



SEXUAL HARASSMENT AND SEXUAL ASSAULT PREVENTION POLICY

2018

**Handbook prepared in compliance with
Title IX of the Education Amendments of 1972
1990 Clery Act
Violence Against Women Reauthorization Act of 2013**

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I. INTRODUCTION

A. Intent

Members of the **San Joaquin Valley College (“SJVC” or the “College”)** community, guests, and visitors have the right to be free from all forms of gender- and sex-based discrimination, harassment, and assault, examples of which can include acts of sexual violence, sexual harassment, domestic violence, dating violence, and stalking. All members of the College community are expected to conduct themselves in a manner that does not infringe upon the rights of others. When an allegation of misconduct is brought to SJVC’s attention, and a Respondent is found to have violated this policy, appropriate sanctions will be administered to reasonably ensure a sustained safe classroom, office, and campus environment, and equitable treatment and opportunity related to the academic and employment benefits offered by SJVC.



SJVC complies with all pertinent titles and sections of the Civil Rights Act of 1964, Title IX of the Educational Amendments of 1972, the Clery Act of 1990, and the Violence Against Women Reauthorization Act of 2013.

Specifically, Title IX is landmark federal civil rights legislation that prohibits sex discrimination, sexual harassment, gender-based discrimination, and sexual violence in education. Title IX protects any person regardless of their real or perceived sex, gender identity, sexual orientation, and/or gender expression:

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

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Under this policy, **SJVC** expressly forbids gender- and sex-based discrimination, harassment of any student, employee, or visitor. Additionally, non-consensual sexual conduct and sexual assault are expressly forbidden.

Disciplinary action will be taken promptly against any student or employee, supervisory or otherwise, who has been found to have engaged in harassing [including bullying], discriminatory, or violent behavior. Individuals who violate these policies will be subject to disciplinary action that may include removal from campus, suspension, termination, or any other

appropriate institutional sanctions or any other means necessary to correct the situation. Prosecution by governmental authorities may also occur.

B. Jurisdiction

The College maintains jurisdiction over Title IX compliance and infractions in any building or on property the College owns or controls within a reasonably contiguous area that directly supports or relates to the institution's educational purposes; any building or property that is owned or controlled by the institution that is used in support of its educational purposes but is not located within a reasonably contiguous area to the campus; on grounds or facilities maintained by a student organization; and all public property within the reasonably contiguous geographic area of the institution that is adjacent to, or accessible from, a facility the institution owns or controls and that is used for educational purposes.

In addition, the College also maintains jurisdiction over student-to-student, employee-to-employee, student-to-employee, and employee-to-student off-campus conduct and/or actions, including electronic activity (such as e-mail, texting, telephone contact, social media, and other technology), when the Title IX Coordinator, or its designee, determines that the off-campus conduct affects, disrupts, or interferes with the educational mission of the College that could lead to the creation of an on-campus hostile environment.

C. First Amendment

Title IX is intended to protect students from sex discrimination, not to regulate the content of speech. In order to establish a violation of Title IX, the harassment must be sufficiently serious to deny or limit a student's ability to participate in, or benefit from, the education program.

D. Definitions

Advisor A member of the faculty, staff, or student body of the College or a family member, attorney, or friend selected by a Complainant or Respondent to assist him or her during the investigation process. Refer to page 11 for additional information. The advisor's role is limited to observing and consulting with, and providing support to, the Complainant or Respondent. The advisor cannot have involvement in the underlying case, and should not be a witness to the conduct at issue. An Advisor may not participate (speak) in the interview on the party's behalf; and may not in any way disrupt or interfere with the investigative or appeal process. The advisor should also maintain the privacy of the parties and shall not disclose information related to the complaint or investigation.

Appeal Officer For students, a member of the College's senior management [excluding the College President] selected by the Title IX Coordinator to hear an appeal of a decision of the Investigator. For employees, the College President.

Awareness Programs	Programs for students and employees that ensure an understanding of what types of conduct can cause sexual harassment or assault, how to prevent, and how to respond including bystander intervention.
Bystander Intervention	A violence prevention strategy whereby someone interrupts a potentially harmful situation
Coercion	Unreasonable pressure for sexual activity (“Have sex with me or I’ll hit you.” “Okay, don’t hit me; I’ll do what you want.”). Coercive behavior differs from seductive behavior based on the type of pressure used to get consent. When someone makes it clear that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.
College	<i>San Joaquin Valley College</i> and its campuses.
College Community	The students, faculty, staff, administration and other employees of the College, as well as visitors, vendors and independent contractors to the College.
Complaint	A report, either verbal or in writing, to the College by a student who believes he or she has been subjected to discrimination, harassment, or assault in violation of Title IX on the part of other students, faculty, staff, employees of the College, or third parties.
Complainant	A student, employee, or visitor who lodges with the College a complaint alleging conduct in violation of Title IX.
Conflict of Interest	Occurs when an individual’s personal objectives or interests are at odds with his or her professional responsibilities.
Consent	Clear, ongoing, affirmative, conscious, and voluntary permission. Consent is active, not passive. It is the responsibility of each person involved in the sexual activity to ensure that s/he has the affirmative consent of the other or others to engage in the sexual activity. Consent can be given by words or actions, as long as those words or actions create mutually understandable clear permission regarding willingness to engage in [and the conditions of] sexual activity. In order to give effective consent, one must be of legal age and have the capacity to give consent: <ol style="list-style-type: none"> 1. The legal age of consent in the state of California is 18 years. 2. Consent to any one form of sexual activity does not imply consent to any other form(s) of sexual activity. 3. A previous relationship or prior consent does not imply consent to future sexual acts. 4. Consent can be withdrawn. Thus, even if a person agreed to sexual interaction or continued sexual interaction, that person has the right to change their mind, irrespective of how much sexual interaction may have already taken place.

