

SANTA CLARA UNIVERSITY

FACULTY HANDBOOK

**Approved by the Faculty Senate in April 2002 and the Board of Trustees
on May 9, 2002. Revisions approved since April 2002 are noted in the text.**

(With revisions as of 01/20/2023)

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**SANTA CLARA UNIVERSITY
FACULTY HANDBOOK
SECTION 1.1**

1.1 History

On January 12, 1777, six months after the signing of the Declaration of Independence, two Franciscan padres, Tomas de la Peña and Jose Antonio Murguia, founded the eighth of California's original 21 missions, calling it the Mission Santa Clara de Asís. The Franciscans ran it as a school and religious center for Indians and early settlers, teaching trades and farming to the men, music and reading to the boys, and weaving and sewing to the girls. Withstanding floods, earthquakes, and persecution, they maintained their settlement under three flags— Spanish, Mexican, and United States—until the Santa Clara Mission was transferred to the Jesuit order in 1851.

In that year, after laying the groundwork with fellow Jesuit Michael Accolti, Father John Nobili opened a college at the mission. Starting with 12 students, Santa Clara College offered courses in reading, writing, and foreign languages.

A decision made in 1854 by the Jesuit Province of Turin, Italy, to adopt California as a permanent mission field marked a turning point in Santa Clara's history. As a consequence, the Jesuits of Turin provided the college with the faculty and support that it needed to grow. The following year, Santa Clara College received a charter of incorporation from the State of California. In 1857, the College conferred its first collegiate degree, a Bachelor of Arts diploma, on Thomas I. Bergin. This was the first diploma granted by any institution of higher learning in the State of California. By 1858, new scientific apparatus arrived from Paris so that integrated courses in science as well as in the classics and in commercial subjects could be offered.

Slow and steady growth followed, and distinguished graduates became prominent members of California life. It was not until 1912, however, that Schools of Law and Engineering were founded. In that same year, courses in the humanities and the sciences were expanded, and the College became a University. Meeting the demands of urban growth in the San Francisco Bay Area, the University's School of Business and Administration was founded in 1926 and courses in commerce and finance were also expanded. In that same year, the old mission church was destroyed by fire. The present structure, an enlarged replica of the original, was completed in 1928.

From the 1930's through World War II, the University's enrollment was relatively stable. The return of many veterans resulted in an enlarged student body and new resources. In 1947, for the first time in the University's history, enrollment broke the one-thousand mark. From the postwar period to the present, the face of the campus has been changing and expanding. In 1957, the University permitted women studying at O'Connor Hospital's School of Nursing to take liberal arts courses at Santa Clara. Four years later, in 1961, the University announced a major change in policy and accepted women as

undergraduate degree candidates for the first time in its 110-year history. Santa Clara became the first Catholic coeducational institution of higher learning in California.

In 2001, one hundred fifty years after its founding, the University enrolled approximately 4,500 undergraduates and 3,200 graduate students. In its sesquicentennial academic year, the University offered undergraduate degrees in more than forty fields and graduate degrees in Law, Business, Engineering, Counseling Psychology and Education, and Pastoral Ministries.

As an independent University supported by tuition, endowment, and gifts, Santa Clara has been able to accomplish change in ways that reflect its traditional concern for the individual student.

Today, Santa Clara University, the first institution to offer classes in higher learning in California, continues its mission heritage of service by helping its students equip themselves with advanced knowledge and humanistic values. Academic excellence in a well-balanced human being is the University's goal.

**SANTA CLARA UNIVERSITY
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SECTION 1.2**

1.2 Goals

The University's *Statement of Purpose*, approved by the Board of Trustees in 1975 and revised and reaffirmed on October 22, 1993, is as follows:

Inspired by the love of God to serve society through education, continuing the commitment of the Franciscans who founded Mission Santa Clara in 1777 and the Jesuits who opened the College in 1851, Santa Clara University declares its purpose to be the education of the whole person within the Catholic and Jesuit tradition.

The University is thus dedicated to:

- the preparation of students to assume leadership roles in society through an education that stresses moral and spiritual as well as intellectual and aesthetic values, seeks to answer not only “what is” but “what should be,” and encourages faith and the promotion of justice;
- an uncompromising standard of academic excellence and an unwavering commitment to academic freedom, freedom of inquiry, and freedom of expression in the search for truth;
- rigorous and imaginative scholarship; excellent teaching in and out of the classroom; and educational programs designed to provide breadth and depth, to encourage the integration of different forms of knowledge, and to stimulate not only the acquisition but also the creative and humane use of knowledge;
- affirmation of its Catholic identity, respect for other religious and philosophical traditions, promotion of dialogue between faith and contemporary culture, opposition to narrow indoctrination or proselytizing, and the opportunity for worship and the deepening of religious belief;
- a community enriched by men and women of diverse backgrounds, respectful of difference and enlivened by open dialogue, caring and just toward others, and committed to broad participation in achieving the common good.

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SECTION 1.3**

1.3 Strategic Plan

The University is guided by a *Strategic Plan* approved by the Board of Trustees. The latest version of this plan is accessible via the University's Web site.

The 2001 *Strategic Plan*, approved by the University Planning Council in Winter 2000 and the Board of Trustees in Spring 2001, includes three directional statements that appear below:

1.3.1 Strategic Vision

Santa Clara University will excel in educating men and women to be leaders of competence, conscience, and compassion. By combining teaching and scholarship of high quality, an integrated education in the Jesuit tradition, and a commitment to students as persons, we will prepare them for professional excellence, responsible citizenship, and service to society, especially on behalf of those in greatest need.

1.3.2 University Mission

Santa Clara University is a Catholic and Jesuit institution that makes student learning its central focus, promotes faculty and staff learning in its various forms, and exhibits organizational learning as it deals with the challenges facing it.

Student learning takes place at the undergraduate and graduate level in an educational environment that integrates rigorous inquiry and scholarship, creative imagination, reflective engagement with society, and a commitment to fashioning a more humane and just world.

As an academic community, we expand the boundaries of knowledge and insight through teaching, research, artistic expression, and other forms of scholarship. It is primarily through discovering, communicating, and applying knowledge that we exercise our institutional responsibility as a voice of reason and conscience in society.

We offer challenging academic programs and demonstrate a commitment to the development of:

- Undergraduate students who seek an education with a strong humanistic orientation in a primarily residential setting.
- Graduate students, many of them working professionals in Silicon Valley, who seek advanced degree programs that prepare them to make significant contributions to their fields.

In addition to these core programs, we also provide a variety of continuing education and professional development opportunities for non-matriculated students.

1.3.3 Fundamental Values

We hold ourselves responsible for living out these core values, which are critical for carrying out our mission in pursuit of our vision:

- **Academic Quality.** We seek an uncompromising standard of excellence in teaching, learning, and scholarship. All three elements are essential to academic quality at Santa Clara. We prize original scholarship for its own sake and for the contribution it makes to teaching and to the betterment of society. Our commitment to academic freedom is unwavering.
- **Integrated Learning.** While valuing the integrity of established disciplines, we endeavor to integrate different forms of knowledge, to educate the whole person, and to foster moral and spiritual development. By promoting learning in everything we do, we foster a lifelong passion for learning.
- **Commitment to Students.** As teachers and scholars, mentors, and facilitators, we nurture and challenge students as we help them become independent learners and responsible leaders in society.
- **Service to Others.** We promote throughout the University a culture of service — service not only to those who study and work at Santa Clara but also to society in general and to its most disadvantaged members.
- **Community and Diversity.** We cherish our diverse community and the roots that must sustain it: shared values amidst diversity, close personal relationships, effective communication, respect for others, and an engaged concern for the common good of the campus, the local community, and the global society.
- **Jesuit Distinctiveness.** We preserve and renew the Jesuit tradition, which incorporates all of these core values. Our tradition is an expression of Christian humanism in which faith and reason together animate the most fundamental human quest—the pursuit of truth and goodness. This pursuit challenges us to counter inhumanity with humanity, to act ethically, and to promote justice with faith. We also take part in the broader Catholic tradition to which Jesuits have made a major contribution.

**SANTA CLARA UNIVERSITY
FACULTY HANDBOOK
SECTION 2.1**

2.1 General Description

The corporate title of the University is “The President and Board of Trustees of Santa Clara College.”

The University is divided into administrative units that report to the President, the Provost and Vice President for Academic Affairs, the Vice President for Administration and Finance, the Vice President for University Relations, and the Vice President for Enrollment Management.

Instruction and research are conducted within six major academic units: the College of Arts and Sciences, the Jesuit School of Theology, the Leavey School of Business, the School of Education and Counseling Psychology, the School of Engineering, and the School of Law. Each of these areas is headed by a dean reporting directly to the Provost.

The University has three Centers of Distinction: the Miller Center for Social Entrepreneurship, the Ignatian Center for Jesuit Education, and the Markkula Center for Applied Ethics. Each of these Centers is headed by an executive director, reporting directly to either the President or Provost.

Academic administrators at all levels have specific responsibilities in formulating and implementing academic plans. The faculty have general responsibility for contributing to this process.

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FACULTY HANDBOOK
SECTION 2.2**

2.2 Board of Trustees

In accordance with the charter granted to the University by the State of California in 1855, the Board of Trustees holds full legal power and responsibility for the operation of the University.

In accordance with the Bylaws of the President and Board of Trustees of Santa Clara University, the Board is a self-perpetuating body consisting of at least 45 Trustees but no more than 50 Trustees of which 35 positions will be for lay Trustees and ten or more will be for Jesuits. The exact number of Trustees shall be set from time to time by resolution of the Board. Of the Jesuit Trustees, one shall be the President of the University and one shall be the Rector of the Jesuit Community at Santa Clara University. Of the 35 lay Trustees, approximately 25 percent will be alumni/ae, one of whom will have received a bachelor's degree from the University not more than five years prior to election as a Trustee.

All members serve for three year terms except for the President and the Rector of the Jesuit Community who serve by virtue of their offices.

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SECTION 2.3**

2.3 President

The President is the chief executive officer of the University. In accordance with the Bylaws of the President and Board of Trustees of Santa Clara University, he must be a member of the Society of Jesus.

The President is elected by the Board of Trustees for a renewable term of six years and has the authority to conduct the operations of the University subject to direction and control by the Board. He reports to the Board at regular intervals on the condition of the University and submits to the Board for approval the annual budget, any major change in policies or programs, the list of candidates for degrees and honorary degrees, and the names of commencement speakers.

The President has the power to appoint and dismiss academic and administrative officers of the University, but he must obtain approval of the Board to create a new Vice Presidential position.

On the recommendation of the deans and the faculty, and by the legal authority of the Board of Trustees, he signs all degrees conferred by the University and all Letters of Appointment for faculty with appointments of a full academic year in the Jesuit School of Theology. He is member ex officio of the faculty and of all University committees.

Most of the President's authority is exercised by delegation to subordinate officials. All authority not specifically delegated is reserved to him.

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FACULTY HANDBOOK
SECTION 2.4**

2.4 Provost and Vice Presidents

The Provost and Vice President for Academic Affairs has responsibility for the administration of all academic and co-curricular programs and services. All responsibilities ascribed to the Provost in this Handbook are understood to be responsibilities of the Provost, designated vice provost, or other designate.

The Vice President for Administration and Finance has responsibility for the fiscal and business operations of the University, including preparation and administration of the annual budget and human resources.

The Vice President for Enrollment Management has responsibility for undergraduate admissions and administration of University financial aid programs.

The Vice President for University Relations has responsibility for alumni affairs, marketing, and the development of financial support from individuals, corporations, and foundations.

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SECTION 2.5**

2.5 Director of Campus Ministry

The Director of Campus Ministry reports directly to the President and is responsible for organizing liturgies and other spiritual activities for the campus community. Resources and services are offered for people of various religious faiths.

**SANTA CLARA UNIVERSITY
FACULTY HANDBOOK
SECTION 2.6**

2.6 Academic Deans

As the principal academic and administrative officer of a college, school, or division, the dean is responsible for ensuring the quality of the educational program and promoting high standards in teaching and scholarship. All responsibilities ascribed to the dean in this Handbook are understood to be responsibilities of the dean, designated associate dean, or other designate.

Deans approve the appointment of all faculty under their jurisdiction; oversee and ensure appropriate standards for the periodic evaluation of faculty in the areas of teaching, scholarship, and service; and make recommendations on promotion and tenure. Deans also prepare and administer the annual budgets of their college, school, or division.

Deans are appointed by the President and report directly to the Provost.

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SECTION 2.7**

2.7 Department Chairs

The chair of a department is appointed for a specified term by the Provost with the advice of the faculty members of the department and the dean. The chair reports to the dean.

The chair is responsible for the orderly administration of the department, the quality of its educational program, and high standards in teaching and scholarship on the part of its faculty. To achieve these ends, the chair coordinates the recruitment of new faculty members; evaluates faculty members at regular intervals in the areas of teaching, scholarship, and service; coordinates departmental processes related to promotion or tenure; plans and coordinates the instructional program; assigns courses and teaching schedules to faculty members; prepares and administers the departmental budget; and conducts the general business of the department. On decisions of importance to the department and the University, the chair is expected to consult other faculty members of the department.

(The School of Law is not organized by departments and hence has no department chairs.)

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SECTION 2.8**

2.8 Committees

Much of the business of the University is conducted through the work of four kinds of internal committees: University governance committees (covered in Section 2.9), Faculty Senate committees (covered in Section 2.11), committees mandated by civil law (covered in Section 2.12), and other standing and ad hoc committees (covered in Sections 2.13 and 2.14).

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FACULTY HANDBOOK
SECTION 2.9**

2.9 University Governance

University governance is exercised through several University Policy Committees and the University Coordinating Committee.

There are six University Policy Committees: the Academic Affairs Committee, the Faculty Affairs Committee, the Staff Affairs Committee, the Student Affairs Committee, the University Budget Council, and the Planning Action Council.

Further details regarding the specifics of University governance, along with the charge and the composition of each committee, are available from the University Coordinating Committee.

2.9.1 University Coordinating Committee

The purpose of the University Coordinating Committee is to make governance more efficient, effective, and responsive. Its duties are (1) to coordinate the work of the University Policy Committees, (2) to appoint to each University Policy Committee members who are competent to perform the work of that committee, and (3) to guarantee appropriate consultation and efficiency in the overall process of University governance.

2.9.2 University Policy Committees

University Policy Committees are collaborative governance bodies whose members include administrators and other appropriate individuals, according to the specific area of responsibility entrusted to a University Policy Committee.

University Policy Committees are the final collaborative governance bodies with the authority to:

- Formulate and recommend new University policy and major strategic change, and
- Review significant change in existing policy.

The purpose of each of the six University Policy Committees is summarized in the next sections.

2.9.2.1 Academic Affairs Committee

The Academic Affairs Committee works with the Provost to improve teaching and learning and the quality of academic programs. In that capacity, it serves as the final

locus of dialogue in the formulation of University policies, procedures, and guidelines that relate to academic affairs.

2.9.2.2 Faculty Affairs Committee

The Faculty Affairs Committee works with the Provost to promote the professional development of faculty. In this capacity it serves as the final locus of dialogue in the formulation of University programs, policies, and procedures pertaining to the responsibilities of the faculty.

2.9.2.3 Staff Affairs Committee

The Staff Affairs Committee works with the Vice President for Administration and Finance to promote staff development and to improve the quality of service and support provided. In this capacity, it serves as the final locus of dialogue in the formulation, review, and recommendation of policies and initiatives pertaining to the responsibilities, rights, and compensation of non-union staff members.

2.9.2.4 Student Affairs Committee

The Student Affairs Committee works with the Provost to promote the quality of the Santa Clara educational experience as related to co-curricular programs and student support services. In that capacity, it serves as the final locus of dialogue in the formulation and recommendation of major policies and program initiatives that affect student life and that contribute to student satisfaction and success.

2.9.2.5 University Budget Council

The University Budget Council works with the President to develop and recommend the annual macro budget in the context of long-range financial planning.

2.9.2.6 Planning Action Council

The Planning Action Council works with the President to promote, coordinate, and oversee planning at the University level. It attempts to link the University's programs and services with its mission, markets, and resources.

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SECTION 2.10

2.10 Faculty Senate

The Faculty Senate shall consist of:

- (1) all tenured and tenure-track faculty except for administrators at or above the level of dean of a school or college;
- (2) all Senior Lecturers and Lecturers;
- (3) all other faculty on greater than half-time appointments who receive an academic year contract, except visiting faculty.

Its purpose is to develop and to express the opinion of the faculty on academic and professional matters, to facilitate participation of the faculty in forming the policies of the University, and to make the collective experience and knowledge of the faculty available to the President. It is governed by its own Bylaws, which are given in Appendix A.

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SECTION 2.11**

2.11 Committees of the Faculty Senate

2.11.1 University Committee on Rank and Tenure

The University Committee on Rank and Tenure shall consist of six tenured Professors, one elected by the tenured and probationary faculty members in each of the following constituencies: the School of Engineering, the School of Business, those departments of the College of Arts and Sciences (except the Department of Chemistry and Biochemistry) offering the degree of Bachelor of Arts, those departments of the College of Arts and Sciences (except the Department of Economics) offering the degree of Bachelor of Science, the School of Education and Counseling Psychology, and the University at large (excluding the Jesuit School of Theology and the School of Law).

The term of office for each member shall be three years, with no more than two members' terms to expire in any one year. The Committee shall elect its own chair annually.

Faculty members shall not serve more than four consecutive years on any Rank and Tenure committee. On completion of two or more consecutive years of Rank and Tenure Committee service, a faculty member is normally ineligible to be elected for further Rank and Tenure Committee service until after a hiatus as specified in the Faculty Senate Election Rules and Procedures (Supplement to Appendix A).

The committee makes recommendations on petitions for tenure or promotion to the ranks of Associate Professor and Professor.

2.11.2 College and School Committees on Rank and Tenure

2.11.2.1 College and School Committees on Rank and Tenure

Except as stated below, the College of Arts and Sciences shall have two committees on Rank and Tenure, one for the departments (except the Department of Chemistry and Biochemistry) offering the degree of Bachelor of Arts and one for the departments (except the Department of Economics) offering the degree of Bachelor of Science. The School of Engineering, the School of Business, and the School of Education and Counseling Psychology shall have one committee each. Should the Provost, the Faculty Senate President, or the relevant dean believe that a committee will have eight or more cases in a year, that committee may be divided into two committees and supplementary committee members may be elected. When a committee is divided into two, the chairs of those two committees will work with each other so as to maintain uniform standards. Each committee shall consist of no fewer than three, and no more than seven members, all of whom shall be tenured Professors or Associate Professors. All committees shall have at least one member at the rank of Professor. The committee members shall be elected by the tenured and probationary faculty members in their respective constituencies.

The term of office for each member shall be three years, with no more than two members' terms to expire in any one year. Each committee shall elect its own chair annually.

Faculty members shall not serve more than four consecutive years on any Rank and Tenure committee. On completion of two or more consecutive years of Rank and Tenure Committee service, a faculty member is normally ineligible to be elected for further Rank and Tenure Committee service until after a hiatus as specified in the Faculty Senate Election Rules and Procedures (Supplement to Appendix A).

The committees make recommendations on petitions for tenure or promotion to the ranks of Associate Professor and Professor.

Revisions endorsed by Faculty Senate, June 2021

2.11.2.2 Committees on Rank and Tenure for the School of Law and the Jesuit School of Theology

The Constitution of the School of Law governs the composition of its committee(s) on rank and tenure, procedures for determination of rank and tenure, and determination of rank and tenure of its faculty members.

The "Exceptions to the Santa Clara University Faculty Handbook: Jesuit School of Theology" govern the composition of the Jesuit School of Theology's committee(s) on rank and tenure, procedures for determination of rank and tenure, and determination of rank and tenure of its faculty members.

2.11.2.3 College and School Committees on Promotion to Senior Lecturer

Except in the School of Law, each college or school shall have one Committee on Promotion to Senior Lecturer. When possible, each committee shall consist of five members, with the majority being Senior Lecturers and at least one tenured faculty member. The committee members are elected by the Senior Lecturers and the tenured and probationary faculty members in their respective college or school.

If there are fewer than three Senior Lecturers in the college or school eligible to serve, the committee shall consist of the three tenured faculty members and two, one or no Senior Lecturers.

The term of office for each member shall be three years, with no more than two members' terms to expire in any one year. Each committee shall elect its own chair annually. The committees make recommendations on petitions for promotion to the rank of Senior Lecturer.

Revisions endorsed by Faculty Senate, June 2021

2.11.3 College and School Grievance Committees

The composition, jurisdiction, and procedures of college and school Grievance Committees are stated in 3.10.1.

2.11.4 Faculty Judicial Board

The composition, jurisdiction, and procedures of the Faculty Judicial Board are stated in 3.10.2.

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SECTION 2.12**

2.12 Compliance Committees

The following committees are appointed in compliance with federal regulations and guidelines.

2.12.1 Institutional Animal Care and Use Committee

The Institutional Animal Care and Use Committee ensures compliance with University policies as well as applicable state and federal regulations regarding the humane use of laboratory animals in research and instruction.

2.12.2 Institutional Review Board

The Institutional Review Board ensures compliance with University policies as well as applicable state and federal regulations for research involving the use of human subjects.

2.12.3 Biosafety Committee

The Biosafety Committee ensures compliance with University policies as well as applicable local, state, and federal regulations for research involving biohazardous materials and recombinant DNA.

2.12.4 Radiation Safety Committee

The Radiation Safety Committee ensures compliance with University policies as well as applicable state and federal regulations for research involving radioactive materials and radiation-generating equipment.

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SECTION 2.13**

2.13 Core Curriculum Committee

The Core Curriculum Committee certifies the courses that fulfill each of the University's Core Curriculum requirements and proposes modifications regarding the skills and outcomes related to each requirement.

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2.14 Other Committees

As needed, other standing or ad hoc committees may be established.

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2.15 Boards

2.15.1 Board of Regents

The Board of Regents is a group of up to 60 men and women who provide special advice and support to the University's President and Board of Trustees. By their involvement with the University, they also become ambassadors for the University in the community. Regents are appointed by the President of the University.

2.15.2 Board of Fellows

The Board of Fellows is a group of up to 175 men and women who promote the University and work on various fund-raising projects. Members are appointed by the President of the University.

2.15.3 Academic Advisory Boards

The college and schools each have external advisory boards which work with the dean and faculty in developing, evaluating, and supporting programs.

2.15.4 Alumni Board of Directors

The Alumni Board of Directors oversees the work of the Alumni Association and plays an important role in guiding Santa Clara's Alumni Chapter programs. The Board is composed of no more than 30 members, all of them alumni, who are elected by the Board.

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FACULTY HANDBOOK
SECTION 3**

Chapter 3

Faculty (Contractual Terms)

The provisions of Chapter 3 applicable to the relevant category of faculty member are to be considered incorporated by reference into the Letter of Appointment of each faculty member, except to the extent specified herein or provided for in the Constitution of the School of Law, the Statutes of the Jesuit School of Theology of Santa Clara University (hereinafter Jesuit School of Theology), or policies unique to either school that have been approved by the Board of Trustees.

*Endorsed by Faculty Senate, Spring 2010
Approved by Board of Trustees, June 4, 2010*

**SANTA CLARA UNIVERSITY
FACULTY HANDBOOK
SECTION 3.1**

3.1 Members of the Faculty

Santa Clara University has four broad categories of faculty: tenured and tenure-track faculty (3.1.1); faculty with renewable-term or continuing appointments (3.1.2.1); faculty with fixed-term appointments (3.1.2.2); and faculty with other kinds of appointments (3.1.2.3). The Jesuit School of Theology, as an ecclesiastical faculty, has additional categories of faculty.

(Academic Staff and Military Science personnel are not members of the faculty and are not governed by the provisions of Chapter 3 of this handbook. For further information about Academic Staff, consult Chapter 4 of this Handbook.)

*Revisions endorsed by Faculty Senate, October 2010
Revisions approved by Board of Trustees, October 15, 2010*

3.1.1 Tenured and Tenure-Track Faculty

Tenured and tenure-track faculty comprise those holding appointments at the rank of Professor, Associate Professor, Assistant Professor, and Acting Assistant Professor.

Tenure-track faculty who have not yet been granted tenure hold probationary appointments (3.4.1).

The ordinary educational requirement for tenured and tenure-track faculty is the doctorate or other appropriate terminal degree. In certain disciplines, especially in the arts, practical experience and credentials other than academic degrees may be taken as equivalent preparation. Additional qualifications for appointment to the respective faculty ranks are described in the following paragraphs.

*Revisions endorsed by Faculty Senate, April 2013
Revisions approved by Board of Trustees, June 7, 2013*

3.1.1.1 Assistant Professor

An Assistant Professor shall show promise of achievement in teaching, scholarship or creative work, and service.

An Acting Assistant Professor is one otherwise qualified for the rank of Assistant Professor but still actively engaged in work for the doctorate or other terminal degree. Normally no one will be retained as an Acting Assistant Professor beyond three years.

An Acting Assistant Professor must satisfy all requirements for the doctorate or terminal degree by March 15th of the third year of such appointment. Years of service at this rank will be considered part of the probationary period for tenure.

3.1.1.2 Associate Professor

An Associate Professor shall possess demonstrated superior ability in teaching, scholarship or creative work, and appropriate service, as evidenced through actual accomplishment.

3.1.1.3 Professor

A Professor shall possess those qualities of the teaching scholar that are expected of the Associate Professor, and in such degree as to have earned the recognition of colleagues in the same discipline outside the University or in higher education generally. A Professor also serves the University and the academic profession in proportion to experience, competencies, and seniority.

3.1.2 Non-Tenure-Track Faculty

Non-tenure-track faculty may hold renewable-term or continuing appointments (3.1.2.1), fixed-term appointments (3.1.2.2), or other appointments (3.1.2.3). Non-tenure-track faculty do not hold probationary appointments (3.4.1), are not tenured, and do not accumulate credit towards tenure.

Endorsed by Faculty Senate, April 2013
Approved by Board of Trustees, June 7, 2013

3.1.2.1 Faculty on Renewable-Term or Continuing Appointment

Faculty on renewable-term or continuing appointment are appointed primarily to teach in an area of persistent programmatic need.

Persistent programmatic need is defined as a continuing need in a particular area of the curriculum to offer classes that cannot be covered by current or projected tenured or tenure-track faculty. Such need shall be identified by the department and approved by the dean and Provost.

Faculty in renewable-term or continuing positions are appointed for a full academic year rather than an academic term. Renewable-term positions are normally full-time and are never less than half-time. Continuing positions are full-time.

Faculty on renewable-term or continuing appointment are not tenured and do not accumulate credit towards tenure.

Endorsed by Faculty Senate, Spring 2010
Approved by Board of Trustees, June 4, 2010

3.1.2.1.1 Renewable-Term Positions in the School of Law

Some faculty in the School of Law, including but not limited to Legal Analysis, Research, and Writing Instructors, hold renewable-term positions primarily for teaching in an area of persistent programmatic need. Policies and procedures for appointment and reappointment of such positions are set by the School of Law with approval of the Provost.

Endorsed by Faculty Senate, Spring 2010
Approved by Board of Trustees, June 4, 2010

3.1.2.1.2 Lecturer

A Lecturer holds a renewable-term position primarily for teaching in an area of persistent programmatic need. Teaching may include classroom instruction, curriculum development, and advising. Lecturers are also expected to engage in service at the departmental level or higher and in professional activity that is appropriate to the discipline and that contributes to their primary responsibility for teaching.

Lecturers shall possess superior abilities as teachers. The ordinary educational requirement is the doctorate or other appropriate terminal degree. In certain disciplines, especially in the arts and some professional fields, practical experience and credentials other than academic degrees may be taken as equivalent preparation.

Appointment is made for an initial term of three years, a second term of three years, and subsequent terms of six years. With approval of the Provost, a College or School may adopt a policy that establishes different terms of appointment. Reappointment is contingent on superior performance, persistent programmatic need, and availability of funds.

Endorsed by Faculty Senate, Spring 2010
Approved by Board of Trustees, June 4, 2010

3.1.2.1.3 Senior Lecturer

A Senior Lecturer holds a full-time continuing appointment primarily for teaching in an area of persistent programmatic need. In addition to meeting the qualifications for appointment as a Lecturer, a Senior Lecturer shall at a minimum have nine years of full-time service as a Lecturer at the University, or equivalent academic experience. Effective September 1, 2013, the completion of at least one 3-year review cycle as a Lecturer is required. Standards for promotion to Senior Lecturer appear in 3.4A.2.1.

Faculty with renewable-term appointments in the School of Law are not eligible for promotion to Senior Lecturer.

Revisions endorsed by Faculty Senate, January 2012
Revisions approved by Board of Trustees, February 10, 2012

3.1.2.2 Faculty on Fixed-Term Appointment

Faculty with fixed-term appointments include adjunct faculty, research faculty, and faculty with appointments-in-residence as described below. They are not tenured and do not accumulate credit towards tenure.

A fixed-term appointment is either part-time or full-time for a period of one academic term or one academic year. Should the need arise for a longer appointment period, the Provost may approve a term of up to three years. Academic year appointments may not be for less than 50% time.

Revisions endorsed by Faculty Senate, Spring 2014
Revisions approved by Board of Trustees, June 6, 2014

3.1.2.2.1 Adjunct Faculty

Adjunct faculty hold a non-tenurable fixed-term teaching appointment for one or more of the following purposes: to replace faculty on leave of absence or administrative assignment; to address persistent programmatic need on a part-time basis; to address short-term programmatic need on a full-time basis; to provide expertise in a specialty area; or to explore a new instructional area. If there has been a fixed-term academic year appointment in a given area for six consecutive years, then a persistent programmatic need analysis must be conducted.

Endorsed by Faculty Senate, Spring 2014
Approved by Board of Trustees, June 6, 2014

3.1.2.2.1.1 Adjunct Lecturer

An Adjunct Lecturer shall demonstrate competence in the subject matter of the appropriate academic discipline or professional field and superior abilities as a teacher.

Endorsed by Faculty Senate, Spring 2010
Approved by Board of Trustees, June 4, 2010

3.1.2.2.1.2 Adjunct Professor Ranks

On occasion, and with the approval of the dean and Provost, an adjunct appointment may be made at the rank of Adjunct Assistant Professor, Adjunct Associate Professor, or Adjunct Professor to recognize qualifications in an academic discipline or professional field that are equivalent to those for tenured and tenure-track appointments at the respective ranks.

With approval of the dean and Provost, a faculty member holding the rank of Adjunct Professor may be appointed with a different title such as Clinical Professor, Professor of

the Practice, or Dean's Executive Professor, provided such a title is more descriptive of the faculty member's role and is consistent with general practice in the discipline or field.

Revisions endorsed by Faculty Senate, Spring 2014
Revisions approved by Board of Trustees, June 6, 2014

3.1.2.2.2 Research Professor

A Research Professor holds an appointment primarily to engage in research that advances the goals of a department and contributes to its overall academic quality. Research Professors are appointed in recognition of their research accomplishments, ability to obtain external funding, and willingness to play an active role in the department as determined by the department and the dean.

The qualifications for appointment as a Research Professor shall be commensurate with the qualifications and levels of accomplishment in research as those for a tenured Professor.

A Research Professor may engage in teaching as assigned. Appointment as a Research Professor must be made independently of employment through a particular grant or sponsored project.

Revisions endorsed by Faculty Senate, Spring 2104
Revisions approved by Board of Trustees, June 6, 2014

3.1.2.2.3 Appointments-in-Residence

With the approval of the dean and Provost, distinguished artists, scholars, scientists, engineers, executives, statespersons, and others may be granted appointments-in-residence from time to time to enrich the life of the University community.

Endorsed by Faculty Senate, Spring 2010
Approved by Board of Trustees, June 4, 2010

3.1.2.3 Faculty with Other Appointments

Other faculty appointments may be made in the following categories.

3.1.2.3.1 Visiting Faculty

Appointments in the respective faculty ranks are held by persons on leave from other professional employment. Such appointments are usually for one year and in no case for more than three years.

Endorsed by Faculty Senate, Spring 2010
Approved by Board of Trustees, June 4, 2010

3.1.2.3.2 Postdoctoral Fellows

A postdoctoral fellow holds an academic year appointment primarily to engage in research. During the period of the appointment, the fellow shall work under the direction of a tenured or tenure-track faculty mentor to receive advanced training and develop a research and publication record. Fellows shall not teach more than four courses in one academic year. The appointment is usually for one year and in no case more than three.

Endorsed by Faculty Senate, January 2012
Approved by Board of Trustees, February 10, 2012

3.1.2.3.3 Professor Emeritus or Emerita

A tenured Associate Professor or full Professor of Santa Clara University, upon retirement from outstanding service at the University, is eligible for the title of Professor Emeritus or Emerita. The title is awarded by the President of the University in consultation with the Provost, with the retiree's dean and department chair, and with the tenured members of the retiree's department.

3.1.2.3.4 Senior Lecturer Emeritus or Emerita

A Senior Lecturer of Santa Clara University, upon retirement from outstanding service at the University, is eligible for the title of Senior Lecturer Emeritus or Emerita. The title is awarded by the President of the University in consultation with the Provost, with the retiree's dean and department chair, and with the tenured and tenure-track members and senior lecturers of the retiree's department.

Endorsed by Faculty Senate, May 29, 2015
Approved by Board of Trustees, June 15, 2015

**SANTA CLARA UNIVERSITY
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SECTION 3.2**

3.2 Recruitment of Faculty

3.2.1 Equal Employment Opportunity and Affirmative Action

Santa Clara University is an equal opportunity and affirmative action employer. The University seeks applications from qualified women, persons of color, and members of other groups historically under-represented in academia. The University will reasonably accommodate an otherwise qualified individual with a disability.

3.2.2 Appointment Procedures

3.2.2.1 Tenure-Track and Tenured Faculty

Functions of the various parties in the search to fill a tenure-track or tenured faculty position are as follows:

1. The Provost and dean authorize the search after reviewing the needs of the department and the University, and after considering the availability of resources.
2. After approving the search, the dean reviews the selection criteria and search committee members proposed by the department. Except in the School of Law and the Jesuit School of Theology,
 - a. The tenure-track and tenured faculty in the academic department(s) or other unit(s) are responsible for defining the criteria for selecting the faculty member and identifying the academic specialization(s) being sought.
 - b. The tenure-track and tenured faculty in the academic department(s) or other unit(s) are responsible for serving on the search committee and making the recommendation for the hire.
 - c. In some circumstances, such as when subject-area expertise relevant to the position under consideration is held by non-tenure-track faculty, non-tenure-track faculty may be asked to serve on the original search committee.
3. Tenure-track and tenured faculty, as well as any non-tenure-track faculty who serve on the original search committee, are responsible for evaluating and ranking the candidates and making recommendations for the hire. Non-tenure-track faculty, other than those who serve on the original search committee, do not participate in ranking candidates or making recommendations for the hire.

4. Searches shall be conducted in accordance with procedures current at the time of the search.
5. The Provost and dean approve the successful candidate and the terms of the appointment before an offer is made.

Initial appointment may be made at any rank for which a candidate is qualified. A teaching scholar with an established reputation who has been tenured at another institution and whose presence on the Santa Clara faculty is particularly desired may be offered a tenured appointment if, in the judgment of the search committee, departmental faculty, and dean, and of the Provost and the President of the University, such an appointment is warranted.

Revisions endorsed by Faculty Senate, June 2021

Revisions approved by Board of Trustees, October 15, 2021

3.2.2.2 Non-Tenure-Track Faculty

Searches to fill all positions with an appointment of one academic year or longer must be authorized by the dean and the Provost. Such searches shall be conducted in accordance with a plan appropriate to the nature of the appointment, developed by the department chair in consultation with the faculty of the department and approved by the dean.

Endorsed by Faculty Senate, Spring 2010

Approved by Board of Trustees, June 4, 2010

3.2.2.3 Courtesy and Joint Appointments

An appointment “by courtesy” may be made by a department for a full-time faculty member in another department under the following conditions:

The faculty member possesses significant qualifications for appointment in the department offering a courtesy appointment.

The faculty member is significantly involved in the teaching or scholarly or creative activities of the department offering the courtesy appointment.

The courtesy appointment is approved by the senior faculty of the courtesy department, by the chairs and dean(s) of both the primary and the courtesy department and school, and by the Provost.

The courtesy appointment is made at the same rank as the regular appointment specified in the Letter of Appointment, is held by the faculty member for a one-year term, and is renewable each year.

The courtesy department is not necessarily required to extend voting privileges, funds, space, or other support to the faculty member.

A joint appointment (as distinct from a courtesy appointment) may be made when a faculty member makes a major contribution in terms of time, effort, and programmatic need to more than one department. This contribution should be on a continuing basis and should be sufficiently significant for each department to make a financial commitment and extend voting privileges to the faculty member. Appointment procedures are the same as for courtesy appointments, with the exception that the senior faculty of each department must approve a joint appointment. Prior to the commencement of every joint appointment, the faculty member's responsibilities to each department and the procedures to be followed for periodic evaluation and evaluation for promotion and tenure must be agreed to in writing by the faculty member, chairs of the involved departments, the dean, and the Provost.

3.2.3 Letters of Appointment

Every full-time member of the faculty holds an annual Letter of Appointment stating his or her academic rank for the year of the appointment, together with salary and estimated total compensation. The Letter of Appointment, in duplicate, is sent annually to every member of the faculty who is to be appointed or reappointed the following academic year. The appointee shall signify acceptance by signing and returning one copy within two weeks of the date of the letter.

The President signs letters for faculty with appointments of a full academic year in the Jesuit School of Theology. The Provost signs letters for all other faculty with appointments of a full academic year.

Part-time faculty receive a Letter of Appointment signed by the dean.

Endorsed by Faculty Senate, Spring 2010
Approved by Board of Trustees, June 4, 2010

3.2.4 Personnel File

Each academic dean shall maintain an accurate and timely record of the qualifications of every member of his or her faculty. The record should contain a summary of the faculty member's career, a list of degrees and other awards, a summary of teaching and related experience, a list of publications and research, a statement of current activities and plans, Faculty Activities Reports, formal evaluations and any responses thereto, and other information deemed relevant by the faculty member or the dean.

Faculty members have the responsibility of providing the academic dean with any material that they deem to be an appropriate part of their academic record.

A faculty member may inspect his or her own personnel file as maintained by the academic dean after reasonable notice to the dean.

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SECTION 3.3**

3.3 Periodic Evaluation of Faculty

The performance of each full-time faculty member must be evaluated in writing on a regular basis by the department chair (or dean, in those units not organized by departments).

The performance of probationary tenure-track faculty must be evaluated in writing every year. The performance of tenured faculty may be evaluated on different cycles, as determined in each college or school by its dean with the agreement of the faculty of the college or school and with the approval of the Provost.

Non-tenure-track faculty must be evaluated in writing as follows: annually for those holding renewable-term appointments; on a cycle determined by the dean with approval of the Provost for Senior Lecturers; and prior to reappointment for adjunct faculty holding multi-year term appointments. Adjunct faculty who have held consecutive fixed-term academic year appointments must be evaluated in writing at least every three years.

The basis for the evaluation of tenured and tenure-track faculty shall be performance in the areas of teaching, scholarship or creative work, and service. Other faculty shall be evaluated in accordance with the responsibilities for which they were hired. The sources of information for the evaluation include the Faculty Activities Report, student evaluations, publications, and other pertinent information.

The department chair (or dean in appropriate cases) shall provide the written evaluation to the individual faculty member, and a copy of this evaluation shall become a part of the faculty member's official personnel file (see 3.2.4). A faculty member may provide a written response to the evaluation, and any such response shall also become part of the file. Favorable evaluations and optimistic projections do not bind the University to grant tenure.

*Endorsed by Faculty Senate, Spring 2014
Approved by Board of Trustees, June 6, 2014*

3.3.1 Mid-Probationary Review

A probationary faculty member shall receive an especially thorough evaluation by the tenured faculty of his or her department after completing approximately half of the probationary period, at a time to be determined by the department chair in consultation with the dean. The written evaluation shall include an assessment of the faculty member's performance and development in each of the three categories of review.

The mid-probationary review is intended to be developmental and should ordinarily culminate in an advisory letter expressing the views of the tenured faculty as to what the

candidate might do in the remainder of the probationary period to enhance his or her candidacy for tenure. However, in those instances where it is evident that a candidate's prospects for meeting tenure expectations are remote, the mid-probationary review may culminate in a recommendation of non-retention addressed to the dean. A favorable mid-probationary review does not bind the University to grant tenure. Tenure track faculty in the Jesuit School of Theology are subject to a different evaluation procedure.

Revisions endorsed by Faculty Senate, October 2010

Revisions approved by Board of Trustees, October 15, 2010

**SANTA CLARA UNIVERSITY
FACULTY HANDBOOK
SECTION 3.4**

3.4 Policies and Procedures on Promotion and Tenure

The policies and procedures in Section 3.4 apply only to faculty seeking tenure or promotion to Associate Professor or Professor.

While subject to the same general standards for promotion and tenure as other faculty members, faculty in the School of Law and the Jesuit School of Theology are subject to specific procedures for promotion and tenure that supersede some procedures outlined in this section.

*Endorsed by Faculty Senate, Spring 2010
Approved by Board of Trustees, June 4, 2010*

3.4.1 Probationary Status

Santa Clara University adheres with certain exceptions to the provisions on tenure of the 1940 Statement of Principles on Academic Freedom and Tenure (with the 1940 Interpretations and the 1970 Interpretative Comments) of the American Association of University Professors and the Association of American Colleges; it also adheres to the Standards of Notice of Nonreappointment of the AAUP as published in the AAUP Bulletin of Autumn 1964. In the following three points Santa Clara University policy differs from that articulated in the AAUP 1940 Statement of Principles on Academic Freedom a.2 and the 1970 Interpretive Comments #5:

1. that the period of probation for tenure for all members of the faculty, irrespective of whether they have previously taught at other colleges or universities and of the length of such previous service, shall be seven years, unless a shorter time shall be agreed upon in writing by the faculty member and the University;
2. that only persons appointed to the positions of Professor, Associate Professor, or Assistant Professor (including Acting Assistant Professor) shall be eligible for tenure or consideration for tenure; and
3. that only service in the positions of Professor, Associate Professor, or Assistant Professor (including Acting Assistant Professor) shall be counted as probationary service for tenure. The probationary period begins with the fall term of the first full-time appointment for a full academic year.

The 1940 Statement of Principles on Academic Freedom and Tenure, 1940 Interpretations and 1970 Interpretive Comments, and the Standards of Notice of Nonreappointment are given in Appendix B of this Handbook.

3.4.1.1 Extensions of the Probationary Period

Extensions of the probationary period for tenure fall into two categories, routine and discretionary, described below. For both routine and discretionary extensions of the probationary period, the faculty member must submit a Tenure Clock Extension Form to the Provost as soon as possible after the qualifying event or circumstance, but in no case later than September 15 of the penultimate year of the probationary period. If the Provost has not been notified in this manner, the probationary period remains unchanged.

Categories for extensions are as follows:

1. Routine Extensions

A one-year extension of the probationary period will be granted routinely for the following reasons:

- a. the birth or adoption of a child; or
- b. the death of the faculty member's spouse, registered domestic partner, or child.

2. Discretionary Extensions

A one-year extension of the probationary period may be granted on a discretionary basis if requested by a faculty member for circumstances that significantly impede progress toward tenure, such as:

- a. a serious health condition of the faculty member; or
- b. a serious health condition of the faculty member's child, spouse, registered domestic partner, or parent, for whom the faculty member is required to provide significant caregiving; or
- c. other extraordinary circumstances beyond the control of the faculty member.

Extensions of the probationary period for any reason will normally be limited to a total of two years.

A faculty member who is granted an extension of the probationary period will be permitted to apply for tenure before the end of the extended probationary period, as allowed in 3.4.3.2.

Tenure candidates who have been granted an extension of the probationary period will be reviewed under the same academic standards as a candidate who has not had an extension.

3.4.2 Standards for Promotion and Tenure

Standards for promotion and for tenure must be broad enough to cover differences in the nature and purposes of different academic disciplines and departments. In general, advancement in rank and the conferring of tenure are based upon the recognition by a candidate's peers of academic and professional achievement and upon their judgment that such achievement will continue.

In addition to the degree requirements specified in 3.1.1, the University evaluates candidates for promotion and tenure under three criteria: (1) teaching, (2) scholarly or artistic work and other professional accomplishments, and (3) service to the University, the profession, and the community. Teaching and scholarly or artistic work are the most important of these, and candidates for promotion and tenure are required to demonstrate superior accomplishment in both.

Teaching is to be judged in a teacher's total effect upon the education of his or her students. Teaching includes not only classroom instruction, but also academic advising and curriculum development. Effective teaching requires, at a minimum, competence in the subject and in skills of presenting it, and professionalism in conduct towards students. Academic advising is an extension of teaching. It is an expression of the University's concern for the development of the whole person and includes advising on courses and academic programs, on academic life generally, and on career opportunities. Curriculum development includes both contributions to departmental and University curricula, such as the development of new courses or significant modification of existing ones, and the creation of pedagogical materials that may be of use to other teachers. Those entrusted with evaluating a candidate's teaching are to consider all evidence of achievement in each of the three components. The candidate's course materials form part of this evidence. The evidence also includes, but is not necessarily restricted to, the testimony of the candidate's colleagues, students, chair and other academic officers about the following: the candidate's command of the subject; the effectiveness of the candidate's presentation, whether in lectures, discussion, or tutorial; the quality and rigor of the candidate's courses; and the respect for and stimulation to further study of the subject that is generated among the candidate's students. Any other factors that contribute to the candidate's effect upon the education of his or her students shall also be taken into account.

Santa Clara is committed to excellence in scholarship and artistic creativity, which are critical both for their contribution to knowledge or the arts and for their enrichment of teaching. Scholarly work is defined as scholarly or scientific articles published in learned or professional journals; scholarly or scientific books; textbooks distinguished for the originality and value of their content or method; and any intensive study of the kind recognized as research in the various academic disciplines. Creative work is defined as recognized accomplishment or significant production in the arts of painting, sculpture, music, drama, fiction, poetry, dance, journalism, or the like. Since the form and nature of contributions differ greatly by discipline, the most important element in evaluation of the

scholarly or creative work of a candidate for promotion or tenure is the judgment of others in the field, particularly of those with a strong record of accomplishment in the candidate's field. Evaluations of a candidate's publications or artistic creations or performance by scholars, artists, or other experts outside Santa Clara are an important consideration for promotion or tenure.

