to the Chancellor's Office, as well as the investigation results (including findings and any Interim Remedies afforded to the Complainant/victim), so that the student conduct administrator may determine whether to initiate student conduct proceedings.

## **B. Notice of Conference and Conference**

1. Within 10 Working Days after the investigation is complete (or in cases involving Discrimination, Harassment or Retaliation (including Sex Discrimination, Sexual Harassment, Sexual Violence, Domestic Violence, Dating Violence, and

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<sup>1</sup> Cal. Penal Code § 626.4

Stalking), within 10 Working Days after the student conduct administrator receives the Investigator's findings pursuant to Article IV.A.4, above), the student conduct administrator shall notify the Student in writing that a conference has been scheduled or that the Student is directed to promptly schedule a conference with the student conduct administrator.

2. The Notice of Conference shall include the following information:
  - a. The sections of the Student Conduct Code and other Campus policies that are the subject of the charges;
  - b. A factual description of the Student's alleged conduct that forms the basis for the charges;
  - c. The proposed sanction or range of sanctions, including in cases involving allegations of Discrimination, Harassment or Retaliation (including Sex Discrimination, Sexual Harassment, Sexual Violence, Domestic Violence, Dating Violence, and Stalking), sanctions designed to provide protection/Remedies to the Complainant/victims;
  - d. The location on the Campus where the Student can view his or her discipline file, including the location (or copies) of the Campus policies that were violated;
  - e. Notification of any immediate, interim suspension (see Article VI) and/or withdrawal of consent to remain on Campus;<sup>2</sup>
  - f. Notification of the Student's right to be accompanied at the conference by a support person/advisor and the Campus policy regarding use of attorneys; and
  - g. A copy of this Executive Order or notice of where the Student may obtain a copy. If an interim suspension has been imposed or consent to remain on Campus has been withdrawn by the time the Notice of Conference is sent, a copy of this Executive Order shall be enclosed, along with any other Campus policy referenced in the notice of hearing.
3. In cases involving allegations of Discrimination, Harassment or Retaliation (including Sex Discrimination, Sexual Harassment, Sexual Violence, Domestic Violence, Dating Violence, and Stalking), the student conduct administrator shall offer the Complainant/victim the opportunity to meet with the student conduct administrator separately, prior to the conference. The conference and any

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<sup>2</sup> Cal. Penal Code § 626.4.

meetings with the Complainant/victim shall occur within 20 Working Days after the student conduct administrator receives the report and findings pursuant to Article IV.A.4 of this Executive Order.

4. The conference with the Student charged and any meeting with the Complainant/victim shall be conducted as follows:
  - a. The conference and/or meeting shall not be recorded.
  - b. The student conduct administrator controls the conference/meeting and may exclude any advisor who materially disrupts the conference or meeting.
  - c. The conference requirement is waived if the Student or Complainant/victim fails to attend the conference or otherwise declines to cooperate.
5. The Student shall respond to the charges of misconduct at the conference. The student conduct administrator shall determine which cases are appropriate for resolution (via settlement agreement), taking into consideration the results of the investigation and any additional information provided by the Student charged and the Complainant/victim during any conferences. If agreement can be reached with the Student as to an appropriate disposition, the matter shall be closed and the terms of the disposition shall be put in writing and signed by the Student charged and the University after the Student charged has been given a reasonable opportunity to review the proposed settlement agreement with a support person/advisor of the Student's choice. Suspension of one academic year or more or expulsion shall be entered on the Student's transcript permanently without exception; this requirement shall not be waived in connection with any settlement agreement.
6. If the Student admits violating the Student Conduct Code, but no agreement can be reached with respect to the sanction, the Student may request a hearing on the sanction only.
7. In cases involving allegations of Discrimination, Harassment or Retaliation (including Sex Discrimination, Sexual Harassment, Sexual Violence, Domestic Violence, Dating Violence, and Stalking), the student conduct administrator shall promptly notify the DHR Administrator or the Title IX Coordinator of the outcome of the conference with the Student charged. If the case does not proceed to hearing, the DHR Administrator (or the Title IX Coordinator) shall at that time:
  - a. Notify the Complainant/victim of the outcome of the conference, including any sanction that relates directly to the Complainant. Victims of crimes of violence, including sex offenses, shall also receive notice pursuant to Article IV.F.3.