Dating Violence Controlling, abusive, and aggressive behavior in a romantic relationship. The existence of a romantic or intimate relationship will be determined based on the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating violence includes the use of physical violence, coercion, threats, intimidation, isolation, or stalking on another while in a dating relationship, or a social relationship of romantic or sexually intimate nature. Such violence includes other forms of emotional, sexual, or economic abuse directed towards a person who is or has been in a dating relationship, or a social relationship of a romantic or sexually intimate nature with the victim. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone. Dating violence can be a single act or a pattern of behavior in relationships. Unless the behavior occurs under the College’s jurisdiction as defined on page 2, or could lead to an on-campus hostile environment as defined on page 5, the College’s role is limited to offering support and referral to third-party services.

Discrimination Any distinction, preference, advantage for or detriment to, an individual compared to others that is based upon an individual’s actual or perceived gender, race, color, age, creed, national or ethnic origin, physical or mental disability, veteran status, pregnancy status, religion or sexual orientation that is so severe, persistent or pervasive that it unreasonably interferes with or limits an employee’s or student’s ability to participate in, or benefit from, the College’s educational programs or activities. Title IX, and this Policy, specifically relates to gender/sex discrimination; other types of discrimination are addressed by the College’s anti-discrimination policies.

Domestic Violence Willful intimidation, physical assault, battery, sexual assault, and/or other abusive behavior as part of a systematic pattern of power and control perpetrated by one intimate partner against another. Unless the behavior occurs under the College’s jurisdiction as defined on page 2, or could lead to an on-campus hostile environment as defined on page 5, the College’s role is limited to offering support and referral to third-party services.

Force The use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation [implied threats] and coercion that overcome resistance or produce consent. Consent obtained through force is not consent. NOTE: There is no requirement that a party resists a sexual advance or request, but resistance is a clear demonstration of non-consent. The presence of force, however, is not demonstrated by the absence of resistance.

Gender-Based Harassment and/or Misconduct	Unwelcome conduct of a nonsexual nature based on a Complainant’s actual or perceived gender, including conduct based on gender identity, gender expression, or nonconformity with gender stereotypes.
Hostile Environment	Any situation in which there is harassing conduct that is sufficiently severe, pervasive, and objectively offensive that it alters the conditions of employment or limits, interferes with, or denies educational benefits or opportunities, from both a subjective (the alleged victim’s) and objective (reasonable person’s) viewpoint.
Incapacitation	A state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the “who, what, when, where, why or how” of their sexual interaction). Sexual activity with someone who is known to be -- or based on the circumstances should reasonably have been known to be -- mentally or physically incapacitated (i.e. by alcohol or other drug use, unconsciousness, asleep, or blacked out), constitutes a violation of this Policy.
Investigator	The Title IX Coordinator’s designated person(s) responsible for the investigation of complaints of sexual harassment, sexual assault, and gender-based misconduct at the College.
May	Used in the permissive sense.
Notification	A written statement of the specific actions or behaviors on the part of the accused individual[s] who allegedly violated Title IX and/or SJVC Policy.
Nonconsensual Sexual Contact	Any intentional sexual touching, however slight, with any object, by a man or a woman upon a man or a woman that is without consent and/or by force. This includes intentional contact with the breasts, buttocks, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; any intentional bodily contact in a sexual manner, though not involving contact with/of/by breasts, buttocks, groin, genitals, mouth or other orifice.
Other Policy	Any official policy of the College specified in its publications including, but not limited to, the Student Handbook and Catalog .
Privacy	The College will make all reasonable efforts to maintain the privacy of the parties involved in an investigation of a complaint regarding the details of that investigation, and except where permitted by law, the sanctions imposed. The College will inform in writing all individuals involved in the investigation and/or hearing process of the critical importance and expectation that, while the processes are ongoing, they maintain the privacy of the process and any information shared with them as a result of their participation. Further, all documents provided in preparation for or related to the hearing proceedings may not be disclosed to any other party under FERPA as such documents constitute education records which may not be disclosed outside of the proceedings, except as may be required or

authorized by law. All hearing proceedings will be confidential and will not be discussed outside the process; this includes any witnesses and advisors/support persons.

Complainants and Respondents are not prohibited from sharing details of complaints with family/partner, counsel, or a support person/advisor, who may support or assist the parties in presenting their case. Those persons are also expected to maintain the same level of privacy as Complainants and Respondents and the College will provide written notice regarding privacy to Complainants and Respondents so that they can deliver it to such persons.

Following resolution of an investigation and any related hearing, the College does not impose any restrictions on the parties regarding re-disclosure of the following: the name of the student or employee (Respondent or Complainant), the findings of the hearing, any sanctions imposed by the College, and the rationale for the findings and sanctions.

Quid Pro Quo	An exchange of goods or services, where one transfer is contingent on the other.
Rape	Non-consensual sexual intercourse that may also include the use of threat of force, violence, or immediate and unlawful bodily injury or threats of future retaliation and duress. Intercourse includes 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.
Respondent	The party to a complaint who allegedly committed conduct that violated Title IX.
Responsible Employee	Employees designated by the College to mandatorily report all known or suspected incidents of Sexual Harassment and Sexual Assault to the Title IX Coordinator.
Retaliation	Any adverse action by any student, faculty or staff member against another individual as a result of that individual's exercise of a right under this policy, including participation in a complaint and/or investigation of unlawful sexual harassment and/or assault or gender-based misconduct. Retaliation includes adverse actions intended to improperly deter involvement of another in these procedures set forth in this Policy, and may involve actions intended either to intimidate or to penalize individuals for their participation. Retaliation is strictly prohibited by law and this policy; any person who is found to have engaged in retaliation shall be subject to disciplinary action. Persons who believe that they have been retaliated against for making a complaint/report or for cooperating in an investigation or hearing should immediately contact the Title IX Coordinator. A complaint filed in good faith under this policy shall not constitute retaliation.