Service is activity other than teaching and scholarship or artistic creativity that fosters and advances the missions and goals of the department, the college or school, the University, or the profession. It may consist of the fulfilling of formal responsibilities, either individually or with others, as on committees or editorial boards and in offices held, or more generally and informally of contributions to the routine functioning of a department. Community service performed in virtue of a faculty member's professional expertise or association with the University or its mission also falls into this category. The service expected of probationary faculty will be appropriate to their expertise and experience and will respect their need to devote most of their energies to teaching and scholarly or artistic work.

Because the nature of teaching, scholarship or artistic creativity, and service differs in some respects among academic disciplines, the faculty of the college, schools, and division develop, adopt, and publish their respective clarifications of the three criteria. Candidates for tenure or promotion are referred to these publications, as amended from time to time, for a detailed explanation of the standards and procedures by which they will be evaluated.

It is the responsibility of a candidate to demonstrate superior, not merely competent, performance in the criteria listed. The interpretation of all criteria and the judgment of whether the candidate meets them is left to the persons and committees specifically charged in this Handbook or in the Constitution of the School of Law or the Statutes of the Jesuit School of Theology with the evaluation of candidates.

Collegiality is not a distinct capacity to be assessed independently of the traditional triumvirate of scholarship, teaching, and service. It is rather a quality whose value is expressed in the successful execution of these three functions. Collegiality means that faculty members cooperate with one another in sharing the common burdens related to discharging their responsibilities of teaching, scholarship or creative work, and service, and do so in a conscientious and professional manner. Collegiality is not the same as conformity or intellectual agreement and may not be interpreted in a way that violates the principles of academic freedom. In those rare instances in which lack of collegiality becomes an issue in the evaluation of faculty for promotion and tenure, it may be considered only insofar as it has a negative effect on the functioning of the department, college or school, or University.

Endorsed by Faculty Senate, Spring 2010
Approved by Board of Trustees, June 4, 2010

3.4.2.1 Stipulations Concerning Promotion and Tenure

No individual may obtain tenure by length of service with the University, or in any way other than as explicitly set forth in this Handbook.

The University does not limit by quota the percentage of tenured faculty either in individual departments or in the University as a whole. Yet, as the percentage of tenured faculty increases, the application of criteria inevitably becomes more rigorous.

It is the policy of the University that when it confers tenure upon a candidate, it will also promote to the rank of Associate Professor unless the candidate already holds that or superior rank.

3.4.2.2 Promotion to Professor

The University will ordinarily not promote to the rank of Professor earlier than six years beyond promotion to the rank of Associate Professor. Length of service does not justify promotion to the rank of Professor.

The University shall hold to especially high standards for promotion to the rank of Professor. It is expected that candidates for promotion to Professor shall have distinguished themselves in teaching, in scholarship or artistic creativity, or preferably in both, and that they shall have served the University, their profession, or the community in proportion to their experience, their competencies, and their seniority. They shall have demonstrated achievement of high quality in all three Faculty Handbook criteria in addition to what they had attained when tenured or appointed to the rank of Associate Professor, whichever is more recent.

These standards apply to all candidates for promotion to Professor irrespective of school, college, or division. Within these stipulations, candidates must also meet the special standards of their school, college, or division. They shall otherwise be evaluated for promotion by the same procedures as govern their evaluation for tenure and for promotion to Associate Professor.

3.4.3 Application for Promotion and for Tenure

Petitions for tenure must be submitted no later than the penultimate year of the probationary period as defined in 3.4.1 and will not be accepted or considered subsequent to that year.

Endorsed by Faculty Senate, September 2004
Approved by Board of Trustees, May 20, 2005

3.4.3.1 Application Procedures

Procedures and deadlines for preparation, submission, and review of petitions for promotion and for tenure and of materials related to such petitions are announced annually by the Provost.

Endorsed by Faculty Senate, September 2004

Approved by Board of Trustees, May 20, 2005

3.4.3.2 Early Application for Tenure

Faculty members ordinarily are not encouraged to apply for tenure before the penultimate year of the probationary period. Early tenure requires evidence that the candidate has met the normal standards for tenure as specified in 3.4.2. A faculty member who wishes to apply before the penultimate year should consult with senior members of his or her department to determine if an early application is advisable.

If an early application for tenure is denied, the faculty member may not reapply until the penultimate year of the probationary period.

Endorsed by Faculty Senate, September 2004

Approved by Board of Trustees, May 20, 2005

3.4.4. Rights and Responsibilities of Candidates for Promotion and for Tenure and of Persons and Bodies Charged with their Evaluation

3.4.4.1 The Candidate

It is the responsibility of a candidate for tenure or promotion to become informed about the rules and regulations concerning rank and tenure contained in the Faculty Handbook, to obtain from the Provost the current University and college or school guidelines, and to follow all the procedures stipulated. It is incumbent on the candidate to demonstrate that he or she has met all the criteria for tenure and/or promotion and to provide requisite documentation, in the form requested, within the deadlines stipulated.

In submitting an application for tenure or promotion, the candidate may name two outside referees of choice to be contacted for an evaluation of the candidate's scholarship or artistic work and may select key publications or works to be sent to outside referees. The candidate may request that, for identified valid cause, certain persons or groups of persons *not* be asked to serve as referees.

3.4.4.2 Tenured Faculty in the Candidate's Department

The chair shall invite all tenured members of the department to participate in a departmental review of the strengths and weaknesses of a candidate for promotion or

tenure. Each tenured faculty member is expected to read the candidate's file, participate in the departmental discussion, and submit an evaluation letter that includes a numerical score. A tenured faculty member on sabbatical or other leave may choose not to participate in the rank and tenure process. A faculty member who chooses not to participate shall not be involved in any part of the process.

The tenured faculty, acting collectively or through the chair, shall identify two outside referees to be contacted for an evaluation of the candidate's scholarly or artistic work.

The chair shall schedule a meeting of the tenured faculty to discuss the strengths and weaknesses of the candidate's petition. This meeting should be scheduled so that all tenured faculty who are not on sabbatical or other leave are able to participate. A written summary of the departmental discussion will be signed by all participants.

Each tenured faculty member who participates in the departmental discussion shall write a letter of evaluation that includes a recommendation with a numerical score. A tenured faculty member who is unable for good reason to participate in the departmental discussion may write such a letter if he or she has reviewed the candidate's file. In this case, the letter must explain why the faculty member could not participate in the departmental discussion.

All participating faculty shall submit their evaluation letters to the department chair. If there is a compelling reason to seek an exception to this rule, the faculty member must have approval of the Provost.

In addition to writing an individual letter of evaluation, the department chair or another faculty member designated by the chair and approved by the Dean shall write a contextual summary letter. This letter shall summarize the individual faculty letters and provide a context to the candidate's petition and to the faculty letters. It shall contain the numerical evaluations found in the individual letters. This letter may include information about the field of research or creative endeavor, disciplinary practices of evaluation and publishing, or other items of relevance that may not be known outside the discipline. The contextual summary letter shall not be reviewed by other members of the department as part of the departmental deliberation.

The chair shall forward to the candidate's dean the petition, supporting documentation and other material, the summary of the departmental discussion, and all evaluations and recommendations that have been received from tenured members of the department, together with his or her own recommendation.

Revisions endorsed by Faculty Senate, January 2012
Revisions approved by Board of Trustees, February 10, 2012

3.4.4.3 The Jesuit Service Committee

Any Jesuit who is a candidate for promotion or tenure may, at his own discretion request an evaluation of his service as a Jesuit and the ways in which this service bears on his

performance in the three areas of evaluation for rank and tenure. In such cases the Provost in consultation with the President shall appoint a committee of three tenured Jesuit members of the faculty, one of whom must be from JST if the candidate is JST faculty, excluding University administrators, to evaluate this component of the candidate's petition. The committee's evaluation shall be submitted to the candidate's dean for inclusion in the candidate's file; it shall be considered by the college or school committee and later parties to the review.

Revisions endorsed by Faculty Senate, October 2010
Revisions approved by Board of Trustees, October 15, 2010

3.4.4.4 The College or School Rank and Tenure Committee

The candidate's college or school Rank and Tenure Committee solicits and considers additional outside evaluations of the candidate's scholarly or artistic contributions, and may select additional material to be evaluated by the outside referees. The college or school committee thoroughly reviews all aspects of the candidate's petition. Informed by this review, its members cast secret ballots indicating their judgment of the strength of the petition. Unless it receives significant and relevant new information, the committee shall cast ballots only once. The committee prepares a report of its evaluation and recommendation that reflects and includes the results of the balloting.

Rank and Tenure Committee members from a candidate's department may participate in the committee's discussion of the candidate's case, but they cast a ballot only at the department level.

Endorsed by the Faculty Senate, June 3, 2008
Approved by the Board of Trustees, June 6, 2008

3.4.4.5 The Candidate's Dean

Taking into account all of the information and recommendations entered into the file to that point and drawing on such other information as may be known to him or her, the dean of the candidate's school or college adds an independent evaluation and recommendation to the candidate's file.

3.4.4.6 The University Rank and Tenure Committee

The University Rank and Tenure Committee reviews all of the information and recommendations entered into a candidate's file to that point and makes whatever additional investigation it deems necessary. Before the University Rank and Tenure Committee reaches its final judgment on a candidate's petition, the committee's members from each school and college meet with their respective school or college rank and tenure committee to clarify any matters on which there may be questions or issues of interpretation. Taking into account all of the information available, each member of the University Rank and Tenure Committee casts a secret ballot indicating his or her judgment of the strength of the petition. Unless it receives significant and relevant new

information, the committee shall cast ballots only once. The committee prepares a report of its evaluation and recommendation that reflects and includes the results of the balloting. In the course of its review of all petitions submitted to it, the University Rank and Tenure Committee takes all reasonable care to ensure that evaluations have been conducted thoroughly and consistently and in accordance with operative procedures, and that standards and procedures have been applied consistently by each college or school committee.

Endorsed by the Faculty Senate, June 3, 2008
Approved by the Board of Trustees, June 6, 2008

3.4.4.7 The Provost

The Provost reviews all petitions and makes his or her own recommendations.

3.4.4.8 The President

The decision on every candidate's petition shall be made by the President in consultation with the Provost after consideration of the recommendations made to him and of the needs of the University at the time he makes the decision.

3.4.4.9 Conflict of Interest in Evaluation for Promotion and Tenure

Faculty members who participate in the evaluation of candidates for promotion and tenure must strive to avoid any conflict of interest, real or perceived, in order to ensure a fair and objective evaluation.

If a familial, romantic, or financial relationship exists or has existed between two faculty members, neither shall participate in the evaluation of the other for purposes of tenure or promotion. Specifically:

- a. One shall not stand for election to a Rank and Tenure Committee knowing that the other would be considered during his or her period of service on the committee.
- b. One in a position to evaluate the candidacy of the other at any level of the review process shall recuse himself or herself from both discussion and voting in that case.
- c. A candidate for tenure or promotion is responsible for asking the other party to recuse himself or herself from the review process and also for reporting the perceived conflict to the Dean (if the conflict exists at the level of the department or the College committee) or the Provost (if the conflict exists at the level of the Dean or the University committee).

A "financial relationship" is a relationship between two faculty members that could allow one to significantly benefit or suffer financially, either directly or indirectly, from a

decision on the promotion or tenure of the other.

Violations of these provisions will be governed by procedures specified in Section 3.9. (Sanction and Dismissal) of the Faculty Handbook.

Significant scholarly collaboration, such as co-authorship of publications or supervision of a candidate's graduate work, also presents a potential conflict of interest. If two faculty members have engaged in significant scholarly collaboration and one serves on a Rank and Tenure Committee that evaluates the other, the committee member shall recuse himself or herself from consideration of the candidate's application. When there is a question as to what constitutes significant scholarly collaboration, the committee member shall consult with the chair and other members of the Rank and Tenure Committee and the chair shall notify the Provost.

Before recusal, the significant collaborator may present a written evaluation of the candidate's professional qualifications to the committee. If necessary, the committee may request further information from the recused member.

This procedure allows full and frank discussion of the application. It also guarantees the confidentiality of outside letters that may address the quality of the recused committee member's work.

Candidates and those charged with their evaluation for promotion or tenure shall consult with the Provost to resolve questions of the applicability and interpretation of this policy when necessary.

Recommended by the Faculty Affairs Committee, May 2, 2005

Endorsed by the Faculty Senate, June 2005

Approved by the Board of Trustees, January 20, 2006

3.4.5 Transmission of Materials and Recommendations through the Review Process

A member of the faculty seeking promotion or tenure or both shall submit his or her petition and supporting documentation to his or her department chair, who will make it available to the tenured members of the department for their review. The chair shall forward all materials received from the candidate, along with the summary of the department meeting on the petition, his or her own recommendation, and all recommendations received from tenured members of the department, to the candidate's dean. The file shall then be reviewed in turn by the following academic officers and committees, except where one does not exist in the line of transmittal for a specific candidate: the college, school, or division Committee on Rank and Tenure, the dean, the University Committee on Rank and Tenure, and the Provost.

Requests for letters of evaluation from outside referees named by the candidate, the candidate's department, and the candidate's college or school Rank and Tenure Committee shall be generated in the office of the candidate's dean. Letters received from these referees shall be held in the office of the candidate's dean and consulted there by

appropriate parties in the review up to the level of dean, after which they shall be forwarded with the candidate's file to the Provost for consideration by the University Rank and Tenure Committee and later parties to the review.

In the transmittal of files through the reviewing procedure, college or school committees shall receive them from and return them to their deans; the University committee shall receive them from and return them to the Provost.

Materials entering the process after it has begun shall be transmitted directly to the candidate's dean or, if the evaluations have proceeded beyond the dean, to the Provost for further transmittal to whatever person or committee is currently evaluating the candidate to whom they pertain. Such late materials need not be reviewed by the authors of completed evaluations unless, in the opinion of the University committee or the Provost, they ought to be.

The President shall meet with the University committee and the appropriate dean before announcing his decision. The President communicates his decision on each candidate's petition to the candidate in a letter.

Revised by vote of the Faculty Senate in Fall 2002 and the Board of Trustees on February 14, 2003.

3.4.6 Confidentiality

Deliberations and recommendations by persons or groups charged in this Handbook with the evaluation of candidates shall have confidential status and shall not be divulged to persons not so charged. Evaluative material received from others, whether solicited or volunteered, shall likewise have confidential status and shall not be divulged to persons outside the review process.

3.4.7 Inception of Tenured Status

The protections of tenure commence with the date of the President's letter of notification. For all other purposes, tenure commences with the beginning of the subsequent academic year.

3.4.8 Reconsideration

When a decision not to grant tenure or promotion has been reached, the faculty member concerned will be informed of that decision in writing. On request, the Provost shall give unsuccessful candidates the fullest and frankest statement of reasons that is consistent with the confidentiality of the specific recommendations and votes of committees and individuals who have participated in the evaluations.

Whenever a faculty member receives in writing an adverse decision concerning his or her application for promotion or tenure, the faculty member has 30 calendar days to file with the President of the University a petition for reconsideration by the President. The

petition should be submitted in writing and list the reasons for the request for reconsideration. The President shall respond within 30 days of receipt of the petition.

Requests for reconsideration of a denial of tenure or of promotion are restricted to the following causes:

1. the existence of significant and relevant new information regarding the candidate's performance that was not available for consideration by the relevant College or school rank and tenure committee during the review process as described in 3.4.5;
2. the existence of evidence suggesting that the evaluation of the case was inconsistent with established procedures or standards or was substantively unfair, such as being adversely impacted by significant personal or professional bias.

Upon receiving a valid request to reconsider a denial of tenure or promotion, the President shall ask for recommendations on whether to reverse or to reaffirm the decision from

1. the candidate's college or school Committee,
2. the University committee,
3. the candidate's dean,
4. the Provost, and
5. two senior Santa Clara University tenured faculty who are not members of the candidate's department and have not been members of any committee that evaluated the candidate.

For a candidate from the Jesuit School of Theology the President shall ask for recommendations on whether to reverse or to reaffirm the decision from the candidate's school Committee, the candidate's dean, the Provost, and two tenured members of the Jesuit School of Theology faculty who are not on the Appointment, Rank, and Tenure Committee of the School.

All of these persons and committees shall make their recommendations directly to the President, who, at his discretion, may discuss the case with any or all of them or with anyone else, including the candidate. The President shall then form and communicate his decision, which shall be final, in writing to the candidate.

The burden of proof for a reconsideration request rests with the candidate.

(In cases where a faculty member alleges a violation of academic freedom or unlawful discrimination in a denial of tenure or promotion, the Faculty Judicial Board shall have jurisdiction (see Section 3.10.2.2 (2) and (6) and 3.10.2.3).

Revisions endorsed by Faculty Senate, October 2017
Revisions approved by Board of Trustees, October 20, 2017

**SANTA CLARA UNIVERSITY
FACULTY HANDBOOK
SECTION 3.4A**

3.4A Policies and Procedures for Reappointment and Promotion of Non-Tenure-Track Faculty

Policies and procedures for reappointment of faculty holding renewable-term positions in the School of Law are set by the School of Law with approval of the Provost.

Policies and procedures for reappointment of a Lecturer to another renewable-term appointment appear in 3.4A.1 and 3.4A.3 below.

Policies and procedures for promotion to Senior Lecturer appear in 3.4A.2 and 3.4A.3 below.

Policies and procedures for promotion of faculty in adjunct professor ranks appear in 3.4A.4 below.

*Endorsed by Faculty Senate, Spring 2010
Approved by Board of Trustees, June 4, 2010*

3.4A.1 Reappointment of Lecturers

3.4A.1.1 Standards for Reappointment of Lecturers

Standards for reappointment of Lecturers must be broad enough to accommodate differences in academic disciplines and fields, the needs of different departments, and the nature of the specific appointment.

In addition to meeting the requirements set in 3.1.2.1.2, Lecturers seeking reappointment to another renewable term must demonstrate superior performance in teaching, in service, and in professional activity that is appropriate to the academic discipline or professional field and that contributes to their primary responsibility for teaching.

Teaching is to be judged in a teacher's total effect upon the education of his or her students. Teaching includes not only classroom instruction, but also academic advising and curriculum development. Effective teaching requires, at a minimum, competence in the subject and in skills of presenting it, and professionalism in conduct towards students. Academic advising is an extension of teaching. It is an expression of the University's concern for the development of the whole person and includes advising on courses and academic programs, on academic life generally, and on career opportunities. Curriculum development includes both contributions to departmental and University curricula, such as the development of new courses or significant modification of existing ones, and the creation of pedagogical materials that may be of use to other teachers. Those entrusted with evaluating a candidate's teaching are to consider all evidence of achievement in

each of the three components. The candidate's course materials form part of this evidence. The evidence also includes, but is not necessarily restricted to, the testimony of the candidate's colleagues, students, chair and other academic officers about the following: the candidate's command of the subject; the effectiveness of the candidate's presentation, whether in lectures, discussion, or tutorial; the quality and rigor of the candidate's courses; and the respect for and stimulation to further study of the subject that is generated among the candidate's students. Any other factors that contribute to the candidate's effect upon the education of his or her students shall also be taken into account.

Service is work other than teaching and professional activity that fosters and advances the missions and goals of the department, the college or school, or the University. It may also include service to the profession, such as participation on committees of a professional organization, and service to the community performed in virtue of a Lecturer's professional expertise or association with the University. The service expected of Lecturers will be appropriate to their expertise and experience.

Professional activity refers to scholarly or creative work, professional practice, or other active engagement in a discipline or field that enables a Lecturer to remain current in that area and vital as a teacher. Examples of professional activity include attendance or presentations at conferences, occasional publications that contribute to scholarship or pedagogy in the field, creative work in the arts, and practice in a professional field. Lecturers shall not be held to the same standards of scholarship as tenure-track faculty.

It is the responsibility of the candidate to demonstrate superior, not merely competent, performance in the criteria described above. The interpretation of all criteria and the judgment of whether the candidate meets them is left to the persons and committees specifically charged in this Handbook or in the Constitution of the School of Law or the Statutes of the Jesuit School of Theology with the evaluation of candidates.

Collegiality is not a distinct capacity to be assessed independently of the three standards described above. It is rather a quality whose value is expressed in the successful execution of these three functions. Collegiality means that faculty members cooperate with one another in sharing the common burdens related to discharging their responsibilities, and do so in a conscientious and professional manner. Collegiality is not the same as conformity or intellectual agreement and may not be interpreted in a way that violates the principles of academic freedom. In those rare instances in which lack of collegiality becomes an issue in the evaluation of faculty for reappointment or promotion, it may be considered only insofar as it has a negative effect on the functioning of the department, college or school, or University.

Endorsed by Faculty Senate, Spring 2010
Approved by Board of Trustees, June 4, 2010

3.4A.1.2 Applications for Reappointment of Lecturers

Reappointment is contingent on superior performance, persistent programmatic need, and the availability of funds. The presence of persistent programmatic need and the anticipated availability of funds must be confirmed before an application for reappointment is submitted. A Lecturer in the final year of a term is notified in writing by the dean whether there is persistent programmatic need and anticipated availability of funds for the position.

If there is persistent programmatic need and anticipated availability of funds, then the Lecturer may submit to the department an application for reappointment that follows University guidelines available from the dean.

Decisions about the presence of persistent programmatic need and the availability of funds are not subject to reconsideration.

Revisions endorsed by Faculty Senate, December 2012
Revisions approved by Board of Trustees, February 8, 2013

3.4A.1.3 Procedures for Review of Applications for Reappointment of Lecturers

Each department shall review applications for reappointment of Lecturers in accordance with procedures set by the dean. All tenured faculty and Senior Lecturers shall be eligible to participate in the review of applications. With the approval of the dean, faculty in a large department who are eligible to participate may elect a committee of eligible faculty to conduct the review on behalf of the whole department.

The chair shall convey the recommendation of the department, along with a report explaining that recommendation, to the dean. After reviewing the departmental recommendation, the dean shall make the final decision and inform the candidate of that decision in writing.

Revisions endorsed by Faculty Senate, December 2012
Revisions approved by Board of Trustees, February 8, 2013

3.4A.1.4 Reconsideration of a Decision Not to Reappoint a Lecturer

A Lecturer who has been denied reappointment by the dean will be informed of that decision in writing; the faculty member will be advised upon request of the reasons that contributed to the dean's decision.

Whenever a Lecturer, who is in his or her second term or any subsequent term as a Lecturer, receives in writing a negative decision by the dean concerning his or her application for reappointment, the Lecturer has 30 calendar days to file with the dean a petition for reconsideration by the dean. The petition shall be submitted in writing and list the reasons for the request for reconsideration. The dean shall respond within 30 days of receipt of the petition.

Requests for reconsideration of a denial of reappointment are restricted to the following grounds:

1. the existence of significant and relevant new information that has become available since the Lecturer's application for reappointment was considered.
2. the existence of evidence suggesting that the evaluation of the case was inconsistent with established procedures or standards or was substantively unfair, such as being adversely impacted by significant personal or professional bias.

Upon receiving a valid request for reconsideration of a decision not to reappoint, the dean shall ask for recommendations on whether to reverse or to reaffirm the decision from the appropriate department or program and the Lecturer's chair or program director.

The department and chair shall make their recommendations directly to the dean, who, at his or her discretion, may discuss the case with any or all of them or with anyone else, including the Lecturer. The dean shall then form and communicate his or her decision, which shall be final, in writing to the Lecturer.

The burden of proof for a reconsideration request rests with the candidate.

Revisions endorsed by Faculty Senate, October 2017
Revisions approved by Board of Trustees, October 20, 2017

3.4A.2 Promotion to Senior Lecturer

3.4A.2.1 Standards for Promotion to Senior Lecturer

Standards for promotion to Senior Lecturer must be broad enough to accommodate differences in academic disciplines and fields, the needs of different departments, and the nature of the specific appointment.

Promotion to Senior Lecturer is not automatically granted for length of service; it is a recognition of an exemplary record of achievement. In addition to meeting the requirements set in 3.1.2.1.3, candidates shall be expected to demonstrate a record of extraordinary teaching and to meet or exceed the standards for reappointment of Lecturers as described in 3.4A.1.1.

Endorsed by Faculty Senate, Spring 2010
Approved by Board of Trustees, June 4, 2010

3.4A.2.2 Applications for Promotion to Senior Lecturer

Promotion to Senior Lecturer is contingent on an exemplary record of achievement, persistent programmatic need, and the availability of funds. The presence of persistent programmatic need and the anticipated availability of funds must be confirmed before an application for promotion to Senior Lecturer is submitted. A Lecturer is notified in writing by the dean whether there is persistent programmatic need and anticipated availability of funds for the position.

If there is persistent programmatic need and anticipated availability of funds, then the Lecturer who is eligible to apply may submit to the department an application for promotion that follows University guidelines available from the dean.

Decisions about the presence of persistent programmatic need and the availability of funds are not subject to reconsideration.

Revisions endorsed by Faculty Senate, December 2012

Revisions approved by Board of Trustees, February 8, 2013

3.4A.2.3 Procedures for Review of Applications for Promotion to Senior Lecturer

Each department shall review applications for promotion to Senior Lecturer in accordance with procedures set by the dean. All tenured faculty and Senior Lecturers shall be eligible to participate in the review of applications. With the approval of the dean, faculty in a large department who are eligible to participate may elect a committee of eligible faculty to conduct the review on behalf of the whole department.

If the recommendation of the department is negative, the chair shall convey that recommendation along with a report explaining it to the dean. The dean shall notify the candidate of the negative decision in writing; the faculty member will be advised upon request of the reasons that contributed to the decision. This decision is not subject to appeal.

If the recommendation of the department is positive, the chair shall convey that recommendation along with a report explaining it to a Committee on Promotion to Senior Lecturer which has been elected by eligible faculty in the college or school (for the composition of the committee, see 2.11.2.3).

The college or school Committee on Promotion to Senior Lecturer shall thoroughly review all aspects of the candidate's application and the report of the department. Informed by this review, its members shall cast secret ballots indicating their judgment of the strength of the application. Committee members from a candidate's department who have voted on the application at the department level may participate in the committee's discussion but may not cast a ballot in the committee.

The committee shall prepare a report of its evaluation and recommendation that reflects and includes the results of the balloting. It shall submit this report to the dean, who shall make a recommendation to the Provost. The Provost shall make the final decision after consideration of the recommendations made and of the needs of the University.

Revisions endorsed by Faculty Senate, June 2021

Revisions approved by Board of Trustees, October 15, 2021

3.4A.2.4 Reconsideration of a Decision Not to Promote to Senior Lecturer

A Lecturer who has been denied promotion to Senior Lecturer by the Provost will be informed of that decision in writing; the faculty member will be advised upon request of the reasons that contributed to the decision.

Whenever a Lecturer receives in writing a negative decision by the Provost concerning his or her application for promotion to Senior Lecturer, the Lecturer has 30 calendar days to file with the Provost a petition for reconsideration by the Provost. The petition shall be submitted in writing and list the reasons for the request for reconsideration. The Provost shall respond within 30 days of receipt of the petition.

Requests for reconsideration of a denial of promotion are restricted to the following grounds:

1. the existence of significant and relevant new information that has become available since the Lecturer's application for promotion was considered.
2. the existence of evidence suggesting that the evaluation of the case was inconsistent with established procedures or standards or was substantively unfair, such as being adversely impacted by significant personal or professional bias.

Upon receiving a valid request to reconsider a denial of promotion, the Provost shall ask for recommendations on whether to reverse or to reaffirm the decision from the appropriate college or school committee and the Lecturer's dean.

The committee and dean shall make their recommendations directly to the Provost, who, at his or her discretion, may discuss the case with any or all of them or with anyone else, including the appellant. The Provost shall then form and communicate his or her decision, which shall be final, in writing to the Lecturer.

The burden of proof for a reconsideration request rests with the candidate.

Revisions endorsed by Faculty Senate, October 2017

Revisions approved by Board of Trustees, October 20, 2017

3.4A.2.5 Reapplication for Promotion to Senior Lecturer

A Lecturer who has been denied promotion to Senior Lecturer must wait three years before reapplying for promotion.

*Endorsed by Faculty Senate, Spring 2010
Approved by Board of Trustees, June 4, 2010*

3.4A.3 Other Policies and Procedures for Reappointment and Promotion of Lecturers

3.4A.3.1 Rights and Responsibilities of Candidates

It is the responsibility of a Lecturer applying for reappointment or for promotion to Senior Lecturer to become informed about the pertinent rules and regulations contained in the Faculty Handbook, to obtain from the dean the current University and college or school guidelines, and to follow all the procedures stipulated. It is incumbent on the candidate to demonstrate that he or she has met all the criteria for reappointment or promotion and to provide requisite documentation, in the form requested, within the deadlines stipulated.

*Endorsed by Faculty Senate, Spring 2010
Approved by Board of Trustees, June 4, 2010*

3.4A.3.2 Conflict of Interest in Evaluation

Faculty members who participate in the evaluation of candidates for reappointment or promotion must strive to avoid any conflict of interest, real or perceived, in order to ensure a fair and objective evaluation.

If a familial, romantic, or financial relationship exists or has existed between two faculty members, neither shall participate in the evaluation of the other for purposes of reappointment or promotion. Specifically:

- a. One shall not stand for election to a Committee on Promotion to Senior Lecturer knowing that the other would be considered during his or her period of service on the committee.
- b. One in a position to evaluate the candidacy of the other at any level of the review process shall recuse himself or herself from both discussion and voting in that case.
- c. A candidate for promotion is responsible for asking the other party to recuse himself or herself from the review process and also for reporting the perceived conflict to the dean.

A “financial relationship” is a relationship between two faculty members that could allow one to significantly benefit or suffer financially, either directly or indirectly, from a decision on the reappointment or promotion of the other. Violations of these provisions

will be governed by procedures specified in Section 3.9. (Sanction and Dismissal) of the Faculty Handbook.

Candidates and those charged with their evaluation for reappointment or promotion shall consult with the Provost to resolve questions of the applicability and interpretation of this policy when necessary.

Endorsed by Faculty Senate, Spring 2010
Approved by Board of Trustees, June 4, 2010

3.4A.3.3 Confidentiality

Deliberations and recommendations by persons or groups charged in this Handbook with the evaluation of candidates shall have confidential status and shall not be divulged to persons not so charged. Evaluative material received from others, whether solicited or volunteered, shall likewise have confidential status and shall not be divulged to persons outside the review process.

Endorsed by Faculty Senate, Spring 2010
Approved by Board of Trustees, June 4, 2010

3.4A.3.4 Inception of New Appointment Status

Reappointment or promotion commences with the beginning of the subsequent academic year.

Endorsed by Faculty Senate, Spring 2010
Approved by Board of Trustees, June 4, 2010

3.4A.4 Policies and Procedures for Promotion of Faculty in Adjunct Professor Ranks

Policies and procedures for promotion of faculty in the adjunct professor ranks defined in 3.1.2.2.1.2 are determined by the dean of each College or School in consultation with the faculty.

Standards for promotion must be broad enough to accommodate differences in academic disciplines and fields, the needs of different departments, and the nature of the specific appointment as specified in the Letter of Appointment. In general, faculty in adjunct professor ranks shall demonstrate the same level of excellence expected of tenure-track faculty holding the same rank, except that they shall not be held to the same performance expectations as tenure-track faculty in functions that are not central to their appointment.

Endorsed by Faculty Senate, Spring 2010
Approved by Board of Trustees, June 4, 2010

**SANTA CLARA UNIVERSITY
FACULTY HANDBOOK
SECTION 3.5**

3.5 Policies and Procedures on Termination of Employment

3.5.1 Retirement

Retirement is a voluntary termination of University rights and obligations by a faculty member after a career of academic service at Santa Clara University. A faculty member relinquishes tenure upon retirement.

A tenured faculty member and a faculty member with a renewable-term or continuing appointment as defined in Section 3.1.2.1, is ordinarily eligible to retire after 10 years of service at Santa Clara University and after reaching the age of 55.

A faculty member must ordinarily notify the department chair, dean, and Provost one full academic year before the academic year in which retirement is to begin.

Endorsed by Faculty Senate, Spring 2010

Approved by Board of Trustees, June 4, 2010

3.5.1.1 Privileges of Retired Faculty

The privileges offered to retired faculty are not contractual and are subject to change by the University. Those offered to all retired faculty include:

1. A University identification (“Access”) card, thereby ensuring eligibility for
 - a. Admission and borrowing privileges from libraries, including, for faculty retired from the Jesuit School of Theology, the Graduate Theological Union Library
 - b. Use of the Malley Fitness Center and swimming pool
 - c. Price reductions on lectures, theater, sporting, and other university events, and on purchases in the university Campus Store
2. Eligibility for a university email address and related privileges
3. Eligibility for complimentary parking permit
4. Eligibility to walk in graduation ceremonies

Privileges extended to Emeriti faculty members may also include:

5. Listing of name and title in school publications
6. Invitations to general University functions
7. Attendance at faculty meetings (without voting privileges)
8. Departmental mail box privileges

When considered necessary or beneficial, other privileges may be granted to a particular retired faculty member with the approval of the Provost.

Revisions endorsed by Faculty Senate, May 29, 2015
Revisions approved by Board of Trustees, June 5, 2015

3.5.1.2 Academic Service by Retired Faculty

A retired member of the faculty may be hired on an adjunct appointment.

Revisions endorsed by Faculty Senate, January 2012
Revisions approved by Board of Trustees, February 10, 2012

3.5.1.3 Phased Retirement

Phased retirement is a condition of employment under which a tenured faculty member or Senior Lecturer agrees to a reduction in University responsibilities with a corresponding decrease in salary. The agreement, which should be regarded by all parties as permanent and binding, shall specify a date for full retirement. The period of phased retirement will ordinarily not be longer than five years.

A tenured faculty member or Senior Lecturer is eligible to apply for phased retirement after seven years of service at Santa Clara University, but usually not earlier than age 55, under the conditions specified below.

Each agreement will be negotiated on an individual basis, taking into consideration teaching, scholarship, and service desiderata from the perspective of the individual faculty member and the University. Compensation will not be linked to any predetermined fraction of teaching load, but will be proportional to the level and distribution of responsibilities for teaching, scholarship, and service specified in the agreement.

The base salary used in the computation will be the salary of the academic year before phased retirement is to begin. The salary thus determined will be subject to increase during phased retirement according to the rate of increase determined by the administration from year to year for similar ranks and using the same performance evaluation criteria.

During phased retirement, the University will continue to provide the faculty member with office space and benefits as specified in 3.8.2.2. Phased retirement does not affect tenure, rank, membership in the Faculty Senate, or any faculty privileges.

A faculty member must apply to the department chair one full academic year before the phased retirement is to begin. The chair will forward the application together with a recommendation to the dean of the school or college. The dean will forward the application together with a recommendation to the Provost who will make the final decision and inform the applicant within 60 days of receipt of the application by the Provost.

Revised by vote of the Faculty Senate in April 2002 and the Board of Trustees on May 9, 2002.

3.5.2 Resignation

A faculty member who decides to resign from the University for any reason or who concludes an agreement to accept an appointment elsewhere is obligated to notify the University immediately.

A faculty member who has signed and returned to the President the Letter of Appointment for the coming year shall be permitted to resign from the University, without obligation, within thirty days of signing; thereafter, the faculty member shall fulfill the agreement.

3.5.3 Non-Reappointment

3.5.3.1 Probationary Faculty Members

The University may elect at any time not to reappoint any probationary member of the faculty, provided written notice is given in accordance with following timetable:

1. Not later than March 1 of the first academic year of service, if the appointment expires at the end of that year; or, if a one-year appointment terminates during an academic year, at least three months in advance of its termination;
2. Not later than December 15 of the second academic year of service, if the appointment expires at the end of that year; or, if an initial two-year appointment terminates during an academic year, at least six months in advance of its termination;
3. After two or more years, not later than August 31 of the calendar year in which the final one-year appointment begins.

When a decision not to renew an appointment has been reached, the faculty member concerned will be informed of that decision in writing by the body or individual making

that decision; the faculty member will be advised upon request of the reasons that contributed to the decision.

3.5.3.2 Senior Lecturers

The University may elect at any time not to reappoint a Senior Lecturer, provided written notice of the decision not to reappoint is given not later than August 31 of the calendar year in which the final one-year appointment begins.

Grounds for non-reappointment include unsatisfactory performance, lack of persistent programmatic need, or lack of available funds.

When a decision not to renew an appointment has been reached, the faculty member concerned will be informed in writing of that decision and the reasons for it by the body or individual making that decision.

Endorsed by Faculty Senate, Spring 2010
Approved by Board of Trustees, June 4, 2010

3.5.3.3 Other Non-Tenure-Track Faculty

With the exception of Senior Lecturers as outlined in 3.5.3.2, the University may elect at any time not to reappoint non-tenure-track faculty as follows:

1. The University may elect not to reappoint a non-tenure-track faculty member who holds an appointment with a term of more than one year, even when that term includes one or more additional years beyond the effective date of non-reappointment, provided written notice of the decision not to reappoint is given at least three months before the end of the terminal academic year. Such decisions may be made based on performance, availability of funds, or programmatic need.
2. Non-tenure-track faculty appointments of one academic year or less are made with no expectation of reappointment. Thus no notice of non-reappointment is necessary.

3.5.4 Cancellation of a Letter of Appointment

On thirty (30) days notice, the University may cancel a letter of appointment currently in effect and be excused from further obligation under such a letter in the event of substantial damage to the University properties by reason of war or by reason of fire, flood, earthquake, or other act of God, or in the event of substantial and sudden decrease in student body at the University as a result of any of the foregoing described contingencies or of any other circumstances beyond the University's control.

3.5.5 Termination of Contract

In contrast to the situations mentioned in 3.5.4 in which the letter of appointment may be cancelled, the contract of faculty members may be terminated under certain conditions as outlined in the remainder of 3.5.5.

3.5.5.1 Financial Exigency

Termination of an appointment with tenure, or of any appointment before the end of the specified term, may occur because of a demonstrably *bona fide* financial exigency, that is, an imminent financial crisis that, in the judgment of the Board of Trustees, threatens the survival of the institution as a whole and which cannot be alleviated by less drastic means without fundamental harm to the University.

Before any termination of tenured appointments pursuant to this section is implemented, the University should pursue all feasible alternatives. Such alternatives may include, but are not limited to, the following:

1. A temporary freeze on hiring administrators, faculty, and staff.
2. A temporary freeze on all administrative, faculty and staff salaries.
3. Reduction of administrative and service programs with corresponding reduction in personnel and services.
4. Encouragement of voluntary early retirement, including phased retirement, of faculty.
5. Encouragement of temporary change from full-time to part-time service for administrators, faculty, and staff.

Endorsed by Faculty Senate, Spring 2010
Approved by Board of Trustees, June 4, 2010

3.5.5.2 Partial Exigency

Termination of an appointment with tenure, or of any appointment before the end of the specified term, may occur because of a state of partial exigency, that is, a significant drop in enrollment in a particular school or department, whether unprecedented or steady, or a loss of income from other sources, such that, in the judgment of the Board of Trustees, the loss of income should not be supported by other parts of the University as a matter of long-range policy.

Before any termination of tenured appointments pursuant to this section is implemented, the University should pursue all feasible alternatives within the affected school or department, and may also pursue other feasible alternatives. Such alternatives may include, but are not limited to, the following:

1. Encouragement of voluntary early retirement, including phased retirement, of faculty within the affected school or department.
2. Encouragement of temporary change from full-time to part-time service for administrators, faculty and staff within the affected school or department.

Endorsed by Faculty Senate, Spring 2010
Approved by Board of Trustees, June 4, 2010

3.5.5.3 Policy Pertaining to Both Types of Exigency

In making decisions on whether teaching and research programs are to be curtailed, financial considerations should not be allowed to obscure the fact that instruction and research constitute the essential reason for the existence of the University. The faculty should participate at the department, college or school, and institution-wide levels, in key decisions as to the future of the institution and of specific academic programs within the institution.

In the proposals for implementation of a determination of financial exigency, the University shall make *bona fide* efforts to protect its program of affirmative action and shall give due regard to seniority.

In the event that the University is faced by financial problems that cannot be solved by the alternatives listed in 3.5.5.1 or 3.5.5.2, the University will ordinarily turn to the following remedies in the order listed:

1. non-reappointment of non-tenured faculty members;
2. termination of non-tenured faculty members effective during their period of appointment;
3. termination of tenured appointments.

Moreover, decisions regarding curtailment of programs and departments must always take into account the areas deemed central to the Jesuit nature of the University as determined by the Board of Trustees.

3.5.5.3.1 Non-Tenured Faculty Members

The non-reappointment of non-tenured faculty, to the extent possible, must comply with the procedures outlined in 3.5.3.1, 3.5.3.2, and 3.5.3.3.

In the case of the termination of non-tenured faculty effective during the period of their appointment, the same procedures as for termination of tenured faculty must be followed.

In cases covered by the preceding two paragraphs, the place of the probationary faculty member or the Senior Lecturer concerned must not be filled by a replacement within a period of two years, unless the released faculty member has first been offered reinstatement and a reasonable time in which to accept or decline.

Endorsed by Faculty Senate, Spring 2010

Approved by Board of Trustees, June 4, 2010

3.5.5.3.2 Termination of Tenured Faculty by Reason of Financial Exigency

Termination of an appointment with tenure may occur because of a demonstrably bona fide financial exigency as defined in 3.5.5.1 or 3.5.5.2.

Only the Board of Trustees can declare a state of financial exigency.

Procedures:

If the University administration believes that the financial situation is so serious as to suggest termination of tenured faculty, it shall take action through the following procedures:

The President of the University shall call into session a Financial Exigency Committee (FEC) which shall include, in addition to the President himself (as chair), the Provost, the Vice President for Administration and Finance, the academic deans, the President of the Faculty Senate and six tenured faculty members with relevant competency selected by the University Coordinating Committee. The faculty members shall be selected as follows: one each from the School of Business, the School of Engineering, the School of Law, and the School of Education, Counseling Psychology and Pastoral Ministries, and two from the College of Arts and Sciences.

The Financial Exigency Committee shall promptly consider whether or not the financial situation warrants a declaration of Financial Exigency as defined in 3.5.5.1 or a declaration of Partial Exigency as defined in 3.5.5.2. This committee shall also consider possible means to alleviate the imminent crisis. The President shall convey the report (and any minority report) of the Financial Exigency Committee to the Board of Trustees.

The school and college representatives on the Financial Exigency Committee will also communicate the committee's deliberations to the Faculty Senate in appropriate detail.

After reviewing the report (or reports) and hearing from committee representatives, the Board shall make its determination after final discussion and voting in closed session.

The President will convey the determination of the Board through the dean to the chair of any affected department. If tenured faculty positions are to be eliminated, the chair will call a departmental meeting of all full-time tenured faculty members and will ask for recommendations by secret ballot of the faculty member(s) to be terminated. The ballots together with the recommendations of the chairs will be sent to the Provost. If tenured

faculty positions are to be eliminated in the School of Law or the Jesuit School of Theology, its dean or President will follow procedures analogous to those just described.

The Provost will record the ballots in the presence of the President of the Faculty Senate. In consultation with the Provost, the President will make final decisions, after taking into account the results of the balloting and the needs of the University. Such decisions will be conveyed to the faculty member(s) by the dean of the respective school or college.

Safeguards:

The appointment of a faculty member with tenure will not be terminated in favor of retaining a faculty member without tenure, except in the extraordinary circumstances where a serious distortion of the academic program would otherwise result. In all cases of termination of a tenured appointment because of financial exigency, the place of the faculty member concerned will not be filled by a replacement within a period of three years, unless the released faculty member has first been offered reinstatement and a reasonable time in which to accept or decline.

If the institution because of financial exigency terminates tenured appointments:

1. in the case of financial exigency of the University as a whole, it will not at the same time make any new appointments except where a serious distortion in the academic program would otherwise result. Provision should be made for severance salary equitably adjusted to the faculty member's length of service.
2. in the case of partial exigency, before the administration issues notice to a faculty member of its intention to terminate an appointment, the institution must make every effort to place the faculty member concerned in another suitable position. If placement in another position would be facilitated by a reasonable period of training, financial and other support for such training will be proffered. Such financial arrangements will be negotiated by the faculty member and the Provost. If no position is available within the institution, with or without retraining, the faculty member's appointment may then be terminated, but only with provision for severance salary equitably adjusted to the faculty member's length of service.

A faculty member who has received notice of termination has a right to appropriate hearing by the Faculty Judicial Board according to 3.10.2 only as to whether the safeguards noted here have been followed.

Revisions endorsed by Faculty Senate, October 2010

Revisions approved by Board of Trustees, October 15, 2010

3.5.5.4 Changes in the Educational Program

Termination of any appointment with tenure, or of any appointment before the end of its specified term, may occur as a result of bona fide formal discontinuance of a program or department of instruction. The following standards and procedures will apply:

1. The decision for formal discontinuance of a program or department of instruction will be based primarily upon educational considerations. The President and the Provost will make the decision after considering the recommendations of the Committee on Academic Affairs.
2. Before the administration issues notice to a faculty member of its intention to terminate an appointment because of formal discontinuance of a program or department of instruction, the institution will make every effort to place the faculty member concerned in another suitable position. If placement in another position would be facilitated by a reasonable period of training, financial and other support for such training will be proffered. Such arrangements will be negotiated by the faculty member and the Provost. If no position is available within the institution, with or without retraining, the faculty member's appointment may then be terminated, but only with provision for severance salary equitably adjusted to the faculty member's length of service.
3. In the case of formal discontinuance of a program or department of instruction, the place of the faculty member, should the program or department be restored within three years, will not be filled unless the released faculty member has first been offered reinstatement and a reasonable time in which to accept or decline.
4. A faculty member who has received notice of termination under this section has a right to appropriate hearing by the Faculty Judicial Board according to 3.10.2 only as to whether the safeguards noted here have been followed.

Endorsed by Faculty Senate, Spring 2010

Approved by Board of Trustees, June 4, 2010

**SANTA CLARA UNIVERSITY
FACULTY HANDBOOK
SECTION 3.6**

3.6 Faculty Rights and Responsibilities

3.6.1 Academic Freedom

All faculty are entitled to the exercise of academic freedom.

The University's policy on academic freedom is that of the 1940 Statement on Academic Freedom and Tenure with 1970 Interpretive Comments, adopted by the American Association of University Professors and the Association of American Colleges, with no limitations imposed by the specific aims of the University. The statement, as revised by the two associations in 1989 and 1990 to delete gender-specific references, is given in Appendix B of this Handbook.