- b. Take any appropriate further steps to address the effects of any hostile environment resulting from the Discrimination, Harassment or Retaliation.
  - c. Identify and address any remaining systemic or other patterns of Discrimination, Harassment or Retaliation at the Campus.
8. Discipline cases involving allegations of Discrimination, Harassment or Retaliation may be resolved through the informal conference process. It is, however, not appropriate in such cases for a Complainant to be required to "work out the problem" directly with the Student charged, and in no event should any meeting between Complainant and the Student charged be required. The Complainant must be notified of the right to end any such informal process at any time.
9. Nothing in this Executive Order shall prevent the Student and the University from entering into a voluntary resolution of an actual or anticipated student disciplinary case at any time, provided that the Student is first given a reasonable opportunity to review any proposed settlement agreement with an advisor/support person of his/her choice.

**C. Notice of Hearing**

1. The student conduct administrator shall issue a notice of hearing promptly after the conference. In cases involving allegations of Discrimination, Harassment or Retaliation (including Sex Discrimination, Sexual Harassment, Sexual Violence, Domestic Violence, Dating Violence, and Stalking), notice shall also be provided to the Complainant and the DHR Administrator or the Title IX Coordinator. The notice of hearing shall be issued within five Working Days after the conference has concluded.
2. The notice of hearing shall be issued under the following circumstances:
  - a. If the Student fails to attend the conference or otherwise declines to cooperate;
  - b. If the matter is not closed or the disposition is not memorialized in writing promptly after the conference; or
  - c. If the Student admits violating the Student Conduct Code, but no agreement can be reached with respect to the sanction.
3. The notice of hearing shall include the following information:
  - a. The sections of the Student Conduct Code and other Campus policies that are the subject of the charges;

- b. A factual description of the Student's alleged conduct that forms the basis for the charges;
- c. The proposed sanctions, including in cases involving allegations of Discrimination, Harassment or Retaliation (including Sex Discrimination, Sexual Harassment, Sexual Violence, Domestic Violence, Dating Violence, and Stalking), sanctions designed to provide protection/Remedies to the Complainant/victim;
- d. Notification that neither the hearing officer nor the president is bound by the proposed sanction, and that the hearing officer may recommend, and/or the president may set, a more severe sanction;
- e. The date, time and place of the hearing;
- f. The location on the Campus where the Student may view his or her discipline file, including the location (or copies) of the Campus policies that were violated;
- g. Notification that the Student may be accompanied at the hearing by an advisor, and the Campus policy regarding use of attorneys. In cases of Discrimination, Harassment or Retaliation (including Sex Discrimination, Sexual Harassment, Sexual Violence, Domestic Violence, Dating Violence, and Stalking), if the Student charged brings an attorney, the Complainant/victim shall also be notified of the right to bring an attorney. If attorneys are allowed, notification shall be given that any person who intends to bring an attorney must inform the student conduct administrator of the attorney's name, address and phone number at least five Working Days before the hearing;
- h. Notification that the Student can waive the right to a hearing by accepting the proposed sanction;
- i. Notification of any immediate, interim suspension (see Article VI) and/or withdrawal of consent to remain on Campus;<sup>3</sup> and
- j. A copy of this Executive Order or notice of where the Student and/or Complainant may obtain a copy. If an interim suspension has been imposed or consent to remain on Campus has been withdrawn by the time the notice of hearing is sent, a copy of this Executive Order shall be enclosed, along with any other Campus policy referenced in the notice of hearing.

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<sup>3</sup> Cal. Penal Code § 626.4

4. The student conduct administrator shall schedule the hearing promptly, but in any event no sooner than 10 Working Days after, and no later than 20 Working Days after, the date of the notice of hearing (subject to Article III.J).
5. A notice to appear at hearing shall be sent to any University-related witnesses at least 10 Working Days before the hearing at the University-assigned or other primary e-mail addresses linked to these persons' University accounts.
6. The notice of hearing may be amended at any time, and the student conduct administrator may (but is not required to) postpone the hearing for a reasonable period of time. If the notice is amended after a hearing is underway, the hearing officer may (but is not required to) postpone the hearing for a reasonable period of time.