Risk reduction	The actions an individual can take that reduce the risk of sexual assault.
Result	Outcome of an investigation: whether the violation occurred, and what sanctions, if any, will be imposed.
Sexual Assault	A general term that covers actual or attempted, forcible or nonforcible sexual contact with another person without that individual's consent. Sexual assault includes, but is not limited to, a range of crimes, including rape, forced anal intercourse, forced oral copulation, penetration of the anal or vaginal area with a foreign object, and forcibly touching an intimate part of another person.
Sexual Contact	Intentional contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; any intentional bodily contact in a sexual manner, though not involving contact with/of/by breasts, buttocks, groin, genitals, mouth or other orifice
Sexual Exploitation	When one takes non-consensual or abusive sexual advantage of another for the benefit of anyone other than the one being exploited without his/her consent. Examples of sexual exploitation may include, but are not limited to <ul style="list-style-type: none"> • Prostituting another person; • Non-consensual video or audio-taping of sexual activity; • Viewing or distributing images of an individual's sexual activity, body parts, or nakedness in a place where that person would have a reasonable expectation of privacy, without that person's Consent to have the image shared, or advance Consent to view such an image, and for the purposes of arousing or gratifying sexual desire; • Knowingly transmitting an STD, HIV, or other communicable disease to another; • Exposing one's body parts in non-consensual circumstances; inducing another to expose their genitals; • Sexually-based stalking.
Sexual Harassment	Unwelcome, gender or sex-based verbal or physical conduct that is sufficiently severe, persistent or pervasive that it unreasonably interferes with, denies or limits someone's ability to participate in or benefit from the College's employment and/or educational programs/activities, and is based on power differentials (quid pro quo), the creation of a Hostile Environment, or Retaliation. Sexual harassment may include sexual assault, and sexual exploitation. In addition, depending on the facts, dating violence, domestic violence, and stalking may also be forms of Sexual Harassment,
Sexual Misconduct	A threat or commission of behavior used to obtain sexual gratification against another's will or at the expense of another such as inducing fear, shame, or mental suffering.
Shall	Is used in the imperative sense.

Standard of Proof

A Respondent will be found either responsible or not responsible based on a preponderance of the evidence, meaning that it is more likely than not that s/he has violated the College’s policy and any other applicable policies and procedures. The determination of responsible or not responsible shall be based upon the thorough investigation of allegations, and the weighing of evidence in totality by the Title IX Coordinator, or his or her designee.

Title IX Coordinator

The person(s) responsible for oversight and implementation of Title IX compliance at the College and for the effective oversight of the College’s Sexual Harassment and Sexual Assault Prevention Policy and procedures outlined in this policy. The purpose of the Title IX Coordinator is to protect and promote gender equality. The Title IX Coordinator is an advocate for the policies, processes and resources that address gender equality at SJVC, and not a specific advocate for Complainants, Respondents, or the College.

II. AWARENESS AND PREVENTION TRAINING PROGRAMS

Through the Title IX Coordinator, the College is committed to educating the College community of the impact that sexual harassment, sexual assault and gender-based misconduct has on an individual and the broader College community. Therefore, the College will:

- Provide the College Community with training, ongoing education, prevention and awareness information about sexual harassment, sexual assault and gender-based misconduct, including domestic violence, dating violence, sexual assault, or stalking.
- Post prevention and education resources and information on the College’s website regarding sexual harassment, sexual assault and gender-based misconduct, including domestic violence, dating violence, sexual assault and stalking.
- Advise all reported victims of sexual harassment, sexual assault and gender-based misconduct sources of counseling, advocacy, support, and legal options.

In addition, the College includes the following information regarding prevention and risk reduction.

A. Prevention:

If you find yourself in the position of being the initiator of sexual behavior, you owe sexual respect to your potential partner and yourself. These suggestions may help you avoid committing a nonconsensual sexual act and reduce your risk of being accused of sexual misconduct:

1. Clearly communicate your intentions to your sexual partner and give them a chance to clearly communicate their intentions to you.
2. Understand and respect personal boundaries. Do not pressure a potential partner.

3. DON'T MAKE ASSUMPTIONS about consent; about someone's sexual availability; about whether they are attracted to you; about how far you can go or about whether they are physically and/or mentally able to consent. If there are any questions or ambiguity, then you DO NOT have consent and you should stop.
4. If you think you are receiving unclear or conflicting messages from your partner, this is a clear indication that you should stop, defuse any sexual tension, and communicate better.
5. Don't take advantage of someone's drunkenness, drugged, or otherwise incapacitated state, even if they did it to themselves.
6. Realize that your potential partner could be intimidated by you, or fearful. You may have a power advantage simply because of your gender or size. Don't abuse that power.
7. Understand that consent to some form of sexual behavior does not automatically equal consent to any other form of sexual behavior.
8. Silence and passivity cannot be interpreted as an indication of consent. Read your potential partner carefully, paying attention to verbal, non-verbal communication, and body language. If you are not sure, stop.

B. Risk Reduction

Risk reduction tips can, unintentionally, take a victim-blaming tone. With no intention to victim-blame, and with recognition that only those who commit sexual violence are responsible for such conduct, these suggestions may nevertheless help you to reduce your risk of experiencing a non-consensual sexual act.

1. If you have sexual limits, make them known as early as possible.
2. If you do not want to engage in a particular activity, tell the other person "NO" clearly and firmly.
3. Try to remove yourself from the physical presence of a sexual aggressor, if you can do so safely.
4. If someone is nearby, ask for help or if it is safe to do so, text or call someone.
5. Take affirmative responsibility for your alcohol intake/drug use and acknowledge that alcohol/drugs lower your sexual inhibitions and may make you vulnerable to someone who views a drunk or high person as a sexual opportunity.
6. Take care of your friends and ask that they take care of you. A real friend will challenge you if you are about to enter a dangerous situation. Respect them when they do.