Faculty in the Jesuit School of Theology are subject to a separate academic freedom policy.

*Revisions endorsed by Faculty Senate, October 2010
Revisions approved by Board of Trustees, October 15, 2010*

3.6.2 General Faculty Responsibilities

Members of the academic profession have responsibilities in the intellectual development of their students, in the advancement of knowledge in their disciplines, and in the improvement of society. As faculty at this University, they also have an obligation to support its general well-being, to advance its mission as expressed in 1.3.2, and to work toward the fulfillment of its stated goals. Although their duties are to some extent prescribed by the institution, they have considerable independence in ordering their work toward the fulfillment of their responsibilities.

General responsibilities of faculty at Santa Clara University fall into four major categories:

1. All faculty members are expected to accord the University their professional loyalty and arrange outside activities and obligations in a way that will not interfere with this commitment.

The acceptance of a full-time faculty appointment requires a commitment that is full-time in the most inclusive sense during the period of service specified in the Letter of Appointment. A part-time appointment requires a commitment commensurate with the responsibilities specified in the Letter of Appointment.

2. All faculty members are expected to demonstrate competence in carrying out their core responsibilities as defined in Section 3.1 or in writing by the dean or Provost.
3. All faculty members are expected to exhibit ethical behavior consistent with established norms of the academic profession.

As members of the academic profession, who have responsibility for the advancement of knowledge and the intellectual formation of others, and who have uncommon visibility as role models and spokespersons, faculty must adhere to especially rigorous standards of intellectual honesty, judgment, fairness, and restraint in the practice of their disciplines and in their dealings with students, colleagues, and the community.

The statement on professional ethics adopted by the American Association of University Professors in 1966 and revised in 1987 provides an excellent summary of the major general obligations incumbent on faculty in virtue of their position. It appears in Appendix D.

4. All faculty members are expected to adhere to official policies and procedures as outlined in the Faculty Handbook and as may be promulgated from time to time by officers of the University acting within the scope of their authority.

Endorsed by Faculty Senate, Spring 2010
Approved by Board of Trustees, June 4, 2010

3.6.3 Specific Functions

In addition to the general responsibilities outlined in section 3.6.2, full-time faculty are expected to perform specific functions in the areas of teaching, scholarly or creative work, and service. Specific functions of part-time faculty are outlined in writing by the dean or Provost.

3.6.3.1 Specific Functions Related to Teaching

Full-time faculty with teaching responsibilities perform specific functions related to teaching that include but are not necessarily limited to the following:

1. Teaching courses as assigned.

Except in the School of Law and the Jesuit School of Theology, the official teaching load for tenured and tenure-track faculty is seven courses of conventional unit value per year, or the equivalent, as determined by the dean. This load will ordinarily be adjusted for department chairs and directors of special academic programs, for persons engaged in intensive research, and for those who may be carrying an unusually heavy burden of committee or administrative work. Such adjustments are made by the Provost upon the recommendation of the dean.

The full-time-equivalent teaching load for faculty with renewable-term or continuing appointments (see 3.1.2.1) is seven courses of conventional unit value per year on the quarter system or five on the semester system. The full-time-equivalent teaching load for faculty with fixed-term appointments (see 3.1.2.2) is nine courses of conventional unit value per year on the quarter system or six on the semester system.

Department chairs and deans are expected to assign courses so that a faculty member on academic year appointment with a teaching load of five or more courses has teaching responsibilities in each term of the academic year. In order to promote the professional development of the faculty member or to meet the needs of the department, flexible course scheduling may be requested in special circumstances for a term without teaching responsibilities.

At the request of the chair and dean, a faculty member teaching in a year-round graduate program may agree to fulfill his or her teaching responsibilities by substituting the summer term for one quarter during the regular academic year. Such an assignment is to be noted in the Letter of Appointment. The dean will determine equitable service expectations and convey these expectations in writing to the faculty member. This option is not available in the Law School.

2. Demonstrating a command of their discipline and skill in presenting it effectively in the context of an integrated education.
3. Using appropriate measures of student performance, providing timely feedback to students, and assigning grades that are an accurate and fair evaluation of student work.
4. Posting and maintaining regular office hours at times reasonably convenient to students.
5. Serving as an advisor to assigned students and providing informed advice.
6. Developing courses for which they are responsible and contributing to general curriculum development in the relevant degree programs.

Endorsed by Faculty Senate, Spring 2010
Approved by Board of Trustees, June 4, 2010

3.6.3.2 Specific Functions Related to Scholarly or Creative Work, or Professional Activity

Full-time faculty engage in a level of scholarly or creative work, or professional activity, that is appropriate to their position as defined in Section 3.1.

Endorsed by Faculty Senate, Spring 2010
Approved by Board of Trustees, June 4, 2010

3.6.3.3 Specific Functions Related to Service

Full-time faculty perform specific functions related to service. These include but are not necessarily limited to fostering and advancing the mission and goals of the department, the University, or the profession through contributions other than teaching and scholarship or creative work such as service on committees, participation in professional organizations and activities, and community service performed in virtue of their professional expertise or association with the University.

3.6.3.4 Modified Duties

When a faculty member is granted a partial leave of any kind, he or she is expected to work during the portion of the term not covered by the leave. If a modification of the faculty member's duties is required due to the nature and timing of the leave, then the faculty member shall work with the chair and the dean to draft a memorandum of understanding that outlines the modified duties. This memorandum of understanding shall be signed by the faculty member, chair, dean, and Provost.

During the period of modified duties, the faculty member will be afforded flexibility in meeting responsibilities including telecommuting options as appropriate to the circumstances of the faculty member and the needs of the University.

Revisions endorsed by the Faculty Senate, April 2013

Revisions approved by the Board of Trustees, June 7, 2013

3.6.4 Period of Service

The period of service for full-time faculty is the nine-month academic year unless otherwise specified in the Letter of Appointment or by written agreement with the Provost upon the recommendation of the dean. Except in the School of Law and the Jesuit School of Theology, for which the academic year is the middle of August to the middle of May, the academic year lasts from approximately the middle of September to approximately the middle of June. The date when members of the Faculty are to return to campus or to be on call for activities related to the start of the academic year in September is announced annually by the Provost. This date ordinarily follows the preceding June commencement ceremony by three months.

Revisions endorsed by Faculty Senate, October 2010

Revisions approved by Board of Trustees, October 15, 2010

3.6.5 Conflict of Interest

A conflict of interest exists when a faculty member's ability to discharge University responsibilities and functions in an ethical manner is compromised because of other professional or personal interests.

Faculty members must be sensitive to situations in which there is a potential for conflict of interest and actively avoid such a conflict. Such conflicts may arise when a faculty

member serves in any administrative or service capacity that provides an opportunity to evaluate a family member or a colleague whom he or she cannot judge fairly. It may also arise when a faculty member is a consultant for, or has some other financial interest in, a business venture that is related to his or her own research or teaching.

Such situations pose the danger that basic standards of fairness, academic principles, or educational priorities will or may appear to be distorted by the opportunity for special advantage on the part of a faculty member, an academic unit in which he or she works, or even the University itself.

3.6.6 Grading

The awarding of course grades is the exclusive responsibility of the teacher of the course. No member of the faculty or of the administrative staff of the University may solicit a teacher or apply pressure to award a particular grade or change a grade once given. After a grade has been filed with the Registrar, it shall not be changed except to correct a computational error or an error in transcription or other procedural error, or to comply with policies and procedures contained in Appendix E (Policies and Procedures on Student Appeals of Grades) or Appendix F (Policy on Unlawful Harassment and Unlawful Discrimination).

A grade should be an accurate, fair, and timely evaluation of a student's work and should not be affected by irrelevant or extraneous factors.

Procedures to be followed for the timely filing or changing of grades are determined by the Registrar.

3.6.7 Unlawful Harassment and Unlawful Discrimination

Any behavior constituting unlawful harassment or unlawful discrimination toward any individual in the course of any University-administered program, job, or activity is prohibited. The University does not tolerate unlawful harassment or unlawful discrimination and will take prompt and effective corrective action including, where appropriate, disciplinary action up to and including dismissal or expulsion. This University policy applies to all University staff, students, and faculty, and all other individuals engaged in University activities.

The full text of this University policy is set forth in Appendix F and is incorporated here by this reference.

3.6.8 Consensual Relations Between Employees and Students

In addition to prohibiting sexual harassment under the Policy on Unlawful Harassment and Unlawful Discrimination (Section 3.6.7), the University prohibits any consensual dating, romantic, or sexual relationship between an employee and a student over whom that employee has any instructional, supervisory, advising, or evaluative responsibility.

Such a relationship is fraught with problems, including the potential for exploitation, favoritism, and conflict of interest. The appearance of impropriety or unfairness may also adversely affect the learning and work environment for other students and employees.

This policy applies to faculty, staff, and student employees. Employees who violate this policy are subject to sanctions for misconduct under the policies of the Faculty Handbook, Staff Manual, or Student Employment Handbook, as appropriate to their employment status.

Employees or students with questions about this policy should contact the Office of Affirmative Action or the Department of Human Resources.

Endorsed by Faculty Senate, Spring 2006
Approved by Board of Trustees, May 19, 2006

3.6.9 Proprietary Marks including the University Name

The University has exclusive rights to its proprietary marks, including but not limited to the University name, trademarks, mottos, mascots, and insignia. The University prohibits the unauthorized use of its proprietary marks. Because proprietary marks are valuable assets, they must be used correctly to avoid loss or dilution in the marketplace.

The University's proprietary marks include, but are not limited to, "Santa Clara University," "SCU", "Santa Clara College," "University of Santa Clara," and "Santa Clara Broncos," as well as icons such as Bucky, the monogram, the University's seals, and the depiction of the Mission Church.

Revisions endorsed by Faculty Senate, Spring 2016
Revisions approved by Board of Trustees, June 3, 2016

3.6.9.1 Use of Proprietary Marks

Faculty members may use proprietary marks for routine educational and scholarly activities. Faculty members may identify themselves as members of the University. Unless authorized to speak on behalf of the University, however, they should exert every reasonable effort when they make public statements to indicate that they speak as individuals rather than on behalf of the University.

Use of the University proprietary marks for reasons other than routine educational or scholarly activities requires the express written permission of the University. Furthermore, the University reserves the right in its sole discretion to terminate or modify permission to display University proprietary marks by any person or organization. Unless the University has given prior express approval, no member of the faculty shall use the University's proprietary marks to seek monetary gain, to issue any opinion about the merit or credit of a business undertaking, or to sponsor or oppose any organization or cause.

Endorsed by Faculty Senate, Spring 2016; Approved by Board of Trustees, June 3, 2016

3.6.10 Miscellaneous University Policies

Faculty are subject to policies relating to a smoke-free environment, a drug-free school and workplace, operation of motor vehicles, public safety inspections, and workplace violence and threats of harm. These policies appear in sections 702-706 of the Santa Clara University Staff Policy Manual (<http://www.scu.edu/hr/policy/>) which, as they may be amended from time to time, are incorporated herein by this reference.

**SANTA CLARA UNIVERSITY
FACULTY HANDBOOK
SECTION 3.7**

3.7 Faculty Development and Research

3.7.1 Sabbatical Leave

A sabbatical leave is awarded for the intellectual and academic enrichment of the faculty member and for the benefit of the University through improved teaching and scholarship. Projects suitable for a sabbatical leave include research or creative work leading to a product appropriate to the discipline, such as a publication or work of art, or curricular or pedagogical development that will enhance the curriculum of the department or University.

A sabbatical leave will not be granted for routine course preparation, respite from usual duties at the University, or the improvement of one's financial circumstances through remuneration for teaching, research, or any other employment outside the University. A leave of absence is appropriate to satisfy exigencies of a personal nature.

Faculty members granted sabbatical leave are expected to return to the University at the expiration of the leave for a period of at least one year following the sabbatical leave. The period of sabbatical leave counts as service at the University for purposes of advancement in rank and salary.

Faculty in the School of Law and the Jesuit School of Theology are subject to a separate sabbatical policy which supersedes the provisions in 3.7.1 through 3.7.1.5 of this Handbook.

*Revisions endorsed by Faculty Senate, October 2010
Revisions approved by Board of Trustees, October 15, 2010*

3.7.1.1 Eligibility

Only tenured faculty and Senior Lecturers are eligible for sabbatical leave.

A tenured faculty member who at the beginning of the proposed leave will have completed at least nine quarters of full-time service since initial tenure-track appointment is eligible to apply for a sabbatical leave subject to the provisions of 3.7.1.3.

A Senior Lecturer who at the beginning of the proposed leave will have completed at least 9 quarters of full-time service since initial appointment as Senior Lecturer is eligible to apply for a sabbatical leave.

A sabbatical leave or other leave of absence, except for a Junior Faculty Development Leave, is not considered full-time service to the University for purposes of determining sabbatical eligibility.

Sabbatical leaves should be taken during a single academic year and will ordinarily not be awarded more frequently than every three years. Exceptions may be permitted in special cases with the approval of the chair, dean, and Provost. To be considered for a sabbatical extending over more than a single academic year, the candidate must present a strong rationale for why this is necessary, and the Provost must be assured that the arrangement would not place undue burdens on students or colleagues.

Revisions approved by the Board of Trustees, January 2012
Revisions endorsed by the Faculty Senate, February 10, 2012

3.7.1.2 Application Policy and Procedures

By the first Monday in October of the year prior to that in which the sabbatical leave is to occur, the applicant shall submit to the chair of his or her department a sabbatical proposal, formulated according to current guidelines, which describes the nature of the sabbatical project, the means by which it will be carried out, and the anticipated benefits from the sabbatical project for the University, the applicant's profession, and the applicant's own future teaching and scholarship.

The sabbatical proposal is reviewed, evaluated, and passed on with a recommendation for acceptance or rejection by the applicant's department chair, college or school dean, a Sabbatical Review Committee appointed by the Provost, and the Provost in turn. The Sabbatical Review Committee may request modifications in the proposal before making its recommendation to the Provost who may also request additional information. Sabbatical leaves are granted by the Provost.

Approved by the Board of Trustees, May 20, 2005
Endorsed by the Faculty Senate, June 2005

3.7.1.3 Remuneration

Although a faculty member's Letter of Appointment for the year in which a sabbatical leave has been awarded states base salary and estimated total compensation, actual salary for the year of sabbatical leave is determined as follows.

For each quarter of full-time employment, up to a maximum of three quarters per academic year, an eligible faculty member accrues 1/27 of his or her base pay for sabbatical leave. For example, after nine quarters of regular service, a tenured faculty member or Senior Lecturer is eligible for one quarter of sabbatical leave at 100% of base annual salary; after 18 quarters of regular service, a tenured faculty member or Senior Lecturer is eligible for two quarters of sabbatical leave at 100% of base annual salary; and after 27 quarters of regular service, a tenured faculty member or Senior Lecturer is eligible for three quarters of sabbatical leave at 100% of salary.

After 18 quarters and up to 27 quarters of full-time service, a faculty member eligible for sabbatical may take a three-quarter sabbatical leave at a reduced salary if the accrued service is insufficient to permit a sabbatical leave at full pay. For example, after 18 quarters of regular service, a full year of sabbatical leave will be remunerated at 18/27 or 66.7% of base annual salary; after 21 quarters of regular service, a full year of sabbatical leave will be remunerated at 21/27 or 77.8% of base annual salary.

Any quarters of accrued service that are not utilized for a sabbatical leave may be credited to a subsequent sabbatical leave. There will be no additional accrual of sabbatical time after 27 quarters of service unless the faculty member has had to delay a sabbatical leave in the interest of the department, college, or University. In such cases, with the written approval of the Provost, any additional quarters will be credited to a subsequent sabbatical leave. Sabbatical salary may not exceed 100% of the faculty member's regular salary.

Contributions to the retirement plan, by both the University and the faculty member, are based on the salary actually paid; all other benefits are continued as usual.

It is the obligation of the recipient of a sabbatical leave to clarify with his or her dean or with the Provost any matter pertaining to the leave which may not be included in this Handbook. Such clarifications are to be made in writing with copies to the recipient's department chair, the dean, and the Provost.

*Revisions approved by the Board of Trustees, January 2012
Revisions endorsed by the Faculty Senate, February 10, 2012*

3.7.1.4 Reports on Sabbaticals

Not later than ninety days following return to the University, a faculty member granted sabbatical leave shall submit a detailed report on his or her activities and accomplishments during the leave to the school or college dean, with copies to the Provost and department chair. Reports from prior sabbaticals must be included as part of future petitions for sabbatical leave.

*Approved by the Board of Trustees, May 20, 2005
Endorsed by the Faculty Senate, June 2005*

3.7.1.5 Unused Sabbatical Time

Any quarters of accrued service that have not been utilized for a sabbatical leave will be forfeited when a faculty member ends employment with the University.

3.7.2 Junior Faculty Development Leaves

Junior Faculty Development Leaves are intended to support the professional development of tenure-track faculty in preparation for their application for tenure and promotion.

Following a mid-probationary review resulting in a recommendation for continuation through the probationary period, a tenure-track faculty member is eligible for a leave of one quarter at full salary to advance his or her scholarship or teaching as appropriate to each case. This leave will normally be taken in the academic year immediately following the successful mid-probationary review; exceptions must be approved by the Provost in consultation with the dean.

Tenure-track faculty in the Jesuit School of Theology are eligible to apply for a one semester leave to support research. Junior Faculty Development Leaves are not available in the School of Law.

Revisions endorsed by Faculty Senate, February 2022

Revisions approved by Board of Trustees, June 3, 2022

3.7.3 Leaves of Absence

At the discretion of the Provost, any member of the faculty may be granted a leave of absence of up to one year's duration for *bona fide* emergency or for other personal reasons, such as to engage in public service, in formal study, in research, in teaching at another institution, or in caring for a family member. A partial leave of absence may also be granted.

A leave of absence may be extended beyond one year only for extraordinary reasons and under conditions to be agreed upon in writing by the faculty member and the Provost. If the faculty member is untenured, a leave of absence shall not constitute an interruption in the faculty member's probationary service for tenure, unless a written agreement between the faculty member and the Provost states otherwise.

A faculty member on leave of absence does not receive a Letter of Appointment for the period of the leave. Except for life insurance and medical insurance, which the University shall maintain in force, the faculty member shall receive no salary or other benefits during the period of leave, nor shall the faculty member accrue eligibility towards sabbatical, faculty tuition remission, or phased retirement.

A faculty member on a partial leave of absence does receive a Letter of Appointment for the period of the partial leave. Except for life insurance and medical insurance, which the University shall maintain in force, the faculty member shall receive salary and other benefits during the period of leave that are proportional to the partial leave.

A faculty member on leave of absence who decides not to return to the University shall observe the principles of notification of the University that are given 3.5.2.

Revisions endorsed by Faculty Senate, Spring 2014

Revisions approved by Board of Trustees, June 6, 2014

3.7.3.1 Limit on Leaves

The total time spent on leave ordinarily should not exceed six quarters or four semesters in seven years for any member of the faculty. In this calculation, partial leaves will be prorated. Sabbatical leaves, junior faculty development leaves and phased retirements do not count toward this leave limit calculation.

Exceptions to these limitations may be approved by the Provost in consultation with the department chair and dean in certain special circumstances, such as when the following types of leave are involved: short term disability, long term disability, pregnancy disability, family and medical, workers compensation, or government service.

3.7.3.2 Reduced-time Appointments

At the discretion of the Provost, any member of the faculty may be granted a reduced-time appointment of no less than 50% for up to four years in cases where all leave options have been exhausted and the leave limit has been reached. Exceptions to these limitations may be approved by the Provost in consultation with the department chair and dean.

A faculty member on a reduced-time appointment does receive a Letter of Appointment. Except for life insurance and medical insurance, which the University shall maintain in force, the faculty member shall receive salary and other benefits during the period of the reduced-time appointment that are proportional to the partial appointment.

3.7.4 External Funding

3.7.4.1 Sponsored Projects

A sponsored project is any externally funded activity which is subject to an agreement that is binding on the University and that includes any of the following conditions:

1. It commits the University to a specific plan of research or scholarly inquiry.
2. It makes a specific commitment regarding the level of personnel effort, items of output, or achievement of specific performance targets.
3. It requires both adherence to a line item budget and either a detailed fiscal report or an external audit of the project.
4. It requires that any unexpended funds be returned to the sponsor at the end of the project period.
5. It provides for the disposition of either tangible property (e.g., equipment, records, or technical reports) or intangible property (e.g., patents or copyrights) that may result from the activity.

Proposals including any of the above conditions must be reviewed by the Sponsored Projects Office before submission unless they are for student financial aid (see University Financial Aid Office), endowment funds (see University Development Office), or construction projects (see University Development Office and Facilities Planning and Projects Office).

Unrestricted gifts from private parties, or those restricted only to a general area without any of the conditions above, are not considered to be sponsored projects and should be processed through the University Development Office.

Endorsed by Faculty Senate, Spring 2011
Approved by Board of Trustees, June 3, 2011

3.7.4.2 Other Fund Raising

All requests for external funds, except those that fall within the category of sponsored projects as defined in 3.7.4.1, must be coordinated with the University Development Office.

3.7.4.3 Consulting and Other Paid Professional Activity

Consulting is defined as professional activity related to a person's field or discipline in which a fee-for-service or equivalent relationship with a third party exists. This definition is intended to encompass many different kinds of activities. Whether one runs a private practice, operates as an independent contractor, works as a paid employee, or serves as a company director, one is acting as consultant if three conditions hold: one uses one's *professional capabilities* in return for some *form of remuneration* provided by a party other than the University.

Faculty members need not obtain prior approval for consulting as long as they meet their full obligations to the University and comply with the guidelines presented below. Exceptions to these guidelines must be approved in writing by both the appropriate dean and the Provost. The Provost will consider granting exceptions to the consulting time limits for Adjunct Faculty because the contribution of such faculty to the University may be based in significant measure on the professional expertise and recognition they derive from continued outside employment.

The maximum amount of consulting permitted for full-time faculty members is one day per seven-day week during the period of employment specified in the Letter of Appointment. When consulting is done by the hour rather than the day, eight consulting hours equal one consulting day.

For part-time faculty members who hold appointments for the full academic year, the one-day limit is prorated using the formula $F + 6(1 - F)$, where F is the fraction of full-time duty and 6 is the maximum number of days per week that are likely to be devoted to consulting during the period not covered by University work.

Faculty members who are appointed only for one academic term are not subject to time limits on consulting.

Faculty members whose period of appointment is the academic year are not subject to time limits on consulting during the summer recess unless they receive from the University a salary supplement for work performed during the summer. If the supplement is less than 3/9 of base salary, the one-day limit applies only to the actual period of employment by the University.

Faculty members on sabbatical leave at full pay may consult up to one day per week. For those on sabbatical at less than full pay, the one-day limit is prorated according to the formula given above for part-time employment. Faculty members on leave without salary are not subject to time limits on consulting.

Averaging of consulting time within a single quarter is permitted at the discretion of the faculty member, but averaging across quarters requires prior written approval by the dean. Quarters of less than full-time service may not be averaged with quarters of full-time service.

University resources--including personnel, facilities, equipment, materials, and services--shall not be used in connection with consulting except in a purely incidental way.

Except in cases where disclosure would violate professional privilege, every faculty member must describe his or her consulting activities upon request from the dean or the Provost. Requested information may include the names of companies or organizations for which the faculty member has consulted, the general nature of each consulting agreement, the number of days devoted to each consulting agreement, and any financial interest in the company or organization that might result in a conflict of interest with University responsibilities. No faculty member will be required to disclose actual income from consulting activities.

Three activities related to faculty responsibilities are specifically excluded from the limits of the consulting policy:

1. Scholarship. This includes scholarly and creative productions as described in 3.4.2.
2. Professional Service. This includes service on editorial boards, peer review panels, committees of professional organizations, advisory groups at other universities, government boards, and similar bodies.
3. Sponsored Projects. These include all grants and contracts administered by the University.

Any question about whether an activity constitutes consulting under this policy should be resolved in advance with the appropriate dean. Teaching appointments at other institutions are covered in a separate policy.

Revisions endorsed by Faculty Senate, January 2012
Revisions approved by Board of Trustees, February 10, 2012

3.7.4.4 Teaching Appointments at Other Institutions

Full-time appointments at Santa Clara University involve a commitment that is full-time in the most inclusive sense (3.6.2), therefore, faculty with such appointments must have written approval prior to accepting appointments at other institutions. Tenured and tenure-track faculty and Senior Lecturers must have the written approval of the dean and Provost; Lecturers must have written approval of the dean; and faculty with fixed-term appointments must have written approval of the chair. Part-time faculty do not need to request approval for teaching at other institutions.

Endorsed by Faculty Senate, January 2012
Approved by Board of Trustees, February 10, 2012

3.7.5 Patents

The University expands the boundaries of knowledge and insight through research, artistic expression, and other forms of scholarship. Inventions may emerge from basic and applied research endeavors. Patenting an invention is often an essential step to fully realizing societal benefits emerging from new knowledge and technologies. Through this patent policy, the University seeks to encourage the development of new inventions and patents and to recognize that it is primarily through discovering, communicating, and applying knowledge that the University exercises institutional responsibility as a voice of reason and conscience in society.

An “invention” is defined by the U.S. Patent and Trademark Office as any art or process (way of doing or making things), machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plant, which is or may be patentable under the patent laws of the United States.

For the purposes of this policy, an “inventor” is defined as any full- or part-time University faculty, staff, students, postdoctoral fellows and others who use University funds, facilities or other resources, or participate in University-administered research, and who contribute to the conception of an invention using any University resources.

Three types of inventions are defined in this policy as follows:

- 1) An *incidental invention* means an invention that is conceived or reduced to practice in whole or in part making an incidental use of space, facilities, materials or other resources provided by or through the University. Use of an office, the library, and desktop computer is considered to be the incidental use of space, facilities, materials or other resources.

- 2) A *supported invention* is an invention conceived or reduced to practice in whole or in part
- with use of direct or indirect financial support from the University, including support or funding from an external sponsor awarded to or administered by the University; or
 - with use (other than incidental use) of space, facilities, materials or other resources provided by or through the University.
- 3) An *assigned invention* is an invention conceived or reduced to practice in whole or in part as a result of activities related to the inventor's assigned employment responsibilities.

3.7.5.1 Disclosure

Inventors are required to complete and to submit an invention disclosure to the Office of Research Initiatives for any type of invention. Well before submitting a disclosure, inventors may notify the Office of Research Initiatives of potential invention development so that the Office of Research Initiatives can assist in readying the potential invention for patent application.

3.7.5.2 Ownership

Upon review of the disclosure, the Office of Research Initiatives will determine whether the invention shall be classified as an incidental, supported, or assigned invention. Ownership will be determined as follows.

Ownership of an incidental invention shall remain with its inventor, subject to any rights owned by the University as required by this policy or voluntarily assigned by the inventor to the University.

The University owns supported inventions and assigned inventions. In addition, each inventor agrees to confirm in writing the inventor's assignment to the University of all of his or her right, title, and interest in each supported or assigned invention.

Supported inventions that involve an external sponsor are owned by the University unless otherwise agreed by the University in a separate written third-party agreement between the University and a sponsor. Such a separate agreement may provide some or all rights in the supported invention to the third party.

The University ordinarily waives its rights to inventions by student inventors developed as part of normal educational activities except when the invention:

- 1) is a supported invention;
- 2) results from a student's employment with the University;

- 3) involves faculty and/or staff contributions including faculty-mentored academic year or summer research (e.g. undergraduate research projects, thesis research, and faculty-mentored independent projects);
- 4) is by a student who is also an employee of an entity sponsoring the work; or
- 5) is part of a larger University work or specifically commissioned by the University.

3.7.5.3 Release of Inventions

An inventor may request release of a University-owned invention at any time. The University may agree to a release and, in such case, will assign in writing all interest which it holds or has the right to hold in the invention to the inventor. In addition, when the University, through the Office of Research Initiatives, determines that it will not file a patent for a University-owned invention, the invention will be released to the inventor.

3.7.5.4 University Rights in Incidental Inventions

In recognition of the contribution the University community as a whole makes in support of innovation at the University, as of the time University employment begins, inventors grant to the University an irrevocable, perpetual, non-exclusive, royalty free, world-wide right to use an incidental invention in the University's non-profit educational and research activities.

3.7.5.5 Inventor Rights in Inventions owned by the University

In recognition of the need of the inventor to be able to use an invention in the inventor's University-related educational and research activities, the University agrees, to the extent permitted by any agreements, patent and licensing restrictions, or other obligations, to grant to the inventor an irrevocable, perpetual, non-exclusive, royalty free, world-wide right to use the invention in the inventor's non-profit teaching and research activities.

3.7.5.6 Filing and Prosecuting Patent Applications and Licensing

The University, through the Office of Research Initiatives, shall have the sole right, but not the obligation, to prepare, file, prosecute and maintain patent applications and patents worldwide with respect to University-owned inventions. Through mutual written consent, inventors of an incidental invention may assign ownership to the University so that a patent may be pursued by the University with royalties distributed as described in this policy.

3.7.5.7 Royalty Sharing

Where royalties are generated as a consequence of licensing an invention owned by the University, net royalties received by the University will be determined as net of direct and indirect expenses incurred in securing and managing the patent. Of these net royalties, the University will pay 50 percent to the inventors and the remaining 50 percent

will be allocated to a separate University fund to support research and related activities unless otherwise agreed to in writing. An agreement with a sponsor that allocates royalties between the sponsor and the University may be entered into with the approval of the Office of Research Initiatives.

3.7.5.8 Start-up Ventures

To fully realize societal benefits emerging from new knowledge and technologies, a patented invention may be commercialized through a start-up venture. If an inventor is interested in launching a start-up venture that involves an invention owned in whole or in part by the University, then the University will work with inventors to develop licensing terms that are mutually beneficial. Inventors interested in a start-up venture should contact the Office of Research Initiatives.

*Endorsed by Faculty Senate, Spring 2010
Approved by Board of Trustees, June 4, 2010*

3.7.6 Copyrights

3.7.6.1 General Description

Copyright is a form of legal protection provided by federal law to the owners of "original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device." Works that are not yet "fixed" (recorded in some permanent form) are protected by state law.

Copyright applies to such things as books and articles, novels, plays, musical creations, choreography, works of art, films, textbooks, software, and course materials. Course materials include materials prepared for use in teaching, fixed or unfixed, in any form, including, but not limited to, digital, print, audio, visual, or any combination thereof. In addition, course materials include, but are not limited to, lectures, instructor notes, syllabi, study guides, bibliographies, visual aids, images, diagrams, multimedia presentations, and on-line and hybrid course materials.

Subject to various exceptions and limitations, a copyright owner has the exclusive right to reproduce the work, prepare derivative works, distribute copies, and display or perform the work publicly. It is illegal to violate any of the rights provided by law to the owner of copyright.

The following notice should be placed on copyrightable materials if they are owned by the University under this policy: Copyright (or ©) (year of first publication) The President and Board of Trustees of Santa Clara College.

Faculty members who are engaged in consulting work are responsible for ensuring that clauses in their agreements with third parties are not in conflict with this copyright policy or with the rights of other parties.

Revisions endorsed by Faculty Senate, Spring 2016
Revisions approved by Board of Trustees, June 3, 2016

3.7.6.2 Fair Use of Copyrighted Works

The University's mission is to educate engaged and accomplished citizens. Increasingly this requires copying, digitizing, distributing, or displaying library or other materials that may be under copyright. Fair use is a broad, flexible doctrine that allows scholars to meet their mission in the digital age.

The University supports fair use as defined by The Association of Research Libraries (ARL). In addition, the University supports the use of a "Fair Use Checklist" for using copyrighted materials in teaching. Fair use is determined, in part, on the application of four factors: (1) the *purpose* of the use; (2) the *nature* of the work used; (3) the *amount* and substantiality of the portion used; and (4) the *effect* of the use upon the potential market for or value of the work used. The University Library website provides information on fair use including a checklist to assist faculty in evaluating materials for fair use.

Revisions endorsed by Faculty Senate, Spring 2016
Revisions approved by Board of Trustees, June 3, 2016

3.7.6.3 Purchase and Use of Computer Software

Computer software can only be used according to the terms and conditions of the license agreement. No University employee or student shall make or use illegal copies or adaptations of computer software.

All license agreements for software acquired by the University shall be signed by the Chief Information Officer or his/her delegate. All reasonable precautions shall be taken to secure software from illegal copying or theft. All software acquired by the University shall meet one or more of the following conditions:

1. It is in the public domain.
2. It has been donated to the University and a *bona fide* written record of contribution exists.
3. It has been purchased by the University and a *bona fide* record of purchase exists.
4. It has been purchased by a user and a *bona fide* record of purchase exists which can be produced by the user upon demand.
5. It is being reviewed or demonstrated by users in order to reach a decision about future purchase, request for contribution, or licensing.

6. It has been written or developed as a work-for-hire by the University.

Violations of this policy may result in loss of computer privileges and in other disciplinary action.

Revisions endorsed by Faculty Senate, Spring 2016
Revisions approved by Board of Trustees, June 3, 2016

3.7.6.4 Copyright Ownership

When a University employee is the creator of a copyrightable work, all rights in copyright shall remain with the creator except in the following circumstances:

1. *The work is a work-for-hire by the University.* A work-for-hire is defined as a work prepared by an employee within the scope of his or her employment. Works of scholarship and works prepared for classroom use shall not be included in this category. The University shall own all rights in a work-for-hire unless the Provost or cognizant Vice President has relinquished them in writing.
2. *The work has been commissioned by the University.* The University shall own all rights in a work it has commissioned provided that the parties so agree in writing.
3. *The work has been developed in the course of or pursuant to a sponsored project or other agreement between the University and a third party.* The terms of the applicable third-party agreement shall govern the disposition of rights in copyright.
4. *The work is covered by other terms specified in a written agreement between the author and the University.* In cases where the work has been developed with monetary support from the University but is not covered by points 1 through 3 above, the University may require a written agreement specifying the disposition of rights in copyright.

A copyright notice is necessary to protect the rights of the owner. The following notice should be placed on copyrightable materials if they are owned by the University under this policy:

Copyright (or (c)) (year) The President and Board of Trustees of Santa Clara College
Owners of computer software developed through the use of University resources shall grant the University a royalty-free license in perpetuity to use such software.

Any creator who wishes to request an exception to this policy or to challenge a copyright decision by the University may appeal to the Provost. The Provost will appoint an ad hoc committee of three members mutually acceptable to the creator and the Provost, including at least one faculty member and one member of the administration. The

committee will prepare a report of its findings and make a recommendation to the Provost. The decision of the Provost, which is to be explained in writing, will be final.

University employees who are engaged in consulting work are responsible for ensuring that clauses in their agreements are not in conflict with this copyright policy or with the rights of other parties.

3.7.6.4.1 Works Created by Faculty

Subject to the exceptions noted below and in keeping with longstanding academic tradition, ownership of scholarly, artistic and creative works, including course materials, resides with the faculty creator.

The only exceptions to faculty ownership of such works are as follows:

1. **Supported Works.** A *supported work* is copyrightable material that is either a) created with significant financial support from the University, including support or funding from an external sponsor awarded to or administered by the University, but not including sabbatical or other leaves or internal grants unless the University specifically so designates at the time the leave or grant is awarded; or b) created with use (other than incidental use) of space, facilities, materials, or other resources provided by or through the University. Manuscripts and presentations resulting from the use of laboratory or other technical spaces are not considered supported works unless required by the terms and conditions of an external sponsor. Use of an office, creative studio, or theatre space, the library, and desktop computer is considered to be the incidental use of space, facilities, materials, or other resources. The University owns supported work unless otherwise agreed by the University in a separate written third-party agreement between the University and an external sponsor. Such a separate agreement may provide some or all rights in the supported work to sponsor.
2. **Commissioned Works.** When a faculty member is commissioned by the University to perform a specific task with a defined outcome that includes copyrightable material, said work shall be deemed to be a Work-Made-for-Hire and shall be wholly owned by the University. Unless a particular copyrightable work is specifically commissioned by the University, ownership remains with the faculty creator even though the faculty member may have been supported by sabbatical or other internal grant during the time the work was undertaken.
3. **Software.** Although computer software is copyrightable, in general computer software will be deemed to be an invention and the University patent policy will apply (section 3.7.5). Computer software that consists only of computer-aided implementation of interactive educational materials, without any significant technological advance, will not be deemed to be an invention and will be instead be treated as course material under this policy.

In general, course materials created for ordinary teaching use in the classroom and in department programs, such as syllabi, assignments, tests, student handouts, lectures

(whether recorded or not), lecture notes, and audiovisual course materials (including online courses), shall remain the property of the faculty author, unless specifically and voluntarily created as works made for hire. While the faculty member is employed by the University, faculty-owned course materials cannot be revised, edited, supplemented, or incorporated into courses taught by others without the consent of the faculty author. After a faculty member with a tenured or continuing appointment (i.e., tenured faculty and senior lecturers) has left the University, the University may use such course materials for a period of up to two years, without further consent from the faculty author, but only to the extent essential to fulfill the educational mission of the University during this transitional period. In addition, the University shall be permitted to use written course materials for administrative purposes, including satisfying requests of accreditation agencies for faculty-authored syllabi and course descriptions, while the faculty member is employed and for a period of ten years after the faculty member has left the University.

In an agreement transferring copyright for any works to a publisher, faculty authors are urged to seek to provide rights for the faculty author and the University to use such works for internal instructional, educational, and administrative purposes.

Faculty who develop course materials are prohibited from charging the University a fee for using their author-owned course materials in their teaching at the University. If the course materials are published commercially, students may be charged for the purchase or rental price of the materials. If the course materials are not published commercially, students may be charged only for the reasonable cost of duplicating the course materials. Faculty members must follow the fair use doctrine when developing course materials (section 3.7.6.2)

The Provost in consultation with the dean and department chair may approve exceptions to this policy.

Endorsed by Faculty Senate, Spring 2016
Approved by Board of Trustees, June 3, 2016

3.7.6.4.2 Works Created by Students

A copyrightable work created by a student other than in the course of employment by the University shall be wholly owned by the student, subject to the terms of any applicable Sponsored Project.

The student right of ownership is limited to the underlying fixed work of authorship created by the student and does not extend to the data or other scholarly information that the student may have collected, obtained or used during a project, research or other work.

The University may display, copy, and distribute works of student-developed material, including but not limited to undergraduate or graduate theses, for University use without payment of royalties or other fees to the student, with appropriate authorization in accordance with Family Educational Rights and Privacy Act.

Work created by a student employee in the course of being directed by a faculty member to assist in that faculty member's scholarly work shall be considered a Work-for Hire for the faculty supervisor. Ownership of such work resides with the faculty supervisor, subject to the exceptions noted in the section 3.7.6.4.1

Endorsed by Faculty Senate, Spring 2016
Approved by Board of Trustees, June 3, 2016

3.7.7 Responsible Conduct of Research

The University is committed to the responsible conduct of research and shall not tolerate misconduct in research. It has formal procedures to investigate and impose sanctions for actions that undermine the integrity of scholarly activity. "Misconduct in research" includes, but is not necessarily limited to, plagiarism; fabrication or falsification of evidence or data; unauthorized use of privileged information; and deliberate and substantial violation of federal, state, or University regulations relating to the conduct of research. It does not include honest error or honest differences in interpretation of data.

The full Policy on Misconduct in Research is set forth in Appendix H and is incorporated here by this reference. Information on the responsible conduct of research and associated federal regulations may be obtained from the Office of Research Compliance and Integrity.

Endorsed by Faculty Senate, Spring 2011
Approved by Board of Trustees, June 3, 2011

3.7.7.1 Financial Conflict of Interest

Any actual or apparent conflicts of interest between externally sponsored University research obligations and outside financial interests or other obligations are to be avoided. The design, conduct, or reporting of research or other projects funded by external sponsors must not be biased by any conflicting financial interest. To meet federal regulations regarding such conflicts, Santa Clara University requires that every investigator disclose to the University any significant financial interests, including those of his or her spouse or dependent children, that would reasonably appear to be affected by the research or instructional activity funded by external sponsors. The full University "Policy on Financial Conflict of Interest for Externally Sponsored Projects" and disclosure procedures may be obtained from the Sponsored Projects Office.

Endorsed by Faculty Senate, Spring 2011
Approved by Board of Trustees, June 3, 2011

3.7.7.2 Human Subjects (Institutional Review Board)

Santa Clara University is committed to a policy of safeguarding the rights and welfare of all human subjects in research. The University accepts the principles set forth by the

National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research in its report, *Ethical Principles and Guidelines for the Protection of Human Subjects of Research* (commonly known as the Belmont Report). The commitment to these principles includes recognition of the necessity for review of a research project independent of the investigator to ensure optimum protection of human subjects involved in that project, as required by federal regulations. This commitment extends beyond the requirements of federal regulations, however, and is not affected by the sources of research funding.

To fulfill its commitment and responsibilities, Santa Clara University has established an Institutional Review Board. This panel of University experts and citizens determines whether human subjects have volunteered for a research endeavor with informed consent as defined by University procedures and policy, and whether risks to the subject or research are outweighed by the potential benefits to be gained from the research endeavor. Evaluation of risk involves weighing the potential for injury to the subject by reason of direct application of an experimental procedure or circumstance, or by reason of the subject's exclusion from ordinary standards of practice and welfare. The rights of subjects regarding confidentiality and access to professional care and counsel are included in deliberations, so that human dignity, rights, and physical, behavioral, and social welfare are protected.

The University's full "Policy on the Use of Human Subjects in Research," which includes specific procedures and implementation guidelines, may be obtained from the Office of Research Compliance and Integrity.

Endorsed by Faculty Senate, Spring 2011
Approved by Board of Trustees, June 3, 2011

3.7.7.3 Environmental Health and Safety

Santa Clara University is committed to providing a safe and healthy environment. Under no circumstances shall campus safety be ignored or diminished in importance in favor of other priorities. Safety and health issues on campus, and in every research facility, shall receive a high priority and all environmental health and safety hazards that are discovered shall be addressed and corrected without delay. It shall be the responsibility of all faculty to ensure that their respective work areas are safe and that their employees and students are properly trained and briefed on the hazards of the workplace. It is the responsibility of faculty to follow safe work practices within their respective work areas and comply with applicable environmental health and safety regulations of local, state, and federal regulatory and accrediting agencies.

Further information about applicable regulations may be obtained from the Environmental Health and Safety Director.

Endorsed by Faculty Senate, Spring 2011
Approved by Board of Trustees, June 3, 2011

3.7.7.3.1 Biosafety

Santa Clara University is guided by state and federal regulations governing safe use, transport, and disposal of biohazardous materials. Faculty, as well as any employees and students under their supervision, who conduct research involving potentially biohazardous materials shall adhere to all applicable local, state, and federal regulations. The Biosafety Committee reviews and approves the use of potentially biohazardous materials for research and instructional purposes. The Biosafety Committee works with the Biosafety Officer to ensure that all biohazardous materials used in teaching and research are obtained, used, stored, transferred, and destroyed properly. It is the responsibility of the investigator to initiate a review and seek approval from the Biosafety Committee and the Biosafety Officer prior to using biohazardous materials for any purpose.

Further information about applicable regulations and biosafety review procedures may be obtained from the Office of Research Compliance and Integrity. The Biosafety Officer may be contacted through the Environmental Health and Safety Office.

Endorsed by Faculty Senate, Spring 2011
Approved by Board of Trustees, June 3, 2011

3.7.7.3.2 Radiation Safety

Santa Clara University is guided by state and federal regulations governing safe use, transport, and disposal of radioactive materials, radiation-generating equipment, and lasers. Faculty, as well as any employees and students under their supervision, who conduct research involving radioactive materials, radiation-generating equipment, and lasers shall adhere to all applicable local, state and federal regulations. The Radiation Safety Committee works with the Radiation Safety Officer to ensure that all ionizing and non-ionizing radiation hazards used in research and instruction are obtained, used, stored, transferred, and disposed of properly. The Radiation Safety Committee reviews and approves the use of radioactive materials, radiation-generating equipment, and lasers for research and instructional purposes. It is the responsibility of the investigator to initiate a review and seek approval from the Radiation Safety Committee and Radiation Safety Officer prior to using regulated radioactive materials, radiation-generating equipment, and lasers for any purpose.

Information on the radiation safety review procedures may be obtained from the Office of Research Compliance and Integrity. The Radiation Safety Officer may be contacted through the Environmental Health and Safety Office.

Endorsed by Faculty Senate, Spring 2011
Approved by Board of Trustees, June 3, 2011

3.7.7.4 Animal Care and Use

Santa Clara University is committed to the humane treatment of laboratory animals in research and instruction. The University is guided by federal regulations and ethical principles intended to ensure the humane care and use of animals in research and instruction. All research and instruction involving vertebrate animals conducted or authorized under the jurisdiction of Santa Clara University is subject to review by the Institutional Animal Care and Use Committee (IACUC). This review must be conducted and approval granted before a project may be started. IACUC responsibilities include ensuring appropriate transportation, care, and use of all laboratory animals in accordance with the Animal Welfare Act and other applicable federal laws, guidelines, and policies; determining whether the number and species of animals selected for research are appropriate for use in the proposed procedures; determining whether the research protocol includes appropriate procedures for minimizing discomfort, distress, and pain in laboratory animals; determining whether proposed living conditions are appropriate for the species involved in the study; and evaluating the importance of knowledge to be gained by the research endeavor.

Further information about applicable regulations and IACUC review procedures may be obtained from the Office of Research Compliance and Integrity.

Endorsed by Faculty Senate, Spring 2011
Approved by Board of Trustees, June 3, 2011

3.7.8 Free and Open Inquiry

To ensure that research conducted at Santa Clara is consistent with the principle of free and open inquiry, the University shall not accept grants or contracts for any research whose methods or results require the prior approval of a sponsor.

In no case shall the University give a sponsor the right to prevent publication or require modification of data or conclusions. The University may agree, however, to provide advance copies of publications to sponsors for their comment. Upon demonstration of compelling reasons, it may also agree to defer publication for a period of up to six months from the date copies are provided. Any extension of this period must be approved in writing by the Provost.

Sponsors of research projects may occasionally give the University access to proprietary or classified information. The University will accept such information only under strict conditions.

While the University will make all reasonable efforts to maintain the confidentiality of proprietary or classified information, it cannot accept financial liability for inadvertent disclosure of such information.