**D. Hearing**

1. The hearing is closed to all persons except the student conduct administrator; the Student charged; the Complainant/victim in cases of Discrimination, Harassment or Retaliation (including Sex Discrimination, Sexual Harassment, Sexual Violence, Domestic Violence, Dating Violence, and Stalking); their respective advisors; appropriate witnesses while they are testifying; a support person to accompany alleged victims of Discrimination, Harassment or Retaliation (including Sex Discrimination, Sexual Harassment, Sexual Violence, Domestic Violence, Dating Violence, and Stalking) while they are testifying; the hearing officer; and one person to assist the hearing officer in recording the hearing. The Student charged, any Complainant, and any witnesses shall attend the hearing in person unless the student conduct administrator permits an exception (e.g., participation via videoconference or telephone). A police or security officer may also be present if deemed appropriate or necessary by the vice president for Student Affairs or hearing officer. The University will cooperate in providing University witnesses wherever possible, provided that they are identified at least five Working Days before the hearing.
2. Hearings are intended to be educational rather than adversarial. The hearing officer controls the hearing. Except as provided in section 4 below, the student conduct administrator and the Student charged each put on the evidence in their case and may each ask questions of the witnesses in whatever manner the hearing officer deems appropriate.
3. The hearing officer may ask questions of any witness, the Student charged, the Complainant, or the student conduct administrator.
4. In cases involving allegations of Discrimination, Harassment or Retaliation (including Sex Discrimination, Sexual Harassment, Sexual Violence, Domestic Violence, Dating Violence, and Stalking):

- a. The Complainant/victim may be present while evidence is being presented concerning the charges that relate to him/her, unless the hearing officer grants a request of any Student or other witness that the Complainant/ victim be excused during that Student or witness's testimony to protect privacy rights and/or pursuant to FERPA.
  - b. The DHR Administrator (or the Title IX Coordinator, where the allegations involve Sex Discrimination, Sexual Harassment, Sexual Violence, Domestic Violence, Dating Violence, or Stalking) may attend the hearing in its entirety.
  - c. Questions may not be posed to an alleged victim, including any Complainant who is an alleged victim, about his or her past sexual behaviors involving any persons other than the Student charged.
  - d. The hearing officer shall ask any questions of the alleged victims (including the Complainant if he/she is an alleged victim) on behalf of the Student charged (who shall give the hearing officer a written list of questions), unless the alleged victims expressly waive this requirement and consent to questioning directly by the Student charged.
  - e. The hearing officer shall ask any questions of the Student charged and other witnesses on behalf of the alleged victim (who shall give the hearing officer a written list of any such questions), unless the victim in question expressly waives this requirement.
  - f. The investigation report and any Chancellor's Office Response prepared pursuant to Article IV.A.4 of this Executive Order and Executive Order 1096 or 1097 shall be entered into evidence at the hearing. Any report or response shall be redacted to protect private (e.g. contact) information concerning the Complainant or other witnesses.
5. Formal rules of evidence applied in courtroom proceedings (e.g., California Evidence Code) do not apply in the hearing. All information that responsible persons are accustomed to rely upon in the conduct of serious affairs is considered. Hearsay may be considered and will be given the weight appropriate under all of the circumstances. Unduly repetitive information may be excluded. The hearing officer's report shall be based only on the information received at the hearing. The hearing officer shall not, prior to preparing the report, have substantive communications about the facts of the case with the student conduct administrator, the Complainant, the Student charged, the witnesses or DHR Administrator (or the Title IX Coordinator), unless both the student conduct administrator and the Student charged are present.

6. The hearing officer shall make an official audio recording of the hearing (with assistance, at the hearing officer's discretion). The recording is University Property. No other recording of the hearing is permitted. The audio recording shall be retained by the student conduct administrator in accordance with the Campus records/information retention and disposition schedule.
7. If the Student charged or Complainant fails to appear at the hearing without good cause, the hearing shall nevertheless proceed. The Student charged may not be found to have violated the Student Conduct Code solely because he or she failed to appear at the hearing. Nor may the Student charged be found not to have violated the Student Conduct Code solely because a Complainant or witness failed to appear at the hearing.
8. The hearing officer is responsible for maintaining order during the hearing and makes whatever rulings are necessary to ensure a fair hearing. Abusive or otherwise disorderly behavior that causes a material disruption is not tolerated. The hearing officer may eject or exclude anyone (including the Student charged and advisors) whose behavior causes a material disruption.
9. The hearing officer's decisions regarding procedural issues are final.
10. Where there is more than one Student charged with misconduct in connection with a single occurrence or related multiple occurrences, the student conduct administrator and the Students charged may agree to a single hearing. A Student may request consolidation of his or her case with others, or the student conduct administrator may initiate the consolidation (subject to FERPA and other applicable privacy laws). The student conduct administrator makes consolidation decisions, which are subject to review by the hearing officer and thereafter are final.
11. At any time during the hearing, the Student charged may waive the right to a hearing and accept the proposed sanction. Such a waiver must be in writing.