III. REPORTING

An individual who is the victim of sexual harassment, sexual assault or gender-based misconduct, has knowledge of another person being the victim of sexual harassment, sexual assault or gender-based misconduct, or believes in good faith that s/he has witnessed a possible warning sign of sexual harassment, sexual assault or gender-based misconduct is encouraged to

make a formal report to the Dean of Student Services (“Dean”), the Campus President (“President”), and/or the Title IX Coordinator and/or local law enforcement authorities.

Whether or not a victim or witness elects to report an act of sexual harassment, sexual assault or gender-based misconduct or the warning signs of sexual misconduct to the police, s/he is urged to contact the Dean of Student Services, the Campus President, and/or the Title IX Coordinator.¹

A. Lodging a Formal Complaint



If a student has been the subject of unlawful discrimination, harassment, or sexual misconduct, or has witnessed another individual of the College community being subjected to such acts, s/he may file a formal complaint. Complaints can be made in person or in writing. If in writing, the complaint must be legible, dated, and addressed to the Title IX Coordinator, and/or the appropriate Dean and/or Campus President.

Complaints should generally be submitted within 180 days, and failure to timely report will impede the College’s ability to effectively investigate and respond. However, the College will investigate and take appropriate action in response to all reports regardless of when the alleged conduct occurred. The ability of the College to respond to the conduct is limited if the Respondent is no longer a member of the College community. If a College staff member, faculty member or student leaves the College with a pending complaint against them, they will not be permitted to return to the College until the case is resolved through these procedures.

B. Required Reporting by Responsible Employees



In addition to the Dean, Presidents, and Title IX Coordinator, a report may be made to any responsible employee. The following employees of the College are designated as Responsible Employees, who are required to report incidents and relevant details of sexual harassment, sexual assault, and gender-based misconduct to the Title IX Coordinator and law enforcement, if necessary:

- Managers/Administrators
- All Faculty

Notice to a Responsible Employee is official notice to the College. Members of the College community have the right and can expect to have incidents of sexual harassment, sexual assault and gender-based misconduct taken seriously by the College when formally reported, and to have those incidents investigated and properly resolved. Formal reporting means that only people who need to know will be told, and information will be shared only as necessary.

¹ Refer to pages 24-25 for a list of those names.

C. Methods for Reporting Sexual Harassment, Sexual Assault and Gender-Based Misconduct

SJVC has a process in place for students, faculty, staff, and administrators to report any violations of this Policy or related criminal acts by submitting an email to TitleIXSupport&Assistance@sjvc.edu; via phone (559) 302-1802; or in person to the Title IX Coordinator. Alternatively, complainants may contact the appropriate Dean of Student Services or Campus President to report violations. All incidents where imminent physical danger is known or suspected should be reported to local law enforcement via 9-1-1 immediately.

D. Request for Confidentiality in Connection with a Report of Sexual Harassment, Sexual Assault and Gender-Based Misconduct

If the Complainant requests confidentiality or requests that the complaint not be pursued, the College will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality. However, such a request may limit the College's ability to respond appropriately to the complaint.

In addition, the College may have an obligation to proceed with an investigation, regardless of a Complainant's wishes to the contrary, in order to ensure the safety of the College community.

The College may also weigh the Complainant's request for confidentiality against such factors as the seriousness of the alleged conduct, whether there have been other complaints of a similar nature against the same individual, the Respondent's rights to receive information about allegations if the information is maintained by *SJVC* as an "education record" under the Family Educational Rights and Privacy Act [FERPA], or in the case of an employee, the "employment record" and other factors otherwise required by applicable law.

In most cases, information including the Complainant's name may be shared with the Respondent, witnesses, and with College officials who have a legitimate need-to-know or law enforcement as applicable. Beyond that, the College will take steps to reasonably protect the Complainant's identity and the identity of all individuals involved.

The College may publicly disclose results of disciplinary proceedings if a student or employee is found to have committed a crime of violence, or non-forcible sex offense, as determined under this policy.

E. Confidential Reporting Options

Certain resources are not required to disclose private, personally identifiable information unless there is cause for fear for your safety, or the safety of others. Specifically, reports to members of the clergy and chaplains off-campus are confidential resources.

IV. INVESTIGATION PROCESS AND SANCTIONS DETERMINATION

A. Informal Dispute Resolution

Before pursuing the formal complaint process, every reasonable effort should be made to constructively resolve issues with students, faculty, staff, or administrators, including following procedures for formal appeal. Whenever possible and safe, and where both parties are amenable, the problem or complaint should first be discussed with the individual involved in the complaint. If the Title IX Coordinator or its designee determines that such an informal process is appropriate under the facts and circumstances of the case, one or more of the following, or similar, methods may be utilized:

1. A meeting of the Title IX Coordinator or its designee, the Complainant, and the Respondent; and/or
2. A meeting between the Title IX Coordinator or its designee and the Respondent; and/or
3. A recommendation of training courses or seminars for either principal; and/or
4. Referral of the case to a mediator who has both legal and/or personnel relations experience. The mediator will discuss the issues with both principals and seek appropriate actions by the principals involved to reach an acceptable solution.

If satisfactory resolution is not reached after discussion with the individual, the Complainant should contact the individual's direct supervisor or Dean of Student Services to attempt resolution, or request a formal complaint process be initiated by the Title IX Coordinator.

The College does not *require* a student to contact the person involved, that person's supervisor, or the Dean if doing so is impracticable, or if the student believes the conduct cannot be effectively addressed through informal means. Moreover, none of the informal resolution alternatives above are options for resolution in cases involving allegations of sexual assault. This informal procedure is intended to resolve actual or perceived instances of harassment and discrimination through agreement and mutual understanding between the parties involved without the need for more formal action by the College. Mediation will normally be completed within four weeks, although it may take longer.

If these efforts are unsuccessful or not attempted, the formal complaint process may be initiated.