In addition, Santa Clara University shall typically not accept grants or contracts that impose access, dissemination, or participation restrictions on the conduct, products, or results of its research.

Additional information may be obtained from the Sponsored Projects Office.

Endorsed by Faculty Senate, Spring 2011
Approved by Board of Trustees, June 3, 2011

3.7.8.1 Export Controls

Santa Clara University shall comply fully and completely with United States export control laws and regulations including the Export Administration Regulations (EAR) maintained by the U.S. Department of Commerce, trade and economic sanctions maintained by the Treasury Department's Office of Foreign Assets Control (OFAC), and the International Traffic in Arms Regulations (ITAR) maintained by the Department of State. Research at Santa Clara is often considered "fundamental research" as defined by the relevant regulations and, therefore, is excluded from United States export controls. In some cases, United States export controls could apply if research or elements of a research project are sent overseas (including email or via download), discussed with persons outside of the United States, or discussed with foreign nationals in the United States. Export controls may also apply when research involves collaborating with a foreign university or corporation or when foreign national students located in the United States are working on the project. Criminal penalties for unlawful export or for the disclosure of export-controlled information are applied to individual researchers, and are significant. The Office of Research Compliance and Integrity will assist faculty with any export control questions and facilitate the development of management plans as needed.

Endorsed by Faculty Senate, Spring 2011
Approved by Board of Trustees, June 3, 2011

**SANTA CLARA UNIVERSITY
FACULTY HANDBOOK
SECTION 3.8**

3.8 Compensation

Santa Clara University is committed to recruiting, retaining, and rewarding faculty who advance its mission by excelling as teaching scholars. Thus, the University shall maintain compensation policies that are designed to achieve this end.

Compensation comprises salary and other benefits described or referred to below.

3.8.1 Salary

The University strives to assure that faculty salaries are competitive with those of faculty at the same ranks in related disciplines at institutions with which it competes. It also strives to eliminate any internal salary disparities that cannot be reasonably explained by market comparisons, years in rank, and performance over time.

The achievement of these salary goals is a high priority that will be balanced with other priorities within the financial resources of the University. Progress is monitored by the Provost's Office and the Faculty Affairs Committee on the basis of periodic salary studies conducted in accordance with implementation guidelines established by the Faculty Affairs Committee.

Salary for each period of appointment shall be as specified in a faculty member's Letter of Appointment.

3.8.2 Benefits

3.8.2.1 Benefits for All Faculty

All faculty shall receive each of the following benefits:

- Benefits mandated by law to the extent eligibility criteria are met (e.g., Social Security, Worker's Compensation, Unemployment Insurance; Short Term Disability; Pregnancy Disability; and Family and Medical Leave);
- Access to designated University facilities and related privileges and eligibility for membership in Adobe Lodge;
- Release from faculty obligations with no loss of pay to the extent necessary to perform jury duty or to testify as a witness when subpoenaed, provided that the faculty member has made every reasonable effort to schedule such activity when it will not interfere with teaching responsibilities. A faculty member assigned to

jury duty for a protracted case must notify his or her department chair or other supervisor promptly so that appropriate plans can be made.

These and other faculty benefits are described and explained in sections 601, 603, 610, 615, 618, 620, and 622 of the Santa Clara University Staff Policy Manual (viewable at <http://www.scu.edu/hr/policy/>). Those sections, as they may be amended from time to time, apply to faculty and are incorporated herein by this reference. There shall be no major reductions in these benefits absent appropriate prior consultation with representatives of the faculty.

Endorsed by Faculty Senate, September 2004
Approved by Board of Trustees, May 20, 2005

3.8.2.2 Benefits for Faculty on Academic Year Appointments of at Least 50% Time

Except as provided in 3.8.2.3, all faculty holding an academic year appointment equivalent to at least 50% of a full-time academic year appointment shall be entitled to the following benefits in addition to those identified in 3.8.2.1 to the extent eligibility criteria are met:

- Health care benefits;
- Long term disability income benefits;
- Term life insurance and accidental death or dismemberment insurance;
- Pre-tax deduction of eligible health care premiums and flexible spending accounts to tax shelter eligible medical and/or dependent care expenses;
- Retirement and supplemental retirement plan;
- Tuition remission at Santa Clara University, through FACHEX, and through the Tuition Exchange Program;

These benefits are described and explained in sections 602, 604 - 609, and 614 of the Santa Clara University Staff Policy Manual (viewable at <http://www.scu.edu/hr/policy/>). Those sections, as they may be amended from time to time, apply to faculty and are incorporated herein by this reference. There shall be no major reductions in these benefits absent appropriate prior consultation with representatives of the faculty.

For purposes of calculating eligibility for benefits under this subsection, the official full-time course load for tenured and tenure-track faculty is seven courses of conventional unit value per year, or the equivalent, except in the School of Law and the Jesuit School of Theology. Therefore, except in the School of Law and the Jesuit School of Theology,

teaching four such courses per year or the equivalent shall establish their eligibility for the benefits enumerated in this subsection.

Except in the School of Law and the Jesuit School of Theology, renewable-term and continuing faculty teaching four courses per year or the equivalent, and fixed-term faculty teaching five courses per year or the equivalent, will be eligible for the benefits enumerated in this subsection.

Faculty with Other Appointments as defined in Section 3.1.2.3 are not eligible for the defined contribution retirement plan.

Revisions endorsed by Faculty Senate, January 2012

Revisions approved by Board of Trustees, February 10, 2012

3.8.2.3 Benefits During Leave or Phased Retirement

Benefits available to faculty during approved leaves of absence shall be those specified in 3.7.3. Benefits available to faculty during phased retirement, even if they hold an appointment of less than 50% time, shall be those specified in 3.8.2.2.

Except in the School of Law and the Jesuit School of Theology, renewable-term and continuing faculty teaching four courses per year or the equivalent, and fixed-term faculty teaching five courses per year or the equivalent, will be eligible for the benefits enumerated in this subsection.

**SANTA CLARA UNIVERSITY
FACULTY HANDBOOK
SECTION 3.9**

3.9 Sanction and Dismissal

3.9.1 Right to Sanction or Dismiss

The University may sanction the misconduct of any member of the faculty. Misconduct consists of behavior inconsistent with commonly accepted norms of academic integrity and professional conduct for members of a university faculty, including norms articulated in this Handbook. Sanctions may consist of dismissal from the faculty, suspension from the faculty without pay, temporary or indefinite reduction in salary, loss of tenure, reduction in rank, public or private censure or reproof, or other appropriate sanctions imposed either individually or in combination.

In addition, the University may dismiss and terminate the tenure of a tenured member of the faculty and may dismiss any other member of the faculty for cause directly and substantially diminishing the fitness of the faculty member in his or her professional capacity as teacher or scholar (hereafter “for cause”).

The threat of or imposition of sanctions for misconduct or dismissal for cause shall not be used for the purpose of restraining faculty members in the exercise of academic freedom or of their legal rights.

3.9.2 Procedures for the Imposition of Sanctions and for Dismissal

3.9.2.1 Sanctions for Misconduct Other than the Sanction of Dismissal

When, in the judgment of the Provost, reason exists to impose upon a faculty member a sanction other than dismissal, the Provost shall first privately discuss with the faculty member the causes justifying sanction.

Absent an agreed settlement of the matter or a decision by the Provost not to proceed, the Provost shall pursue one of the two following alternatives:

1. The Provost notifies the faculty member in writing of the nature of the misconduct and the sanction. The faculty member shall be entitled to prompt reconsideration of the matter by the Faculty Judicial Board; or
2. With the written consent of the faculty member, the Provost may elect to refer the matter directly to the Faculty Judicial Board for action in the first instance.

In either case, the Faculty Judicial Board shall follow the procedures described in 3.10.2.3 to reach a determination of fact and, if appropriate, a recommendation for sanction.

3.9.2.2 Dismissal of Tenured Faculty Member

When, in the judgment of the Provost, reason exists to dismiss and terminate the tenure of a tenured faculty member, either for misconduct or for cause, the Provost shall first discuss the matter privately with the faculty member, giving the reason(s) for the Provost's judgment.

Absent an agreed settlement of the matter or a decision by the Provost not to proceed, the Provost shall pursue one of the two following alternatives:

1. The Provost renders a decision to dismiss and terminate tenure. In such case the Provost shall provide to the faculty member a written notification of the dismissal and termination of tenure. The notification shall specify the reason for dismissal and termination of tenure and shall specify a date on which the dismissal and termination of tenure shall take effect. Except in the case of gross misconduct, the date shall be no earlier than one year from the date the Provost sends the notification to the faculty member. The faculty member shall be entitled to prompt reconsideration of the matter by the Faculty Judicial Board.
2. With the written consent of the faculty member, the Provost may elect to refer the matter directly to the Faculty Judicial Board for action in the first instance. In such case the Provost shall provide to the faculty member a written notification of dismissal and termination of tenure. The notification shall specify the reason for dismissal and termination of tenure and shall specify a date on which the dismissal and termination of tenure shall take effect. Except in the case of gross misconduct, the date shall be no earlier than one year from the date the Provost sends the notification to the faculty member. However, the dismissal and termination of tenure shall take effect only if the Faculty Judicial Board finds reason for dismissal and termination of tenure.

The Faculty Judicial Board shall follow the procedures described in 3.10.2.3. Salary for the period on notice shall be the same as that given in the last preceding letter of appointment. Suspension during the proceedings or during the period on notice is justified only if, in the judgment of the Provost, immediate harm is threatened to the faculty member or to others by the faculty member's continuation in an active capacity. Unless legal considerations forbid, any such suspension shall be with pay.

3.9.2.3 Dismissal of Untenured Faculty Member

When, in the judgment of the Provost, reason exists to dismiss any member of the faculty other than a tenured faculty member for misconduct or for cause, the Provost shall first discuss the matter privately with the faculty member, giving the reason for dismissal.

Absent an agreed settlement of the matter or a decision by the Provost not to proceed, the Provost may dismiss the faculty member with such advance written notification and severance pay as is appropriate to the circumstances of the case, provided, however, that notification shall be given at least thirty days in advance of the effective date of dismissal. The faculty member shall be entitled to prompt reconsideration of the matter by the Faculty Judicial Board.

**SANTA CLARA UNIVERSITY
FACULTY HANDBOOK
SECTION 3.10**

3.10 Composition, Jurisdiction, and Procedures of Grievance Committees and Faculty Judicial Board

3.10.1 College and School Grievance Committees

3.10.1.1 Faculty Grievances

Except as provided in 3.10.1.3, any member of the faculty has a right to submit a grievance to the appropriate grievance committee in any matter relating to his or her status or work in the University.

3.10.1.2 Composition

Each school shall have one Grievance Committee and the College of Arts and Sciences shall have two, one for the departments offering the degree of Bachelor of Arts and one for the departments (except the Department of Economics) offering the degree of Bachelor of Science.

Except in the School of Education and Counseling Psychology and the Jesuit School of Theology, each committee shall consist of five tenured members of the faculty of its respective constituency who shall be elected by the entire faculty of that constituency. Grievance committees in the School of Education and Counseling Psychology and the Jesuit School of Theology shall consist of three tenured members. Chairs of departments are not eligible for membership. The term of office is three years. No member shall serve two consecutive terms, except that a member hearing a pending grievance shall continue to hear and participate in the resolution of that grievance. Elections to each committee shall be staggered so as to ensure continuity of the committee.

Although each committee shall consist of five members, a quorum of three shall be sufficient to hear and adjudicate a grievance. Members shall be excused from sitting on any case in which they are named in the petitioner's allegation, which requires review of a decision or an action for which they were responsible either exclusively or with others, or which entails any other conflict of interest. They may also be excused because of an absence or leave from the University. If more than two members must be excused from a case, the President of the Faculty Senate shall appoint for the duration of the case a sufficient number of members for a quorum. In so doing, the President of the Faculty Senate shall make a reasonable effort to appoint members acceptable to all parties in the grievance. Each committee shall elect its own chair. Where only four of the five elected members of a committee hear a grievance, a tie vote shall send the matter to the Faculty Judicial Board.

*Revisions endorsed by Faculty Senate, October 2010
Revisions approved by Board of Trustees, October 15, 2010*

3.10.1.3 Jurisdiction

A Grievance Committee has jurisdiction to hear the grievance of any faculty member of the school or the departments of the college for which the Grievance Committee is established, except that a Grievance Committee does not have jurisdiction to hear a grievance of any of the following:

- a) Dismissal of a faculty member pursuant to 3.9;
- b) Sanctions other than dismissal imposed pursuant to 3.9;
- c) Cases involving alleged unlawful discrimination or sexual harassment by or against a faculty member pursuant to the Policy on Unlawful Harassment and Unlawful Discrimination, cases involving alleged misconduct in research by a faculty member pursuant to the Policy on Misconduct in Research, or any other matter for which different procedures are provided;
- d) Termination on account of financial exigency or changes in educational program pursuant to 3.5.5;
- e) A denial of promotion to Associate or Full Professor, or a denial of tenure, pursuant to 3.4.8;
- f) A decision not to reappoint a tenure-track faculty member pursuant to Section 3.5.3;
- g) A denial of promotion to Senior Lecturer or a decision not to reappoint a non-tenure track faculty member on fixed-term, renewable, or continuing appointment pursuant to Section 3.4A;
- h) Any grievance asserted by a person who is no longer employed by the University.

Endorsed by Faculty Senate, Spring 2011
Approved by Board of Trustees, June 3, 2011

3.10.1.4 Procedures

A faculty member shall initiate a grievance by petitioning the appropriate Grievance Committee. The petition shall set forth clearly and in specific detail the nature of the grievance, shall state the name or the office of each person against whom the grievance is being lodged, and shall summarize supporting evidence and other pertinent information. Petitions shall be submitted directly to any member or members of the Grievance Committee, who shall then convene the committee. A petition must be submitted to a member of the appropriate Grievance Committee within 30 days of the petitioner's learning of the incident leading to the grievance, except in cases of chronic or long standing conditions, in which case a petition must be submitted in a timely fashion. In this latter instance, the Grievance Committee will be the sole judge of whether or not a

petition is timely. The Grievance Committee shall promptly deliver a copy of the petition to both the Provost and the party charged in the grievance.

The Grievance Committee shall establish whatever procedures it deems appropriate for the consideration of particular petitions. The procedures shall be concluded in a reasonable period usually not beyond 90 working days following receipt of the grievance.

All meetings of a Grievance Committee will be conducted in private unless all parties agree in writing that a meeting may be public. The nature of a matter before a Grievance Committee, the identity of the parties, evidence received by a Grievance Committee, deliberations of a Grievance Committee, and conclusions and recommendations of a Grievance Committee shall be kept in confidence by those in attendance at any meeting of the Grievance Committee except: (a) as is necessary for administrative or secretarial assistance, in which case the assistant(s) shall preserve confidentiality; (b) as is necessary to communicate to the parties, to the Faculty Judicial Board, the Provost, the President, the Board of Trustees, or legal counsel to the University; (c) as may be shared in a relationship for which the law provides an evidentiary privilege; (d) as is compelled by legal process. The Faculty Judicial Board, the Provost and the President or their delegates, and the Board of Trustees are also bound by the same duty of confidentiality except to the extent that disclosure is essential to the discharge of official University responsibilities. If disclosure is essential to the discharge of official University responsibilities, the person or persons authorizing or making such disclosure shall exercise appropriate discretion in sharing or publicizing information concerning any matter heard by the Grievance Committee.

A Grievance Committee shall first determine whether the allegations of a grievance merit investigation, deliberation, or action. If the committee concludes that the grievance does not merit investigation, deliberation, or action, it shall dismiss the petition and so notify the faculty member. Otherwise, if appropriate and possible, it shall attempt to mediate a settlement of the grievance. If settlement is not appropriate or possible, or if a settlement is not reached, the committee shall undertake such investigation and deliberation as it deems appropriate. If it thereafter determines that evidence does not support the allegations of the grievance, it shall dismiss the petition and so notify the faculty member, unless it determines and recommends additional consideration by the Faculty Judicial Board. If it determines that the evidence does support the allegations of the grievance and that the grievance merits action, it shall report its findings and its recommendations for action to the faculty member and to other appropriate parties, with a copy to the Provost or President, if appropriate. Its recommendations may include a recommendation that the grievance be considered by the Faculty Judicial Board.

In its investigation, deliberation, conclusions, and recommendations, a Grievance Committee shall at all times seek a just and equitable result.

Revisions endorsed by Faculty Senate, December 2012
Revisions approved by Board of Trustees, February 8, 2013

3.10.2 Faculty Judicial Board

3.10.2.1 Composition

The faculty of the Schools of Business, Engineering, and Law shall each elect to the Faculty Judicial Board two representatives from among their tenured members. The faculty of the School of Education and Counseling Psychology and the Jesuit School of Theology shall each elect one representative from among their tenured members. The faculty of the College of Arts and Sciences shall elect four representatives from among their tenured members, including two from the departments offering the Bachelor of Arts degree and two from the departments (except Economics) offering the Bachelor of Science degree. The term of office is three years. No member shall serve two consecutive terms, except that a member hearing a pending matter shall continue to hear and participate in the resolution of that grievance. Elections to each committee shall be staggered so as to ensure continuity of the committee.

Revisions endorsed by Faculty Senate, October 2010
Revisions approved by Board of Trustees, October 15, 2010

3.10.2.2 Jurisdiction

The Faculty Judicial Board has jurisdiction:

1. Upon the request or a tie vote of a college or school Grievance Committee in any case involving a faculty grievance;
2. In cases where a faculty member alleges violation of academic freedom in a denial of tenure or promotion, where a probationary faculty member alleges that a decision not to reappoint is based substantially upon a violation of academic freedom, or where a Lecturer alleges that a negative decision regarding an application for reappointment or promotion is based substantially upon a violation of academic freedom;
3. In cases of sanctions for misconduct, as provided in 3.9;
4. In cases of dismissal for cause, as provided in 3.9.1;
5. In cases designated in the Policy on Unlawful Harassment and Unlawful Discrimination;
6. In cases in which a faculty member claims unlawful discrimination in the denial of promotion in rank or in the denial of tenure;
7. In cases of alleged misconduct in research, as provided in the Policy on Misconduct in Research.
8. In cases of termination based on financial exigency or change in educational program, as provided in 3.5.5;

9. In cases of non-reappointment of a Senior Lecturer, as provided in 3.5.3.2.

10. In such other extraordinary cases as the Provost may refer.

Revisions endorsed by Faculty Senate, December 2012

Revisions approved by Board of Trustees, February 8, 2013

3.10.2.3 Procedures

A faculty member shall invoke the jurisdiction of the Faculty Judicial Board by means of a petition that sets forth clearly and in specific detail the nature of the case, the name or the office of each person against whom any grievance is being lodged, and a summary of supporting evidence and other pertinent information. Such petitions shall be submitted directly to any member or members of the Faculty Judicial Board, who shall then promptly convene the Board. Such a petition must be submitted to a member of the Faculty Judicial Board within 30 days of the petitioner's learning of the relevant precipitating event except in cases of chronic or long standing conditions, in which case a petition must be submitted in a timely fashion. In this latter instance, the Faculty Judicial Board will be the sole judge of whether or not a petition is timely. The Faculty Judicial Board shall promptly deliver a copy of the petition to both the Provost and any named party.

Upon submission of a matter to the Faculty Judicial Board, the Board shall establish a hearing committee of five of its own members. No member of a hearing committee will have a conflict of interest in the matter to be heard.

The hearing committee shall hear the matter and proceed according to the following guidelines (numbered 1-13). The hearing committee shall establish any required procedures not specified by the guidelines listed here, after reasonable attempt to secure agreement to such procedures from all parties.

1. The following persons are parties to a matter before the hearing committee: (a) a faculty member whose grievance has been referred by a Grievance Committee and any person against whom such grievance has been filed; (b) a faculty member whose matter is before the hearing committee pursuant to the jurisdiction given the Faculty Judicial Board in 3.10.2.2; (c) any person who has made an allegation of sexual harassment or discrimination under consideration; (d) the University, represented by a person designated by the Provost; (e) such other persons as the hearing committee deems appropriate to designate.
2. Parties are entitled to attend any meeting of the hearing committee at which it receives evidence. Absent compelling reason for more expeditious action, the hearing committee shall serve notice of any meeting at which evidence will be received upon the parties at least ten days prior to such meeting, unless such persons otherwise agree. Any party may present evidence and argument to the

- hearing committee. In reaching its conclusions and recommendations, the hearing committee shall consider only such evidence as has been received at a meeting of the hearing committee, including any evidence gathered by a member of the hearing committee and reported at a meeting.
3. All meetings of the hearing committee in cases of allegations of sexual harassment will be conducted in private. All meetings of the hearing committee in any other matter will be conducted in private unless all parties agree in writing that a meeting may be public. The nature of a matter before the hearing committee, the identity of the parties, evidence received by the hearing committee, deliberations of the hearing committee, and conclusions and recommendations of the hearing committee shall be kept in confidence by those in attendance at any meeting of the hearing committee except: (a) as is necessary for administrative or secretarial assistance, in which case the assistant(s) shall preserve confidentiality; (b) as is necessary to communicate to the parties, to the Faculty Judicial Board, the Provost, the President, the Board of Trustees, or legal counsel to the University; (c) as may be shared in a relationship for which the law provides an evidentiary privilege; (d) as is compelled by legal process. The Faculty Judicial Board, the Provost and the President or their delegates, and the Board of Trustees are also bound by the same duty of confidentiality except to the extent that disclosure is essential to the discharge of official University responsibilities. If disclosure is essential to the discharge of official University responsibilities, the person or persons authorizing or making such disclosure shall exercise appropriate discretion in sharing or publicizing information concerning any matter heard by the hearing committee.
 4. During the proceedings, each party may be represented at his or her own expense by legal counsel of choice, and a member of the faculty, at his or her own expense, may also be accompanied and advised by an academic advisor of choice.
 5. At the request of any of the parties or the hearing committee, a representative of a responsible educational association will be permitted to attend the proceedings as an observer, provided that in the case of private hearing this is agreeable to all parties. The hearing committee shall decide which association is appropriate. The hearing committee shall have the discretion to exclude an observer from deliberations of the committee.
 6. The hearing committee shall arrange for recording at University expense of all meetings at which evidence is received. The chair of the hearing committee shall keep the recording until final disposition of the matter by the hearing committee at which time the chair of the hearing committee shall deliver the recording to the Provost or, if the Provost is a party to the case, to the President of the University. Upon request, the person in possession of the recording shall make a copy of the recording available to any party, or legal counsel to any party, at University expense. Any party to the case who wishes a transcription of the recording may provide for it at his or her own expense.

7. The hearing committee will not be bound by strict rules of legal evidence and may admit any evidence it believes is of probative value in determining the issues involved. Every possible effort will be made to obtain the most reliable evidence available.
8. The hearing committee will make every effort to proceed with reasonable speed but will grant adjournments to enable any of the parties to investigate evidence about which a valid claim of surprise is made.
9. Each party will be afforded an opportunity to obtain necessary witnesses and documentary or other evidence, and the administration of the University will, insofar as it is possible for it to do so, secure the cooperation of such witnesses and make available necessary documents and other evidence within its control.
10. Each party will have the right to confront and cross-examine all witnesses who appear. Where a witness cannot or will not appear, but the committee determines that the interests of justice require evidence from the witness, the committee will identify the witness, attempt to obtain the evidence, disclose to the parties the evidence obtained, and, if possible, provide for interrogatories.
11. The findings of fact, the conclusions, and the recommendations of the hearing committee will be based solely on evidence received by the hearing committee and deliberations of the hearing committee. In its investigation, deliberation, conclusions, and recommendations, the hearing committee shall at all times seek a just and equitable result.
12. The burden of persuasion in matters before the hearing committee shall be satisfied only by a preponderance of the evidence. In cases governed by 3.9 (Misconduct and Diminished Fitness) the burden rests upon the University. In all other cases, the burden rests upon the party invoking the jurisdiction of the Faculty Judicial Board.
13. The hearing committee shall prepare a written report of its findings, conclusions, and recommendations. If the committee is not unanimous, it shall prepare a majority and minority report. The hearing committee shall submit its report(s) to and thereafter discuss the report(s) with the Faculty Judicial Board as a whole. The hearing committee will then make such revisions and modifications to its report(s) as it deems appropriate. The hearing committee will then present its final report(s) to the parties, the Provost, and the President of the University. In the case of both a majority and minority report, the majority report shall constitute the decision of the committee.

The nature and effect of decisions of the hearing committee shall be as follows:

1. In a case where a probationary faculty member alleges that a decision not to reappoint was based substantially upon a violation of academic freedom, and in a case where a faculty member alleges that denial of tenure or promotion was based substantially upon a violation of academic freedom, the case will be closed should the hearing committee decide that the allegation is not substantiated. Should the hearing committee decide that the allegation has been substantiated, the hearing committee will recommend ameliorative action. Upon receiving such a recommendation, the Provost, in consultation with the hearing committee and with the President of the University, shall then specify the manner in which the matter shall be reconsidered and a final decision made. Following such decision, there shall be no further right of review.
2. Except as provided in item 6 below, in cases of dismissal and termination of tenure of a tenured faculty member for misconduct or cause (3.9), or pursuant to the Policy on Misconduct in Research, should the hearing committee decide that cause for dismissal and termination of tenure exists, the faculty member shall be dismissed and tenure terminated on the date given in the Provost's original written notification and the faculty member shall have no further right of review. Should the hearing committee decide that cause exists for some action other than dismissal and termination of tenure, the Provost shall implement the decision of the hearing committee except that for reasons deemed compelling by the Provost, the Provost, through the President, may seek review of the decision of the hearing committee by the Board of Trustees in which case the decision of the Board of Trustees shall be final. Should the hearing committee decide that cause for dismissal and termination of tenure does not exist and that there is no cause for any other action, the matter shall be closed and the determination of the hearing committee shall bind the University as to the cause or causes specified in the Provost's written notification, except that for reasons deemed compelling by the Provost, the Provost, through the President, may seek review of the decision of the hearing committee by the Board of Trustees in which case the decision of the Board of Trustees shall be final.
3. Except as provided in item 6 below, in cases of dismissal of a probationary faculty member for misconduct or cause (3.9), or pursuant to the Policy on Misconduct in Research, should the hearing committee decide that cause for dismissal exists, the committee shall affirm the dismissal and the faculty member shall have no further right of review. Should the hearing committee decide that cause exists for some action other than dismissal, the Provost shall implement the decision of the hearing committee (which may include a recommendation of reinstatement and back pay subsequent to the effective date of the dismissal) except that for reasons deemed compelling by the Provost, the Provost, through the President, may seek review of the decision of the hearing committee by the Board of Trustees in which case the decision of the Board of Trustees shall be final. Should the hearing committee decide that cause for dismissal does not exist and that there is no cause for any other action, the matter shall be closed and the decision of the hearing committee shall bind the University as to the cause or

causes specified in the Provost's written notification, except that for reasons deemed compelling by the Provost, the Provost, through the President, may seek review of the decision of the hearing committee by the Board of Trustees in which case the decision of the Board of Trustees shall be final.

4. Except as provided in item 6 below, in cases of sanction, other than the sanction of dismissal, for misconduct covered by 3.9, or pursuant to the Policy on Misconduct in Research:
 - a. Where the Provost has decided to impose a sanction: Should the hearing committee decide that misconduct occurred and that a sanction imposed by the Provost for such misconduct is appropriate, the case shall be closed. Should the hearing committee decide that misconduct occurred but that a sanction other than that imposed by the Provost should be imposed, the Provost shall impose the sanction specified by the hearing committee, except that for reasons deemed compelling by the Provost, the Provost, through the President, may seek review of the decision of the hearing committee by the Board of Trustees in which case the decision of the Board of Trustees shall be final. Should the hearing committee decide that misconduct did not occur or that the misconduct warrants no sanction, the case will be closed, except that for reasons deemed compelling by the Provost, the Provost, through the President, may seek review of the decision of the hearing committee by the Board of Trustees in which case the decision of the Board of Trustees shall be final.
 - b. Where the Provost has referred the matter to the Faculty Judicial Board for initial decision: Should the hearing committee decide that misconduct occurred and recommends imposition of a specified sanction, the Provost shall impose that sanction, except that for reasons deemed compelling by the Provost, the Provost, through the President, may seek review of the decision of the hearing committee by the Board of Trustees in which case the decision of the Board of Trustees shall be final. Should the hearing committee decide that misconduct did not occur or that the misconduct warrants no sanction, the case will be closed, except that for reasons deemed compelling by the Provost, the Provost, through the President, may seek review of the decision of the hearing committee by the Board of Trustees in which case the decision of the Board of Trustees shall be final.
5. In any case where a faculty member seeks review of termination based on financial exigency or change in educational program, should the hearing committee decide that safeguards specified in 3.5.5 have been observed, the case shall be closed and the faculty member shall have no further right of review. Should the hearing committee decide that not all safeguards specified in 3.5.5 have been observed, the hearing committee will recommend ameliorative action. Upon receiving such a recommendation, the Provost, in consultation with the hearing committee and with the President of the University, shall then specify the

manner in which the matter shall be reconsidered and a decision made. Following such decision, there shall be no further right of review.

6. In any case heard by the hearing committee pursuant to the Policy on Unlawful Harassment and Unlawful Discrimination, including any case involving dismissal and termination of tenure of a tenured faculty member, dismissal of a probationary faculty member, or other sanction, the effect of the hearing committee's decision shall be as provided in the last paragraph of section III.F of the Policy on Unlawful Harassment and Unlawful Discrimination.
7. In any case other than those mentioned in 1–6, above, should the hearing committee decide that the case is not substantiated, the case will be closed. Should the hearing committee decide that the case is substantiated, the hearing committee will make a recommendation to the Provost, but the recommendation shall not be binding upon the Provost or the University. Should the Provost reject the recommendation of the hearing committee, the Provost shall transmit the reasons for rejection of the recommendation to the hearing committee and there shall be no further right of review.

Revised by vote of the Faculty Senate in April 2003 and the Board of Trustees on May 9, 2003.

**SANTA CLARA UNIVERSITY
FACULTY HANDBOOK
SECTION 3.11**

3.11 Revisions of the Faculty Handbook

Any revisions of Chapter 3, the contractual section of this Handbook, must be reviewed by the Faculty Senate and approved by both the President and the Board of Trustees.

**SANTA CLARA UNIVERSITY
FACULTY HANDBOOK
SECTION 4.1**

4.1 Academic Staff

Academic Staff assist in fulfilling the University's core teaching, research, and service functions. There are four types of academic staff: Research Staff, Librarians, Instructors, and Academic Advisors. Policies pertaining to the appointment of academic staff are described in this section and in the University Staff Policy Manual.

4.1.1 Research Staff

Research Staff perform, direct, or supervise research; manage business operations related to a specific research project or group of research projects; and execute other related duties as required.

There are three categories of staff within this series: Research Assistant, Research Associate, and Senior Research Associate. Differences among categories are based on the complexity of duties and level of responsibility. Research Assistant positions may require specialized knowledge of a field or of a specific discipline. However, they do not require the ability to independently design, conduct, and interpret research as is required of Research Associates and Senior Research Associates.

Research Staff work under the supervision of one or more faculty. Research staff may assist in teaching activities by discussing research procedures with students, demonstrating research procedures, and providing technical supervision.

4.1.1.1 Research Assistant

Under the supervision of a more experienced researcher, Research Assistants perform research tasks and assist with research. Responsibilities may include conducting literature searches; collecting, preparing, or mounting specimens; running reactions or assays; conducting interviews; administering surveys; running experimental trials or simulations; recording and entering data; and preparing graphs or other summaries of data.

Research Assistants may be assigned limited management responsibility for a laboratory or project. This type of responsibility typically includes ordering supplies and equipment and ensuring proper operation and maintenance of laboratory equipment.

The minimum qualifications are a bachelor's degree or higher; three to five years of research or equivalent experience including courses in a relevant discipline; and knowledge and abilities essential to successful performance of the duties assigned to the position.

4.1.1.2 Research Associate

Research Associates conduct research, perform technical duties, and supervise students or staff in a research setting. Associates typically consult with academic supervisors on the nature and general plan of the research and may help design projects and proposals; coordinate the physical preparation for and scheduling of experiments; conduct research, experiments, and simulations; analyze data; and contribute to reports, journal articles, and presentations.

The minimum qualifications are a master's degree or higher; three to five years of research or equivalent experience including courses in a relevant discipline; and knowledge and abilities essential to successful performance of the duties assigned to the position.

4.1.1.3 Senior Research Associate

The title of Senior Research Associate is typically reserved for those with a high degree of experience and training in research and who have demonstrated significant achievements in the form of publications, patents, or other measures of research accomplishment.

Senior Research Associates independently design and implement major or multi-disciplinary research projects. Senior Associates typically consult with an academic supervisor or other researchers on the nature and overall objectives of the research project; contribute significant original or innovative ideas of major methodological significance to the research; exercise independent judgment, initiative, and resourcefulness in making decisions about the research; and write articles for publication in scientific journals or for presentations at conferences or symposiums.

Additionally, Senior Research Associates may perform business management duties, such as preparing budget estimates; maintaining expenditure control over approved budgets; and directing the work of Research Assistants and related administrative staff. Senior Associates may participate in research facility planning and space utilization projects and may design or supervise the construction of complex and technical installations.

The minimum qualifications are a master's degree or higher; five years of research or equivalent experience including courses in a relevant discipline; and knowledge and abilities essential to successful performance of the duties assigned to the position.

4.1.2 Librarians

Librarians are academic staff whose primary responsibility is to provide library and information services in the libraries of the University. The ranks of librarian are Assistant Librarian, Senior Assistant Librarian, Associate Librarian, and Librarian.

Policies pertaining to the appointment of librarians are described in the University Staff Policy Manual and the academic staff policies for librarians.

4.1.3 Instructional Staff ¹

Instructional Staff engage in teaching and instruction in a laboratory, studio, field, clinical, or professional setting. These staff members may provide training in scientific, technical, or artistic methodologies or coordinate and supervise required practicums or internships. Instructors may assign grades that are an accurate and fair evaluation of student work. Instructional Staff work under the direction of the faculty of a department or program.

There are two categories of staff within this series: Instructor and Senior Instructor. Differences among categories are based the complexity of duties, level of responsibility, and professional qualifications.

4.1.3.1 Instructor

Instructors shall demonstrate competence in the subject matter of the appropriate academic discipline or professional field and superior abilities as an instructor. The minimum educational requirement is a master's degree or higher. In certain disciplines, practical experience may serve as equivalent preparation.

4.1.3.2 Senior Instructor

Senior Instructors shall demonstrate a mastery of the subject matter of the appropriate academic discipline or professional field, superior abilities as an instructor, and an ability to work independently to develop and facilitate instructional activities. The minimum educational requirement is the doctorate or other appropriate terminal degree. In certain disciplines, practical experience may serve as equivalent preparation.

4.1.4 Academic Advisors

Academic Advisors assist students in understanding University academic policies and procedures. Advisors provide information and counsel related to the core curriculum, degree requirements, academic program policies, registration policies and procedures, academic credit and grading policies, academic integrity expectations, and other policies and procedures associated with a student's program of study.

The minimum educational requirements are a master's degree; three to five years of experience in an advising related capacity; and knowledge and abilities essential to successful performance of the duties assigned to the position.

¹ Legal Analysis, Research, and Writing Instructors in the School of Law are defined as Faculty in Chapter Three of the Faculty Handbook.

**SANTA CLARA UNIVERSITY
FACULTY HANDBOOK
SECTION 4.2**

4.2. Military Science Personnel

Military Science personnel serve at the University in accordance with the agreement between the University and the Department of Defense governing the Army Reserve Officers Training Corps (ROTC) program at the University. Military Science personnel receive courtesy appointments at the University as provided in the agreement. In military matters and for the military training of students enrolled in the ROTC program, Military Science personnel are responsible to the Department of Defense; and in academic matters pertaining to the ROTC program, they are responsible to the Provost of the University.

Military Science personnel are not governed by the University policies pertaining to faculty, academic staff, or staff nor do they enjoy the financial rights, privileges, and benefits of the faculty, academic staff, or staff except as provided herein or in the agreement between the University and the Department of Defense. Salaries and benefits for Military Science personnel are the responsibility of the Department of Defense. Military Science personnel are eligible for the special services and programs outlined in section 610 of the University Staff Policy Manual.

**SANTA CLARA UNIVERSITY
FACULTY HANDBOOK
APPENDIX A**

PREAMBLE

The Faculty Senate of Santa Clara University (hereinafter, the “Faculty Senate” or the “Senate”) is established in order to develop and express the opinion of the faculty on academic and professional matters, to make the collective experience and knowledge of the faculty available to the University President, and to facilitate the participation of the faculty in forming the policies of the University. It shall be governed by these **Bylaws**.

In these Bylaws, the “college” shall include “school” where appropriate.

THE FACULTY SENATE

- I. MEMBERSHIP. [faculty ballot: May 1995] The Faculty Senate shall consist of:
 - A. All tenured and tenure-track faculty (cf. *Faculty Handbook*, Section 3.1.1.) except for administrators at or above the level of dean of college.
 - B. All faculty with renewable-term or continuing appointments.
 - C. All other faculty on at least half-time appointments who receive an academic year contract, **except** visiting faculty.
- II. OFFICERS AND THEIR DUTIES. The officers of the Faculty Senate shall consist of the President, President-Elect, and Past-President.
 - A. PRESIDENT. The President shall take office after service as President-Elect for one year. The President shall hold office for one year. They shall preside at all meetings of the Senate and of its Council. They may invite any person to meetings of the Senate. The President also serves ex officio as a member of the University Coordinating Committee. The President receives appropriate compensation for their service according to recent practice. The duties of the President include regular consultation with the Provost in accordance with recent established practice.¹

¹ In recent practice the President of the Faculty Senate meets with the Provost two weeks before each meeting of the Faculty Senate Council. The President of the Faculty Senate meets with the President of the University once in the Fall quarter. These meetings may be extended to involve the full Executive Committee.

- B. **PRESIDENT-ELECT.** The President-Elect shall be elected by the Senate from among the members of the Senate. The President-Elect shall succeed to the presidency following one year of service as President-Elect. The President-Elect performs the duties specified in Section III of the Election Rules and Procedures. The President-Elect also serves ex officio as a member of the University Budget Council.
- C. **PAST-PRESIDENT.** The Past-President shall function in an advisory capacity to the President and President-Elect.
- D. **SUCCESSION.**
1. **PRESIDENTIAL SUCCESSION.** If the President is unable to complete their term, the President-Elect shall serve the remainder of the term and the following year as President.
 2. **PRESIDENT-ELECT SUCCESSION.** If a vacancy occurs during the time between the election of the President-Elect and their inauguration as President, the position will be filled by the runner-up in the election or by the faculty member who received the second highest number of votes in the most recently contested election.

If vacancies occur in the positions of both the President and President-Elect, a faculty at-large special election will be held to fill both unexpired terms. The Past-President will serve as Interim President until the outcome of the special election is determined.
 3. **PAST-PRESIDENT SUCCESSION.** If the Past-President is unable to complete their term or serve in this capacity, the President, with advice from the Faculty Senate Council, will appoint as Past-President a faculty member who has previously served as President or has been an active member of the Faculty Senate Council.
- III. **EXECUTIVE COMMITTEE AND ITS DUTIES.** The Executive Committee of the Faculty Senate shall consist of the President, President-Elect, the Past-President (should the Past-President desire), one tenure-stream member selected by the Faculty Senate Council, and one non-tenure-stream member selected by the Faculty Senate Council. The Executive Committee will help the Faculty Senate President provide leadership and oversight, and when necessary, meet with the University's President, Provost, and others to advance faculty concerns.
- A. **EXECUTIVE COMMITTEE MEMBERS SELECTED BY THE FACULTY SENATE COUNCIL.** These two positions will each have two-year terms. The tenure-stream member will be selected in the spring of odd numbered years. The non-tenure-stream member will be selected in the spring of even numbered years.

Should either of these members be unable to complete their term, the Faculty Senate Council will select a replacement to finish the term.

- IV. **ADMINISTRATIVE ASSISTANT.** The administrative assistant shall maintain lists of Senate members eligible for various elections and offices, distribute sample ballots for each election via email, and run elections. The President-Elect oversees the election for all Senate votes. The administrative assistant takes minutes of each Faculty Senate Council and Senate meeting and distributes a report of each meeting to all members of the Senate. Approved minutes of Council meetings are posted on the Faculty Senate website by the administrative assistant. The administrative assistant also receives and posts summaries of meetings and reports from the University Policy Committees. The administrative assistant shall maintain the official complete text of the Senate Bylaws, including such amendments as may be adopted, and ensure these Bylaws are easily accessible online.
- V. **FACULTY SENATE COUNCIL.** The Council shall consist of the Executive Committee of the Faculty Senate and the following representatives:
- A. **REPRESENTATIVES.**
1. Each academic department shall send a representative, with the following exceptions:
 - a. In the School of Engineering: Applied Mathematics, Civil Engineering, and Engineering Management combine to send one representative;
 - b. The School of Law has three representatives;
 - c. The Jesuit School of Theology has one representative.
 2. Academic programs with one or more full-time appointments shall have representation.
 3. At-large Representatives: There will be two at-large representatives elected by and from the tenure-stream Faculty Senate members, with no more than one of the two elected from any one school or college. There will also be two at-large representatives elected by and from the non-tenure-stream Faculty Senate members, with no more than one of the two elected from any one school or college. Members elected to these positions must agree to serve in these positions. If they do not agree to serve, the candidate(s) with the next highest votes, in accordance with the Faculty Senate Election Rules and Procedures, Section VIII, will be considered instead.
- B. **TERMS.** Terms on the Council shall normally be for two years, but the representatives may serve as long as their constituency so chooses.

1. Staggering of terms: To maintain continuity, representatives chosen from departments, schools, and programs beginning with A-L (e.g., Anthropology, the School of Law) should select their representatives in odd numbered years, while representatives chosen from departments, schools, and programs beginning with M-Z (e.g., Mathematics and Computer Science, Women's and Gender Studies) should select their representatives in even numbered years. Similarly, to stagger terms, only one of the two at-large tenure-stream representatives and one of the two at-large, non-tenure-stream representatives should be elected each year.

C. ALTERNATIVE REPRESENTATIVE. Any representative who must be absent from Council meetings should delegate an alternative representative from their constituency.

D. DUTIES. Representatives are to familiarize their departments with work of the Council, and to bring to the Council such issues as are referred to them by their constituents.

VI. RULES OF PROCEDURE. In all questions of procedure, the latest edition of *Robert's Rules of Order* shall govern except as otherwise set forth in these Bylaws.

A. PARLIAMENTARIAN. The President may appoint a parliamentarian, who shall hold office at the discretion of the President and who shall advise the President, at the President's request, on matters of parliamentary procedure.

B. SPECIAL RULES. To regulate its activities in any matter not prescribed in these Bylaws, the Faculty Senate Council shall enact special rules.

C. DEFINITION OF VOTING TERMS. Throughout these bylaws, the definition of a majority of the Council or of the Senate means more yes votes than no votes. Similarly, for any specific fractional voting requirement (e.g., "two-thirds of the Council"), the defined fraction of yes votes is required from the combined total of yes and no votes. Terms like "a majority of the Council" are distinct from terms like "a majority of the Council membership," which means a majority of all Council members, present or not present.

VII. FACULTY SENATE COUNCIL MEETINGS.

A. QUORUM. A majority of the Council membership, which consists of the representatives and the members of the Executive Committee, shall constitute a quorum.

B. FREQUENCY. The Council shall meet monthly during the academic year at fixed dates and times, and at such place as it shall determine. Council members shall arrange their schedules as necessary to attend. The President or one-third of

the Council may call a special meeting of the Council on whatever other occasion may be necessary.

- C. **AGENDA.** The President, with the aid of the Executive Committee if desired, shall prepare the agenda for Council meetings. Any member of the Senate may propose items for the Council agenda.
1. The agenda will be distributed to the Senate at least six days before any meeting, so that input can be given by Senate members before the meeting. After the agenda is sent, the addition of new items that could not have been foreseen when the agenda was sent may be recommended by the President and approved at the meeting by two-thirds of the Council. Items previously deliberated within the shared governance system shall be deemed as being able to be foreseen.
 2. Within an agenda item, the primary content of supporting documents and electronic presentations to be discussed at the Council meeting will be made available to the Senate at least four days before the meeting, except proposed amendments to the Faculty Handbook, including these Bylaws, or amendments to the University Policy Committees Charter, whose specific wording is to be available at least six days before the meeting.
- D. **OPEN MEETINGS.** All members of the Senate shall be informed in advance of the time and place of Council meetings and, as specified in part C, of the Council's agenda. Meetings of the Council are open to all members of the Senate who may speak to matters on the agenda, or introduce new business, when recognized by the President. If the President chooses not to recognize such member, the President may be overruled by a majority of the Council.
- E. **VOTING.** The voting members at Council meetings shall consist of its Executive Committee and the Representatives. The President may vote only in the case of a tie.
- F. **PRESIDING OFFICER.** The President shall preside at the meetings of the Council. In the absence of the President, the Past-President shall act as President; in the absence of both, the President-Elect shall act as President; in the absence of all three, a majority of the Council shall elect a Council member to act as President for the meeting.
- G. **REFERRAL TO THE SENATE.** Any matter before the Council for a vote must be submitted to a vote of the Senate at the request of a one-third vote of the Council. Any act, decision, or recommendation of the Council must be submitted to a vote of the Senate if so requested by one-fifth of the Senate membership.

VIII. POWERS OF THE FACULTY SENATE COUNCIL.

- A. The Council shall discuss and express its opinion on any matter of interest to it. The Council may, at its discretion and through its officers, express itself directly to the University President or to other persons or bodies.
 - B. The Council has the power to consider any proposal submitted to it by the University administration and determine whether to approve or disapprove such proposal, or to refer it to the Senate, with or without recommendation, for a vote of the Senate.
 - C. The Council has the power to consider proposed amendments to the Faculty Handbook, including these Bylaws, and proposed amendments to the University Policy Committees Charter, subject to the following:
 - 1. Proposed amendments must be discussed as an agenda item at an initial Council meeting before they can be approved at a subsequent Council meeting. At the initial meeting, changes to proposed amendments can be approved. Changes between meetings to the proposed amendment that are considered to be substantial by either the President or a vote of one-third of the Council will require the amendment to be treated as a newly proposed amendment.
 - 2. At the subsequent meeting, the Council can only approve the final wording of an amendment sent with the agenda, unless a wording change is approved at the meeting by unanimous consent.
 - 3. Amendment approval requires a two-thirds vote of the Council.
 - 4. For amendments that require a Senate vote, the Council may, if desired, convey to the Senate or any other relevant person or body its opinion of the amendment.
 - D. The Council has the power to plan the agenda of plenary meetings of the Senate.
 - E. The Council has the power to make recommendations to the Senate.
 - F. The Council has the power to interpret membership criteria.
- IX. COMMITTEES. The Senate, the Council, and the President may establish ad hoc committees. The President, with the approval of the Council, shall appoint members who are willing to serve to such committees. All such committees shall report periodically to the Senate or the Council.