**E. Standard of Proof; Report and Recommendations of the Hearing Officer**

1. After the hearing, the hearing officer shall make findings of fact and conclusions about whether the Student charged violated the Student Conduct Code. The standard of proof the hearing officer shall use is whether the University's charge is sustained by a preponderance of the evidence. It is the University's burden to show that it is "more likely than not" that the Student violated the Student Conduct Code.
2. The hearing officer shall submit a written report of findings and conclusions to the president, along with any recommended sanctions, including, in cases involving allegations of Discrimination, Harassment or Retaliation (including Sex Discrimination, Sexual Harassment, Sexual Violence, Domestic Violence, Dating

Violence, and Stalking), recommendations regarding restricting the Student's contact with, or physical proximity to, the Complainant or other persons. The report shall be submitted within 10 Working Days after the hearing.

**F. Final Decision/Notification**

The president shall review the hearing officer's report and issue a final decision.

1. The president may impose the recommended sanctions, adopt a different sanction or sanctions, reject sanctions altogether, or refer the matter back for further findings on specified issues. If the president adopts a different sanction than what is recommended by the hearing officer, the president must set forth the reasons in the final decision letter. The president's final decision letter shall be issued within 10 Working Days after receipt of the hearing officer's report.
2. The president shall send his or her decision electronically to the Student charged at the University-assigned or other primary e-mail address linked to the Student's University account.
3. In cases involving crimes of violence, including Sexual Violence, Domestic Violence, Dating Violence, or Stalking, both the Complainant-victim and the Student charged shall be simultaneously informed in writing of:
  - a. The outcome of any disciplinary proceedings that arise from such allegations;
  - b. Any change to the results that occurs prior to the time that such results become final; and
  - c. When such results become final.<sup>4</sup>

This information is given only to the Student charged and Complainant-victim, and includes the name of the Student charged, any violation found to have been committed, and any sanctions imposed on the Student charged.<sup>5</sup> The University may also notify any other alleged victim of the final results regardless of whether or not the charges are sustained.<sup>6</sup>

4. In cases involving other allegations of Discrimination, Harassment or Retaliation without crimes of violence, a similar notice will be issued, but the information given to the Complainant-victim concerning sanctions shall be limited to any violation found to have been committed and any sanctions that relate directly to the Complainant-victim.

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<sup>4</sup> 20 U.S.C. § 1092.

<sup>5</sup> 20 U.S.C. § 1232g; 34 C.F.R. § 668.46(b)(11)(vi)(B); and VAWA/Campus SaVE Act.

<sup>6</sup> 34 C.F.R. § 99.31 *et seq.*

5. In cases involving Discrimination, Harassment or Retaliation (including Sexual Violence, Domestic Violence, Dating Violence or Stalking), the president shall also send his or her final decision to the DHR Administrator or the Title IX Coordinator so that he/she may determine whether any additional Remedies or steps shall be afforded or undertaken in order to maintain a safe and nondiscriminatory University environment.
6. In cases involving crimes of violence and/or Discrimination, Harassment or Retaliation (including Sexual Violence, Domestic Violence, Dating Violence or Stalking), if the Complainant-victim requests a copy of the transcript of the hearing, the University shall provide the portions of the transcript that relate to the requestor and concern whether a violation of the Student Conduct Code occurred.

#### Article V. Sanctions

A. The following sanctions may be imposed for violation of the Student Conduct Code:

1. **Restitution.** Compensation for loss, damages or injury. This may include appropriate service and/or monetary material replacement.
2. **Loss of Financial Aid.** Scholarships, loans, grants, fellowships and any other types of state financial aid given or guaranteed for the purposes of academic assistance can be conditioned, limited, cancelled or denied.<sup>7</sup>
3. **Educational and Remedial Sanctions.** Assignments, such as work, research, essays, service to the University or the community, training, counseling, or other remedies intended to discourage a repeat of the misconduct or as deemed appropriate based upon the nature of the violation.
4. **Denial of Access to Campus or Persons.** A designated period of time during which the Student is not permitted: (i) on University Property or specified areas of Campus;<sup>8</sup> or (ii) to have contact (physical or otherwise) with the Complainant, witnesses or other specified persons.
5. **Disciplinary Probation.** A designated period of time during which privileges of continuing in Student status are conditioned upon future behavior. Conditions may include the potential loss of specified privileges to which a current Student would otherwise be entitled, or the probability of more severe disciplinary sanctions if the Student is found to violate any University rule during the probationary period.
6. **Suspension.** Temporary separation of the Student from active Student status or Student status.