B. Investigation

1. Timeframe for Investigating Sexual Harassment, Sexual Assault and Gender-Based Misconduct Complaints

The College shall use reasonable, diligent efforts to investigate reported incidents of sexual harassment, sexual assault or gender-based misconduct to the Complainant and Respondent within sixty (60) calendar days of the date in which the complaint was filed unless

there are extenuating circumstances that prohibit the timeliness of the completion of the investigation. Time frames for investigations may vary depending on the details of a case or if possible violations occur near, during, or after College holidays, breaks, or the end of an academic period.

If an extenuating circumstance exists that prohibits the completion of an investigation within 60 calendar days, the College will inform the Complainant and the Respondent in writing of such delay.

2. Alcohol and Drug Use Are Not Barriers to Reporting Sexual and Gender-Based Misconduct

The College understands that students and employees may be reluctant to file complaints of sexual harassment, sexual assault, or gender-based misconduct when alcohol and/or drugs were used. Whenever possible, the College will respond educationally, rather than punitively, to the use of drugs and/or alcohol so as to promote the reporting of sexual harassment, sexual assault, and gender-based misconduct. However, the College reserves the right to other remedies dependent upon the severity of the alcohol or drug use.

3. Anti-Retaliation

Any form of retaliation against anyone who has complained of, or formally reported, discrimination, harassment, or sexual assault and gender-based misconduct, or has participated in an investigation of such a complaint, regardless of whether the complaint relates to the complaining person or someone else, will not be tolerated, and violates this Policy, and applicable law.

4. Parallel Student Conduct Proceedings

Complainants are strongly encouraged to report all incidents of sexual harassment, sexual assault, and gender-based misconduct to law enforcement. Title IX investigations are independent from court or other administrative proceedings. Discipline may be instituted against a Respondent also charged in civil or criminal courts based on the same facts that constitute the alleged violation of the Student Code of Conduct or other applicable Policy.

The College may proceed before, concurrently with, or after any judicial, criminal, or administrative proceedings, except in cases involving sexual harassment, sexual assault, and gender-based misconduct. In sexual harassment, sexual assault, and gender-based misconduct cases, the College shall proceed with investigation without undue delay, typically within fourteen (14) calendar days, in accordance with federal and state law requirements.

5. Steps in the Investigation Process

Step 1—Notice

Once a complaint of sexual harassment, assault, and/or gender-based misconduct has been received by the Title IX Coordinator, or designee, an email or letter will be sent to Complainant and Respondent, separately, with the following information:

- A description of the alleged violation(s);
- A description of the applicable policies;
- A statement of the potential sanctions/responsive actions that could result; and
- A request for an investigative interview.

Step 2—Interim Measures and Accommodations

Once the Title IX Coordinator or its designee has received a complaint and/or report of sexual harassment, sexual assault or gender-based misconduct, the College will make an immediate assessment to determine if any interim measures are warranted, pending an investigation. The College may take whatever measures it deems necessary in response to an allegation in order to protect an individual's rights and personal safety, the safety of the College community, or if determined to be necessary to ensure the integrity of the investigation or adjudication process.

Determinations regarding interim measures are made by the Title IX Coordinator on a case-by-case basis. Such measures include, but are not limited to, an interim suspension (immediate, temporary suspension pending the outcome of investigation and/or hearing process), a "no contact" letter (an order that an individual refrain from direct or indirect contact with another person or persons), restrictions on access to campus or areas of campus, and/or appropriate changes in academic schedule. Interim measures may include reporting the matter to the local police.

A Complainant or Respondent may request a "no-contact" letter or other protection. Not all of the measures listed in this section will be necessary in every case. If an individual identifies an interim measure that is not already provided by the College, the College will consider whether the request can be granted. In those instances where interim measures affect both a Complainant and Respondent, the College will minimize the burden on the Complainant wherever appropriate.

Step 3—Investigation

Upon notice of any concern regarding sexual harassment, sexual assault or gender-based misconduct, the Title IX Coordinator or its designee will assess whether a formal Title IX investigation will be conducted under these procedures; and, if so, whether a formal investigation is appropriate under the circumstances. In circumstances in which the Title IX Coordinator determines that there is no ongoing risk of harm to the community and that interim

measures, such as a No Contact letter, have redressed the concerns, the Title IX Coordinator may forego a formal investigation.

The College is committed to using a balanced and fair investigative process for both Complainant and Respondent. In reaching an investigative finding, the College shall use a “preponderance-of-the-evidence” standard, that it is “more likely than not” that a violation of this Policy has occurred.

Following receipt by the College of a complaint of discrimination, harassment, or sexual misconduct that alleges violation of Title IX, the Title IX Coordinator shall then assign the complaint to an Investigator from the staff, administration, or faculty who does not have a conflict of interest to perform an investigation into the allegations contained in the complaint. The Investigator shall be drawn from a pre-designated pool of potential investigators who have received appropriate investigatory and Title IX training.

In all investigations conducted by the College, the Investigator will make good faith and reasonable efforts to interview the Complainant, Respondent, and any witnesses (if appropriate). Both Complainant and Respondent may have an advisor present during their own investigative interview.

The Investigator will also make good faith and reasonable efforts to gather all readily available information, documents, and materials (if any) that are relevant to the case. Cell phones and other video or audio recording devices may not be used in any investigation meetings or interviews.

Once sufficient evidence has been collected, the Investigator will evaluate the evidence to make a determination regarding responsibility based on the preponderance of the evidence (more likely than not) that there has been a violation of this Policy.

Step 4—Investigative Findings

Once the investigation has been concluded, the Title IX investigator will make a determination based on the preponderance of the evidence that the Respondent is Responsible or Not Responsible for a violation of this Policy:

Not Responsible— If after the conclusion of an investigation, the preponderance of the evidence indicates that it is NOT more likely than not that the Respondent violated this policy, the Respondent will be found not responsible for the violation.