X. POWERS OF THE SENATE.

- A. The Senate shall discuss and express its opinion on any matter of interest to it. The Senate is the general deliberative body of the faculty. The Senate may, at its discretion and through its officers, express itself directly to the University President or to other persons or bodies. Faculty collaborate with others in developing and recommending university policy through the shared governance system.
- B. Official faculty opinion on any issue consists of conclusions, recommendations, or other statements that have been approved by a majority vote of the Senate at a meeting for which there is a quorum under Section XI or by ballot. The officers of the Senate and faculty members of ad hoc committees may provide advice and counsel to other members of the university community about matters of critical concern, but such counsel does not constitute official faculty opinion unless voted on by the Senate.

XI. MEETINGS OF THE SENATE AND QUORUM.

- A. The Senate shall meet at least once each academic year. Special meetings may be called by the President, by a majority of the Council, or by petition of one-fifth of the Senate membership.
- B. At any meeting of the Senate for which notice and an agenda have been distributed to the faculty at least six days in advance of the date of the meeting, those members present shall constitute a quorum and be able to vote.
- C. For action on subjects that are not on the agenda or reasonably to be implied therefrom, and at any meeting of the Senate for which notice and an agenda have not been distributed to the faculty at least six days in advance of the meeting, one-third of the Senate membership shall constitute a quorum and be able to vote.
- D. At any meeting of the Senate, the members of the Senate that are present shall have the same powers exercised by the Council. That is, except as stated otherwise in this section, all of the rules that apply to the Council also apply to the full Senate (i.e., rules in Section VII, parts C through G, and the rules of Section VIII).

- XII. ELECTIONS. The Council and Senate shall adopt, and from time-to-time amend as necessary, Election Rules and Procedures that are consistent with these Bylaws and with the other provisions of the *Faculty Handbook* and which shall govern the conduct of all faculty elections. Elections shall be held by electronic ballot. Special elections to fill offices vacated during a term shall be held as soon as practicable following the occurrence of vacancies. Only those who are tenured or eligible for

tenure shall be eligible to vote on any ballot dealing with tenure or promotion of tenure-track faculty.

XIII. AMENDMENTS. These Bylaws, which include the Faculty Senate Election Rules and Procedures, may be amended by a two-thirds majority vote of the Senate, subject to the procedure specified in Section VIII.

XIV. WEB SITE. These Bylaws are found at:
<https://www.scu.edu/provost/policies-and-procedures/faculty-handbook-and-other-guidelines-policies--procedures/>, <https://www.scu.edu/faculty-senate/about/bylaws/>, and <https://www.scu.edu/faculty-senate/about/election-rules/>.

Amended: May 2, 2011
June 11, 2014
April 2015
June 14, 2019
January 12, 2022
March 21, 2022

**SANTA CLARA UNIVERSITY
FACULTY HANDBOOK
APPENDIX A SUPPLEMENT**

FACULTY SENATE ELECTIONS RULES AND PROCEDURES

I. INTRODUCTION

In these Rules and Procedures, the word “college” shall include “school” where appropriate.

The following rules and procedures shall govern the elections of members of the Faculty Senate to various committees and positions in the University as indicated in Section II just below. The rules and procedures herein regarding college or University Rank and Tenure or Promotion to Senior Lecturer committees do not apply to the School of Law and the Jesuit School of Theology.

II. ELECTIONS TO BE HELD AND TERMS OF SERVICE

(See also VI. Sequence of Elections)

A. Executive Committee

1. The President-Elect/President/Past President of the Faculty Senate: 3 years, with only years 1 and 2 being on the Executive Committee
(Year 1: President-Elect, Year 2: President, Year 3: Past President)
Term: July 1 – June 30
2. Officers selected by the Faculty Senate Council: 2 years
Term: July 1 – June 30

B. Committees of the Faculty Senate

1. University and college rank and tenure committee members: 3 years.
College rank and tenure supplementary committee members: 3 years, when needed.
Term: June 1 – May 31
2. Promotion to Senior Lecturer committees: 3 years
Term: June 1 – May 31
3. Faculty Judicial Board: 3 years
Term: June 1 – May 31
4. College grievance committees: 3 years

Term: June 1 – May 31

C. Representatives to the Faculty Senate Council: normally 2 years

Term: July 1 – June 30

D. Other committees and positions whose election is entrusted in whole or in part to the Faculty Senate.

1. University Coordinating Committee (UCC). This is not a Faculty Senate Committee but a committee of the University governance system. Two senior lecturers or tenured faculty are elected for staggered terms of two academic years, the first of which is the Chair-Elect of the UCC, the second of which is the Chair of the UCC. The President of the Faculty Senate is the third faculty member of this committee.

Term: July 1 – June 30

2. Faculty Core Committees. These committees oversee the component requirements of the 2009 Core Curriculum. The committees are composed of a liaison or liaisons from the Core Curriculum Committee, consultants as appropriate, and faculty members elected for staggered terms of three academic years. Guidelines are available at <https://www.scu.edu/provost/core/faculty-resources/committees/> membership on specific Faculty Core Committees.

Term: September 1 – June 15

E. Special elections as required by the Faculty Senate.

1. To fill unexpected vacancies

2. For issues requiring Faculty Senate advice or approval

III. RESPONSIBILITY FOR CONDUCTING ELECTIONS

It is the responsibility of the President-Elect to see that the positions of officers of the Faculty Senate, of members of elected committees, and of representatives to the Faculty Senate Council (hereinafter referred to as the “Council”) are duly filled with properly elected members. For election of Council representatives, see Section IX.B. The President-Elect is also responsible for overseeing all other elections, which will normally be conducted by the Faculty Senate administrative assistant with the advice and assistance of the President-Elect. The President-Elect is responsible for reporting election results (see also Section IX.A). The administrative assistant shall keep a permanent record of all elections for which the President-Elect is responsible, and shall retain all election results and any documents connected with the elections for three years.

At the beginning of each academic year, the President-Elect shall review with the administrative assistant (1) these rules and procedures, (2) the synopsis of qualifications in Section V, (3) the membership of elected committees to determine whether, due to administrative changes or other

circumstances, any members have become ineligible or unable to serve, and (4) a list of the elections (regular or special) that shall be required during the academic year, with a notation concerning the time and sequencing of such elections. Elections to fill the remainder of unexpired terms should be held as soon as is convenient unless, in the judgment of the President-Elect, the President of the Faculty Senate, and the chair of the relevant committee, because of the work schedule and nature of the committee, the election for the replacement can be delayed and then held jointly with the next regularly scheduled election for members of that same committee.

The President-Elect and administrative assistant shall also confer with the President of the Faculty Senate to review the number of members of the Faculty Senate, and then, if necessary, to authorize additional representatives to the Council following the formula found in the Faculty Senate Bylaws, Section V.A. The President-Elect can then authorize the election for the new representative.

IV. ELIGIBLE VOTERS

A. General Eligibility Stipulations:

1. Faculty on leave or on sabbatical are eligible to vote.
2. Faculty on phased retirement are eligible to vote.
3. Emeriti, emeritae, and other retired faculty may **not** vote.

B. For Specific Offices and Committees:

1. In the elections of the President-Elect of the Faculty Senate and of the Chair-Elect to the University Coordinating Committee, **all members of the Faculty Senate** may vote. Members of the Staff, as defined by Staff Senate guidelines, may also vote for the Chair-Elect to the University Coordinating Committee.
2. In the elections for the Faculty Judicial Board and the college grievance committees, only those Faculty Senate members **of the appropriate college or departments** may vote.
3. In the elections of members of the University or college committees on rank and tenure, or in any election affecting procedures or criteria for tenure or promotion to Associate or full Professor, only those Faculty Senate members who are **tenured or eligible for tenure** may vote.
 - a. In the election of the at-large representative to the University Rank and Tenure Committee, all **tenured or tenure track** members of the Faculty Senate may vote.

- b. In the elections of college representatives to the University Rank and Tenure Committee and of members of college rank and tenure committees, only those **tenured** or **tenure track** Faculty Senate members of the appropriate college or departments may vote.
- 4. In the elections of members to the college committees on Promotion to Senior Lecturer, all **tenured and tenure-track** faculty **and senior lecturers** of the appropriate college may vote.
- 5. For the election of members to Faculty Core Committees, see the Core Committee Processes developed by the Core Curriculum Implementation Team.
- 6. The election of representatives to the Faculty Senate Council may be conducted as each unit may determine, given they conform to Faculty Senate Bylaws, Section V.A and below, Section X.B.

V. ELIGIBILITY TO SERVE

Eligibility for service in the elected positions is described in and determined by the Faculty Handbook. A college may also elect to impose additional qualifications for elected committees, a record of which shall be kept by the administrative assistant and inserted into these election rules. Such additional qualifications shall be ratified or changed only by those members of the college served by said committee.

A. Restrictions on Service.

- 1. General.
 - a. No member of a Faculty Senate elected committee may serve two consecutive full terms.
 - b. Election to any Faculty Senate committee precludes eligibility for election to any other elected Faculty Senate committee except a rank and tenure committee [Faculty ballot, May 27, 1998]
- 2. Rank and Tenure Committees.
 - a. Limitations on Service.
(Expressions like “rank and tenure committee service” as used in this document refer to rank and tenure committee service at all levels, including Promotion to Senior Lecturer committees, whether on the college level alone, the University level, or some combination.) [Faculty ballot March 5, 2013]

Faculty members shall not serve more than four consecutive years in rank and tenure committee service. A faculty member elected to a one-year

term is eligible for election to a full three-year term immediately following the one-year term.

On completion of two or more years of rank and tenure committee service within the previous three years, a faculty member is normally ineligible for further rank and tenure committee service until after a hiatus determined by the following formula:

- Units with 50 or more tenured faculty: 4 years of hiatus.
- Units with 25-49 tenured faculty: 3 years of hiatus.
- Units with fewer than 25 tenured faculty: 3 years of hiatus when possible; otherwise, 2 years of hiatus.

(The term “units” in this formula refers to the configurations of departments that have college or school rank and tenure committees and that have designated seats on the University Rank and Tenure Committee.

In 2009 there were five units: Arts and Humanities, Sciences and Social Sciences, Business, Engineering, and Education and Counseling Psychology.) There is one seat for an at-large member.

In all cases, the President-Elect shall grant an exception to this formula in instances where a full professor is not otherwise available for service on the University committee or where a tenured professor is not otherwise available for service in a designated seat on a college committee. [Faculty ballot, April 1, 2010]

b. Option of Exemption.

A faculty member who has completed a total of 12 years in rank and tenure committee service has the prerogative of being exempted from further rank and tenure committee service. [Faculty ballot, April 1, 2010]

B. Qualification Synopsis. For ease of reference, the following is a synopsis of the qualifications detailed in the Faculty Handbook along with any additional qualifications approved by individual colleges.

1. University Rank and Tenure Committee:

Subject to the restrictions noted in Section V.A above,

- a. At-large member: All **tenured full professors** of the university are eligible (Faculty Handbook, Section 2.11.1).

- b. College Representative(s): All **tenured full professors** of the college are eligible (Faculty Handbook, Section 2.11.1).
 - c. No more than one faculty member from any department may serve on the University Rank and Tenure Committee at the same time. [Faculty ballot: May 2, 2005]
- 2. College Rank and Tenure Committees: All **tenured full professors** and **tenured associate professors** are eligible (Faculty Handbook, Section 2.11.2.1).
 - a. In the College of Arts and Sciences, the following additional restriction holds:

No more than one faculty member from any department may serve on a College Rank and Tenure Committee at any time. [Board of Trustees approval, May 10, 1996]
 - b. In the Leavey School of Business, the following additional restriction holds:

The membership of the committee shall include one representative from each department. [LSB Faculty ballot, October 2003]
 - c. In the School of Engineering, the following additional restriction holds:

The membership of the committee shall include one representative from each of the following five departments: Bioengineering, Civil Engineering, Computer Engineering, Electrical Engineering, and Mechanical Engineering. [Faculty ballot, April 27, 2017]
 - d. In the School of Education and Counseling Psychology, the membership of the committee shall include two representatives from Education and two from Counseling Psychology for two-year terms.
- 3. Committees for Promotion to Senior Lecturer: All tenured full professors and associate professors and all senior lecturers are eligible (Faculty Handbook, Section 3.4A.2.3).
 - a. In schools that have more than two departments, no more than one faculty member from any department may serve on the committee at any time.
 - b. In the College of Arts and Sciences, the following additional restrictions hold:

Of the five faculty on the committee, irrespective of rank, every effort shall be made to balance the representation of faculty across

departments offering the Bachelor of Arts (except the Department of Chemistry and Biochemistry) and Bachelor of Science (except the Department of Economics) such that no more than three faculty members from a Bachelor of Arts or Bachelor of Science department are seated on the committee at one time.

c. In the School of Education and Counseling Psychology, the following additional restriction holds:

Every reasonable effort shall be made to balance the representation of faculty from both departments.

4. Faculty Judicial Board. All **tenured faculty** other than those already serving on or elected to a rank and tenure committee or a Promotion to Senior Lecturer committee are eligible. (Faculty Handbook, Section 3.10.2.1)
5. College Grievance Committees: All **tenured faculty** in the college, other than department chairs and those already serving on or elected to a rank and tenure committee, Promotion to Senior Lecturer committee, or the Faculty Judicial Board, are eligible. (Faculty Handbook, Section 3.10.1.2)
6. Faculty Senate President-Elect, and representatives to the Council: All members of the Faculty Senate are eligible.

C. Concurrent Service and Eligibility. Election to the rank and tenure committees or the Promotion to Senior Lecturer committees precludes serving on any other elected Faculty Senate committee. If a faculty member who is already serving on another such committee is elected to a rank and tenure committee or to a Promotion to Senior Lecturer Committee, he or she shall resign from the other committee, and will not be eligible for election to another committee until his or her term on the rank and tenure committee or the Promotion to Senior Lecturer Committee has ended. [Faculty ballot, May 27, 1998]

The faculties of the School of Engineering, the School of Law, and the School of Education and Counseling Psychology may not, in certain instances, be sufficiently large to accommodate the restrictions upon concurrent service just above. In such instances, the restrictions upon concurrent service (but not other restrictions) shall be deemed waived.

D. Ineligibility:

1. Emeriti/ae and Faculty on Phased Retirement.
Faculty who are emeriti/ae, even if they are still teaching, are not eligible for election. Faculty on phased retirement are eligible for election to committees. However, in view of their years of prior service, their names will not be listed on ballots unless they expressly notify the President-Elect that they wish to be listed.

2. Sabbatical and Leave Restrictions.
A faculty member on a year-long sabbatical or leave is ineligible for election for the year of the sabbatical. Faculty on partial-year sabbaticals or leaves are ineligible as candidates for college rank and tenure committees if they will be absent during fall quarter. Faculty on partial-year sabbaticals or leaves are ineligible as candidates for the University Rank and Tenure Committee if they will be absent during winter quarter.
3. Service as Faculty Senate President.
Service as Faculty Senate President or President-Elect precludes serving concurrently on any other elected Faculty Senate committee, including rank and tenure committees unless one voluntarily chooses to do so.
[Faculty ballot, May 27, 1998]
4. Rank and Tenure Committee Members Applying for Promotion.
An associate professor serving on a rank and tenure committee who applies for promotion in rank will resign from the rank and tenure committee.
5. Conflict of Interest.
 - a. A married couple or domestic partners may not serve on the same rank and tenure committee at the same time. [Faculty ballot, May 2, 2005]
[See Faculty Handbook, Section 3.6.5 for additional information on Conflict of Interest.]
 - b. With the exception of the process for reconsideration of a rank and tenure decision (cf. Faculty Handbook, Section 3.4.8), in no case shall an individual participate in any manner in reviewing a decision in which he or she was officially involved in the first place.
6. Orderly Continuity of College Rank and Tenure Committees.
Faculty members already serving on a college rank and tenure committee are not eligible for election to the University Committee during their term on the college committee; hence, their names will not be placed on the ballot for the University Committee. [Faculty ballot, April 1, 2010]

VI. SEQUENCE OF ELECTIONS CONDUCTED BY THE ADMINISTRATIVE ASSISTANT OF THE FACULTY SENATE

A. University and College Rank and Tenure Committees:

1. First: in every third year or whenever the position is vacant, the at-large representative to the University Rank and Tenure Committee.

2. Second: during any year in which a college is entitled to elect a representative to the University Rank and Tenure Committee, that election shall be held.
3. Third: after the conclusion of the previous two elections, the elections of members of the college rank and tenure committees and any supplementary members of college rank and tenure committees shall be held.

- B. Promotion to Senior Lecturer Committees
- C. President-Elect of the Faculty Senate
- D. At-Large Faculty Senate Council Representatives
- E. Faculty Judicial Board
- F. Grievance Committees
- G. University Coordinating Committee
- H. Faculty Core Committees.

VII. PREPARATION OF BALLOTS

- A. Sample Ballots. For all committee elections for which the Faculty Senate administrative assistant conducts the election, a sample ballot shall be distributed electronically to eligible voters at least one week prior to the distribution of the official ballot. Sample ballots shall list all faculty who appear eligible for election, and it shall be the faculty member's responsibility to make corrections. The sample ballot shall also indicate continuing members, terms of service, any exceptions for eligibility to serve, and the date of the election.
- B. Nominations for Faculty Senate President-Elect. Ballots for election of the President-Elect of the Faculty Senate shall be prepared on the basis of nominations from the full Faculty Senate and/or by a nominating committee appointed by the current President of the Faculty Senate. Prior to being listed on the ballot, each nominee shall confirm his or her willingness to serve.

VIII. VOTING SYSTEM

All elections for which the Faculty Senate administrative assistant conducts the election shall be based upon a system of approval voting.

Each voter will mark the names of all those candidates of whom the voter approves to fill the vacant position(s). Each such vote of approval will count for one vote in the final tally.

If only one position is vacant, the candidate with the most votes shall be declared the winner. In the event that two or more candidates receive the same number of votes, the winner shall be determined on the basis of a run-off election.

If there is more than one position to be filled, the positions shall be ordered by length of term. The candidate with the highest number of votes shall fill the longest term; the candidate with the next-highest number of votes will fill the position with the next longest term, and so on until all positions are filled.

If two or more candidates receive the same (highest) number of votes for any position, the winner of that position shall be determined on the basis of a run-off election, with the runner-up candidate declared the winner of the next position, if there is another to be filled.

Elections for departmental representatives are discussed below in Section IX.B.

IX. VOTING

A. For all elections conducted by the Faculty Senate administrative assistant:

1. Voting shall be done by electronic ballot, which was initiated May 2007. Ballots must be submitted by the announced time and date to be considered valid.
2. Results of balloting shall be verified by the administrative assistant and reported to the President-Elect who will then first inform those elected.
3. Election results shall then be communicated electronically to all faculty and announced at Council meetings to be reflected in the minutes.

B. For Faculty Senate Council representatives:

1. Elections for representatives to the Faculty Senate Council from each unit entitled to a representative (defined in the Faculty Senate Bylaws, Sections V.A.1 and V.A.2) shall be conducted in accord with the Faculty Senate Bylaws, Section V.B by the department chair, or, if there is no chair, by the current representative. To start the election process, the person conducting the election will poll all members of the Faculty Senate within their unit to see who is willing to serve as representative. If no member is interested, the person conducting the election may appoint a tenured member or a senior lecturer of the unit with their consent. If only one member is interested, that member will serve as representative. If more than one member is interested, the person running the election will set up a process by which all members of the Faculty Senate within the unit will select by secret ballot which willing member is chosen.

2. Elections are to occur before June 1, so that the name of the chosen Faculty Senate Council representative can be forwarded to the President-Elect and administrative assistant by June 1.

X. REVISIONS OF THESE RULES

The Faculty Senate Council may revise as necessary these Election Rules and Procedures. Adoption of such revised rules shall be with the advice and consent of the Faculty Senate (Faculty Senate Bylaws, Section XIII).

XI. WEB SITE

These Election Rules and Procedures are found at
<https://www.scu.edu/faculty-senate/about/bylaws/>
<https://www.scu.edu/faculty-senate/about/election-rules/>
and <https://www.scu.edu/provost/policies-and-procedures/faculty-handbook/>.

April 16, 1980

Amended: October 22, 1980
 February 4, 1981
 May 15, 1985
 March 11, 1988
 July 10, 2005

Major Revision: May 2011

Amended: June 3, 2014
 April 2015
 April 2017
 June 2021
 May 20, 2022
 January 20, 2023

**SANTA CLARA UNIVERSITY
FACULTY HANDBOOK
APPENDIX B**

**1940 STATEMENT OF PRINCIPLES ON ACADEMIC FREEDOM AND
TENURE WITH 1970 INTERPRETIVE COMMENTS**

In 1940, following a series of joint conferences begun in 1934, representatives of the American Association of University Professors and of the Association of American Colleges (now the Association of American Colleges and Universities) agreed upon a restatement of principles set forth in the 1925 Conference Statement on Academic Freedom and Tenure. This restatement is known to the profession as the 1940 Statement of Principles on Academic Freedom and Tenure.

The 1940 Statement is printed below, followed by Interpretive Comments as developed by representatives of the American Association of University Professors and the Association of American Colleges in 1969. The governing bodies of the two associations, meeting respectively in November 1989 and January 1990, adopted several changes in language in order to remove gender-specific references from the original text.

The purpose of this statement is to promote public understanding and support of academic freedom and tenure and agreement upon procedures to ensure them in colleges and universities. Institutions of higher education are conducted for the common good and not to further the interest of either the individual teacher¹ or the institution as a whole. The common good depends upon the free search for truth and its free exposition.

Academic freedom is essential to these purposes and applies to both teaching and research. Freedom in research is fundamental to the advancement of truth. Academic freedom in its teaching aspect is fundamental for the protection of the rights of the teacher in teaching and of the student to freedom in learning. It carries with it duties correlative with rights. [1]²

Tenure is a means to certain ends; specifically: (1) freedom of teaching and research and of extramural activities, and (2) a sufficient degree of economic security to make the profession attractive to men and women of ability. Freedom and economic security, hence, tenure, are indispensable to the success of an institution in fulfilling its obligations to its students and to society.

ACADEMIC FREEDOM

¹ The word “teacher” as used in this document is understood to include the investigator who is attached to an academic institution without teaching duties.

² Boldface numbers in brackets refer to Interpretive Comments which follow.

(a) Teachers are entitled to full freedom in research and in the publication of the results, subject to the adequate performance of their other academic duties; but research for pecuniary return should be based upon an understanding with the authorities of the institution.

(b) Teachers are entitled to freedom in the classroom in discussing their subject, but they should be careful not to introduce into their teaching controversial matter which has no relation to their subject.[2] Limitations of academic freedom because of religious or other aims of the institution should be clearly stated in writing at the time of the appointment.[3]

(c) College and university teachers are citizens, members of a learned profession, and officers of an educational institution. When they speak or write as citizens, they should be free from institutional censorship or discipline, but their special position in the community imposes special obligations. As scholars and educational officers, they should remember that the public may judge their profession and their institution by their utterances. Hence they should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that they are not speaking for the institution.[4]

ACADEMIC TENURE

After the expiration of a probationary period, teachers or investigators should have permanent or continuous tenure, and their service should be terminated only for adequate cause, except in the case of retirement for age, or under extraordinary circumstances because of financial exigencies.

In the interpretation of this principle, it is understood that the following represents acceptable academic practice:

1. The precise terms and conditions of every appointment should be stated in writing and be in the possession of both institution and teacher before the appointment is consummated.
2. Beginning with appointment to the rank of full-time instructor or a higher rank,[5] the probationary period should not exceed seven years, including within this period full-time service in all institutions of higher education; but subject to the proviso that when, after a term of probationary service of more than three years in one or more institutions, a teacher is called to another institution, it may be agreed in writing that the new appointment is for a probationary period of not more than four years, even though thereby the person's total probationary period in the academic profession is extended beyond the normal maximum of seven years.[6] Notice should be given at least one year prior to the expiration of the probationary period if the teacher is not to be continued in service after the expiration of that period.[7]

3. During the probationary period a teacher should have the academic freedom that all other members of the faculty have.[8]
4. Termination for cause of a continuous appointment, or the dismissal for cause of a teacher previous to the expiration of a term appointment, should, if possible, be considered by both a faculty committee and the governing board of the institution. In all cases where the facts are in dispute, the accused teacher should be informed before the hearing in writing of the charges and should have the opportunity to be heard in his or her own defense by all bodies that pass judgment upon the case. The teacher should be permitted to be accompanied by an advisor of his or her own choosing who may act as counsel. There should be a full stenographic record of the hearing available to the parties concerned. In the hearing of charges of incompetence the testimony should include that of teachers and other scholars, either from the teacher's own or from other institutions. Teachers on continuous appointment who are dismissed for reasons not involving moral turpitude should receive their salaries for at least a year from the date of notification of dismissal whether or not they are continued in their duties at the institution.[9]
5. Termination of a continuous appointment because of financial exigency should be demonstrably bona fide.

1940 INTERPRETATIONS

At the conference of representatives of the American Association of University Professors and of the Association of American Colleges on November 7–8, 1940, the following interpretations of the 1940 Statement of Principles on Academic Freedom and Tenure were agreed upon:

1. That its operation should not be retroactive.
2. That all tenure claims of teachers appointed prior to the endorsement should be determined in accordance with the principles set forth in the 1925 Conference Statement on Academic Freedom and Tenure.
3. If the administration of a college or university feels that a teacher has not observed the admonitions of paragraph (c) of the section on Academic Freedom and believes that the extramural utterances of the teacher have been such as to raise grave doubts concerning the teacher's fitness for his or her position, it may proceed to file charges under paragraph 4 of the section on Academic Tenure. In pressing such charges, the administration should remember that teachers are citizens and should be accorded the freedom of citizens. In such cases the administration must assume full responsibility, and the American Association of University Professors and the Association of American Colleges are free to make an investigation.

1970 INTERPRETIVE COMMENTS

Following extensive discussions on the 1940 Statement of Principles on Academic Freedom and Tenure with leading educational associations and with individual faculty members and administrators, a joint committee of the AAUP and the Association of American Colleges met during 1969 to reevaluate this key policy statement. On the basis of the comments received, and the discussions that ensued, the joint committee felt the preferable approach was to formulate interpretations of the Statement in terms of the experience gained in implementing and applying the Statement for over thirty years and of adapting it to current needs.

The committee submitted to the two associations for their consideration the following "Interpretive Comments." These interpretations were adopted by the Council of the American Association of University Professors in April 1970 and endorsed by the Fifty-sixth Annual Meeting as Association policy.

In the thirty years since their promulgation, the principles of the 1940 Statement of Principles on Academic Freedom and Tenure have undergone a substantial amount of refinement. This has evolved through a variety of processes, including customary acceptance, understandings mutually arrived at between institutions and professors or their representatives, investigations and reports by the American Association of University Professors, and formulations of statements by that association either alone or in conjunction with the Association of American Colleges. These comments represent the attempt of the two associations, as the original sponsors of the 1940 Statement, to formulate the most important of these refinements. Their incorporation here as Interpretive Comments is based upon the premise that the 1940 Statement is not a static code but a fundamental document designed to set a framework of norms to guide adaptations to changing times and circumstances.

Also, there have been relevant developments in the law itself reflecting a growing insistence by the courts on due process within the academic community which parallels the essential concepts of the 1940 Statement; particularly relevant is the identification by the Supreme Court of academic freedom as a right protected by the First Amendment. As the Supreme Court said in *Keyishian v. Board of Regents*, 385 U.S. 589 (1967), "Our Nation is deeply committed to safeguarding academic freedom, which is of transcendent value to all of us and not merely to the teachers concerned. That freedom is therefore a special concern of the First Amendment, which does not tolerate laws that cast a pall of orthodoxy over the classroom."

The numbers refer to the designated portion of the 1940 Statement on which interpretive comment is made.

1. The Association of American Colleges and the American Association of University Professors have long recognized that membership in the academic profession carries with it special responsibilities. Both associations either separately or jointly have consistently affirmed these responsibilities in major

policy statements, providing guidance to professors in their utterances as citizens, in the exercise of their responsibilities to the institution and to students, and in their conduct when resigning from their institution or when undertaking government-sponsored research. Of particular relevance is the Statement on Professional Ethics, adopted in 1966 as Association policy. (A revision, adopted in 1987, may be found in AAUP, Policy Documents and Reports, 9th ed. [Washington, D.C., 2001], 133-34.)

2. The intent of this statement is not to discourage what is "controversial." Controversy is at the heart of the free academic inquiry which the entire statement is designed to foster. The passage serves to underscore the need for teachers to avoid persistently intruding material which has no relation to their subject.
3. Most church-related institutions no longer need or desire the departure from the principle of academic freedom implied in the 1940 Statement, and we do not now endorse such a departure.
4. This paragraph is the subject of an interpretation adopted by the sponsors of the 1940 Statement immediately following its endorsement which reads as follows:

If the administration of a college or university feels that a teacher has not observed the admonitions of paragraph (c) of the section on Academic Freedom and believes that the extramural utterances of the teacher have been such as to raise grave doubts concerning the teacher's fitness for his or her position, it may proceed to file charges under paragraph 4 of the section on Academic Tenure. In pressing such charges, the administration should remember that teachers are citizens and should be accorded the freedom of citizens. In such cases the administration must assume full responsibility, and the American Association of University Professors and the Association of American Colleges are free to make an investigation.

Paragraph (c) of the section on Academic Freedom in the 1940 Statement should also be interpreted in keeping with the 1964 "Committee A Statement on Extramural Utterances" (Policy Documents and Reports, 32), which states inter alia: "The controlling principle is that a faculty member's expression of opinion as a citizen cannot constitute grounds for dismissal unless it clearly demonstrates the faculty member's unfitness for his or her position. Extramural utterances rarely bear upon the faculty member's fitness for the position. Moreover, a final decision should take into account the faculty member's entire record as a teacher and scholar."

Paragraph 5 of the Statement on Professional Ethics also deals with the nature of the "special obligations" of the teacher. The paragraph reads as follows:

As members of their community, professors have the rights and obligations of other citizens. Professors measure the urgency of other obligations in the light of their responsibilities to their subject, to their students, to their profession, and to their institution. When they speak or act as private persons they avoid creating the

impression of speaking or acting for their college or university. As citizens engaged in a profession that depends upon freedom for its health and integrity, professors have a particular obligation to promote conditions of free inquiry and to further public understanding of academic freedom. Both the protection of academic freedom and the requirements of academic responsibility apply not only to the full-time probationary and the tenured teacher, but also to all others, such as part-time faculty and teaching assistants, who exercise teaching responsibilities.

5. The concept of "rank of full-time instructor or a higher rank" is intended to include any person who teaches a full-time load regardless of the teacher's specific title.*
6. In calling for an agreement "in writing" on the amount of credit given for a faculty member's prior service at other institutions, the Statement furthers the general policy of full understanding by the professor of the terms and conditions of the appointment. It does not necessarily follow that a professor's tenure rights have been violated because of the absence of a written agreement on this matter. Nonetheless, especially because of the variation in permissible institutional practices, a written understanding concerning these matters at the time of appointment is particularly appropriate and advantageous to both the individual and the institution.**
7. The effect of this subparagraph is that a decision on tenure, favorable or unfavorable, must be made at least twelve months prior to the completion of the probationary period. If the decision is negative, the appointment for the following year becomes a terminal one. If the decision is affirmative, the provisions in the 1940 Statement with respect to the termination of services of teachers or investigators after the expiration of a probationary period should apply from the date when the favorable decision is made.

The general principle of notice contained in this paragraph is developed with greater specificity in the Standards for Notice of Nonreappointment, endorsed by the Fiftieth Annual Meeting of the American Association of University Professors (1964). These standards are:

Notice of nonreappointment, or of intention not to recommend reappointment to the governing board, should be given in writing in accordance with the following standards:

- (a) Not later than March 1 of the first academic year of service, if the appointment expires at the end of that year; or, if a one-year appointment terminates during an academic year, at least three months in advance of its termination.
- (b) Not later than December 15 of the second academic year of service, if the appointment expires at the end of that year; or, if an initial two-

year appointment terminates during an academic year, at least six months in advance of its termination.

- (c) At least twelve months before the expiration of an appointment after two or more years in the institution.

Other obligations, both of institutions and of individuals, are described in the Statement on Recruitment and Resignation of Faculty Members, as endorsed by the Association of American Colleges and the American Association of University Professors in 1961.

8. The freedom of probationary teachers is enhanced by the establishment of a regular procedure for the periodic evaluation and assessment of the teacher's academic performance during probationary status. Provision should be made for regularized procedures for the consideration of complaints by probationary teachers that their academic freedom has been violated. One suggested procedure to serve these purposes is contained in the Recommended Institutional Regulations on Academic Freedom and Tenure, prepared by the American Association of University Professors.
9. A further specification of the academic due process to which the teacher is entitled under this paragraph is contained in the Statement on Procedural Standards in Faculty Dismissal Proceedings, jointly approved by the American Association of University Professors and the Association of American Colleges in 1958. This interpretive document deals with the issue of suspension, about which the 1940 Statement is silent.

The 1958 Statement provides: "Suspension of the faculty member during the proceedings is justified only if immediate harm to the faculty member or others is threatened by the faculty member's continuance. Unless legal considerations forbid, any such suspension should be with pay." A suspension which is not followed by either reinstatement or the opportunity for a hearing is in effect a summary dismissal in violation of academic due process.

The concept of "moral turpitude" identifies the exceptional case in which the professor may be denied a year's teaching or pay in whole or in part. The statement applies to that kind of behavior which goes beyond simply warranting discharge and is so utterly blameworthy as to make it inappropriate to require the offering of a year's teaching or pay. The standard is not that the moral sensibilities of persons in the particular community have been affronted. The standard is behavior that would evoke condemnation by the academic community generally.

* For a discussion of this question, see the "Report of the Special Committee on Academic Personnel Ineligible for Tenure," Policy Documents and Reports, 88–91.

** For a more detailed statement on this question, see "On Crediting Prior Service Elsewhere as Part of the Probationary Period," *ibid.*, 100–101.

**SANTA CLARA UNIVERSITY
FACULTY HANDBOOK
APPENDIX D**

STATEMENT ON PROFESSIONAL ETHICS

The statement which follows, a revision of a statement originally adopted in 1966, was approved by the Committee on Professional Ethics of the American Association of University Professors, adopted by the Association's Council in June 1987, and endorsed by the Seventy-third Annual Meeting.

INTRODUCTION

From its inception, the American Association of University Professors has recognized that membership in the academic profession carries with it special responsibilities. The Association has consistently affirmed these responsibilities in major policy statements, providing guidance to professors in such matters as their utterances as citizens, the exercise of their responsibilities to students and colleagues, and their conduct when resigning from an institution or when undertaking sponsored research. The *Statement on Professional Ethics* that follows sets forth those general standards that serve as a reminder of the variety of responsibilities assumed by all members of the profession.

In the enforcement of ethical standards, the academic profession differs from those of law and medicine, whose associations act to ensure the integrity of members engaged in private practice. In the academic profession the individual institution of higher learning provides this assurance and so should normally handle questions concerning propriety of conduct within its own framework by reference to a faculty group. The Association supports such local action and stands ready, through the general secretary and the Committee on Professional Ethics, to counsel with members of the academic community concerning questions of professional ethics and to inquire into complaints when local consideration is impossible or inappropriate. If the alleged offense is deemed sufficiently serious to raise the possibility of adverse action, the procedures should be in accordance with the 1940 *Statement of Principles on Academic Freedom and Tenure*, the 1958 *Statement on Procedural Standards in Faculty Dismissal Proceedings*, or the applicable provisions of the Association's *Recommended Institutional Regulations on Academic Freedom and Tenure*.

THE STATEMENT

1. Professors, guided by a deep conviction of the worth and dignity of the advancement of knowledge, recognize the special responsibilities placed upon them. Their primary responsibility to their subject is to seek and to state the truth as they see it. To this end professors devote their energies to developing and improving their scholarly competence. They accept the obligation to exercise critical self-discipline and

judgment in using, extending, and transmitting knowledge. They practice intellectual honesty. Although professors may follow subsidiary interests, these interests must never seriously hamper or compromise their freedom of inquiry.

2. As teacher, professors encourage the free pursuit of learning in their students. They hold before them the best scholarly and ethical standards of their discipline. Professors demonstrate respect for students as individuals and adhere to their proper roles as intellectual guides and counselors. Professors make every reasonable effort to foster honest academic conduct and to ensure that their evaluations of students reflect each student's true merit. They respect the confidential nature of the relationship between professor and student. They avoid any exploitation, harassment, or discriminatory treatment of students. They acknowledge significant academic or scholarly assistance from them. They protect their academic freedom.
3. As colleagues, professors have obligations that derive from common membership in the community of scholars. Professors do not discriminate against or harass colleagues. They respect and defend the free inquiry of associates. In the exchange of criticism and ideas professors show due respect for the opinions of others. Professors acknowledge academic debt and strive to be objective in their professional judgment of colleagues. Professors accept their share of faculty responsibilities for the governance of their institution.
4. As members of an academic institution, professors seek above all to be effective teachers and scholars. Although professors observe the stated regulations of the institution, provided the regulations do not contravene academic freedom, they maintain their right to criticize and seek revision. Professors give due regard to their paramount responsibilities within their institution in determining the amount and character of work done outside it. When considering the interruption or termination of their service, professors recognize the effect of their decision upon the program of the institution and give due notice of their intentions.
5. As members of their community, professors have the rights and obligations of other citizens. Professors measure the urgency of these obligations in the light of their responsibilities to their subjects, to their students, to their profession, and to their institution. When they speak or act as private persons, they avoid creating the impression of speaking or acting for their college or university. As citizens engaged in a profession that depends upon freedom for its health and integrity, professors have a particular obligation to promote conditions of free inquiry and to further public understanding of academic freedom.

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POLICIES AND PROCEDURES ON STUDENT APPEALS OF GRADES

On November 15, 1978, the Faculty Senate approved the report of the Ad Hoc Committee on Student Appeals of Grades. In light of the report by the Ad Hoc Committee and the Faculty Senate's vote, the following policies and procedures on student appeals of grades are in effect:

I. Policy Guidelines

A. Grades are not negotiable. There should be no questioning of a faculty member's academic judgment on a grade. In registering for a class, students implicitly agree to allow the faculty member to make a qualitative judgment of their command of the subject matter, which will be expressed as a letter grade. Any questioning or appeal of a grade should therefore be limited to procedure, e.g., to computational errors or failures to follow grading policies set forth in the syllabi.

B. Any system of grade-appeal should protect the rights of faculty members as well as the rights of students.

C. The results of any system of grade-appeal should not be binding upon the faculty member. Any decision to initiate a change of grade should remain the faculty member's.

D. Any procedural complaint regarding a change of grade must be initiated within four weeks of the beginning of the next scheduled term, not including the summer session.

II. Procedure Guidelines

A. A student with a complaint must first discuss the matter with the faculty member.

B. If the matter is not resolved at this level, the student may then take the matter to the chairperson of the department involved. The chairperson will discuss the case with the faculty member and may recommend that the faculty member review the grade. Upon request of the student, the dean will proceed in similar fashion. Should the student request it, the dean will pass the matter on to the Provost.

C. This process of review gives the chairperson, dean, and Provost the right to discuss the matter with the faculty member, and if they think it appropriate, request that the faculty member review the grade. Any recommendations made will not be binding upon the faculty member against whom the complaint is lodged. The decision to change a grade remains with the faculty member.

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APPENDIX F



DISCRIMINATION, HARASSMENT, AND SEXUAL MISCONDUCT POLICY

Response and Resolution Procedures

INTERIM POLICY

Updated February 2022

*Approved for inclusion in Faculty Handbook Appendix F
by the Board of Trustees June 3, 2022*

PART A: INTERIM POLICY ON DISCRIMINATION, HARASSMENT, AND SEXUAL MISCONDUCT¹

Statement Of Nondiscrimination

Santa Clara University's fundamental principles of academic excellence through diversity and inclusion are central to our Jesuit, Catholic values. These principles and values require us to provide a workplace and educational environment free from discrimination, harassment, and sexual misconduct. In its admission, educational and employment practices, programs, and activities, the University does not discriminate and prohibits discrimination against any individual based on race, ethnicity, nationality, religion, age, gender, gender expression, gender identity, sexual orientation, marital status, registered domestic partner status, veteran or military status, physical or mental disability (including perceived disability), medical condition (including cancer related or genetic characteristics), pregnancy (including childbirth, breastfeeding, and related medical conditions), or any other basis prohibited under applicable federal, state, or local laws.

Title IX of the Education Amendments of 1972

The University does not discriminate in its admissions practices except as permitted by law, in its employment practices, or in its educational programs or activities on the basis of sex/gender. As a recipient of federal financial assistance for education activities, the University required by Title IX of the Education Amendments of 1972 to ensure that all of its education programs and activities do not discriminate on the basis of sex/gender. Sex includes sex, sex stereotypes, gender identity, gender expression, sexual orientation, and pregnancy or parenting status. The University also prohibits retaliation against any person opposing discrimination or participating in any discrimination investigation or complaint process internal or external to the institution. Sexual harassment, sexual assault, dating and domestic violence, and stalking are forms of sex discrimination, which are prohibited under Title IX and by University policy.

Any member of the campus community, guest, or visitor who acts to deny, deprive, or limit the educational, employment, residential, or social access, opportunities and/or benefits of any member of the University community on the basis of sex is in violation of the **Policy on Nondiscrimination, Harassment and Sexual Misconduct**. For a complete copy of the Policy or more information, please contact the Director of Equal Opportunity and Title IX Coordinator or the Assistant Secretary of Education within the Office for Civil Rights (OCR). The Director for the Office of Equal Opportunity and Title IX serves as the University's Title IX Coordinator.

¹ This Policy and procedures are implemented on an interim basis for renewable six-month intervals. Should a court strike down, either temporarily or permanently, any terms or provisions of these policies and procedures, the University reserves the right to make immediate modifications to the policies and procedures that take effect upon publication on our website. Further, should any court strike any portion of the 2020 Title IX Regulations (34 C.F.R. Part 106), or should an administration order them suspended or withdrawn, the University reserves the right to withdraw these interim policies and procedures and change the policies and/or procedures or revise them accordingly informed by appropriate consultation and consistent with the University's principles of shared governance.

Section 504/Americans with Disabilities Act

In both practice and policy, Santa Clara University adheres to the requirements of the Americans with Disabilities Act of 1990, as amended 2008 (ADAAA); Sections 504 and 508 of the Rehabilitation Act of 1973, as amended; and all other federal and state laws and regulations prohibiting discrimination on the basis of disability. The University is committed to providing individuals with disabilities equal access and opportunity, and strives in its policies and practices to provide for the full participation of individuals with disabilities in all aspects of University life.

The University has adopted an internal appeal procedure to provide a prompt and equitable resolution of any action prohibited under Section 504 and 508 of the Rehabilitation Act and the Americans with Disabilities Act, as amended. Students, faculty, and staff who have questions or concerns about: (1) disagreements or denials regarding requested services, accommodations or modifications to University practices or requirements; (2) alleged inaccessibility of a University program or activity; (3) alleged harassment or discrimination on the basis of a disability, and (4) any other alleged disability discrimination should contact the Director of Equal Opportunity and Title IX, who has been designated as the University's ADA/504 Coordinator.

Purpose of this Policy

Santa Clara University strives to provide a safe environment in which students, faculty, and staff can pursue their education and employment. Recognizing that laws and regulations create a baseline, Santa Clara University affirms its Jesuit commitment to *cura personalis*. It will continue to build above that baseline, creating and sustaining a safe, inclusive, and respectful environment free from discrimination, harassment, and sexual misconduct. The ***Policy on Discrimination, Harassment, and Sexual Misconduct*** (hereafter, "Policy") has been developed to reaffirm these principles, educate members of our campus community about these issues, and to provide a means of recourse for those students and employees who believe they have experienced such behavior.

The University will act on all notices of allegations of discrimination, harassment, or sexual harassment, and sexual violence. It will take necessary measures to end conduct that is in violation of this Policy, prevent its recurrence, and remedy its effect on individuals and the community. Within any process related to this Policy, the University provides reasonable accommodations to persons with disabilities and reasonable religious accommodations, when that accommodation is consistent with state and federal law.

Situations involving other conduct that may be in violation of other University student or employee conduct policies should be reported to Office of Student Life for matters involving students, or Human Resources or the Provost for matters involving faculty or staff.

Education and Prevention

The University provides education and training to students, faculty, and staff on its policies regarding discrimination, sexual harassment, domestic and dating violence, stalking, and other forms of sexual misconduct. Programs are offered to raise awareness, strengthen accountability, and promote personal and community safety and bystander intervention. Programs are included as part of incoming students and new employee orientation. Returning students and current employees are afforded ongoing training and related education. The University also provides annual training to members of the Title IX Team, investigators, decision-makers (hearing and appeal officers), university process Advisors, and other University employees responsible for carrying out the procedures of this Policy. Descriptions of these prevention and education programs can be found here:

<https://www.scu.edu/title-ix/training-prevention/>

Relationship To Freedom of Expression and Academic Freedom

The University is dedicated to an uncompromising standard of academic excellence and an unwavering commitment to academic freedom, freedom of inquiry, and freedom of expression in the search for truth. This Policy and procedures are not intended to inhibit or restrict free expression or exchange of ideas, abridge academic freedom, or prohibit educational content or discussions inside or outside of the classroom that includes germane but controversial or sensitive subject matters protected by academic freedom.