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<sup>7</sup> Cal. Educ. Code § 69810 *et seq.*,

<sup>8</sup> Cal. Penal Code § 626.2

- a. A Student who is suspended for less than one academic year shall be placed on inactive Student (or equivalent) status (subject to individual Campus policies) and remains eligible to re-enroll at the University (subject to individual Campus enrollment policies) once the suspension has been served. Conditions for re-enrollment may be specified.
- b. A Student who is suspended for one academic year or more shall be separated from Student status but remains eligible to reapply to the University (subject to individual Campus application polices) once the suspension has been served. Conditions for readmission may be specified.
- c. Suspension of one academic year or more shall be entered on the Student's transcript permanently without exception; this requirement shall not be waived in connection with a settlement agreement.

- 7. **Expulsion.** Permanent separation of the Student from Student status from the California State University system. Expulsion shall be entered on the Student's transcript permanently without exception; this requirement shall not be waived in connection with a settlement agreement.

**B. Multiple Sanctions**

More than one sanction may be imposed for a single violation.

**C. Good Standing**

A Student is not considered to be in good standing for purposes of admission to the University while under a sanction of suspension or expulsion, or while his or her admission or re-admission has been qualified.<sup>9</sup>

**D. Administrative Hold and Withholding a Degree**

The University may place an administrative hold on registration transactions and release of records and transcripts of a Student who has been sent written notice of a pending investigation or disciplinary case concerning that Student, and may withhold awarding a degree otherwise earned until the completion of the process set forth herein, including the completion of all sanctions imposed.

**E. Record of Discipline**

A record of disciplinary probation or suspension is entered on a Student's transcript, with beginning and end date, for the duration of the sanction. A record of expulsion or suspension for one academic year or more shall note the effective date of discipline and

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<sup>9</sup> 5 Cal. Code Regs. § 40601(g).

remains on the transcript permanently, without exception. This requirement shall not be waived in connection with any settlement agreement.

## **Article VI. Interim Suspension**

### **A. Grounds**

A president may impose an interim suspension pursuant to 5 Cal. Code Regs. § 41302 where there is reasonable cause to believe that separation of a Student is necessary to protect the personal safety of persons within the University community or University Property, and to ensure the maintenance of order.

### **B. Notice and Opportunity for Hearing**

A Student placed on interim suspension shall be given prompt notice of the charges pending against him or her as enumerated in 5 Cal. Code Regs. § 4130; a factual description of the conduct alleged to form the basis for the charges; and the opportunity for a hearing within 10 Working Days of the imposition of the suspension.<sup>10</sup> Where a timely request is made, a hearing is held to determine whether continued suspension is required to protect personal safety or property and to ensure the maintenance of order. This hearing may also serve as the disciplinary hearing in accordance with the procedures outlined in Article IV, provided that proper notice has been given and, in cases involving Discrimination, Harassment or Retaliation (including Sexual Violence, Domestic Violence, Dating Violence or Stalking), that an investigation report has been completed. The hearing is conducted pursuant to the provisions of Article IV.D of these procedures. The president shall review the hearing officer's report and shall promptly issue a final decision regarding interim suspension. Notice to the Student charged shall be given pursuant to Article IV.F.2. Victims of Discrimination, Harassment or Retaliation (including Sexual Violence, Domestic Violence, Dating Violence, or Stalking) or other crimes of violence shall be notified pursuant to Article IV.F.3 and 4. In such cases, a copy of the final decision shall also be provided to the DHR Administrator or the Title IX Coordinator pursuant to Article IV.F.5 of this Executive Order. If the University establishes that there is reasonable cause for the interim suspension to continue, it shall remain in effect until the University closes the disciplinary matter, whether by settlement, final decision or dropped charges, but in no case longer than the president has determined is required to protect the personal safety of persons within the University community or University Property and to ensure the maintenance of order.

### **C. Denial of Presence on Campus**

During the period of an interim suspension, the Student charged may not, without prior written permission from the Campus president, enter any Campus of the California State University other than to attend the hearing regarding the merits of his or her

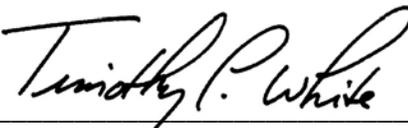
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<sup>10</sup> 5 Cal. Code Regs. § 41302.

interim suspension. The president may also restrict the Student's participation in University-related activities on a case-by-case basis, such as attending off-Campus activities and/or participating in on-line classes. Violation of any condition of interim suspension shall be grounds for expulsion.<sup>11</sup>

**Article VII. Admission or Readmission**

Applicants for admission into any University program are subject to appropriate sanctions for violations of the Student Conduct Code, including qualification, revocation or denial of admission or readmission. Any such sanction shall be determined by a hearing held pursuant to Article IV.



Timothy P. White, Chancellor

Dated: June 3, 2014

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<sup>11</sup> 5 Cal. Code Regs. § 41302.