Responsible—If after the conclusion of an investigation, the preponderance of the evidence indicates that it IS more likely than not that the Respondent violated this policy, the Respondent will be found responsible for the violation. Where a Respondent is found responsible for violation of this policy, applicable sanctions will be recommended by the investigator, in collaboration with the appropriate campus or site managers.

Whether or not a Respondent is found to be responsible, both Complainant and Respondent will be notified of the outcome of the investigative findings in writing by the Title IX Investigator. Prepared by the Title IX Coordinator, the notification shall include a brief summary of the investigative process and findings, the outcome of the investigation, and an advisement of their right to appeal the investigatory findings. Thereafter, in these cases, the Title IX Coordinator will forward that determination to the appropriate party for a determination of sanctions.

Along with the notification, both parties shall receive a copy of the underlying investigatory report. A copy of the report shall be retained by the Title IX Coordinator. The investigatory report and results notification will be forwarded to the appropriate manager for their records and sanctions, if applicable. Any applicable sanctions are administered through the appropriate manager.

6. Determination of Sanctions

Within five (5) calendar days of receipt of the investigatory report and results notification, the appropriate manager, upon a finding of responsibility, shall determine sanctions for student or employee respondents, and prepare a related determination, informing both parties of the sanctions to be imposed. The sanctions may include remedial or corrective actions as warranted (including, but not limited to, extension of or expansion or any interim measures already in place). In general:

- Termination from the College is the expected sanction for any student or employee who is determined to have committed sexual assault involving sexual penetration and force and/or incapacity.
- Any determination of responsibility for committing sexual assault involving sexual penetration without force or incapacitation may result in a sanction ranging from suspension of no less than one-year or the Complainant's remaining tenure on campus (whichever is longer) to termination from the College.
- Any determination of responsibility for committing sexual assault involving sexual contact may result in a sanction ranging from conduct warning up to termination from the College.
- Any determination of responsibility for engaging in any other prohibited form of conduct may result in a sanction ranging from conduct warning to termination from the College.

The appropriate manager may issue a single sanction or a combination of sanctions. In considering the appropriate the following factors will be considered:

- (1) the impact of the conduct on the Complainant;
- (2) the impact of the conduct on the community, its members, or its property;
- (3) the Respondent's prior discipline history;
- (4) how the College has sanctioned similar incidents in the past;
- (5) the nature and violence of the conduct at issue;

- (6) whether the Respondent has accepted responsibility;
- (7) whether the Respondent is reasonably likely to engage in the conduct in the future based on pattern and practice evidence heard and considered by the investigator and/or External Adjudicator;
- (8) the need to deter similar conduct by others; and
- (9) any other mitigating or aggravating circumstances.

Absent compelling justifications, if the Respondent has previously been found responsible under College policy to have engaged in the same or similar conduct in the past, the sanction will be termination.

The following list of sanctions is illustrative rather than exhaustive, and the College reserves the right to impose other reasonable sanctions or to combine sanctions as it deems appropriate:

Conduct Warning—A written notification that a violation of the Student or Employee Code occurred and that any further responsible finding of misconduct may result in more severe disciplinary action. Warnings are typically recorded for internal purposes only and are not considered part of a student's or employee's record. Though disclosed with a student's or employee's signed consent, a student or employee who receives a warning is still considered in good standing at the College.

Loss of Privileges—Denial of the use of certain College facilities or the right to participate in certain activities or to exercise certain privileges for a designated period of time.

Educational Requirements/Referrals—The College reserves the right to impose counseling or substance assessments or other required educational or employment sanctions.

College Suspension—The separation of a student or employee from the College for a specified period of time, after which the student or employee is eligible to return. Conditions for return may be required and will be included in the notification of suspension.

During the period of suspension, the student or employee may not participate in College academic, co-curricular, or extra-curricular activities; and may be banned from all property owned or operated by the College. Students or employees who are suspended may not be on campus without specific, written permission of the appropriate manager.

Suspension is for a designated period of time and includes the probability of more severe sanctions, including termination, if found responsible for violations of the Student Code.

Termination—Termination is the permanent separation of the student or employee from the College. Students or employees who have been terminated may not be on campus without specific, written permission from the appropriate manager.

V. APPEAL

Both the Respondent and Complainant have the right to submit an appeal of the investigative findings as set forth in the results notification. Appeals of a finding, if any, must be submitted in writing to the Title IX Coordinator within seven (7) calendar days of the date of receipt of the written notification. Appeals of any subsequent sanctions imposed shall be submitted to the Title IX Coordinator within seven (7) calendar days of receipt of written sanctions determination. The appeal will be assigned to an appropriate Appeals Officer.²

A. Appeal Procedures Involving Student Respondents

Either party may appeal the determination of responsibility or sanction(s) in writing to an Appeals Officer² or its designee.

Dissatisfaction with the outcome of the hearing is not grounds for appeal. The limited grounds for appeal are as follows:

Improper Investigation Procedure

The party may appeal if the procedure outlined in the policy are violated. The Appeals Officer shall consider

- Whether provisions of the Policy were violated in such a clear manner as to deny the appealing party consideration of the party's position during the investigation; and
- Consideration of the party's position would have led to a different finding concerning the alleged violation of the Policy.

New Evidence

During the standard investigation process, sufficient time is allowed to gather all available evidence. However, in extraordinary circumstances a party may appeal if new evidence becomes available. The Appeals Officer shall consider:

- Whether the evidence was genuinely unavailable and could not have been made available through the appellant's diligent efforts at the time of the original investigation; and
- Whether the evidence would have led to a different conclusion had it been available.

² Mike Abril, Vice President of Legal and Regulatory Affairs
Carole Brown, Provost and Vice President of Academic Affairs
Nick Gomez, Chief Operating Officer
Joseph Holt, Chief Administrative Officer
Russ Lebo, Chief Financial Officer
Kevin Robinson, Vice President of Student Financial Services

Sanctions

- The sanctions imposed were grossly disproportionate to the violation committed.