The Office Of Equal Opportunity and Title IX

Santa Clara University is committed to promoting a diverse, equitable, and inclusive working and learning environment free from discrimination and harassment. This commitment extends beyond mere compliance with the law. The University provides a robust program of equal opportunity and affirmative action in virtually all aspects of University life. To this end, the Office of Equal Opportunity and Title IX monitors and oversees the University's compliance with Title IX, equal opportunity, affirmative action, and applicable state and federal civil rights laws, and oversees the coordination of education and training activities, and the response, investigation, and resolution (informal and formal) of incidents of protected class discrimination, harassment, sexual harassment, other forms of sexual misconduct, and retaliation that may violate this Policy.

Faculty, staff, students, and third parties may contact the Director for the Office of Equal Opportunity and Title IX (hereafter, "Director") to inquire about their rights under University policies and to request assistance and support. The Director is assisted by the Title IX Team, which includes any deputy coordinators and investigators (internal and external) who also serve in a neutral role, and are available to speak with parties in-depth about the resources and options available on- and off-campus for response and resolution.

The contact information for the Director is listed below:

Jenna Elliott, *Interim Director of Equal Opportunity and Title IX Coordinator*

Santa Clara University | Office of Equal Opportunity and Title IX

Mailing Address: 500 El Camino Real, Santa Clara, CA 95053

Office Location: Loyola Hall, Suite 140, 425 El Camino Real, Santa Clara, CA 95053

Direct Line: 408-551-3521

Main Office Line: 408-551-3043

Direct Email: jelliott@scu.edu

For general inquiries by email: titleixadmin@scu.edu

Website: www.scu.edu/title-ix

Santa Clara University Officials with Authority²

In addition to Notice or reports made to the Director of Equal Opportunity and Title IX Coordinator, individuals may provide notice or make a report to the President of the Santa Clara University, to any member of the Cabinet, and any of the Deans of Colleges or Directors of Centers of Distinction.

- **Lisa Kloppenberg**, Acting President
- **Kate Morris**, Acting Provost
- **Ed Ryan**, Acting Provost
- **Renee Baumgartner**, Athletics Director
- **Shá Duncan Smith**, Vice President, Diversity, Equity & Inclusion
- **Michael Crowley**, Vice President for Finance and Administration
- **James Lyons**, Vice President for University Relations
- **Eva Blanco Masías**, Vice President for Enrollment Management
- **Molly A. McDonald**, Chief of Staff
- **Jeanne Rosenberger**, Vice Provost for Student Life
- **Robert C. Owen**, Chief Information Officer
- Deans of Colleges and Directors of Centers of Distinction
(<https://www.scu.edu/aboutscu/leadership/school-deans-and-center-directors>)

Additional Enforcement Information

These grievance procedures are administrative in nature and are separate and distinct from the criminal and civil legal systems. Pursuing resolution through these procedures does not preclude someone from pursuing legal action now or in the future or seeking recourse through state and federal agencies. The US Department of Education Office for Civil Rights (OCR) investigates complaints of sexual harassment, including sexual violence involving students and employees in educational programs or activities. The USEqual Employment Opportunity Commission (EEOC) and the California Department of Fair Employment and Housing (DFEH) investigate reports of unlawful harassment, including sexual harassment. These agencies may serve as fact-finders and attempt to facilitate voluntary resolution resolutions. For more information, contact the nearest office of the EEOC, DFEH, or OCR.

US Department of Education³

Office for Civil Rights, San Francisco Office

50 United Nations Plaza, San Francisco, CA 94102

² *Official with Authority (OWA)* means a University employee explicitly vested with the responsibility to implement corrective measures on behalf of the institution for sex or gender-based discrimination, harassment, violence, and/or retaliatory conduct involving students, faculty, staff, or third parties. *Notice* means that an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of sex or gender-based discrimination, harassment, violence, and/or retaliatory conduct involving students, faculty, staff, or third parties.

³ Sex discrimination claims or other inquiries concerning the application of Title IX of the Education Amendments of 1972 and its implementing regulations should be directed to the Assistant Secretary, Office for Civil Rights.

Tel: (415) 486-5555
Fax: (415) 486-5570
Email: OCR.SanFrancisco@ed.gov

U.S. Equal Employment Opportunity Commission (EEOC)
<https://www.eeoc.gov/contact-eeoc>

California Department of Fair Employment and Housing (DFEH)
2218 Kausen Drive, Suite 100, Elk Grove, CA 95758
Tel: 800-884-1684
TTY: (800) 700-2320
California's Relay Service at 711
Email: contact.center@dfeh.ca.gov
Complaint Process Overview: www.dfeh.ca.gov/complaintprocess

Independence and Conflict of Interest

The Director and members of the Equal Opportunity and Title IX team serve in a neutral role and act with independence and authority free from bias and conflicts of interest. The Director works to ensure that all faculty and staff involved in the University's response and resolution process act with objectivity and impartiality, are assessed concerning conflicts of interest and personal bias, and receive training on how to serve impartially and without bias.

Concerns involving perceived bias or a conflict of interest, and reports of alleged misconduct by the Director or member of the Title IX team, should be reported to the General Counsel, (408) 554-5355, Nobili Hall, Room 120. Concerns involving perceived bias or a conflict of interest, and reports of alleged misconduct committed by any other involved party should be reported to the Director.⁴

The General Counsel or Director, as appropriate, will determine whether an actual, potential, or perceived Conflict of Interest exists, and will make a recommendation as to what conditions or restrictions, if any, should be imposed by the University to manage, reduce, or eliminate the conflict. The written decision will be shared with the involved parties, be based on the record of facts, and include a statement of the factual basis of the decision.

Obtaining Assistance and Support

The University is committed to cultivating and enhancing a culture of respect and belonging, which is central to our shared Jesuit, Catholic educational mission to support those in our community who are vulnerable and marginalized. The University offers many resources that are available to provide both immediate and ongoing support and guidance. Individuals are encouraged to use resources best suited to their needs, whether on or off-campus, and regardless of whether the incident occurred recently or in the past. The University has established collaborative partnerships with on-campus and community-based organizations to assist and/or provide services to Complainants and Respondents. This includes referrals and services related to counseling, health, mental health, advocacy, and legal resources.

Deciding whether to make a report and choosing how to proceed are personal decisions. At the time a report is made, a reporting party does not have to decide whether or not to request any particular course of action, nor does a reporting party need to know how to label what happened.

⁴ A perceived conflict of interest or bias is not alone or in itself grounds for disqualification, without further evidence of bias, prejudice, or interest.

Resources for Students

This resource page (<https://www.scu.edu/title-ix/resources/student>) provides information regarding resources available to students, including confidential and non-confidential on-campus resources, counseling services, community-based resources, and web resources. The University has created "safe havens" for those students who want to approach a knowledgeable person for guidance and support who is also confidential, such as CAPS and the Wellness Center.

Resources for Faculty and Staff

This resource page (<https://www.scu.edu/title-ix/resources/staff-and-faculty>) provides information for support services available to faculty and staff, including the confidential employee assistance program, off-campus resources, and community-based resources, and web resources.

Sexual Violence Resources

This resource page (<https://www.scu.edu/title-ix/resources/sexual-misconduct>) provides important definitions and immediate steps to consider upon experiencing any form of abuse, trauma, or sexual violence, including accessing emergency medical assistance, evidence preservation, reporting to the University, reporting to law enforcement, and accessing confidential and non-confidential resources including advocacy support services.

Confidentiality and Privacy

The University profoundly respects the need for privacy and discretion in the handling of all reports. Some resources can provide confidential support and information, whereas others can offer privacy and discretion when they receive a report. Individuals should make sure they have informed expectations concerning privacy and confidentiality.

- **Privacy** means that information related to a complaint will be shared with a limited number of individuals at the University responsible for stopping, addressing, and preventing the recurrence of discrimination, sexual harassment, and/ retaliation. Those individuals will treat information they have received with appropriate sensitivity and discretion.⁵
- **Confidential** resources are available and should be accessed when an individual would like to talk to someone in confidence without having that person share the information with anyone else. The University has also designated specific resources on campus as Confidential. This means that they⁶ do not need to notify the Director (or others); however, these resources may be required to reveal information disclosed to them in a criminal or other external proceeding.
- **Confidential (Privileged)** resources that are legally privileged include lawyers providing legal advice to clients, clergy members, and medical and mental health providers. Information disclosed to these resources is exempt and, absent extraordinary circumstances, may not be disclosed without the party's consent, even in a criminal or other external proceeding.

⁵ The Director will inform, in writing, all individuals involved in the investigation and/or hearing process of the critical importance and expectation of privacy. The University will not share the identity of: a reporting party, Complainant, Respondent, or any witnesses, except as permitted by the Family Educational Rights and Privacy Act (FERPA); or as required by law including to carry out the purposes of Title IX 34 CFR Part 106, and/or this Policy.

- a. The University reserves the right to determine which University officials have a legitimate educational interest in being informed about incidents that fall within this Policy, pursuant to the Family Educational Rights and Privacy Act (FERPA).
- b. The privacy of employee records will be protected in accordance with Human Resources policies.
- c. The University may contact a student's parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk, but will usually consult with the student first before doing so. The Vice Provost for Student Life is responsible for determining if and by what means parents/legal guardians will be notified in accordance with the Student Handbook.

⁶ Throughout this policy, the pronouns "they," "them" and "their" are used intentionally to be inclusive of all genders and gender identities.

Requests for Confidentiality

If at any point, a reporting party/Complainant requests confidentiality and decides not to pursue action through the Office of Equal Opportunity and Title IX, the Director will make all reasonable attempts to comply with this request. In these situations, the University's ability to investigate and respond to the conduct may be limited. If the University cannot maintain a reporting party's confidentiality, the Director will notify the individual. Reporting party/Complainant and the Respondent have a right to discuss and share information relating to their case.

Reporting

Deciding how to proceed after making the report can be a process that unfolds over time, and it is ordinarily up to the party to decide whether to file a formal complaint. In very rare circumstances, where a community safety concern has arisen, the Director may need to take steps to initiate a formal complaint. The University recognizes that choosing to make a report for the sole purpose of seeking guidance and information and to ask for supportive measures is different from notifying the University with the intent to initiate a University investigation and resolution process. Additionally, no formal complaint or investigation, either campus or criminal, needs to occur for supportive measures to be offered and provided.

Report to Office of Equal Opportunity and Title IX

Individuals may contact the Office of Equal Opportunity and Title IX to discuss issues relating to discrimination, harassment, sexual harassment, sexual misconduct, and retaliation without filing a formal complaint or grievance. A report may be accompanied by a request for resources, no further action, a request for supportive measures, and a request to initiate a formal complaint process.

A report may be made at any time, including during non-business hours, by using any of the reporting options listed below:

Online Form: <https://www.scu.edu/title-ix/reporting/>

Email: jrelliott@scu.edu

Telephone: (408) 554-4113

In-Person: Loyola Hall, Suite 140, 425 El Camino Real, Santa Clara, CA 95050

Mail: Office of Equal Opportunity and Title IX, 500 El Camino Real, Santa Clara, CA 95050

A reporting party may request:

- Information about or assistance with arranging resources for support on- and off-campus.
- Assistance with supportive measures to help parties continue with their academic studies and work; supportive measures are individually tailored to meet each individual's unique needs.
- Facilitation of an informal resolution to reach a mutually agreeable resolution.
- Information about the formal complaint and resolution process.
- To file a formal complaint (and assist the party with filing a formal complaint).
- University investigation and formal resolution and grievance process.
- Information or assistance about options for reporting off-campus.

It is also not necessary for an individual to first discuss the incident with a supervisor, manager, dean or department chair, or anyone else prior to contacting the Office of Equal Opportunity and Title IX. If an employee chooses to direct their report or allegations of prohibited conduct to their supervisor, manager, or Human Resources, then the supervisor, manager, or HR personnel will report the alleged conduct to the Director.

Report Anonymously

Reporting "anonymously" means that the reporting party reports to the University without identifying themselves and want someone in the University to be aware of the experience, but do not want to be involved in an administrative investigation. The University selected EthicsPoint to provide a direct and straightforward way to anonymously and confidentially report activities that may involve criminal, unethical or otherwise inappropriate behavior in violation of the University's policies posted at:

<https://secure.ethicspoint.com/domain/media/en/gui/15780/index.html>

EthicsPoint reports are initially shared with the Assistant General Counsel. An anonymous report of alleged discrimination, harassment, sexual misconduct, and retaliation is forwarded to the Director, ordinarily within 24 hours. The University may be limited in its ability to investigate or respond to anonymous reports if it does not have sufficient information from which to follow up on such a report.

File a Formal Complaint with the University

A Formal Complaint may be filed by the "Complainant", the person who experienced the discrimination, harassment, sexual harassment, or retaliation, or by a parent/guardian if the person is under the age of 18. The person against whom the allegations are made is called the "Respondent." Support measures are available without initiating a Formal Complaint. Individuals are encouraged to seek assistance from a confidential resource before deciding how to proceed.

A **Formal Complaint** means a document submitted or signed by a Complainant or signed by the Director of Equal Opportunity and Title IX Coordinator alleging harassment or discrimination based on a protected class or retaliation. As used in this paragraph, the phrase "document filed by a Complainant" means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the University) that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the complaint, and requests that the University investigate the allegations.

The Complainant requests a University investigation into the allegation(s) following the Resolution Process described in Part C. The Complaint must be filed with the Director or with an Official with Authority in person, by mail, or by electronic mail, by using the contact information in the section immediately above. If a Formal Complaint is submitted in a form that does not meet this standard, the Director will contact the Complainant to ensure that it is filed correctly.

Report to Law Enforcement

In an emergency or if someone is in immediate danger, call 911. The University encourages an individual who has been the victim of a sexual assault, relationship violence, stalking, hate crime, or other potential criminal conduct to report the incident to the police. The report should be made to the police department in the jurisdiction where the crime occurred. Campus Safety Services and/or the Office of Equal Opportunity and Title IX will assist reporting parties, at the person's request, in contacting local law enforcement and will cooperate with law enforcement if a party decides to pursue the criminal process. For more information see www.scu.edu/title-ix/reporting/law-enforcement/.

Reports About Third Parties Not Affiliated with the University

When someone makes a report to the University - for example, about a student enrolled at another institution or someone employed at another institution or in the local community-the University is restricted in its ability to undertake an investigation and its response. Regardless of whether the University investigates, support and assistance can be provided to the person making the report, including:

- Assisting them with identifying appropriate campus and local resources.
- Connecting them to an appropriate official at the other institution/organization.
- Offering and arranging appropriate supportive and safety measures, as needed.

- Assisting them with contacting law enforcement if they would like to file a police report.

Similarly, the Director may be able to assist and support a student or employee reporting party who experiences discrimination or harassment in an externship, study abroad program, or other environment external to the University's policies and procedures.

Promptness of Reporting

There is no time limitation on reporting allegations to the University. However, if significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible. Allegations are acted upon promptly by the University once it has received Notice of a formal complaint. Complaints typically take 60-90 days to resolve. There are exceptions and extenuating circumstances that can cause a resolution to take longer, but the University will avoid all undue delays within its control.

What to Expect after Reporting

Upon receipt of a report or notice to the Director or member of the Equal Opportunity and Title IX Team, a prompt initial assessment is initiated to determine the next steps. The University recognizes that each case is unique. The goal of the assessment is to provide a consistent, equitable, integrated, and coordinated response to all reports and to ensure that individuals have access to information they need about resources for support, University policies, and resolution options for resolving their concerns.

Initial Assessment

The Director⁷ or designee from the Title IX Team engages in an initial assessment of the available information as soon as practical after receiving a report. The Director will attempt to arrange a meeting typically within one (1) to two (2) business days of receiving a report. The Initial Assessment in no way represents a finding of fact or responsibility.

The initial meeting will be conducted to:

- Gain a better understanding of the nature and circumstances of the allegations.
- Assess the safety of the individual and the campus community.
- Provide information about resources, procedural options for resolution, and supportive measures.
- Identify what form of resolution is desired, reasonably available, and appropriate.
- Refer the party to another office for assistance if this Policy applies to the incident(s) reported.

In a situation when there is a serious threat to the University community, but the reporting party cannot or does not wish to proceed with the formal process, the Director or their designee may initiate a Formal Complaint.

Resolution Process Brief Overview (See Part C for additional information)

The resolution process summarized below has been developed to ensure fairness and consistency in the University's response and resolution of alleged discrimination, harassment, and sexual misconduct involving all students, faculty, and staff. No person's academic or employment status shall be adversely affected in any way as a result of participating in these procedures, nor shall any retaliatory action taken against a person using these resolution procedures be tolerated.

Following the Initial Assessment, the Director will then initiate one or more of the following responses:

- Offer Supportive Measures in all cases (see below).

⁷ If circumstances require, the President will designate another person to oversee the process should an allegation be made about the Director or the Director be otherwise unavailable to fulfill their duties.

- **Offer Supportive Measures Only** because the reporting party does not want to proceed with a formal complaint.
- Initiate an **Informal Resolution Process** (e.g., facilitate dialogue, restorative practices, education, mediation, negotiated resolution), as appropriate.
- Initiate a **Formal Investigation and Formal Resolution Process** (upon submission of Formal Complaint). The University uses the formal resolution process to determine whether or not the Policy has been violated. If so, the University will promptly implement effective remedies and sanctions designed to ensure that it is not deliberately indifferent to harassment or discrimination, their potential recurrence, or their effects.

Based on the facts of the report, the Director may refer the party to another department for assistance if the concern does not fall under the scope of the Policy.

Supportive Measures

Supportive measures are offered and provided promptly and equitably to either or both the reporting party/Complainant or the Respondent upon receipt of any report or Formal Complaint. Supportive measures are intended to address any immediate concerns for health and safety and facilitate an individual's continued access to their educational program and employment, as appropriate. Reporting parties who come forward will not be forced to participate in an investigation or participate in an informal or formal process that they do not wish to pursue. Supportive measures are non-disciplinary, non-punitive and individualized, as appropriate, as reasonably available, and without fee or charge to the reporting party/Complainant or Respondent. Supportive measures may be requested, modified, or discontinued at any time.

The Director is responsible for ensuring the implementation of Supportive Measures and coordinating the University's response with the appropriate offices on campus. The University will seek to maintain the privacy of the supportive measures, provided that privacy does not impair the University's ability to provide the supportive measures. The University will act to ensure as minimal an academic/occupational impact on the parties as possible. The University will implement measures in a way that does not unreasonably burden the other party.

These actions may include, but are not limited to:

- Referral to confidential counseling, mediation, and other health services and assistance in setting up the initial appointment (on- and off-campus).
- Referral to advocacy and support services (on- and off-campus).
- Referral to the Employee Assistance Program.
- Visa and immigration assistance.
- Student financial aid counseling.
- Education to the University community or community subgroup(s).
- Making changes to campus housing.
- Altering work arrangements for employees or student-employees.
- Safety planning, such as increased security and monitoring of certain areas of the campus.
- Providing campus escorts.

- Implementing contact limitations (No Contact Directives)⁸ or "Be-On-the-Lookout"(BOLO) orders for non-affiliates/banned individuals of the University.
- Providing transportation accommodations.
- Implementing contact limitations (no contact orders) between the parties.
- Academic support (e.g., requesting extensions of time, make-up work, or other course- related adjustments; allowing a student to withdraw or take grades of incomplete without financial penalty, in consultation with the instructor and/department chair and dean's office).
- Timely Warnings (Clery) to address concerns about broader campus safety.

For more information on supportive and protective measures see www.scu.edu/title-ix/resources/supportive-measures/.

Medical Amnesty/Good Samaritan Statement

The health and safety of every member of the campus community are of utmost importance. Sometimes, individuals are hesitant to come forward or participate in an investigation or University resolution process because they fear that they themselves may be charged with policy violations or receive disciplinary sanctions. A student who participates as a Complainant or a witness in an investigation may not be subject to disciplinary sanctions for a violation of the University's Student Conduct Policy at or near the time of the incident, unless the University determines that the violation was egregious, including, but not limited to, an action that places the health or safety of any other person at risk or that involves plagiarism, cheating, or academic dishonesty. The University may, at its discretion, offer employees amnesty from policy violations (typically minor policy violations) related to the incident.

Investigation Overview

Upon receiving a formal complaint, the Office of Equal Opportunity and Title IX will be responsible for investigating the complaint in a manner that is prompt, equitable, thorough, reliable, and impartial. All allegations of discrimination, harassment, and sexual misconduct will be investigated and addressed by a trained Title IX Investigator, and may include, depending on the circumstances, an investigation conducted by an external investigator not employed by the University.

The Investigator(s), not the parties, is responsible for gathering relevant evidence, such as physical evidence, documentary evidence, police reports, hospital records, emails, social media posts, text messages, phone records, video recordings, etc. If a party declines to provide material information voluntarily, the University's ability to conduct a prompt, thorough, and equitable investigation may be impacted. During the investigation and resolution process, both the Complainant and Respondent will have the opportunity to receive a written notice of investigation; participate in the investigation; review and present information and evidence, such as documents, communications, and other evidence, if available; suggest questions they would like asked of the other party and witnesses; be accompanied by an Advisor of their choice to any meeting; be afforded equal access to information that will be used in resolution proceedings; receive timely notice of meetings at which their presence will be requested or required; receive simultaneous written notice of the outcome, sanction, and rationale; and appeal the finding.

The investigator has the authority and responsibility to determine which witnesses to interview and which documents to consider.⁹ The investigation shall be concluded within a reasonable time, usually thirty (30) to sixty

⁸ Violations of no contact directives will be referred to appropriate student or employee conduct processes for enforcement.

⁹ Evidence will not be considered if it is neither relevant nor directly related to the complaint. Evidence about the Complainant's sexual predisposition or prior sexual behavior, will not be considered unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions

(60) days barring exigent circumstances. The University respects the privacy of the Complainant and Respondent. Information gathered in an investigation will not be disclosed to others who do not have a legitimate need to know.

Following the completion of the investigation, the Investigator(s) will prepare an initial written report that contains the pertinent information obtained from the investigation and analysis of evidence. A copy of this report will then be provided to the Complainant and the Respondent for review. Within ten (10) business days of receipt of the report, any additional information, questions, or information needed to correct or clarify information in the report may be submitted verbally or in writing by the Complainant and Respondent to the Investigator(s).

Once there has been an opportunity to review the report and any additional/correcting/clarifying information has been submitted within the time allotted, a final report will be prepared by the Investigator(s) and shared with the parties, the Director, and appropriate decision-maker (hereafter, "Equity Hearing Panel").

Right to an Advisor

Individuals bringing forward allegations ("Complainants"), and individuals responding to allegations ("Respondents") may select any person to be an Advisor of their choice. The Advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and consult with them throughout the resolution process. The parties may choose Advisors from inside or outside of the University community. Parties also have the right to choose not to have an Advisor in the initial stages of the resolution process, before the hearing. See Appendix B for more information about the Role and responsibilities of Advisors.

- An Advisor may be present with their advisee for all meetings at which the party is entitled to be present, including intake meetings, investigation interviews, and all meetings related to the resolution process, if they so choose. The parties may select whomever they wish to serve as their Advisor as long as the Advisor is available and eligible. Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith.
- The parties may also seek guidance from other individuals (support person/advocate) who are not designated as their Advisor for emotional support. A support person or advocate, however, who is not identified as the party's "Advisor" may not attend or participate in the University's investigation and resolution process.
- For parties who are entitled to union representation, the unionized employee may have their union representative accompany them to serve as their Advisor of choice. Witnesses are not otherwise permitted to have union representation or Advisors in interviews or at a hearing.
- The University cannot guarantee equal Advisory rights; that is, if one party selects an Advisor who is an attorney, but the other party does not or cannot afford an attorney, the University is not obligated to provide an attorney.
- The Director of Equal Opportunity and Title IX Coordinator will offer to assign a **University Process Advisor** for any party if the party does not have an Advisor. The University Process Advisor will be trained by the University and be familiar with the University's resolution process.
- A University Process Advisor will also be appointed if the party's Advisor will not conduct questioning. The assigned University Process Advisor will conduct cross-examination and will do so thoroughly, regardless of the participation or non-participation of the advised party in the hearing itself. Extensive questioning of the parties and witnesses may also be conducted by the Equity Hearing Panel during the hearing.

and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Emergency Removal/Safety Measures

The University may become aware of a situation where an individual may pose an immediate threat or when there is a need to protect the health, safety, or welfare of other members of the campus community. The University can act to remove a student Respondent entirely or partially from its education program or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. Where the Respondent is an employee, existing provisions for interim action are applicable.

This violence risk analysis is performed by the Behavioral Concerns Team (BCT) for matters involving a student and by Human Resources for matters involving a staff member, and by Human Resources in matters involving a faculty member in consultation with the Provost. In situations where emergency removal and safety measures are used, the University will implement the least restrictive emergency actions possible in light of the known circumstances and safety concerns and conduct an individualized assessment. These actions could include, but are not limited to:

- Removing a student or employee from campus pending the outcome of a University investigation and resolution process.
- Removing a student from a residence hall.
- Removing a student or employee from campus property.
- Placing an employee on paid or unpaid administrative leave.
- Assigning a material change in work responsibilities.
- Restricting a student's or employee's access to or use of facilities or equipment.
- Authorizing an administrative leave for faculty and staff (paid or unpaid).
- Reassigning a course or section to another instructor.
- Suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural athletics.

Violation of an emergency removal under this Policy will be grounds for discipline, which may include expulsion or termination. The decision-making process for the administrative leave of a staff or faculty Respondent or emergency removal of a student Respondent is detailed below. There is no appeal process for emergency removal decisions.

Information for Faculty and Staff

The Associate Vice President for Human Resources (staff), and the Provost (faculty), as appropriate, have sole discretion under this Policy to implement or stay an emergency removal from campus, building, program or activity, and work assignment on an interim basis. The employee will receive a written explanation for the basis of emergency removal.

Information for Students

The Vice Provost for Student Life (student) has sole discretion under this Policy to implement or stay an emergency removal from campus on an interim basis. The University can act to remove a student entirely or partially from its education program or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. This risk analysis is performed by the Behavioral Concerns Team (BCT) using its standard objective violence risk assessment procedures. See Appendix D for more information about the Health and Safety risk analysis process. If removed entirely or partially, the student will receive a written explanation for the basis for the emergency removal before implementation barring exigent circumstances.

Students will be given the option to meet with the Vice Provost for Student Life before an emergency removal is imposed, or as soon thereafter as reasonably possible, to show cause why the action should not be implemented or should be modified. When a meeting is not requested promptly (ordinarily within one (1) business day from the decision), objections to the emergency removal will be deemed waived.

The student may be accompanied by an Advisor of their choice for the show cause meeting. This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal or imposed safety measure is necessary and appropriate.

Retaliation

The University and any member of the University community are prohibited from taking or attempting to take materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused

to participate in any manner in an investigation, proceeding, or hearing under this Policy and procedure. Such retaliation will be considered a serious violation of this Policy, regardless of whether an allegation is determined to be a Policy violation. Acts of retaliation should be reported immediately to the Director of Equal Opportunity and Title IX Coordinator and will be promptly investigated. The University will take all appropriate and available steps to protect individuals who fear that they may be subjected to retaliation.

The exercise of rights protected as free speech does not constitute retaliation. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this Policy and procedure does not constitute retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

False Allegations and Evidence

Deliberately false and/or malicious accusations under this Policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a policy violation determination. Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence, or deliberately misleading an investigator can be subject to discipline under University policy (e.g., Student Conduct Code, Faculty Handbook, or Staff Handbook).

Jurisdiction and Scope of Policy

This Policy applies to all Santa Clara University education programs and activities, to conduct that takes place on the campus or property owned or controlled by the University, at University-sponsored events, or in buildings owned or controlled by University's recognized student organizations. The Respondent must be a member of the University community for its informal and formal resolution procedures to apply. This Policy can also be applied to the effects of off-campus misconduct that effectively deprives or limits the educational or employment access, benefits, and/or opportunities.¹⁰

This Policy applies to students, student organizations, faculty, staff, guests, visitors, other individuals regularly or temporarily employed, studying, living, visiting, or having any official capacity at Santa Clara University (such as volunteers and contractors). All vendors serving the University through third-party contracts are subject to these policies and procedures to which their employer has agreed to be bound by their employment contracts.

¹⁰ This Policy also pertains to acts of Prohibited Conduct that may fall outside of the jurisdiction set forth in the May 2020 Title IX regulations, including additional forms of sexual and gender-based harassment, as well as conduct that occurs outside the United States, but still in a University education program or activity and off-campus.

The University may extend its authority to off-campus and to online conduct when the Director, in consultation with the Associate Dean for Student Life, the Provost, or the Associate Vice President for Human Resources, as appropriate, determines that the conduct affects a substantial University interest.

A substantial University interest includes:

- Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law.
- Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any student or other individual.
- Any situation that significantly impinges upon the rights, property, or achievements of oneself or others or significantly breaches the peace and/or causes social disorder.
- Any situation that is detrimental to the educational interests or mission of the University.

The Policy is supplemental to and is not intended to displace other University conduct policies outlined in the Student Code of Conduct, Faculty Handbook, and/or Staff Handbook, or any applicable collective bargaining agreement. This Policy may be applied to incidents, to patterns, and/or the climate, all of which may be addressed and investigated in accordance with this Policy.

Actions taken by the University are separate and apart from any law enforcement or other court process proceedings, such as a civil lawsuit or criminal prosecution that may relate to the same underlying factual incident. The University's investigation and response are independent of whether criminal charges are filed. Formal adjudications or other case resolutions conducted by the University are not postponed while criminal or civil proceedings are pending, unless there are extenuating circumstances, as determined by the Director. Dismissal of criminal charges or acquittal in a criminal case also does not prevent the University from acting on a report or Formal Complaint.

Duty To Act

University leaders, management, and supervisory personnel are expected to take reasonable and necessary action to prevent discrimination, discriminatory harassment, and sexual harassment, to take appropriate action when they learn directly or indirectly of conduct that might violate University policies, and to respond promptly and thoroughly to any such claims.

A University leader, manager, or supervisor who fails to take appropriate action may be found to have violated University policies even in situations where the underlying incident does not constitute discrimination or harassment. For purposes of this Policy, management and supervisors include:

- Any employee with formal supervisory responsibility for employees (volunteers, contractors, or agent working on behalf of the University).
- Any employee with management responsibility related to a University sponsored program, event, or activity.
- Faculty in such roles as department chair, program/center director, dean, academic vice presidents, similar position supervising other faculty and/or staff, or supervisor of student employees.
- Principal investigators on a grant or contract or act in a supervisory capacity over the individuals in the lab or research they lead.

Duty To Report¹¹

The University encourages all campus community members to report incidents of harassment or discrimination to the Director or any Mandated Reporter identified below. Mandated Reporters are required to share all details of any report of alleged discrimination, harassment, sexual harassment, sexual misconduct that they observe or have knowledge of, even if not reported directly to them.

Individuals may want to carefully consider whether they share personally identifiable details with Mandated Reporters, as those details must be shared with the Director.

Effective January 1, 2022: Faculty and associate faculty, teachers, instructors, or lecturers (including graduate student instructors) while performing the duties of employment by the institution and Laboratory directors, coordinators, or principal investigators are considered Mandatory Reporters under Senate Bill No 493.

The following University employees are mandated to report possible discrimination, harassment, sexual harassment, sexual misconduct incidents to the violations to the Director.

- Office of Equal Opportunity and Title IX staff
- Campus Safety Services staff
- Human Resources staff
- Most student life staff including:
 - Campus Recreation staff, including paid and volunteer coaching staff who are not students
 - Career Center staff
 - Cowell Center Medical staff
 - University Centers staff (Benson Memorial Center and Locatelli Student Activity Center)
 - Center for Student Involvement staff
 - Office for Multicultural Learning staff
 - Office of Accessible Education staff
 - Office of Residence Life
 - Resident Directors
 - Area Coordinators
 - Faculty Directors
 - Spirituality Facilitators
 - Assistant Resident Director
 - Assistant Area Coordinator
 - Community Facilitators

¹¹ This Policy does not affect other mandated reporting obligations under CANRA (Child Abuse and Neglect Reporting Act) Policy, the Clery Act as a Campus Security Authority (CSA), and other policies or laws that require reporting to campus or local law enforcement, or Child Protective Services.

- Neighborhood Representatives
- Office of Student Life
- Associate Dean for Student Life
- Assistant Deans for Student Life
- Associate Director for Student Welfare
- Athletics administrators, staff, coaches and trainers
- Drahmman Advising Center staff
- Faculty and associate faculty, teachers, instructors, or lecturers. including Graduate student instructors, while performing the duties of employment by the institution and Laboratory directors, coordinators, or principal investigators.

Failure of a Mandated Reporter, as described above in this section, to report an incident of harassment or discrimination of which they become aware is a violation of University policy and can be subject to disciplinary action for failure to comply.

Disclosures at Public Awareness Events

Disclosures of harassment or discrimination frequently are made in climate surveys, classroom writing assignments or discussions, human subjects research, or at public awareness events such as "Take Back the Night" marches, speak-outs, and other forums in which community members disclose experiences with sexual harassment, sexual assault, sexual exploitation, and dating and domestic violence. Such disclosures are *not* considered to be reportable events, nor as Notice to the University. Such disclosures will not trigger mandated reporting or for the University to act concerning the information. However, such events will inform education and prevention efforts, and the University will continue to provide information about support, resources, and options for resolution.

Mandated Reporters Under the Clery Act

The Jeanne Clery Act defines a Campus Security Authority (CSA) as an individual with "significant responsibility for student and campus activities." This effectively includes employees of a Campus Safety Services department, other individuals with campus security responsibility, and other officials who work closely with students in areas such as athletics, health care, and student life.

Certain campus officials - those deemed Campus Security Authorities - must report the following for federal statistical reporting purposes (Clery Act):

- "Primary crimes," which include homicide, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson.
- Hate crimes, which include any bias-motivated primary crime as well as any bias-motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property.
- VAWA -based crimes, which include sexual assault, domestic violence, dating violence, and stalking.
- Arrests and referrals for disciplinary action for weapons-related law violations, liquor-related law violations, and drug abuse-related law violations.

All personally identifiable information is kept private, but statistical information must be passed along to Campus Safety Services regarding the type of incident and its general location (on or off-campus or in the surrounding area, but no addresses are included) for publication in the University's Annual Security and Fire Safety Report and daily campus crime log.

Notice to Law Enforcement¹²

There may be circumstances where the University is obliged to report incidents of violent crimes, hate crimes, or sexual assaults immediately, or as soon as practicably possible, to local law enforcement. The University has a Memorandum of Understanding (MOU) with local law enforcement and the Santa Clara County District Attorney's Office. The Purpose of this MOU is to enhance communication, coordination, and collaboration, institute on- and off-campus specialized, trauma-informed responses to incidents of sexual assault, violence, and hate crimes, and respect the reporting party's privacy and requests for confidentiality.

Requests for Confidentiality

Reporting parties have the right to decide if they want to make a report to the police and/or speak with the police. The University will honor requests for confidentiality. Campus and local law enforcement agencies are prohibited from disclosing information about violent crimes, hate crimes, or sexual assaults if the reporting party requests anonymity. When information is shared with law enforcement, such reports will include (when the reporting party has consented to being identified):

- The name and characteristics of the victim.
- The name and characteristics of the perpetrator if known.
- Description of the incident, including location and date and time.
- Any report number assigned to the police incident report documenting the investigation being conducted by the jurisdictional agency.

Mandated Reporting Requirements for Health Practitioners in California¹³

Any licensed health care provider in the State of California providing services in a health facility, clinic or physician's office is required to make a report if they provide medical treatment for a physical condition to a patient whom they know or reasonably suspect is the victim of assaultive or abusive conduct or a firearm injury. The health practitioner is required to make a report by telephone as soon as practically possible, and send a written report to a local law enforcement agency within two working days. The report must contain identifying information such as name and contact information of the person who presented for care. This person will be contacted by the law enforcement agency but the person does not have to comply with any information being sought. The report must be made to the enforcement agency that has jurisdiction over the location in which the injury was sustained. This includes any health care practitioners in Cowell Center Health Services.

Preservation of Evidence in an Assault

The preservation of evidence is critical to potential criminal prosecution and to obtaining restraining orders, and particularly time-sensitive. The University will inform the Complainant of the importance of:

- Seeking medical care and forensic medical assistance at the hospital, ideally within 24 - 72 hours of the incident (sooner is better).
- Preserving evidence in a paper bag.

¹² The University has a Memorandum of Understanding (MOU) with Santa Clara County law enforcement agencies and Office of the District Attorney for Santa Clara County which was established to meet the statutory requirements established by AB 1433 (Gatto, 2014), specified in the California Education Code (Ed. Code, § 67383, subd. (a) and California Ed. Code, § 67381). The purpose of this MOU is also designed to promote compliance with the numerous state and federal laws that provide specific requirements related to these issues, as outlined in California Education Code sections 67380, 67381 (the Kristin Smart Campus Safety Act of 1998) and 67383; SB 967 (de Leon, 2014), specified in California Education Code section 67386; the federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act"); Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141; Title IX of the Higher Education Amendments of 1972 ("Title IX"); Violence Against Women Reauthorization Act of 2013 [VAWA] (Public Law 113-14); Department of Education Final Rule (2014); as well as the California Penal Code and applicable state laws related to health and confidentiality/privacy.

¹³ Please see Cal. Penal code §§ 11160-11163.2 for more information.

- Individuals considering a forensic exam should go directly to a medical facility in their county.
- Avoiding showering, bathing, washing hands or face, or douching, if possible, but evidence may still be collected even if you do.
- Trying not to urinate.
- If oral sexual contact took place, refraining from smoking, eating, drinking, or brushing teeth.
- If clothes are changed, placing soiled clothes in a paper bag (plastic destroys evidence).

Timely Warnings - Clery Act

Federal regulations associated with the Jeanne Clery Act require every college and University to provide "timely warnings" to their campus community after designated employees (CSAs) or Campus Safety Services receive notice of specified crimes that appear to pose a serious or continuous threat to students and employees. The purpose of issuing a timely warning is to alert the campus community to the occurrence of a crime and heighten safety awareness of students and employees to enable people to protect themselves. When Campus Safety Services issues a timely warning, they will ensure that the reporting party/Complainant's name and other identifying information is not disclosed, while still providing enough information for the campus community to make important safety decisions in light of the potential danger.

Mandatory Reporting of Child Abuse

The University strives to safeguard the well-being of all children, and encourages all members of the University community who observe, have actual knowledge of, or reasonably suspect child abuse or neglect at a University facility or perpetrated by University personnel to promptly report the concern to appropriate law enforcement, external officials, and university officials. The Child Abuse Neglect and Reporting Act (CANRA) requires that employers of mandated reporters promote identification and reporting of child abuse or neglect. Mandated Reporters under CANRA are responsible for reporting the incident themselves. They are not required to investigate any known or suspected cases of abuse.

Also, it is the Policy of Santa Clara University that **ALL UNIVERSITY EMPLOYEES**, as well as volunteers and independent contractors who, in the course of their business or volunteer activity, have reasonable suspicion of child abuse or neglect are required to make a report as outlined in this Policy. This Policy applies to all Santa Clara University locations and all University sponsored or hosted programs, events, and activities, including study abroad programs. Please note that information learned through any confidential communications made to a member of the clergy subject to the clergy-penitent privilege is not required to be reported.

Recordkeeping

The Office of Equal Opportunity and Title IX is responsible for maintaining records relating to all reports and complaints of discrimination, sexual harassment, and sexual misconduct and the University's response. Files will be kept in accordance with Santa Clara University's record retention policy for a period of at least seven years from date of report or notice. Records may be maintained longer at the discretion of the Director of Equal Opportunity and Title IX in cases where parties have a continuing affiliation with the University. All records pertaining to pending litigation or a request for records will be maintained in accordance with instructions from the Office of General Counsel.

The Equal Opportunity and Title IX office has implemented the following Policy to guide record management related to all reports and University responses related to reports of discrimination, harassment, and sexual misconduct, any situations specified in this Policy, and any and all records in accordance with state and federal laws.

Records maintained include, but are not limited to:

- Actions taken in response to a report or formal complaint including the provision of any supportive measures. In each instance, the University will document the measures taken designed to restore or

preserve equal access to the University's education program or activity, and the basis for its conclusion that its response was not deliberately indifferent.

- If the University does not provide supportive measures, the University will document the reasons why such a response was not clearly unreasonable in light of the known circumstances.
- Records of each investigation including any outcome and determination following a University resolution process (including transcripts of any live hearing as required under federal regulation, any disciplinary sanctions imposed on the Respondent, and any remedies provided to the Complainant designed to restore or preserve equal access to the University's education program or activity, any appeal and the result there from, and the basis for all conclusions that the response was not deliberately indifferent).
- All materials used to train the Equal Opportunity and Title IX team, investigators, decision-makers (hearing and appeal officers), and any person who facilitates an informal resolution process.

PART B: PROHIBITED CONDUCT - DEFINITIONS

Santa Clara University is committed to establishing and maintaining a safe learning, living, and working environment. It is the responsibility of every member of the campus community to create an environment free from discrimination, harassment, and sexual misconduct. Sometimes, discrimination involves exclusion from or different treatment in activities such as admission, athletics, or employment.

Other times, discrimination takes the form of harassment or, in the case of sex-based discrimination, can encompass sexual harassment, sexual assault, stalking, sexual exploitation, dating violence or domestic violence.

The sections below describe the specific forms of legally prohibited discrimination and discriminatory harassment that are also prohibited under University policy. When speech or conduct is protected by academic freedom and/or protected speech, it will not be considered a violation of University policy, though supportive measures will be offered to those impacted. All policies encompass actual and/or attempted offenses.

Discriminatory Harassment

Discriminatory harassment constitutes a form of discrimination that is prohibited by University policy, and defined as unwelcome conduct by any member or group of the community on the basis of actual or perceived membership in a class protected by University policy or law. The University does not tolerate discriminatory harassment of any employee, student, visitor, or guest.

The University will act to remedy all forms of harassment when reported, whether or not the harassment rises to the level of creating a "hostile environment." A hostile environment is one that unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits, or opportunities.¹⁴ ¹⁵ This discriminatory effect results from harassing verbal, written, graphic, or physical conduct that is severe or pervasive and objectively offensive.¹⁶

When discriminatory harassment rises to the level of creating a hostile environment, the University may also impose sanctions on the Respondent through application of the appropriate grievance process described in Part C below.

In determining whether a hostile environment exists, the University will evaluate totality of known circumstances, including, but not limited to:

- Frequency, nature and severity of the conduct.
- Effect of the conduct on the Complainant.
- Whether the conduct was directed at more than one person.

¹⁴ Examples include, but are not limited to, verbal innuendos, epithets, derogatory slurs, off-color jokes, threats, suggestive or insulting sounds; visual/non-verbal such as derogatory posters, cartoons, or drawings; offensive emails, objects, or pictures; graphic commentaries; obscene gestures; physical conduct such as unwanted physical contact including touching; interference with an individual's normal work or movement; assault.

¹⁵ California defines harassment as conduct that creates a hostile, offensive, oppressive, or intimidating work environment and deprives victims of their statutory right to work in a place free of discrimination when the harassing conduct sufficiently offends, humiliates, distresses, or intrudes upon its victim, so as to disrupt the victim's emotional tranquility in the workplace, affect the victim's ability to perform the job as usual, or otherwise interfere with and undermine the victim's personal sense of well-being. A single incident of harassing conduct is sufficient to create a triable issue regarding the existence of a hostile work environment if the harassing conduct has unreasonably interfered with the plaintiff's work performance or created an intimidating, hostile, or offensive working environment.

¹⁶ This definition of hostile environment is based on Federal Register / Vol. 59, No. 47/Thursday, March 10, 1994: Department of Education Office for Civil Rights, Racial Incidents and Harassment Against Students at Educational Recipient's Investigative Guidance. described in Part C of this Policy document.

- Whether the conduct arose in the context of other discriminatory conduct.
- Whether the conduct unreasonably interfered with the Complainant's educational or workperformance and/or programs or activities.
- Whether the conduct implicates academic freedom or protected speech.
- Other relevant factors that may arise from consideration of the reported facts and circumstances.

The University reserves the right to address offensive conduct and/or harassment that 1) does not rise to the level of creating a hostile environment, or 2) that is of a generic nature and not based on a protected status. Addressing such conduct will not result in the imposition of discipline under University be addressed through respectful conversation, remedial actions, education, and effective alternate and informal resolution mechanisms.

Sexual Harassment

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the State of California regard Sexual Harassment as an unlawful discriminatory practice. Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved. The University has adopted the following definition of Sexual Harassment in order to address the special environment of an academic community.¹⁷

Sexual Harassment, as an umbrella category, includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking, and is defined as conduct on the basis of sex/gender that is sexual and satisfies one or more of the following:

Quid Pro Quo

- an employee of the University
- conditions (either implicitly or explicitly) the provision of an aid, benefit, or service of the University
- on an individual's participation in unwelcome sexual conduct.

¹⁷ Some examples of possible sexual harassment include:

- A professor insists that a student have sex with him/her in exchange for a good grade. This is harassment regardless of whether the student accedes to the request and irrespective of whether a good grade is promised or a bad grade is threatened.
- An employee repeatedly sends sexually oriented jokes around on an email list s/he created, even when asked to stop, causing one University employee to avoid the sender on campus and in the building in which they both work.
- Explicit sexual pictures are displayed in a co-worker's office or on a computer screen.
- Two supervisors frequently 'rate' several employees' bodies and sex appeal, commenting suggestively about their clothing and appearance.
- A professor engages students in her class in discussions about their past sexual experiences, yet the conversation is not in any way germane to the subject matter of the class. She probes for explicit details, and demands that students answer her, though they are clearly uncomfortable and hesitant.
- A student grabbed another student by the hair, then grabbed her breast. While this is sexual harassment, it is also a form of sexual violence.

Hostile Environment (Sexual Harassment)

- unwelcome conduct¹⁸
- determined by a reasonable person
- to be so severe, and
- pervasive, and
- objectively offensive
- that it effectively denies a person equal access to the University's education program or activity.

Sexual Assault

Defined as:

Sex Offenses, Forcible¹⁹

- Any sexual act²⁰ directed against another person²¹
- without the consent of the Complainant
- including instances in which the Complainant is incapable of giving consent.

¹⁸ Whether conduct is deemed unwelcome depends on the context in which it occurred and must be determined based on the totality of the circumstances. Acquiescence in the conduct or the absence of an objection does not always mean that the conduct was welcome.