Requests for appeal and responses to the same shall not exceed 2,500 words (approximately 10 pages double-spaced). Late submissions will not be accepted. The appeal shall consist of a plain, concise, and complete written statement outlining the grounds for the appeal. Upon receipt of an appeal, the Appeal Officer will notify and provide a copy of the appeal to the other party. That party shall then have an opportunity to respond in writing to the appeal; any response must be submitted within five (5) calendar days from receipt of the appeal.

The appeal consideration will be conducted in an impartial manner by the Appeal Officer. In any request for an appeal, the burden of proof lies with the party requesting the appeal, as the original determination and sanction are presumed to have been decided reasonably and appropriately. The appeal is not a new review of the underlying matter. The Appeal Officer shall consider the merits of an appeal only on the basis of the three (3) grounds for appeal and supporting information provided in the written request for appeal and the record of the original investigation. The Appeal Officer can affirm the original findings, alter the findings, and/or alter the sanctions, depending on the basis of the requested appeal.

If the appeal is granted based on procedural error(s) that materially affected the outcome of the investigation, the Appeal Officer will return the case to the Title IX Coordinator for additional review or a new investigation, which may be conducted by an alternate Investigator if the Appeal Officer finds that to be appropriate.

In the case of new and relevant information, the Appeal Officer can recommend that the case be returned to the original adjudicator to assess the weight and effect of the new information and render a determination after considering the new facts.

Absent extenuating circumstances, the Appeal Officer will simultaneously and in writing communicate the result of the appeal to the Complainant and Respondent within 30 calendar days from the date of the submission of all appeal documents by both parties. Appeal decisions are final.

The parties will receive notice of any delay of written notice of any appeal decision. Any sanctions imposed shall remain in effect while the appeal is being considered. In cases where the appeal results in reinstatement to the College or of privileges, all reasonable attempts will be made to restore the individual to their prior status, recognizing that some opportunities lost may be irretrievable.

B. Appeal Procedures Involving Employee Respondents

Either party may appeal the determination of responsibility or sanction(s) in writing to the President³ or his designee. The appeal must be filed within 10 calendar days of receiving the written notice of outcome.

Dissatisfaction with the outcome of the hearing is not grounds for appeal. The limited grounds for appeal are as follows:

Improper Hearing Procedure

The party may appeal if the procedures outlined in the policy are violated. The President or its designee shall consider:

- Whether provisions of the policy were violated in such a clear manner as to deny the appealing party consideration of the party's position during the investigation; and
- Consideration of the party's position would have led to a different finding concerning the alleged violation of the policy.

New Evidence

During the standard investigation process, sufficient time is allowed to gather all available evidence. However, in extraordinary circumstances a party may appeal if new evidence becomes available. The President or its designee shall consider:

- Whether the evidence was genuinely unavailable and could not have been made available through the appellant's diligent efforts at the time of the original hearing; and
- Whether the evidence would have led to a different conclusion had it been available.

Sanctions

- The sanctions imposed were grossly disproportionate to the violation committed.

Requests for appeal and responses to the same shall not exceed 2,500 words (approximately 10 pages double-spaced). Late submissions will not be accepted. The appeal shall consist of a plain, concise, and complete written statement outlining the grounds for the appeal. Upon receipt of an appeal, the President or its designee will notify both parties. Each party has an opportunity to respond in writing to the appeal. Any response to the appeal must be submitted within five (5) calendar days from receipt of the appeal.

³ Michael D. Perry, President/CEO
San Joaquin Valley College
3828 West Caldwell Avenue
Visalia, CA 93277

The appeal consideration will be conducted in an impartial manner by the President or his designee. In any request for an appeal, the burden of proof lies with the party requesting the appeal, as the original determination and sanction are presumed to have been decided reasonably and appropriately. The appeal is not a new review of the underlying matter. The President or its designee shall consider the merits of an appeal only on the basis of the three (3) grounds for appeal and supporting information provided in the written request for appeal and the record of the original investigation. The President or its designee can affirm the original findings, alter the findings, and/or alter the sanctions, depending on the basis of the requested appeal.

If the appeal is granted based on procedural error(s) that materially affected the outcome of the hearing or in the case of new and relevant information, the President or its designee will return the case to the Title IX Coordinator for additional review or forward the case for a new investigation, which may be conducted by an alternate Investigator if the Title IX Coordinator finds that to be appropriate.

Absent extenuating circumstances, the President or its designee will simultaneously and in writing communicate the result of the appeal to the Complainant and Respondent within 30 calendar days from the date of the submission of all appeal documents by both parties. Appeal decisions are final.

VI. THE COLLEGE'S EXTERNAL REPORTING OBLIGATIONS

A. The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the "Clery Act")

1. Statistical Reporting

Certain College officials have a duty to report certain misconduct for federal statistical reporting purposes. All personally identifiable information is kept confidential, but statistical information must be passed along to campus law enforcement regarding the type of incident and its general location (on or off-campus, in the surrounding area, but no addresses are given) for publication in the annual Campus Security Report. This report helps to provide the community with a clear picture of the extent and nature of campus crime, to ensure greater community safety. Mandated federal reporters include: student/conduct affairs, student activities staff, human resources staff, advisors to student organizations and any other official with significant responsibility for student and campus activities. The information to be shared includes the date, the location of the incident (using Clery location categories) and the Clery crime category. This reporting protects the identity of the victim and may be done anonymously. There are very limited circumstances in which the College may remove reports of crimes that have been determined to be "unfounded" by law enforcement officials. In addition, the College is required to report to the U.S. Department of Education and disclose in the annual Campus Security Report the number of crimes that were "unfounded" and subsequently withheld from its crime statistics.

2. Timely Warning

Complainants should also be aware that College administrators must issue immediate timely warnings for incidents reported to them that are confirmed to pose a substantial threat of bodily harm or danger to members of the College Community. For purposes of the Timely Warning requirement, the College will not disclose a Complainant's name. However, the College will provide enough information for community members to make safety decisions in light of the danger. The reporters for timely warning purposes are exactly the same as detailed in the paragraph above.

B. Family Educational Rights and Privacy Act (FERPA)

1. The outcome of a campus hearing is part of the educational record of the Respondent, if they are a student, and the employee record if they are a faculty or staff member. The educational records of students are protected from release under a federal law, FERPA. The College complies with FERPA regulations regarding the privacy of student records and observes the following exceptions to FERPA as mandated by the Clery Act:

- The Complainant(s) in a non-consensual sexual contact/intercourse incident have the right to be informed of the finding, and sanction(s) of the investigation or hearing, in writing, except that any documents prepared for or as a result of any investigation and/or hearing shall remain protected from re-disclosure.
- The Complainant(s) in sexual exploitation, sexual harassment, stalking, relationship violence and any other gender-based offense have the right to be informed of the finding, in writing, and to be informed of any sanction(s) that directly relate to them, and to essential facts supporting the outcome when the outcome is "responsible" (and the underlying offense is a crime of violence as defined below and in 34 C.F.R. 99.39) and/or it is equitable to share the essential findings with all parties.
- The College may release publicly the name, nature of the violation, and the sanction(s) for any student who is found in violation of a College policy that is a "crime of violence," including: arson, burglary, robbery, criminal homicide, sex offenses, assault, intimidation (which may encompass stalking and/or bullying), hazing, destruction/damage/vandalism of property and kidnapping/abduction. The College will release this information to the Complainant in any of these offenses regardless of the outcome.

2. Students and employees have the right to inspect and review their records maintained by the College. The College may charge a fee for copies.

3. FERPA gives parents certain rights with respect to their children's education records. These rights transfer to the Student when s/he enrolls in school beyond the high school level. Students to whom the rights have transferred are Eligible Students. Individuals are considered Students upon the submission of an admissions application.

VII. COMPLAINANT AND RESPONDENT RIGHTS

Complainants are afforded the following rights:

- 1) To be treated with respect, dignity, and sensitivity throughout the process.
- 2) To be advised and informed of the support services available from the College.
- 3) For student Complainants, to confidentiality and protection under the Family Education Rights and Privacy Act (FERPA). For all Complainants, the College will make all reasonable efforts to ensure the preservation of privacy, restricting access to information to those with a legitimate need to know.
- 4) To be informed of the College's policy and procedures related to discrimination, harassment, and sexual misconduct.
- 5) To a prompt and thorough investigation of the allegation(s).
- 6) To challenge the appointment of the Investigator(s) or Appeals Officer if a conflict of interest is present.
- 7) To participate or decline to participate in the process related to a discrimination, harassment, and/or sexual misconduct complaint with the understanding that the process may continue without their involvement and that the Investigator and/or Appeals Officer will determine an outcome with the information available to it.
- 8) To appeal the decisions and/or sanctions made pursuant to this Policy.
- 9) To be notified, in writing, of the case resolution – including the outcome of any appeal.
- 10) To report the incident to law enforcement or civil authorities if one wishes to do so.
- 11) To understand that information collected in this process may/could be subpoenaed for a criminal or civil proceeding.
- 12) To have an Advisor, including during any interview with the Investigator.

Respondents are afforded the following rights:

- 1) To be treated with respect, dignity, and sensitivity throughout the process.
- 2) To be advised and informed of the support services available from the College.
- 3) For student Respondents, to confidentiality and protection under the Family Education Rights and Privacy Act (FERPA). For all Respondents, the College will make all reasonable efforts to ensure the preservation of privacy, restricting access to information to those with a legitimate need to know.
- 4) To be informed of the College's Policy and procedures related to discrimination, harassment, and sexual misconduct.
- 5) To a prompt and thorough investigation of the allegation(s).

- 6) To challenge the appointment of the Investigator(s) and/or the Appeal Officer if a conflict of interest is present.
- 7) To participate or decline to participate in the review procedure, with the understanding that the process will continue regardless and the Investigator and/or Appeal Officer will determine an outcome with the information available to it.
- 8) To appeal the decision and/or sanctions made pursuant to this Policy.
- 9) To be notified, in writing, of the case resolution – including the outcome of the appeal.
- 10) To understand that information collected in this process may be subpoenaed in criminal or civil proceedings.
- 11) To have an advisor, including during any interview with the Investigator.

VIII. DEANS OF STUDENTS AND CAMPUS PRESIDENTS

Visalia

Ben Almaguer, Campus President
 Kerri Lyles, Dean of Student Services

Bakersfield

Trish Hruby, Campus President
 Mary Phillips, Dean of Student Services

Fresno

Jerry Franksen, Campus President
 Veronica Behringer, Dean of Student Services

Aviation

Dr. Sumer Avila, Campus President
 Jason Alves, Dean

Ontario

Sherril Hein, Campus President
 Henry Madrid, Dean of Student Services

Online and Contact Center

James Ritchie, Director of eLearning Operations
 Jennifer Stroble, Dean of Student Services

Modesto

Anthony Alejandre, Campus President
 Tina Husman, Dean of Student Services

Rancho Cordova

Jeff Rutherford, Campus President

Amy Bianco, Dean of Student Services

Hanford

Ben Almaguer, Campus President
Matthew Glasgow, Dean

Hesperia

Richard Mately, Campus President
Christie Johnson, Dean of Student Services

Temecula

Robyn Whiles, Campus President
John Hall, Dean of Student Services

Lancaster

Cheri Johnson, Campus President/Dean

Madera

Lisa Kisla, Campus President/Dean

Delano

Trish Hruby, Campus President
Carlota Reid, Academic/Student Dean

Porterville

Adrianna Ruiz, Campus President/Dean

Atascadero

Alyssa Perry, Campus President/Dean