¹⁹ The following sexual offenses may later be charged if a report of sexual assault is made to law enforcement: sexual battery, assault with intent to commit rape, rape (forcible, while prevented from resisting by intoxicating/controlled substance, unconscious or asleep, by threat to retaliate), unlawful sexual intercourse with person under 18, rape of a spouse, rape committed in concert with others, forcible sodomy, forcible oral copulation, foreign object penetration in California.

²⁰ "Sexual assault" as defined in 20 U.S.C. § 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. § 12291(a)(10), "domestic violence" as defined in 34 U.S.C. § 12291(a)(8), or "stalking" as defined in 34 U.S.C. § 12291(a)(30). A 'sexual act' is specifically defined to include one or more of the following:

- a. Forcible Rape: 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 Complainant.
- b. Forcible Sodomy: Oral or anal sexual intercourse with another person, forcibly, and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- c. Sexual Assault with an Object: The use of an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, forcibly, and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- d. Forcible Fondling: The touching of the private body parts of another person (buttocks, groin, breasts), for the purpose of sexual gratification, forcibly, and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

²¹ This would include having another person touch a person sexually, forcibly, or without their consent.

Sex Offenses, Non-forcible

Incest

- Non-forcible sexual intercourse
- between persons who are related to each other,
- within the degrees wherein marriage is prohibited by California law.

Statutory Rape

- Non-forcible sexual intercourse,
- with a person who is under the statutory age of consent in California.

Dating Violence²²

Defined as:

- violence,
- on the basis of sex,
- committed by a person,
- who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
 - The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

For the purposes of this definition: Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

Domestic Violence

Defined as:

- violence,
- on the basis of sex,
- committed by a current or former spouse or intimate partner of the complainant,
- by a person with whom the complainant shares a child in common, or
- by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
- by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of California, or
- by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of California

²² Under California Penal Code Section 13700, "domestic violence" means abuse committed against an adult or a minor who is a spouse, former spouse, cohabitant, former cohabitant, or person with whom the suspect has had a child or is having or has had a dating or engagement relationship. In California, dating violence is included within the definition of domestic violence.

To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

Stalking²³

Defined as:

- engaging in a course of conduct,
- on the basis of sex,
- directed at a specific person, that
- would cause a reasonable person to fear for the person's safety, or
- the safety of others; or
- suffer substantial emotional distress.

For the purposes of this definition:

- **Course of conduct** means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- **Reasonable person** means a reasonable person under similar circumstances and with similar identities to the Complainant.
- **Substantial emotional distress** means significant mental suffering or anguish that may, but does not necessarily require, medical or other professional treatment or counseling.

Other Sexual Misconduct Definitions

The University seeks to provide a consistent, caring, and timely response when sexual misconduct occurs within the University community. Members of the University community, guests, and visitors have the right to be free from sexual and gender-based misconduct, and the University prohibits such behavior. Sexual Misconduct is an umbrella term that includes sex/gender-based discrimination, sexual harassment, sexual assault, hazing, bullying, interpersonal violence (domestic/dating violence), and stalking when such behaviors are perpetrated because of one's sex/gender. Sex/gender-based discrimination and sexual misconduct can occur between people of different sex or gender or of the same sex or gender.

²³ Criminal stalking is defined by California Penal Code §646.9 as "Any person who willfully, maliciously, and repeatedly follows or willfully and maliciously harasses another person and who makes a credible threat with the intent to place that person in reasonable fear for his or her safety, or the safety of his or her immediate family is guilty of the crime of stalking."

Force

- Force is defined as the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., "Have sex with me or I'll hit you," "Okay, don't hit me, I'll do what you want.").²⁴
- Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

Coercion

- Coercion is defined as unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, 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. In evaluating whether coercion was used, the University will consider, based on the totality of the circumstances, frequency, intensity, isolation, and/or duration of the pressure or coercive action.

Consent

Consent^{25 26} is:

- conscious,
- knowing,
- voluntary, and
- clear
- permission by word or action
- to engage in sexual activity.

Affirmative consent means affirmative, conscious, and voluntary agreement to engage in sexual activity. Individuals may experience the same interaction in different ways. Therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

- If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.
- For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Reasonable reciprocation can be implied. For example, if

²⁴ The use of physical force constitutes a stand-alone sexual misconduct offense as well, as it is the University's expectation that those who use physical force would face not just the sexual misconduct allegation, but allegations under the code for the additional assaultive conduct.

²⁵ California Education Code Section 67386 / SB 967 establishes an affirmative consent standard in the determination of whether consent was given by both parties to sexual activity.

²⁶ The state definition of consent is "positive cooperation in act or attitude pursuant to the exercise of free will. The person must act freely and voluntarily and have knowledge of the nature of the act and the transaction involved." A current or previous dating or marital relationship shall not be sufficient to constitute consent where consent is an issue. This definition of consent is applicable to criminal prosecutions for sex offenses in California but may differ from the definition used on campus to address policy violations.

someone kisses Person A, Person B can kiss them back (if they want to) without the need to explicitly obtain their consent to being kissed back.

- Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease within a reasonable time.
- Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent.
- Consent in relationships must also be considered in context. When parties consent to BDSM²⁷ or other forms of kink, non-consent may be shown by the use of a safe word. Resistance, force, violence, or even saying "no" may be part of the kink and thus consensual, so Recipient's evaluation of communication in kink situations should be guided by reasonableness, rather than strict adherence to policy that assumes non-kink relationships as a default.
- Proof of consent or non-consent is not a burden placed on either party involved in an incident. Instead, the burden remains on the University to determine whether its Policy has been violated. The existence of consent is based on the totality of the facts and circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and any similar previous patterns that may be evidenced.

In assessing consent, in the following scenarios, the Respondent's belief is not a valid excuse for a lack of consent where:

- Respondent's belief arose from the Respondent's own intoxication, being under the influence of drugs, alcohol, or medication, and/or recklessness; or
- Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the Complainant affirmatively consented; or
- Respondent knew or a reasonable person should have known, that the Complainant was unable to consent because the Complainant could not understand the fact, nature, or extent of the sexual activity because they were asleep or unconscious; incapacitated due to the influence of drugs, alcohol, or medication; or unable to communicate due to a mental or physical condition.

"Should have known" is an objective, reasonable person standard that assumes that a reasonable person is both sober and exercising sound judgment.

Incapacitation

- A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious, for any reason, including by alcohol or other drugs.²⁸ As stated above, a Respondent violates this Policy if they engage in sexual activity with someone who is incapable of giving consent.
- Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the "who, what, when, where, why, or how" of their sexual interaction).
- Incapacitation is determined through consideration of all relevant indicators of an individual's state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

²⁷ Bondage, discipline/dominance, submission/sadism, and masochism.

²⁸ When alcohol or other drugs, including date rape drugs (such as Rohypnol, Ketamine, GHB, etc.), are involved, a person will be considered unable to give valid consent if they cannot fully understand the details of a sexual interaction (the who, what, when, where, why, or how) because they lack the capacity to reasonably understand the situation.

- This Policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating drugs.

As stated above, the question of whether the Respondent "knew or should have known" is determined using an objective, reasonable person standard which assumes that a reasonable person is both sober and exercising sound judgment.

Other Civil Rights Based Offenses

In addition to the forms of sexual harassment described above, which are covered by Title IX, the University prohibits the following offenses as forms of discrimination that may be within or outside of Title IX when the act is based upon the Complainant's actual or perceived membership in a protected class.

In addition to the forms of misconduct described above, the University additionally prohibits the following offenses as forms of discrimination when the act is based upon the Complainant's actual or perceived membership in a protected class and a violation of University conduct policies.

Sexual Exploitation

Defined as taking non-consensual or abusive sexual advantage of another for one's own benefit or for the benefit of anyone other than the person being exploited, and that conduct does not otherwise constitute sexual harassment under this Policy.

Examples of Sexual Exploitation include, but are not limited to:

- Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person observed).
- Taking pictures, video, or audio recording of another in a sexual act, or in any other sexually-related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity, or exceeding the boundaries of consent (such as disseminating sexual pictures without the photographed person's consent), including the making of and posting revenge pornography,
- Exposing one's genitals in non-consensual circumstances including unwelcome sexting (not including streaking, which may be considered disruptive conduct under other University codes of conduct),
- Prostitution, solicitation of a prostitute, or facilitating or compelling prostitution of another.
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually transmitted disease (STD) or sexually transmitted infection (STI) without informing the other person of the infection. Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity.
- Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections,
- Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity.
- Creation, possession, or dissemination of child pornography.

Discrimination

Defined as: actions that deprive, limit, or deny other members of the community of educational or employment access, benefits, or opportunities.

Threatening or causing physical harm

Defined as: extreme verbal, emotional, or psychological abuse, or other conduct which threatens or endangers the health or safety of any person(s).

Intimidation

Defined as: implied threats or acts that cause an unreasonable fear of harm in another.

Hazing

Defined as: any action, activity or complicity in an activity, which recklessly, intentionally, or knowingly causes or endangers the mental, emotional, and/or physical health or safety, or personal degradation to any person, or could reasonably be foreseen to result in such harm, that was committed in connection with initiation into, an affiliation with, or continued membership in a group affiliated activity, whether or not the organization or body is officially recognized by the University, and whether individually or in concert with other persons, against another person(s). An action is still considered hazing regardless of the apparent or actual consent of the involved individual or individuals. Failing to prevent, discourage, and/or report hazing may violate this Policy. Student organizations, clubs, or teams whose members participate in or encourage hazing activities will also be subject to appropriate University disciplinary action.

Bullying / Cyber-Bullying

Defined as:

- Repeated and/or severe;
- Aggressive behavior;
- Likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally; and
- That is not protected speech or conduct otherwise protected.

Stalking

Defined as:

- Repetitive and menacing course of conduct (pursuit, following, harassing and/or interfering with the peace and/or safety of another;
- Directed at a specific person on the basis of actual or perceived protected status; and
- That is unwelcome; and
- Would cause a reasonable person to fear.

Stalking includes the concept of cyber-stalking, a particular form of stalking in which electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used.

Remedies

The University reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any offense under this Policy.

Online Harassment

The policies of the University are written and interpreted broadly to include online manifestations of any of the behaviors prohibited under this Policy, the Student Conduct Code, Faculty Handbook and/or Staff Handbook when those behaviors occur in or have an effect on the University's education program and activities or use University networks, technology, or equipment. Although the University may not control websites, social media, and other

venues in which harassing communications are made, when such communications are reported to the University, it will engage in a variety of means to address and mitigate the effects.

Any online postings or other electronic communication by students, including cyber-bullying, cyber- stalking, cyber-harassment, etc., occurring completely outside of the University's control (e.g., not on University networks, websites, or between University email accounts) will only be subject to this Policy when such online conduct can be shown to cause a substantial in-program disruption. Off-campus harassing speech by employees, whether online or in person, may be regulated by the University when such speech is made in an employee's official or work-related capacity.

PART C: RESOLUTION PROCEDURES

Overview

Santa Clara University will act on any report or Notice of an alleged violation of the Policy on Discrimination, Harassment, and Sexual Misconduct received by the Director of Equal Opportunity and Title IX Coordinator (hereafter referred to as the "Director") or by an Official with Authority by applying these response and resolution procedures described below.²⁹ The procedures described below apply to all allegations of harassment or discrimination based on protected class status involving students, staff, faculty members, or third parties except for qualifying allegations of sexual harassment as required by Title IX Regulations, 34 CFR §106.45, which are explained below (Mandatory Dismissal).

These procedures may also be used to address collateral misconduct arising from the investigation of or occurring in conjunction with harassing or discriminatory conduct (e.g., vandalism, physical abuse of another). All other allegations of misconduct unrelated to incidents covered by this Policy will be addressed through the procedures elaborated in the respective student, faculty, and staff handbooks and manuals.

Unionized or other categorized employees will be subject to the terms of their respective collective bargaining agreements/employees' rights to the extent those agreements do not conflict with federal or state compliance obligations.

Initial Assessment

Following receipt of notice or a complaint of an alleged violation of this Policy, the Director engages in an initial assessment, typically within one to five business days. The steps in an initial assessment can include:

1. If the person impacted wishes to make a report to the University or a formal complaint, the Director (or member of the Title IX Team) will assist them in doing so, if desired.
2. If they do not wish to do so, the Director determines whether to initiate a complaint because a violence risk assessment indicates a compelling threat to health and/or safety.
3. If a formal complaint is received, the Director assesses its sufficiency and works with the Complainant to make sure the complaint is correctly completed and signed. The Director ensures the Complainant is aware of the right to have an Advisor.
4. The Director then works with the reporting party to determine whether they prefer a **supportive and remedial** response, an **informal resolution**, or a **formal investigation and resolution process**.
5. If a supportive and remedial response is preferred, the Director works with the reporting party to identify their wishes, assess the request, and implement accordingly. No formal resolution process is initiated, though the reporting party can elect to initiate one later if desired.
6. If an informal resolution option is preferred (upon submission of a formal complaint), the Director assesses whether the complaint is suitable for informal resolution, which mechanism may be appropriate and available, and will determine if the Respondent is also willing to engage in informal resolution.

²⁹ All references herein to the Director of Equal Opportunity and Title IX Coordinator also include a designee of the Director of Equal Opportunity and Title IX Coordinator.

7. If a formal investigation and grievance process is preferred (upon submission of a formal complaint), the Director determines if the misconduct alleged falls within the scope of this Policy, sexual harassment as defined by Title IX 34 CFR §106.45³⁰, and/or other University conduct codes and procedures.
 - a. The Director will initiate the formal investigation and grievance process, directing the investigation to address:
 - i. an incident, and/or
 - ii. a pattern of alleged misconduct, and/or
 - iii. a culture/climate issue, based on the nature of the complaint.
 - b. The Director will then assess which University policies may apply, if any, which resolution process is applicable, and will refer the matter for investigation and resolution accordingly.

When A Complainant Does Not Wish To Proceed

If a Complainant does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal complaint to be pursued, they may make such a request to the Director, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with state or federal law.

The Director has ultimate discretion over whether the University proceeds when the Complainant does not wish to do so, and the Director may sign a formal complaint to initiate a grievance process upon completion of an appropriate violence risk assessment. The Director's decision will be based on the results of the violence risk assessment that show a compelling risk to health and/or safety that requires the University to pursue formal action to protect the community.

A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. The University may be compelled to act on alleged employee misconduct irrespective of a Complainant's wishes. The Director must also consider the effect that non-participation by the Complainant may have on the availability of evidence and the University's ability to pursue a formal grievance process fairly and effectively. Note that the University's ability to remedy and respond to notice may be limited if the Complainant does not want the University to proceed with an investigation and/or grievance process. The goal is to provide the Complainant with as much control over the process as possible while balancing the University's obligation to protect its community.

When the Director executes the written formal complaint, the Director does not become the Complainant. The Complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of this Policy.

When the University proceeds:

- The Complainant (or their Advisor) may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under this Policy irrespective of their level of participation.
- Typically, when the Complainant chooses not to participate, the Advisor may be appointed as proxy for the Complainant throughout the process, acting to ensure and protect the rights of the Complainant, though this does not extend to the provision of evidence or testimony.

³⁰ If the Director determines that Title IX does not apply in whole or in part, the Director will "dismiss" that aspect of the complaint, if anywhere Title IX does not apply. These dismissal requirements are mandated by the 2020 Title IX Regulations, 34 CFR §106.45. Dismissing a complaint under Title IX is procedural, and does not limit the University's authority to vigorously address misconduct (sexual or otherwise) that occurs outside the scope of Title IX, or from offering supportive measures. If Title IX does not apply, the Director assesses which University policies apply, and will refer the matter for resolution accordingly.

- In cases in which the Complainant requests confidentiality/no formal action and the circumstances allow the University to honor that request, the University will offer informal resolution options, supportive measures, and remedies to the Complainant and the community, but will not otherwise pursue formal action.
- If the Complainant elects to take no action, they can change that decision if they decide to pursue a formal complaint at a later date. Delays may cause limitations on access to evidence, or present issues concerning the status of the parties.

Violence Risk Assessment

In some cases, the Director may determine that a threat assessment or violence risk assessment should be overseen by the Behavioral Concerns Team (BCT) involving a student or by Human Resources comprising a faculty and staff member as part of the initial assessment. Threat assessment is the process of evaluating the actionability of violence by an individual against another person or group following the issuance of a direct or conditional threat. A violence risk assessment is a broader term used to assess any potential violence or danger, regardless of the presence of a vague, conditional, or direct threat.

The violence risk assessment will determine whether the reported information and any other available information provides a rational basis for concluding that there is a compelling risk to health and/or safety that requires the University to pursue formal action to protect the community. A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. More about the University's process for Violence Risk Assessment can be found in Appendix C.

Dismissal (Mandatory and Discretionary) for Sexual Harassment Complaints

The University must dismiss a formal complaint or any allegation of Sexual Harassment under Title IX 34CFR §106.45, therein if, at any time during the investigation or hearing, it is determined that:

1. The conduct alleged in the formal complaint would not constitute Sexual Harassment as defined in the Policy herein above, even if proved.
2. The conduct of alleged Sexual Harassment did not occur in an educational program or activity controlled by the University (including buildings or property controlled by recognized student organizations), and/or the University does not have control of the Respondent.
3. The conduct of alleged Sexual Harassment did not occur against a person in the United States.
4. At the time of filing a formal complaint, a Complainant is not participating in or attempting to participate in the education program or activity of the University.

The University may dismiss a formal complaint or any allegations as defined by this Policy therein if, at any time during the investigation or hearing:

1. A Complainant notifies the Director in writing that the Complainant would like to withdraw the formal complaint or any allegations therein.
2. The Respondent is no longer enrolled in or employed by the University.
3. Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Please note that dismissing a complaint under Title IX is solely a procedural requirement under Title IX, and does not limit the University's authority to address a complaint with an appropriate resolution process and remedies. Upon any dismissal, the Director promptly sends written notice of the dismissal and the rationale for doing so simultaneously to the parties. This dismissal decision is appealable by any party under the procedures for appeal, as described below.

Cross-Claims

The University is obligated to ensure that the grievance process is not abused for retaliatory purposes. The University permits the filing of cross-claims but uses an initial assessment, described above, to assess whether the allegations in the cross-claim are made in good faith. Cross-claims determined to have been reported in good faith will be processed using the grievance procedures below. Investigation of such claims may take place after the resolution of the underlying initial allegation, in which case a delay may occur. Cross-claims may be made in good faith, but are, on occasion, also made for purposes of retaliation. Cross-claims made with retaliatory intent will not be permitted.

Cross-claims may also be resolved through the same investigation as the underlying allegation, at the discretion of the Director. When cross-claims are not made in good faith, they will be considered retaliatory and may constitute a violation of this Policy.

Advisors In Hearings/University Process Advisor

This University process affords a form of indirect questioning that is required during a live hearing conducted by the parties' Advisors. Parties are not permitted to question each other or any witnesses directly. If a party does not have an Advisor for a hearing, the University will appoint a trained Advisor for the limited purpose of conducting any questioning of the other party and witnesses. A party may reject this appointment and choose their Advisor, but they may not proceed without an Advisor. If the party's Advisor does not conduct questioning, the University will appoint an Advisor who will do so thoroughly, regardless of the participation or non-participation of the advised party in the hearing itself.

The Equity Hearing Panel will also conduct extensive questioning of the parties and witnesses during the hearing. More information about the role and responsibilities of Advisors in meetings, interviews and at a hearing, and expectations for Advisors and parties can be found in Appendix B.

University Resolution and Grievance Process Overview

The University resolution process offers two forms of resolution of formal complaints: (a) informal resolution and (b) formal resolution process, which involves a formal investigation and hearing before an independent panel. All University resolution proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings following University policy.

Informal Resolution Process

If an informal resolution option is preferred, the Director of Equal Opportunity and Title IX Coordinator assesses whether the complaint is suitable for informal resolution, which informal mechanism may serve the situation best or is available, and may seek to determine if the Respondent is also willing to engage in informal resolution. It is not necessary to pursue Informal Resolution first in order to pursue a Formal Resolution Process, and any party participating in Informal Resolution can stop the process at any time and begin or resume the Formal Grievance Process. If both parties agree, the parties involved may participate in an informal resolution.

To initiate **Informal Resolution**, a Complainant needs to submit a **Formal Complaint**, as defined above. A Respondent who wishes to initiate Informal Resolution should contact the Director of Equal Opportunity and Title IX Coordinator.

Informal resolution can include four different approaches as described below:

1. When the Director can resolve the matter informally by providing supportive measures (only) to remedy the situation.
2. When the parties agree to resolve the matter through an alternate resolution mechanism as described below, (e.g., including mediation, restorative practices, etc.), usually before a formal investigation takes place.
3. When the Respondent accepts responsibility for violating policy, and desires to accept a sanction and end the resolution process (similar to above, but usually occurs post-investigation).

4. Negotiated resolution.

In all cases, the Director will have the discretion to determine whether or not a referral for Informal Resolution or mediation is appropriate to the circumstances, and the particular form of Informal Resolution. The University generally will not pursue Informal Resolution in cases of sexual assault, domestic violence or dating violence, and stalking.

Before implementing the Informal Resolution, the University will provide the parties with:

- Written notice of the reported misconduct.
- The proposed form of informal resolution.
- Any remedial measures and sanctions that may result.
- Information regarding any records that will be maintained or shared by the University.

The Director will obtain voluntary, written confirmation that all parties wish to resolve the matter through an informal resolution before proceeding and will not pressure the parties to participate. Either party may withdraw from the informal resolution process once initiated. If informal conflict resolution measures prove unsuccessful, the complainant may choose to pursue formal resolution, as described below.

Alternate Resolution

Where appropriate an Alternate Resolution process can be used to resolve allegations of discrimination, harassment, sexual harassment, and other forms of sexual misconduct. The Director will consult with the Complainant and Respondent to determine appropriate methods of resolution. This may include counseling, training, mediation, restorative practices, or any other method appropriate to aid in resolving the complaint. All parties must agree and consent to the use of an Alternate Resolution mechanism.

The Director may look to the following factors to assess whether an Alternate Resolution is appropriate, and which form might be most successful for the parties:

- The parties' amenability to Alternate Resolution;
- Likelihood of potential resolution, considering any power dynamics between the parties; · The parties' motivation to participate;
- Civility of the parties;
- Results of a violence risk assessment/ongoing risk analysis, if any;
- Disciplinary history;
- Whether an emergency removal is needed;
- Skill of the Alternate Resolution facilitator with this type of allegation;
- Complaint complexity;
- Emotional investment/capability of the parties;
- Rationality of the parties;
- Goals of the parties;
- Adequate resources to invest in Alternate Resolution (time, staff, etc.)

The ultimate determination of whether Alternate Resolution is available or successful is to be made by the Director. The Director maintains records of any resolution that is reached, and failure to abide by the resolution

agreement may result in appropriate responsive/disciplinary actions. Results of complaints resolved by Informal Resolution or Alternate Resolution are not appealable.

Respondent Accepts Responsibility For Alleged Violations

The Respondent may accept responsibility for all the alleged policy violations at any point during the resolution process. If the Respondent indicates an intent to accept responsibility for *all* of the alleged misconduct, the formal resolution process will be paused; the Director will convene an Equity Hearing Panel to determine whether all parties and the University can agree on responsibility, sanctions, and/or remedies.

When a resolution is accomplished, the appropriate sanction or responsive actions are promptly implemented to effectively stop the harassment or discrimination, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community. This result is not subject to appeal once all parties indicate their written consent to all agreed-upon terms of resolution. When the parties cannot agree on all terms of resolution, the resolution and grievance will resume at the same point where it was paused.

Negotiated Resolution

The Director, with the consent of the parties and in consultation with the Office of Student Life, Provost, or Human Resources, as appropriate, may negotiate and implement an agreement to resolve the allegations that satisfies all parties and the University. Negotiated Resolutions are not appealable once agreed upon.

Formal Resolution Process

Notice Of Investigation And Allegations

The Director will provide written *Notice of the Investigation and Allegations* (hereafter, "Notice") to the Respondent upon commencement of the Formal Grievance Process. This facilitates the Respondent's ability to prepare for the interview with the investigator, and to identify and choose an Advisor to accompany them. The Notice is also copied to the Complainant who is to be given advance notice of when the Notice will be delivered to the Respondent.

The Notice will include a meaningful summary of all allegations, the identity of the involved parties (if known), the precise misconduct being alleged, the date and location of the alleged incident(s) (if known), the specific policies implicated (known at the time), description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result.³¹ The Notice will also include a statement that the University presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination and a statement that the University presumes the Complainant has brought the complaint in good faith unless and until the evidence supports a different determination.

³¹ The Notice of Investigation and Allegations will also include:

- Statement of Rights and Responsibilities of the Parties.
- Information on the need for each party to have an Advisor of their choosing and suggestions for ways to identify an Advisor.
- Instruction to preserve any evidence that is directly related to the allegations.
- Statement about the University's policy on retaliation, expectations on privacy, and informing the parties that the University prohibits knowingly making false statements, including knowingly submitting false information during the resolution process.
- Name(s) of the Investigator(s), along with a process to identify, in advance of the interview process, to the Director any conflict of interest that the Investigator(s) may have.

See <https://www.scu.edu/title-ix/resources> to download a copy of the Office of Equal Opportunity and Title IX Resource Brochure and for more information about resources available on- and off-campus for assistance and support.

Determinations of responsibility are made after the formal resolution process, and that the parties will be allowed to inspect and review all directly related and/or relevant evidence obtained during the review and comment period before a scheduled hearing before the Equity Hearing Panel.

Any updates to the Notice of Investigation and Allegation(s) will be made in writing and may be delivered to the parties by one or more of the following methods: in person, mailed to the local or permanent address(es) of the parties as indicated in official University records, or emailed to the parties' University-issued email account. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

Appointment of Investigators

Once the decision to commence a formal investigation is made, the Director appoints an investigator (or investigation team / co-investigator) to conduct the inquiry usually within two (2) to three (3) business days of determining that an investigation should proceed. The investigator may be the University Title IX Investigator or an external investigator engaged by the University. All investigations will be thorough, reliable, impartial, prompt, and fair.

Ensuring Impartiality

Any individual materially involved in the administration of the resolution process may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent. The Director will vet the assigned Investigator(s) to ensure impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases.

The parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Director will determine whether the concern is reasonable and supportable. If so, another investigator will be assigned, and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Director, concerns should be raised with General Counsel.

The formal grievance process involves an objective evaluation of all relevant evidence obtained, including evidence that supports that the Respondent engaged in a policy violation and evidence that supports that the Respondent did not engage in a policy violation. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness.

Investigation Timeline

Investigations are completed expeditiously, generally within thirty (30) to sixty (60) business days. However, some investigations may take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc. The University will make a good faith effort to complete investigations as promptly as circumstances permit, and the Director and/or Investigator(s) will communicate regularly with the parties to update them on the progress and timing of the investigation.

Delays in the Investigation Process and Interactions with Law Enforcement

Individuals who believe that they have been subject to sexual violence have the right to proceed with both criminal and University complaints simultaneously. In such cases, the University may defer its investigation for a short time to avoid compromising the criminal process. Still, once it is clear that any such concerns have passed or can be mitigated, the University will promptly resume its investigation.

The Director will communicate in writing the anticipated duration of the delay and reason to the parties and provide the parties with status updates if necessary. In all cases, the Director will ensure appropriate supportive measures are provided so that the individuals affected can continue to participate in and benefit from the University's programs and activities. University action(s) and processes are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

Steps In The Investigation

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant parties and witnesses, obtaining available, relevant evidence, and identifying sources of expert information as necessary. Complainants and Respondents will have a full and fair opportunity, through the investigation and resolution process, to respond fully to the allegations, identify witnesses and questions they want to be asked of the other party/witnesses, provide evidence, and to thoroughly review and respond to all evidence on the record. The Investigator(s) will communicate regularly with the parties to update them on the progress and timing of the investigation.

The Investigator(s) typically take(s) the following steps, if not already completed (not necessarily in this order):

1. Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all witnesses and the parties.
2. Interview the Complainant and Respondent, and all available, relevant witnesses and conduct follow-up interviews as necessary; make a good faith effort to notify the parties of any meeting or interview involving the other party, in advance when possible.
3. When participation of a party or witness is expected, provide that party with written notice of the date, time, and location of the meeting, as well as the expected participants and purpose.
4. Ask and allow each party the opportunity to suggest witnesses and provide documentary evidence.
5. Ask and allow each party the opportunity to suggest questions they wish the Investigator(s) to ask of the other party and witnesses, and document in the investigation report which questions were asked, with a rationale for any changes or omissions.
6. Provide each interviewed party and witness an opportunity to review and verify the investigator's summary notes (or transcript) of the relevant evidence/testimony from their respective interviews and meetings.
7. During the investigation, identify all policies implicated by the alleged misconduct and notify the Complainant and Respondent of all of the specific policies implicated; the Notice may be amended with any additional or dismissed allegations.
8. Provide regular status updates to the parties throughout the investigation.
9. Provide the parties and their respective Advisors (if so desired by the parties) with a list of witnesses whose information will be used to render a finding before the conclusion of the investigation.
10. Complete the investigation promptly and without unreasonable deviation from the intended timeline.
11. Write a comprehensive draft investigation report fully summarizing the investigation, all interviews, and addressing all relevant evidence. The Investigator(s) will synthesize and assess evidence, but make no conclusions, engage in no policy analysis, and render no recommendations as part of their report.
12. Share the draft report with the Director for their review; the Director will review the report and may request further investigation or review from the Investigator(s).
13. Provide the parties and their respective Advisors (if so desired by the parties) a secured electronic copy or hard copy³² of the draft investigation report as well as an opportunity to inspect and review all of the

³² Any party asserting new evidence should clearly identify that evidence, including: identifying any new witnesses who should be interviewed (including a description of what topics/issues the witness should be asked to address and why this is necessary for the investigation; and explaining any new evidentiary materials that should be collected and reviewed to the extent that such items are reasonably available (e.g., emails, text messages, social media postings, etc.) understanding that the investigator lacks the power to subpoena evidence.

evidence obtained as part of the investigation that is directly related to the reported misconduct, including the evidence upon which the University does not intend to rely in reaching a determination. The parties will be afforded the opportunity to pose any follow-up questions for any witness and the other party; submit new or additional evidence or names of witnesses, request a follow-up interview with the Investigator(s) to clarify or provide additional information that such party believes is relevant to the investigation, or to seek clarification from the Investigator(s) on aspects of the investigation report.

14. Parties will have ten (10) business days to review and comment so that each party may meaningfully respond to the evidence. The parties may elect to waive the full ten days.
15. Respond in writing to the parties' submitted responses, share the responses to the investigation report between the parties, ask follow-up questions of the parties and witnesses, as necessary, and review any new evidence submitted by the parties or gathered by the Investigator(s).
16. Incorporate relevant elements of the parties' written responses, include any additional relevant evidence, make any necessary revisions, and finalize the report. The Investigator(s) will document all rationales for any changes to the investigation report made after the review and comment period.
17. Provide the final investigation report to the parties (and their Advisors) through secure electronic transmission or a hard copy at least ten (10) business days before a hearing. The parties are also provided with a file of any directly related evidence that was not included in the report.

Role and Participation of Witnesses in the Investigation

Both the Complainant and Respondent are asked and permitted to provide names of potential witnesses to the investigator. Witnesses may include individuals within and outside the University, including expert witnesses. Witnesses are not entitled to Advisors within the process, though they can be advised externally.

The University protects the privacy of the parties involved in a University investigation and resolution process and prohibits retaliation against those who participate in the investigation process, including witnesses. This means that information about witnesses and what information they share is shared only with those individuals involved in the investigation and resolution of a complaint who need to know, including the parties to a complaint. However, the University cannot and does not guarantee confidentiality or anonymity to anyone participating in the investigation process, including Complainants and Respondents.

Witnesses (as distinguished from the parties) who are employees of the University are expected to cooperate with and participate in the University's investigation and resolution process.

Although in-person interviews for parties and all potential witnesses are ideal, circumstances (pandemics, study abroad, summer break, etc.) may require individuals to be interviewed remotely.

Skype, Zoom, FaceTime, WebEx, or similar technologies may be used for interviews if the Investigator(s) determine that timeliness or efficiency dictates a need for remote interviewing. The University will take appropriate steps to reasonably ensure the security/privacy of remote interviews.

Though not preferred, witnesses may also provide written statements instead of interviews or choose to respond to written questions if deemed appropriate by the Investigator(s). If a witness submits a written statement but does not intend to be and is not present for cross-examination at a hearing, their written statement may still be considered as evidence.

Recording Of Investigator Interviews

No unauthorized audio or video recording of any kind is permitted during meetings or interviews. If Investigator(s) elect to audio record interviews, all involved parties must be made aware of and consent to the audio recording.

Evidentiary Considerations In The Investigation

The investigation does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties, or 3) questions and evidence about the Complainant's sexual

predisposition or prior sexual behavior unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior concerning the Respondent and are offered to prove consent.

Referral To Equity Hearing Panel

Provided that the complaint is not resolved through Informal Resolution, once the final investigation report is shared with the parties, the Director will refer the matter for a hearing before an independent decision-maker (hereafter, "Equity Hearing Panel").

The hearing cannot be less than ten (10) business days from the conclusion of the investigation—when the final investigation report is transmitted to the parties and the Equity Hearing Panel—unless all parties and the Chair of the Equity Hearing Panel agree to an expedited timeline.

The Director will select an appropriate three (3) person Equity Hearing Panel from the Pool depending on whether the Respondent is an employee or a student.

Live Hearing Format: Process A

The default formal resolution process is to hold a live hearing with direct cross-examination by the Advisor on behalf of a party. The procedures below (PROCESS A) apply to all formal complaints of sexual harassment (including sexual assault, domestic violence, dating violence, and stalking) involving students, staff, or faculty, and can be applied to formal complaints of protected class discrimination and harassment as defined in PART B.

The University will hold a live hearing carried out by the appropriate Equity Hearing Panel.

- The University will hold live hearings for the resolution of *all* formal complaints to qualifying allegations of sexual harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined above) involving students, staff, or faculty members.
- Before the live hearing, the Chair of the Equity Hearing Panel will hold pre-hearing meetings and takes other steps to educate the parties about the process; define the hearing's scope; and promote an orderly, productive, and respectful hearing.
- The hearing will cover issues that are disputed and relevant to whether a Policy violation occurred. The parties are expected not to spend time on undisputed facts or evidence that would be duplicative.
- Live hearing procedures are further described below.

Administrative Resolution Format: Process B

The Complainant and the Respondent have the right to request that all formal complaints of alleged discrimination, harassment, and sexual misconduct that may be in violation of this Policy be resolved by administrative resolution and decided by an Equity Hearing Panel. A Complainant and Respondent may alternatively pursue another form administrative resolution concerning protected class harassment or discrimination (as defined in PART B of this Policy) when jurisdiction does not fall within PROCESS A as determined by the Director). If either party contests (or is presumed to contest), the University will hold a live hearing. If neither party contests, then the investigation report and all evidence that is both relevant and directly related to the complaint will be provided to the Panel for their consideration.

The Panel reviews the final investigation report, evidence, all responses to the investigation report, statements of the parties, witness statements, communications, documents, and other evidence to verify that the investigation was thorough, reliable, fair, and impartial. If the record is determined to be incomplete, the Panel may direct a re-opening of the investigation or may direct or conduct any additional inquiry necessary, including informally meeting with the parties or any witnesses, if needed.

The Panel then makes the final determination based on the preponderance of the evidence. The Panel may invite and consider impact statements from the parties if and when determining the appropriate sanction(s), if any. The

Chair of the Panel then timely provides the parties with a written Notice of Outcome to include findings, any sanction(s), and a detailed rationale, delivered simultaneously (without undue delay) to the parties.

Equity Hearing Panel

The Director will establish the appropriate hearing body drawn from pool used to constitute the Equity

Hearing Panel (hereafter, "Panel"). The formal grievance process relies on a pool of faculty and staff to carry out the process. Members of the Pool are announced in an annual distribution of this Policy to all students, parents/guardians of students, employees, prospective students, and prospective employees.

Pool Member Roles

Members of the Pool are trained annually, and may be called to serve in one of the following roles:

- To act as a University Process Advisor to the parties.
- To serve as a hearing facilitator, decision-maker, and Chair.
- To serve as an Appeal decision-maker.

Members of the pool are typically trained in a variety of skill sets and can rotate amongst the different roles listed above in different cases. The University can also designate permanent roles for individuals in the Pool, using others as substitutes, or to provide greater depth of experience when necessary. This process of role assignment may be the result of particular skills, aptitudes, or talents identified in members of the Pool that make them best suited for specific roles.

Panel Appointment

Pool members are usually appointed to three-year terms. Individuals who are interested in serving in the pool are encouraged to contact the UCC.

- The Director, Student Affairs Committee, and Staff Affairs Committee, appoint/elect members of the Pool to formal grievances involving student and staff Respondents. The members of the Pool act with independence and impartiality.
- The Faculty Judicial Board is appointed per the provisions of the Faculty Handbook and University governance process. The Faculty Judicial Board acts with independence and impartiality to hear formal grievances involving faculty Respondents.³³

Panel Training

The Pool members receive comprehensive, trauma-informed, annual training that includes, but is not limited to:

- The scope of the University's Policy on Discrimination, Harassment, and Sexual Misconduct, and applicable definitions, response, investigation, and resolution procedures.
- How to conduct hearings that protect the safety of Complainants and Respondents and promote accountability.
- Awareness of implicit bias, disparate treatment, and impact.
- Reporting, confidentiality, and privacy requirements.
- Applicable laws, regulations, and federal regulatory guidance.
- How to implement appropriate and situation-specific remedies.

³³ See Section 3.10.2, Faculty Handbook for Faculty Judicial Board Composition

- How to uphold fairness, equity, and due process.
- How to weigh evidence.
- How to conduct the questioning.
- How to assess the credibility.
- Impartiality and sound judgment.
- How to render findings and generate clear, concise, evidence-based rationales.
- The definitions of all offenses and relevant University policies.
- How to apply definitions used by the University concerning affirmative consent (or the absence or negation of consent) consistently, impartially, and by the Policy.
- How to conduct a grievance process including hearings, appeals, and informal resolution processes.
- How to serve impartially by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.
- Any technology to be used at a live hearing.
- Issues of the relevance of questions and evidence.
- How to determine appropriate sanctions about all forms of harassment, discrimination, and/or retaliation allegations.
- Recordkeeping.

Specific training is also provided for members of the Equal Opportunity and Title IX Team, investigators, intake personnel, University Process Advisors, Panel members, Appeal Panel members, and chairs of Panels. All Equity Hearing Panel Pool members are required to attend these training sessions annually. Training materials are publicly posted here: <https://www.scu.edu/title-ix/training-prevention/titleix>

Panel Composition

The Director will assemble an Equity Hearing Panel (or a three-member panel) from an appointed and elected Pool. The composition of the Panel is dependent on whether the Respondent is a student, faculty member, or staff member. With a panel, one of the three members will be appointed as Chair.

- **Student or Staff Respondent:** The Equity Hearing Panel Three (3) faculty or staff members who have been elected or appointed to the Pool by the UCC.
- **Faculty Respondent:** Three (3) faculty appointed to the Faculty Judicial Board pool.

All members of the Panel must be impartial and free from actual bias and conflict of interest, and must not have had previous involvement with the allegation. An alternate panel member will sit in throughout the process if needed or at the discretion of the Chair.

Those who are serving as Advisors for any party may not serve on the Panel in that matter. Members of the Equal Opportunity and Title IX team may not serve as Advisors or serve on an Equity Hearing Panel. The Director may serve as an administrative facilitator of the hearing unless there is a conflict of interest. Otherwise, a designee may fulfill this role.

Notice of Hearing

The hearing will convene at a time determined by the Chair. No less than ten (10) business days before the hearing, the Director or the Chair will send notice of the hearing to the parties. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The Notice of Hearing will contain:

- A description of the alleged violation(s), a list of all University policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result.
- The time, date, and location of the hearing and a reminder that attendance is mandatory, superseding all other campus activities.
- Any technology that will be used to facilitate the hearing.
- Notice that the live hearing will occur with the parties located in separate rooms using technology that enables the Panel and parties to see and hear a party or witness answering questions.
- A list of all those who will attend the hearing, along with an invitation to object to any Panel member based on demonstrated conflict of interest or bias. This must be raised with the Director within three (3) business days after notice of the hearing is delivered.
- Information on how the hearing will be recorded and on access to the transcript of recording for the parties after the hearing.
- A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence, and the party's or witness's testimony and any statements given before the hearing will not be considered by the Panel. For compelling reasons, the Chair may reschedule the hearing.
- Notification that the parties may have the assistance of an Advisor of their choosing at the hearing and will be required to have one present for any questions they may desire to ask.
 - Each party must have an Advisor present. There are no exceptions.
 - The party must notify the Director if they do not have an Advisor, and the University will appoint one.
- A copy of all the materials (investigation report, evidence appendix, policies, and procedures)³⁴ provided to the Panel about the matter unless they have been provided already.
- An invitation to each party to submit to the Chair an impact statement pre-hearing that the Panel will review during any sanction determination.
- An invitation to contact the Director to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least seven (7) business days before the hearing.

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this Policy) and are unable to be resolved before the end of the academic term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by the University and remain within the 60-90-day goal for resolution.

In these cases, if the Respondent is a graduating student, a hold may be placed on graduation and/or official transcripts until the matter is fully resolved (including any appeal). A student facing charges under this Policy is not in good standing to graduate.

³⁴ The final investigation report and evidence appendix may be shared using secured electronic means.

Pre-Hearing Preparation

The Chair (or hearing facilitator) after any necessary consultation with the parties, Investigator(s) and/or Director, will provide the names of persons who will be participating in the hearing, all pertinent documentary evidence, and the final investigation report to the parties at least ten (10) business days before the hearing.

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator(s) or have proffered a written statement and answered written questions, unless all parties and the Chair assent to the witness's participation in the hearing. The same holds for any evidence that is first offered at the hearing. If the parties and Chair do not consent to the admission of evidence newly provided at the hearing, the Chair may delay the hearing and instruct that the investigation needs to be re-opened to consider that evidence.

The parties will be given a list of the names of Panel members. All objections to any member of the Panel must be raised in writing, detailing the rationale for the objection, and must be submitted to the Director as soon as possible and no later than three days after notice of hearing is delivered. Panel members will only be removed if the Director concludes that their bias or conflict of interest precludes an impartial hearing of the allegation(s).

The Director will give the Panel a list of the names of all parties, witnesses, and Advisors at least seven (7) business days in advance of the hearing. Any Panelist who cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the parties, witnesses, and Advisors in advance of the hearing. If a Panelist is unsure of whether bias or conflict of interest exists, they must raise the concern to the Director as soon as possible.

During the ten (10) business day period before the hearing, the parties have the opportunity for continued review and comment on the final investigation report and available evidence. That review and comment can be shared with the Chair at the pre-hearing meeting or the hearing and will be exchanged between each party by the Chair.

Pre-Hearing Meetings

The Chair may convene a pre-hearing meeting(s) with the parties and/or their Advisors to invite them to submit the questions or topics they (the parties and/or their Advisors) wish to ask or discuss at the hearing, so that the Chair can rule on their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or provide recommendations for more appropriate phrasing. However, this advance review opportunity does not preclude the Advisors from asking a question for the first time at the hearing or from asking for a reconsideration based on any new information or testimony offered at the hearing.

The Chair will document and share with each party their rationale for any exclusion or inclusion at a pre-hearing meeting.

The Chair, only with full agreement of the parties, may decide in advance of the hearing that certain witnesses do not need to be present if their testimony can be adequately summarized by the Investigator(s) in the investigation report or during the hearing.

At each pre-hearing meeting with a party and their Advisor, the Chair will consider arguments that evidence identified in the final investigation report as relevant is, in fact, not relevant. Similarly, evidence identified as directly related but not relevant by the Investigator(s) may be argued to be relevant. The Chair may rule on these arguments pre-hearing and will provide those rulings to the parties prior to the hearing to assist in preparation for the hearing.

The Chair may consult with legal counsel and/or the Director, or ask either or both to attend pre-hearing meetings.

The pre-hearing meeting(s) will/will not be recorded.

Live Hearing Procedures

At the hearing, the Panel has the authority to hear and make determinations on all allegations of discrimination, harassment, sexual harassment, and/or retaliation and may also hear and make determinations on any additional alleged University policy violations that have occurred in concert with the discrimination, harassment, sexual

harassment, and/or retaliation, even though those collateral allegations may not specifically fall within the Policy on Discrimination, Harassment, and Sexual Misconduct.

Participants at the hearing will include the Chair, the Panel members, the hearing facilitator, the Investigator(s) who conducted the investigation, the parties (or three (3) organizational representatives when an organization is a Respondent), Advisor to the parties (one each), any called witnesses, and anyone providing authorized accommodations or assistive services. The Chair will answer all questions of procedure.

Alternative Arrangements: Both parties have the right to a range of options for providing testimony and participating in the hearing process. Alternative arrangements must enable both parties and the hearing officers to hear and see each other. These arrangements include videoconferencing.

Anyone appearing at the hearing to provide information will respond to questions on their behalf.

The Chair will allow witnesses who have relevant information to appear at a portion of the hearing to answer specific questions from the Panel and the parties' Advisors, and witnesses will then be excused.

Joint Hearings

In hearings involving more than one Respondent or in which two (2) or more Complainants have accused the same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly. However, the Director may permit the investigation and/or hearings pertinent to each Respondent to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent concerning each alleged policy violation.

Evidentiary Considerations by the Equity Hearing Panel

Any evidence that the Panel determines is relevant and credible may be considered. Evidence that will not be considered includes: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility. This information is only considered at the sanction stage of the process and is not shared until then.

The parties may each submit a written impact statement before the hearing for the consideration of the Panel(s) at the sanction stage of the process when a determination of responsibility is reached.

After post-hearing deliberation, the Panel renders a determination based on the preponderance of the evidence: whether it is more likely than not that the Respondent violated the Policy as alleged.

Order of the Hearing

Introductions and Explanation of Procedure

The Chair explains the procedures and introduces the participants. This may include a final opportunity for challenge or recusal of a member of the Panel based on evidence of bias or conflict of interest. The Chair will rule on any such challenge unless the Chair is the individual who is the subject of the challenge, in which case the Director will review and decide the challenge.

The Chair and/or hearing facilitator then conducts the hearing according to the hearing script. At the hearing, recording, witness logistics, party logistics, curation of documents, separation of the parties, and other

administrative elements of the hearing process are managed by a non-voting hearing facilitator appointed by the Director.³⁵

Investigator(s) Presents the Final Investigation Report

The Investigator(s) will then present a summary of the final investigation report, including items that are contested and those that are not, and will be subject to questioning by the Equity Hearing Panel(s) and the parties (through their Advisors). The Investigator(s) will be present during the entire hearing process, but not during deliberations. An investigator may not testify as to statements made by others, including the Complainant or Respondent if the individual who made a statement does not subject themselves to cross-examination.

Testimony and Questioning

Once the Investigator(s) present their report and are questioned, the parties and witnesses may provide relevant information in turn, beginning with the Complainant, and then in the order determined by the Chair. The parties/witnesses will submit to questioning by the Panel and then by the parties through their Advisors ("cross-examination"). Such cross-examination at the live hearing will be conducted directly, orally, and in real time by the party's Advisor and never by a party personally.

All questions are subject to a relevance determination by the Chair. The Advisor, who will remain seated during questioning, will pose the proposed question orally, electronically, or in writing (orally is the default, but other means of submission may be permitted by the Chair upon request if agreed to by all parties and the Chair) and the proceeding will pause to allow the Chair to consider it (and state it if it has not been said aloud). The Chair will determine whether the question will be permitted, disallowed, or rephrased.

The Chair may invite explanations or persuasive statements regarding relevance from the Advisors if the Chair so chooses. The Chair will then state their decision on the question for the record and advise the party/witness to whom the question was directed, accordingly. The Chair will explain any decision to exclude a question as not relevant or to reframe it for relevance.

The Chair first screens the questions and will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The Chair has the final say on all questions and determinations of relevance. The Chair may consult with legal counsel on any questions of admissibility. The Chair may ask Advisors to frame why a question is or is not relevant from their perspective but will not entertain argument from the Advisors on relevance once the Chair has ruled on a question.

If the parties raise an issue of bias or conflict of interest of an Investigator or the Panel at the hearing, the Chair may elect to address those issues, consult with legal counsel, and/or refer them to the Director, and/or preserve them for appeal. If bias is not in issue at the hearing, the Chair should not permit irrelevant questions that probe for bias.

Refusal To Submit to Cross-Examination and Inferences

If a party or witness chooses not to submit to cross-examination at the hearing, either because they do not attend the hearing, or they attend but refuse to participate in cross-examination, then the Panel may choose to rely on any prior statement made by that party or witness at the hearing (including those contained in the investigation report) in the ultimate determination of responsibility. Evidence provided that is something other than a statement by the party or witness may be considered.

A party or witness may choose to attend the hearing and answer all, some, or none of cross-examination questions. However, if the statements of the party who is refusing to submit to cross-examination or refuses to attend the hearing are the subject of the allegation itself (e.g., the case is about verbal harassment or a quid pro

³⁵ The hearing facilitator may attend to: logistics of rooms for various parties/witnesses as they wait; flow of parties/witnesses in and out of the hearing space; ensuring recording and/or virtual conferencing technology is working as intended; copying and distributing materials to participants, as appropriate, etc.

quo offer), then those statements are not precluded from admission. Statements can be relied upon when questions are posed by the Panel, as distinguished from questions posed by Advisors through cross-examination.

If charges of policy violations other than sexual harassment are considered at the same hearing, the Panel may consider all evidence it deems relevant, may rely on any relevant statement as long as the opportunity for cross-examination is afforded to all parties through their Advisors, and may draw reasonable inferences from any decision by any party or witness not to participate or respond to questions.

If a party's Advisor of choice refuses to comply with the University's established rules of decorum for the hearing, the University may require the party to use a different Advisor. If a University-provided Advisor refuses to comply with the rules of decorum, the University may provide that party with a separate Advisor to conduct cross-examination on behalf of that party.

Deliberation, Decision-Making, and Standard of Proof

The Equity Hearing Panel will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. A simple majority vote is required to determine the finding. Deliberations are not recorded.

The standard of proof is "preponderance of the evidence." The Equity Hearing Panel must determine whether it is "more likely than not" that a University Policy violation occurred.

The hearing facilitator may be invited to attend the deliberation by the Chair but is there only to facilitate procedurally, not to address the substance of the allegations.

When there is a finding of responsibility on one or more of the allegations, the Equity Hearing Panel(s) may then consider the previously submitted party impact statements in determining the appropriate sanction(s). The Chair will ensure that each of the parties has an opportunity to review any impact statement submitted by the other party(ies). The Equity Hearing Panel(s) may - at their discretion - consider the statements, but the statements are not binding.

The Equity Hearing Panel will review the statements and any pertinent conduct history provided by the appropriate administrator.³⁶ It will recommend the appropriate sanction(s) in consultation with other appropriate University administrators, as required.

The Chair will then prepare a written deliberation statement and deliver it to the Director of Equity and Title IX Coordinator, detailing the determination, rationale, the evidence used in support of its determination, the evidence not relied upon in its determination, credibility assessments, and any sanctions, and/or recommendations. This report is typically submitted to the Director within three (3) business days of the end of deliberations, unless the Director grants an extension for compelling reasons. If an extension is granted, the Director will notify the parties.

Recording Hearings

Hearings (but not deliberations) are recorded by the University for purposes of review in the event of an appeal. The parties may not record the proceedings, and no other unauthorized recordings are permitted. The Equity Hearing Panel, the parties, their Advisors, and appropriate administrators of the University will be permitted to listen and/or review a transcript of the recording in a controlled environment determined by the Director. No person will be given or be allowed to make a copy of the recording without permission of the Director.

Notice Of Hearing Outcome

Using the deliberation statement, the Director will work with the Chair to prepare a Notice of Outcome. The Director will then share the letter, including the final determination, rationale, and any applicable sanction(s) with the parties and their Advisors within three (3) business days of receiving the Equity Hearing Panel's deliberation statement. The Notice of Outcome will be shared with the parties simultaneously.

³⁶ An appropriate administrator from the Office of Student Life, Human Resources, or Office of the Provost.

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official University records, or emailed to the parties' university-issued email or otherwise approved account. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The Notice of Outcome will articulate the specific University policies reported to have been violated, if any, including the relevant policy section, and will contain a description of the procedural steps taken by the University from the receipt of the misconduct report to the determination, including any and all notifications to the parties, interviews with parties and witnesses, site visits, methods used to obtain evidence, and hearings held.

The Notice of Outcome will specify the finding on each alleged policy violation; the findings of fact that support the determination; conclusions regarding the application of the relevant Policy to the facts at issue; a statement of, and rationale for, the result of each allegation to the extent the University is permitted to share such information under state or federal law; any sanctions issued which the University is allowed to share according to state or federal law; and any remedies provided to the Complainant designed to ensure access to the University's educational or employment program or activity, to the extent the University is permitted to share such information under state or federal law (this detail is not typically shared with the Respondent unless the remedy directly relates to the Respondent).

The Notice of Outcome will also include information on when the results are considered by the University to be final, any changes that occur before finalization, and the relevant procedures and bases for any available appeal options.

Sanctions

Factors considered when determining a sanction/responsive action may include, but are not limited to:

- Nature, the severity of, and circumstances surrounding the violation(s).
- Respondent's disciplinary history.
- Previous allegations involving similar conduct.
- Need for sanctions/responsive actions to bring an end to the discrimination, harassment, sexual harassment, sexual violence, and/or retaliation.
- Need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, sexual harassment, sexual violence, and/or retaliation.
- Need to remedy the effects of discrimination, harassment.
- Retaliation against Complainant and the community.
- Impact on the parties.
- Any other information deemed relevant by the Equity Hearing Panel(s).

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested. The sanctions described in this Policy are not exclusive of and may be in addition to, other action taken or sanctions imposed by external authorities.

Student Sanctions/Responsive Measures

Below is a non-exhaustive list of common student sanctions that may be used singly or in combination. When a Respondent is both a student and an employee of the University, the Respondent may be subject to both the sanctions applicable to students and employees.

- **Warning:** A formal statement that the behavior was unacceptable and a warning that further infractions of any University policy, procedure, or directive will result in more severe sanctions/responsive actions.

- **Required Training or Education:** A mandate to participate in a training or educational program identified by the University to address the cause of inappropriate behavior. Sanctions imposed will be situational and dependent on the nature of the offense and appropriateness of the severity of the violation.
- **Probation:** A written reprimand for violation of the Student Conduct Code. Terms of the probation will be specified and may include denial of specified privileges, exclusion from co-curricular activities, non-contact orders, and/or other measures deemed appropriate.
- **Restriction:** A condition(s) imposed on a student that would specifically dictate and limit access to or participation in University facilities, programs, or activities.
- **Suspension:** Termination of student status for a definite time not to exceed two years and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure at the University.
- **Expulsion:** Permanent termination of student status, including revocation of rights to be on campus for any reason or attend or participate in the university-sponsored event, program, or activity. This sanction will be noted as a Conduct Expulsion on the student's official transcript.
- **Other Actions:** In addition to or in place of the above sanctions, the University may assign any other sanctions as deemed appropriate.

Employee Sanctions/Responsive Measures

Below is a non-exhaustive list of common sanctions that may be used in upon students singly or in combination, for employees who violate this Policy:

- Warning - Verbal or Written
- Performance Improvement Plan
- Enhanced supervision, observation, or review
- Required counseling or coaching
- Required training or education
- Probation
- Denial of pay increase
- Loss of oversight or supervisory responsibility
- Demotion
- Transfer or reassignment
- Assignment to new supervisor
- Suspension with pay/ Suspension without pay
- Termination
- **Other Actions:** In addition to or in place of the above sanctions/responsive actions, the University may assign any other responsive actions as deemed appropriate.

Withdrawal Or Resignation While Charges Pending

Students

If a student has an allegation pending for violation of the Policy on Equal Opportunity, Harassment, and Nondiscrimination, the University may place a hold on a student's ability to graduate and/or to receive an official transcript/diploma. Should a student Respondent decide not to participate in the resolution process, the process proceeds absent their participation to a reasonable resolution. Should a student Respondent permanently withdraw from the University, the resolution process ends, as the University no longer has disciplinary jurisdiction over the withdrawn student. However, the University will continue to address and remedy any systemic issues, variables that may have contributed to the alleged violation(s), and any ongoing effects of the alleged harassment, discrimination, and/or retaliation.

The student who withdraws or leaves while the process is pending may not return to the University. Such exclusion applies to all campuses and programs of Santa Clara University. A hold will be placed on their ability to be readmitted. They may also be barred from University property and/or events.

If the student Respondent only withdraws or takes a leave for a specified time (e.g., one semester or term), the resolution process may continue remotely. That student is not permitted to return to University unless and until all sanctions have been satisfied.

Employees

Should an employee Respondent resign with unresolved allegations pending, the resolution process ends, as the University no longer has disciplinary jurisdiction over the resigned employee.

However, the University will continue to address and remedy any systemic issues, variables that contributed to the alleged violation(s), and any ongoing effects of the alleged harassment or discrimination.

An employee who resigns with unresolved allegations pending is not eligible for rehire with the University or any campus of the University, and the records retained by Human Resources and/or Office of the Provost will reflect that status.

All University responses to future inquiries regarding employment references for that individual will include that the former employee resigned during a pending disciplinary matter.

Appeals

Any party may file a request for appeal submitted in writing to the Director within three (3) days of the delivery of the Notice of Outcome. A three-member appeal panel chosen from the Pool will be designated by the Director. The composition of the Appeal Panel is dependent on whether the responding party is a student, faculty member, or staff member.

- **Appeal Panel for a Student or staff member:** If the responding party is a student or staff member, the Appeal Panel will consist of three (3) faculty or staff members who have been elected or appointed to the Equity Hearing Pool.
- **Appeal Panel for Faculty:** If the responding party is a faculty member, the Appeal Panel will consist of three (3) faculty members elected (or appointed) to the Faculty Judicial Board.

No appeal Panel members will have been involved in the process previously, including any dismissal appeal that may have been heard earlier in the process. The panel will select a voting Chair.

The Request for Appeal will be forwarded to the Appeal Chair for consideration to determine if the request meets the grounds for appeal (a Review for Standing). This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed.

Grounds for Appeal: Appeals are limited to the following grounds:

1. The substantive, procedural irregularity that affected the outcome of the matter.
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made that could affect the outcome of the matter.
3. The Director, the Investigator(s), or the member(s) Equity Hearing Panel(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.

If any of the grounds in the Request for Appeal do not meet the grounds in this Policy, that request will be denied by the Appeal Chair, and the parties and their Advisors will be notified in writing of the denial and the rationale.

If any of the grounds in the Request for Appeal meet the grounds in this Policy, then the Appeal Chair will notify the other party(ies) and their Advisors, the Director, and, when appropriate, the investigators and/or the Chair of the original Equity Hearing Panel. Notification will be made in writing and may be delivered to the parties by one or more of the following methods: in person, mailed to the local or permanent address(es) of the parties as indicated in official University records, or emailed to the parties' University-issued email account. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

All responses will be forwarded by the Chair to all parties for review and comment. The non-appealing party (if any) may also choose to raise a new ground for appeal at this time. If so, that will be reviewed to determine if it meets the grounds in this Policy by the Appeal Chair and either denied or approved. If approved, it will be forwarded to the party who initially requested an appeal, the Investigator(s) and/or original Decision-maker(s), as necessary, who will submit their responses in three (3) business days, which will be circulated for review and comment by all parties. Neither party may submit any new requests for appeal after this time period.

Appeal Considerations

The Appeal Chair will collect any additional information needed, and all documentation regarding the approved grounds and the subsequent responses will be shared with the Appeal Panel. The Appeal Panel will render a decision in no more than three (3) business days, barring exigent circumstances. All decisions are by majority vote and apply the preponderance of the evidence.

- Appeal decisions are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so.
- Appeals are not intended to provide for a full re-hearing (de novo) of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.
- An appeal is not an opportunity for an Appeal Panel to substitute their judgment for that of the original Equity Hearing Panel merely because they disagree with the finding and/or sanction(s).
- The Appeal Chair may consult with the Director on questions of procedure or rationale, for clarification, if needed. Documentation of all such consultations will be maintained by the Office of Equal Opportunity and Title IX by the record retention schedule.
- Appeals granted based on new evidence should ordinarily be remanded to the original Investigator(s) and/or Equity Hearing Panel(s) for reconsideration. Other appeals may be remanded at the discretion of the Chair, in limited circumstances, decided on appeal.
- Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new hearing).
- In rare cases where a substantive, procedural error cannot be cured by the original Equity Hearing Panel (as in cases of bias), the appeal may order a new hearing with a new panel.

- The results of a remand to a new Equity Hearing Panel cannot be appealed. The results of a new hearing can be appealed, once, on any of the three available appeal grounds.
- In cases in which the appeal results in reinstatement to the University or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

Appeal Outcome

A Notice of Appeal Outcome will be sent to all parties simultaneously, including the decision on each approved ground and rationale for each decision. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanctions that may result which the University is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the University is allowed to share under state or federal law.

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official institutional records, or emailed to the parties' university-issued email or otherwise approved account. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

Sanctions Status During the Appeal

Any sanctions imposed as a result of the hearing are stayed during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures above. If any of the sanctions are to be implemented immediately post-hearing, but pre-appeal, then emergency removal procedures (detailed above) for a hearing on the justification for doing so must be permitted within 48 hours of implementation. The University may still place holds on official transcripts, diplomas, graduations, and course registration pending the outcome of an appeal when the original sanctions included separation.

Long-Term Remedies/Other Actions

Following the conclusion of the resolution process, and in addition to any sanctions implemented, the Director may implement additional long-term remedies or actions with respect to the parties and/or the campus community that is intended to stop the harassment, discrimination, and/or retaliation, remedy the effects, and prevent reoccurrence.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the individual and/or the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Provision of transportation accommodations
- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

When no policy violation is found, the Director will address any remedies owed by the University to the Respondent to ensure no effective denial of educational or employment access.

At the discretion of the Director, certain long-term support or measures may also be provided to the parties, even if no policy violation is found.

The University will maintain the privacy of any long-term remedies/actions/measures, provided privacy does not impair the University's ability to provide these services.

Failure To Comply

All Respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the timeframe specified by the Equity Hearing Panel (including the Appeal Panel). Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from the University. A suspension will only be lifted when compliance is achieved to the satisfaction of the Office of Student Life, Provost's Office, and Human Resources, as appropriate.

APPENDIX A: RIGHTS OF THE PARTIES

1. The right to an equitable investigation and resolution of all credible allegations of prohibited discrimination or harassment (if known) made in good faith to the University officials.
2. The right to timely written notice of all alleged violations, including the identity of the parties involved (if known), the precise misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated University policies and procedures, and possible sanctions.
3. The right to timely written notice of any material adjustments to the allegations (e.g. additional incidents or allegations, additional Complainants, unsubstantiated allegations) and any attendant adjustments needed to clarify potentially implicated policy violations.
4. The right to be fully informed of relevant University policies and procedures as well as the nature and extent of all alleged violations.
5. The right to be informed in advance of any public release of information regarding the allegation(s) or underlying incident(s), whenever possible.
6. The right to not have any personally identifiable information released to the public, without consent provided, except to the extent permitted by law.
7. The right to be treated with respect by University officials.
8. The right to have the University policies and procedures followed without material deviation.
9. The right to not be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence.
10. The right to not be discouraged by the University officials from reporting sexual misconduct or discrimination to both on-campus and off-campus authorities.
11. The right to be informed by the University officials of options to notify proper law enforcement authorities, and/or other University officials.
12. The right to have allegations of violations of this Policy responded to promptly by the University officials.
13. The right to be informed of available supportive measures, such as counseling, advocacy, healthcare, legal, student financial aid, visa, and immigration assistance, or other services, both on campus and in the community.
14. The right to request a University-implemented no-contact directive (or a no-trespass order against a non-affiliated third party) when a person has engaged in or threatens to engage in stalking, threatening, harassing or other improper conduct that presents a danger to the welfare of the party or others.³⁷
15. The right to privacy.
16. The right to be informed of available supportive measures in changing academic, living, and/or working situations after an alleged incident of discrimination, harassment, and/or retaliation, if such changes are reasonably available. No formal report or investigation, either campus or criminal, needs to occur before this option is available. The right to have the University maintain such actions for as long as necessary

³⁷ No Contact Directives are not part of the University disciplinary process, and they do not constitute a finding of or charge of any violation of University policy. Nor are they intended to be punitive in any way. Rather, they are intended to forestall future interactions that could be interpersonal conflicts or situations that may interfere with an individual's educational or work environment.

and for supportive measures to remain private, provided privacy does not impair the University's ability to provide the accommodations or protective measures.

17. The right to receive sufficiently advanced, written notice of any meeting or interview involving the other party, when possible.
18. The right to ask the Investigator(s) and Decision-Makers to identify and question relevant witnesses, including expert witnesses.
19. The right to provide the Investigator(s) and Decision-Makers with a list of questions that, if deemed relevant and appropriate by the Investigator(s) or Chair, may be asked of any party or witness.
20. The right to not have irrelevant prior sexual history or character admitted as evidence.
21. The right to know the relevant and directly related evidence obtained, and to respond to that evidence.
22. A right to a fair opportunity for the parties to provide the Investigator(s) with their account of the alleged misconduct, and have that account be on the record.
23. The right to receive a copy of the investigation report, including all factual analysis performed, and all relevant and directly related evidence available and used to produce the investigation report, subject to the privacy limitations imposed by state and federal law, prior to the hearing, and the right to have at least ten (10) days to review the report prior to the hearing.
24. The right to respond to the investigation report, including comments, providing any additional relevant evidence, and identifying any new witnesses after having the opportunity to review the investigation report, and to have those responses on the record.
25. The right to be informed of the names of all witnesses whose information will be used to make a finding, in advance of the hearing and that finding, where relevant.
26. The right to regular updates on the status of the investigation and/or resolution.
27. The right to have reports of alleged Policy violations addressed by staff in the Office of Equal Opportunity and Title IX, investigators, and Panel members who have received relevant annual training.
28. The right to have an Equity Hearing Panel that is not single-sex in composition. The right to preservation of privacy, to the extent possible and permitted by law.
29. The right to meetings, interviews, and/or hearings that are closed to the public.
30. The right to petition that any University representative in the process be recused on the basis of a disqualifying bias or conflict of interest.
31. The right to have an Advisor of their choice, or to have an Advisor appointed by the institution to accompany and assist the party in all meetings and/or interviews associated with the investigation and resolution process.
32. The right to have an Advisor conduct cross-examination of the other party and witnesses at a grievance hearing, if any.
33. The right to the use of the preponderance of the evidence standard to make a finding after an objective evaluation of all relevant evidence.
34. The right to be present via remote technology, during all testimony given and evidence presented during any formal grievance hearing.
35. The right to submit an impact statement in writing to be by the Panel following a determination of responsibility of any allegation, but prior to sanctioning.

36. The right to be promptly informed in a written Notice of Outcome letter of the finding(s) and sanction(s) of the resolution process and a detailed rationale therefore (including an explanation of how credibility was assessed), delivered simultaneously (without undue delay) to the parties.
37. The right to be informed in writing of when a decision by the University is considered final and any changes to the sanctions that occur before the decision is finalized.
38. The right to be informed of the opportunity to appeal the finding(s) and sanction(s) of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by the University.
39. The right to a fundamentally fair resolution as defined in these procedures.

APPENDIX B: ROLE AND EXPECTATIONS OF ADVISOR

Right To An Advisor

- The parties may each have an Advisor³⁸ of their choice present with them for all meetings, interviews, and at a formal grievance hearing within the resolution process, if they so choose. The parties may select whoever they wish to serve as their Advisor as long as the Advisor is eligible and available.³⁹ Parties also have the right to choose not to have an Advisor in the initial stages of the investigation resolution process, prior to a formal grievance hearing.
- The parties are expected to inform the Director of Equal Opportunity and Title IX (hereafter referred to as the "Director") of the identity of their Advisor at least one (1) business day before the date of the scheduled interview or meeting (or as soon as possible if a more expeditious meeting is necessary or desired). A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. The parties are expected to provide timely notice to the Director if they change Advisors at any time.
- Similarly, parties are expected to inform the Director of who their hearing Advisors will be, at least three (3) business days before the hearing. Advisors are subject to the same University policies and administrative rules, whether they are attorneys or not.
- The University cannot guarantee equal Advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not or cannot afford an attorney, the University is not obligated to provide an attorney.

Support Person

- The parties are encouraged to seek guidance and support from other individuals of their choosing for guidance and support throughout the process.
- A support person or advocate who is not designated as the party's "Advisor" may not attend interviews or be present at a formal grievance hearing.

Who Can Serve As An Advisor

- The Advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the reporting, investigation and/or informal or formal resolution process.
- The parties may choose Advisors from inside or outside of the University community.
- Choosing an Advisor who is also a witness in the process creates potential for bias and conflict-of-interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the Equity Hearing Panel.
- If the parties choose an Advisor from outside the pool of those identified by the University, the Advisor may not have been trained by the University and may not be familiar with University policies and procedures.

³⁸ Title IX permits one Advisor for each party (witnesses are not entitled to Advisors within the process, though they can be advised externally).

³⁹ "Available" means the party cannot insist on an Advisor who simply doesn't have inclination, time, or availability. Also, the Advisor cannot have institutionally conflicting roles, such as being a member of the Equal Opportunity and Title IX Team who has an active role in the matter, or a supervisor who must monitor and implement sanctions.

University Process Advisor

- The Director will also offer to assign an Advisor for any party if the party so chooses. If the parties choose an Advisor from the pool available, the University Process Advisor will be trained by the University and be familiar with the University's resolution process.
- University Process Advisor can provide clarification about University policies and procedures, and may attend all meetings, investigation interviews, and resolution proceedings, at which their advisee is entitled to be present, and review documents and materials from the investigation, the draft and final investigation report, and any relevant documents related to the outcome resolution process. A University appointed Advisor cannot provide legal advice.

Advisor's Role in Meetings and Interviews

- The parties may be accompanied by their Advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith.
- Where applicable under state law or University policy, Advisors who are attorneys are permitted to fully represent their advisees or clients in resolution proceedings, including all meetings, interviews, and hearings.
- Advisors may request to meet with the administrative officials conducting interviews/meetings in advance of these interviews or meetings. This pre-meeting allows Advisors to clarify and understand their role and University's policies and procedures.

Sharing Information with the Advisor and Privacy

- The University expects that the parties may wish to have the University share documentation and evidence related to the allegations with their Advisors. Parties may share this information directly with their Advisor or other individuals if they wish. Doing so may help the parties participate more meaningfully in the resolution process.
- The University also provides a consent form that authorizes the University to share such information directly with their Advisor. The parties must either complete and submit this form to the Director or provide similar documentation demonstrating consent to a release of information to the Advisor before the University is able to share records with an Advisor.
- If a party requests that all communication be made through their attorney Advisor, the University will not comply with that request.

Privacy Of Records Shared With Advisor

- Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by University. The University may seek to restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the University's privacy expectations.
- The University's communication protocol with the Complainant or Respondent does not permit going through a representative or other intermediary because of the importance of direct communication with the Complainant or Respondent during the investigation and resolution process as described in the Policy.
- Parties may share information directly with their Advisor or other individuals if they wish. The University expects that the parties may wish to have the University share documentation and evidence related to the allegations with their Advisors. An Advisor may be copied on any correspondence or communication related to the investigation and resolution process at the direction of the Complainant or Respondent.

- FERPA Waivers: Students who participate in the investigation process with an Advisor must complete a Family Education Rights and Act (FERPA) waiver prior to participating in the University investigation and resolution process.

Expectations Of Advisors

- Advisors should assist a party with preparing for any meeting or interview that is associated with the investigation, hearing, and/or appeal process, including accompanying the party to investigation interviews, pre-hearing conferences, and the equity hearing, and are expected to advise ethically, with integrity, and in good faith.
- The University generally expects an Advisor to adjust their schedule to allow them to attend University meetings when planned but may change scheduled meetings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay, in the University's sole discretion. The University may also make reasonable provisions to allow an Advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.
- Advisors will be afforded an opportunity to meet in advance of any interview or meeting with the Director, Investigator(s), and Chair of the Equity Hearing Panel (or Appeal Panel) to ask questions, address concerns, and seek clarification on University process and procedures.
- All Advisors are subject to the same University policies and procedures, whether they are attorneys or not. The University may seek to restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the University's privacy expectations.
- The parties are expected to respond to questions on their own behalf throughout the investigation phase of the resolution process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or quietly by passing notes during any resolution process meeting or interview, as long as they do not disrupt the process. For longer or more involved discussions, the parties and their Advisors should ask for breaks to step out of meetings to allow for private consultation.
- Advisors who act outside of their role or who impede or obstruct proceedings, who disseminate information to third party individuals or organizations, who represent themselves to others who are engaged in our process as having any other role than an Advisor in the process may be excluded from investigation and resolution proceedings.
- Any Advisor who oversteps their role as defined by this policy will be warned once and only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the Advisor will be asked to leave the meeting. When an Advisor is removed from a meeting, that meeting will typically continue without the Advisor present. Subsequently, the Director will determine whether the Advisor may be reinstated or replaced by a different Advisor.

Expectations During a Hearing

- In accordance with this Policy and the U.S. Department of Education regulations applicable to Title IX, cross-examination is permitted during the hearing and must be conducted by the parties' Advisors. Extensive questioning of the parties and witnesses will also be conducted by the decision-maker(s) during the hearing.
- The parties are not permitted to directly question each other or any witnesses.
- The Advisor may not provide testimony, and may not speak on behalf of the advisee during cross-examination.

- If a party does not have an Advisor for a hearing, the Director will appoint a trained Advisor aligned with the party for the limited purpose of conducting any cross-examination. A party may reject this appointment and choose their own Advisor, but they may not proceed without an Advisor.
- If the party's Advisor will not conduct cross-examination, the party may identify an alternative Advisor, or the University will appoint an Advisor to conduct cross-examination, regardless of the participation or non-participation of the advised party in the hearing, itself.

Assistance in Securing an External Advisor

Parties can find legal assistance through a number of community resources listed below. A party can choose to hire independent legal counsel to serve as an Advisor. In that event, the individual is solely responsible for any fees related to the representation.

Santa Clara County Bar Association Lawyer Referral Service is the largest lawyer referral service in Silicon Valley. This is a public service provided by the Santa Clara County Bar Association.

- Website: <https://sccbba.community.lawyer>
- Phone: (408) 971-6822

For representation, Respondents may wish to contact organizations such as:

- FACE (<http://www.facecampusequality.org>)
- SAVE (<http://www.saveservices.org>)

For representation, Complainants may wish to contact organizations such as:

- The Victim Rights Law Center (<http://www.victimrights.org>),
- The National Center for Victims of Crime (<http://www.victimsofcrime.org>), which maintains the Crime Victim's Bar Association,
- The Times Up Legal Defense Fund (<https://nwlc.org/times-up-legal-defense-fund/>)

APPENDIX C: VIOLENCE RISK ASSESSMENT

In some cases, the Director of Equal Opportunity and Title IX Coordinator (hereafter referred to as the "Director") may determine that a threat assessment or violence risk assessment should be overseen by the Behavioral Concerns Team (BCT) involving a student or by Human Resources involving a faculty and staff member as part of the initial assessment. Threat assessment is the process of evaluating the actionability of violence by an individual against another person or group following the issuance of a direct or conditional threat. A violence risk assessment is a broader term used to assess any potential violence or danger, regardless of the presence of a vague, conditional, or direct threat.

The violence risk assessment will determine whether the reported information and any other available information provides a rational basis for concluding that there is a compelling risk to health and/or safety that requires the University to pursue formal action to protect the community. A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence.

The outcome of the Violence Risk Assessment will be based upon a review of the totality of the known circumstances, and will be guided by a consideration of any of the following factors:

- Whether the Respondent has threatened to commit violence or any threat to physical health/safety.
- Whether aggravating circumstances or signs of violence, threats of violence, or other predatory behavior are present.
- Whether there is evidence of violence include hitting, punching, slapping, kicking, restraining, choking, and brandishing or using any weapon.
- Whether the report reveals a pattern or potential predatory conduct or to assess/identify grooming behaviors.
- Whether the Director of Equal Opportunity and Title IX should pursue/sign a Formal Complaint absent a willing/able Complainant.
- Whether Alleged conduct involved physical violence.
- Whether the Complainant is (or was at the time of the Prohibited Conduct) a minor (under 18).
- Whether to permit a voluntary withdrawal of the Respondent.
- Whether it is reasonable to try and resolve a complaint through informal resolution, and what modality might be most appropriate.
- Whether a Clery Act Timely Warning/Trespass Order/Persona-non-grata is needed.

A violence risk assessment is not an evaluation for an involuntary behavioral health hospitalization (e.g., 5150 in California) nor is it a psychological or mental health assessment. A violence risk assessment assesses the risk of actionable violence, often with a focus on targeted/predatory escalations, and is supported by research from the fields of law enforcement, criminology, human resources, and psychology.

A violence risk assessment requires specific training and is typically conducted by psychologists, clinical counselors, social workers, case managers, law enforcement officers, student conduct officers, members of the University Behavioral Concerns Team (BCT) in matters involving students, or by trained external parties identified by Human Resources.

Where a Violence Risk Assessment is required by the Director, a Respondent refusing to cooperate may result in a charge of failure to comply within the appropriate student or employee conduct process.

In all cases, the initial report, the assessment, and the determinations of the BCT or HR will be documented and retained by the University in accordance with applicable law.

Following the completion of the violence risk assessment, the BCT or Human Resources team will reconvene as necessary to continue to evaluate whether any new or additional information received triggers any further obligation(s) under the Clery Act or with respect to any child protective service agency, and will direct the Director to take such further actions, as necessary.

**SANTA CLARA UNIVERSITY
FACULTY HANDBOOK
APPENDIX H**

POLICY ON MISCONDUCT IN RESEARCH

The essence of all research and scholarship is the pursuit of truth. Actions that undermine the integrity of scholarly activity may impede the advancement of knowledge, jeopardize the position of collaborators, compromise the work of other investigators, harm innocent members of the general public, and besmirch the reputation of the University. Such misconduct cannot be tolerated.

A. Scope of Policy

The term “misconduct in research” refers to any serious deviation from practices that are commonly accepted within the academic community for proposing, conducting, or reporting research or scholarship. This definition specifically includes plagiarism; fabrication or falsification of evidence or data; unauthorized use of privileged information; and deliberate and substantial violation of federal, state, or University regulations relating to the conduct of research. It does not include honest error or honest differences in interpretation of data.

Principal investigators have a special responsibility to assure the integrity of work conducted under their supervision, but all authors in a group effort share responsibility for the published result. Publications should therefore list as authors only those who have contributed to the research, who have reviewed the manuscript carefully, and who are prepared to stand behind the conclusions.

This policy applies to all employees of the University.

B. Appointment of Administrative Officer

The Provost will appoint an individual to serve as the administrative officer to whom allegations of misconduct in research should be reported. The administrative officer will be responsible for coordinating the implementation of this policy.

When the administrative officer has a real or apparent conflict of interest in a particular case, the Provost will appoint someone else to serve in this capacity for the duration of the case to assure that it is handled in a fair and impartial manner.

C. Allegation of Misconduct

Any person who has reason to believe that misconduct in research, as defined in this policy, has taken place should contact the administrative officer.

The administrative officer will discuss with this individual the procedures to be followed. If the individual decides to make a formal allegation, the administrative officer will initiate a preliminary inquiry. Even if the individual decides not to make a formal allegation, the administrative officer may initiate a preliminary inquiry if in his or her judgment sufficient cause exists to warrant one.

Some concerns reported to the administrative officer may fall outside the scope of this policy. In such a case, the administrative officer will advise the person reporting the concern about other policies or procedures that may pertain.

D. Preliminary Inquiry

When an inquiry is initiated, the administrative officer will immediately notify the person suspected of misconduct of the allegation and the process that will follow. The administrative officer will also appoint a committee of three University employees who will conduct a prompt and thorough inquiry into the alleged misconduct. The purpose of this preliminary inquiry will be to gather and review factual information to determine whether a formal investigation is warranted.

The three University employees on the inquiry committee will be tenured faculty members if the person suspected of misconduct is a faculty member. Even if the person is not, the committee will include at least one tenured faculty member. Committee members should be free of any conflict of interest and should have appropriate backgrounds for judging the issues at stake. They will secure whatever expertise is necessary and appropriate to evaluate the relevant evidence.

The committee will submit a written report to the administrative officer within 60 calendar days of its appointment unless circumstances clearly warrant a longer period. If the inquiry takes longer than 60 days to complete, the committee will provide the administrative officer written documentation of the reasons for exceeding this limit.

The report of the committee will state what evidence was reviewed, summarize relevant interviews, and include the conclusions of the committee. The person against whom the allegation was made will receive a copy of this report and have the opportunity to comment on it as part of the record.

If the committee determines that the allegation is frivolous, that it cannot be substantiated, or that there is insufficient evidence to justify further investigation, all proceedings will be terminated. If it determines that sufficient evidence exists, the administrative officer will initiate a formal investigation within 30 days of receiving the report.

Records of inquiries will include sufficient documentation to explain the basis of the decision to terminate proceedings or to initiate a formal investigation. The administrative

officer will maintain these records in a secure manner for at least three years after completion of the inquiry.

E. Formal Investigation

The administrative officer will initiate a formal investigation by notifying the individual suspected of misconduct, his or her immediate supervisor, the appropriate chair and dean, and the Provost.

The Provost will request that the Faculty Judicial Board conduct a formal investigation of the allegation, provided that the individual suspected of misconduct is a faculty member and consents to this procedure. The Faculty Judicial Board will conduct the investigation and make its recommendations in accordance with the guidelines established in Section 3.10.2 of the Faculty Handbook.

If the person suspected of misconduct is not a faculty member or does not consent to a hearing by the Faculty Judicial Board, the Provost will appoint a special committee to conduct a formal investigation. The special committee will include five employees of the University who will proceed according to the same guidelines as those outlined for the Faculty Judicial Board in Section 3.10.2 of the Faculty Handbook, with the sole exception that the special committee will not communicate with the Faculty Judicial Board before presenting its final report.

The investigation normally will include examination of all documentation, including but not necessarily limited to relevant research data, proposals, publications, correspondence in any format, and memoranda of telephone calls. The committee conducting the investigation will make every effort to interview all individuals who have made the allegation, been the subject of the allegation, or possess information regarding important aspects of it. Complete summaries of these interviews should be prepared, given to the interviewed party for comment or revision, and included as part of the investigatory file. The committee will secure whatever expertise is necessary and appropriate to carry out a thorough and authoritative evaluation of the relevant evidence.

In the course of its work, the investigating committee may discover additional information that justifies broadening the scope of the investigation beyond the initial allegation. The committee should inform both the Provost and the person whose conduct is being investigated when it intends to broaden the scope of an investigation.

The committee will submit its final report within 120 calendar days of its appointment. If the committee determines that it will not be able to meet this deadline, it must submit to the Provost a written request for an extension that includes an explanation for the delay, an interim report on the progress to date, and an estimated date of completion.

The administrative officer will be responsible for maintaining records of the investigation in a secure manner for at least three years after completion of the investigation.

F. Sanctions

If the investigating committee finds that misconduct has occurred, it will recommend appropriate sanctions in accordance with Section 3.9 of the Faculty Handbook.

G. Protection of Rights

Individuals against whom allegations of misconduct in research are made will be afforded confidential treatment to the maximum extent possible, a prompt and thorough inquiry and investigation if warranted, and an opportunity to comment on allegations and findings of any inquiry and investigation. When allegations are not confirmed, the University will make diligent efforts to protect the reputations of persons against whom the allegations have been made.

The University will also make diligent efforts to protect the privacy, reputations, and positions of those who in good faith report apparent misconduct. Allegations that are not brought in good faith, however, may lead to disciplinary action.

H. Interim Administrative Action

Pending final disposition of a case, the Provost or the administrative officer may take interim administrative action to protect funds from government agencies or other external sponsors, the health and safety of research subjects, or the interests of the University.

I. Notification of Sponsors

External sponsors have the right to expect that the integrity of research for which they provide funding will be maintained.

If the University decides after an initial inquiry to proceed with a formal investigation of misconduct in any research project supported by external funds, the administrative officer will notify the sponsoring agency on or before the date the investigation begins. The final report of the investigating committee will ordinarily be submitted to the agency within 120 days of the appointment of the committee. When government agencies or other sponsors require more detailed reporting procedures, the University will comply with those procedures.

Depending on the nature of misconduct that is found, the University may also have an ethical responsibility to notify other parties of the conclusions of a formal investigation. These parties may include research collaborators, editors of journals in which the research was published, professional licensing boards, other institutions with which the individual has been affiliated, or other persons or organizations with a direct interest in the matter.

J. Compliance with Federal Regulations

Whether or not this policy specifically addresses them, the University will comply with all federal regulations pertaining to misconduct in research.

Note on Sources:

This policy is based in large part on the following documents: “Responsibilities of PHS Awardee and Applicant Institutions for Dealing with and Reporting Possible Misconduct in Science,” the 1989 regulations issued by the Public Health Service (PHS); “Misconduct in Science and Engineering Research,” the 1987 regulations issued by the National Science Foundation (NSF); “Framework for Institutional Policies and Procedures to Deal with Fraud in Research,” issued in 1988 jointly by the Association of American Universities (AAU), National Association of State Universities and Land-Grant Colleges (NASULGC), and Council of Graduate Schools (CGS); “Report of the Association of American Universities Committee on the Integrity of Research,” issued in 1983 by the Association of American Universities (AAU); and “The Maintenance of High Ethical Standards in the Conduct of Research,” issued in 1982 by the Association of American Medical Colleges (AAMC).

**EXCEPTIONS TO THE SANTA CLARA UNIVERSITY FACULTY HANDBOOK:
JESUIT SCHOOL OF THEOLOGY**

This document describes exceptions to the Faculty Handbook of Santa Clara University that are applicable to the faculty of the Jesuit School of Theology of Santa Clara University (JST). Except as noted in this document or in the Faculty Handbook itself, JST faculty are subject to all provisions in Chapter 3 of the Faculty Handbook.

This document was approved by the Board of Trustees of Santa Clara University on October 15, 2010 after prior approval by the JST Academic Council and the JST Board of Directors.

**EXCEPTIONS TO THE
SANTA CLARA UNIVERSITY FACULTY HANDBOOK:
JESUIT SCHOOL OF THEOLOGY**

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I. PURPOSE

This document, “Exceptions to the Santa Clara University Faculty Handbook: Jesuit School of Theology,” complements four other documents to which we consider ourselves bound: the Statutes, the Policies and Procedures (Regulationes), the Santa Clara University Faculty Handbook, and the JST Protocols Booklet (which is currently under development). Faculty should be familiar with the contents of these documents.

II. MISSION STATEMENT

The Jesuit School of Theology of Santa Clara University (JST-SCU) is a theological school faithful to the intellectual tradition and the apostolic priority of the Society of Jesus: reverent and critical service of the faith that does justice. As such, JST-SCU shares Santa Clara’s strategic commitment to a Jesuit education grounded in an engaged pedagogy for the formation of leaders of competence, conscience and compassion.

JST-SCU achieves its mission primarily through the academic, pastoral, and personal formation of Jesuits and other candidates for ministry, ordained and lay, in the Roman Catholic Church. As an Ecclesiastical Faculty of Theology, it prepares men and women to serve the Church as scholars and teachers. It fulfills this mission in the ecumenical and interfaith context of the nine-member Graduate Theological Union and the adjacent University of California at Berkeley.

JST-SCU is specifically committed to the preparation of Jesuits and others for ordination to the Roman Catholic priesthood, the preparation of men and women for varied forms of ministry in the church, the advancement of theology through scholarly contributions to academy, church, and society, and the theological, spiritual, and personal renewal of those already engaged in ministry.

JST-SCU discharges its apostolic commitments by means of its critical fidelity to the Roman Catholic tradition, its attentiveness to the cultures shaping the church in a pluralistic world, its special concern for ministry with Latino communities, its skillful use of socio-cultural analysis and theological reflection in all apostolic endeavors, and its commitment to full partnership and mutuality between women and men in church and society. It accomplishes these commitments through its academic programs, sabbatical program, outreach programs, summer institutes, and financial aid programs which are designed for direct engagement with the local Church in the Bay Area, the global Catholic Church, and other religious and cultural communities. In these ways, JST-SCU seeks to read the signs of the times in order to proclaim the gospel of Christ effectively and to promote God’s work of justice and peace in a rapidly changing global context.

III. ACADEMIC FREEDOM

This statement replaces 3.6.1 in the SCU Faculty Handbook.

The Jesuit School of Theology, as a center of theological discourse, affirms that academic freedom is essential for both research and instruction. It recognizes that freedom of inquiry, open discussion, and the exchange of ideas are essential to the pursuit of knowledge. Such freedom presupposes of its faculty first, personal integrity in dealing with students, peers, and administration; second, scholarly competence by observing the professional standards of one's discipline with a commitment to the mission of the School; third, a responsibility to be accurate and judicious in public statements; fourth, openness to criticism from one's peers.

The Jesuit School of Theology recognizes that its relationship with the Roman Catholic Church is a constitutive part of its mission. Theology serves the Christian community by expressing the abiding truth of Jesus Christ within a cultural context, mediating between faith and culture. Theology becomes a means of communicating the Church's teachings to the community of believers and to society at large. Theologians recognize their responsibility to preserve the integrity of the Christian message and to protect the faithful from erroneous teachings in faith and morals. Towards this goal, academic freedom – the freedom of inquiry, thought and expression – is essential.

IV. FACULTY CATEGORIES

In terms of rank, JST employs the same categories as can be found in the SCU *Faculty Handbook*, Section 3.1: Assistant Professor, Associate Professor, Professor, Professor Emeritus or Emerita, Lecturer, Senior Lecturer, Visiting Faculty, Adjunct Faculty, and Special Appointments.

As an ecclesiastical faculty, the faculty of the Jesuit School of Theology is also organized into the following categories (see *Statutes*, Articles 17-20):

1. Ordinary
2. Extraordinary.

V. PROCEDURES FOR TENURE AND PROMOTION IN RANK

This section replaces 3.4.4.2, 3.4.4.4 – 3.4.4.6 and 3.4.5 in the SCU Faculty Handbook.

A. Tenure.

1. Procedure:

- (a) Initiation of process: The Dean will automatically request a review by the AR&T Committee when the faculty member is eligible, but no later than at the beginning of the sixth year of service and will immediately notify the faculty member in question so that he/she may have time to update their academic file and submit other pertinent documents, etc.

- (b) **Consultation:** The AR&T Committee will seek the widest possible consultation by requesting input from all levels of publics that the faculty member has been involved with, especially from the GTU, UCB, the local Church (diocese), and any public that may have been of special concern to the faculty member. Particularly with regard to the GTU, the Committee will seek input from faculty peers, administration personnel, and students who are representative of the various degree programs, etc. Moreover, the faculty member may submit his/her own list of people to be consulted. The Committee should seek to respect this list as far as possible but is not bound to it and should seek a broader base of consultation.
- (c) **Notification:** The chair of the AR & T Committee will send a letter to the Dean, who will in turn write to the Provost, who makes a recommendation to the President. The President will notify the faculty member of the final decision.

2. Tenure for clerics and religious:

Tenure for clerics and religious is always limited by their prior commitment to the general apostolate of the Church, to which they may be called by their competent superiors, and tenure is granted to clerics and religious on condition that they maintain their clerical or religious status in good standing according to the laws of the Church.

B. Promotion in Rank.

1. Procedure for rank of Associate:

- (a) **Initiation of process:** The faculty member, not earlier than the third year, not later than the fifth year of completed service, may request the Dean to initiate the process and will proceed to update their academic file, submit pertinent documents, etc. The Dean, in turn, will make the same request of the departmental convener who, after consultation with the department, will make the department's recommendation to the AR&T Committee.

The Dean functions in place of the departmental convener in cases involving the departmental convener himself or herself. In turn, the AR&T committee will inaugurate its own review using the same consultation base and criteria employed for tenure considerations.

- (b) **Concurrence:** The review for tenure and rank of Associate may occur at the same time during the sixth year of service. The granting of tenure carries with it an automatic elevation to the rank of Associate.
- (c) **Notification:** The President will notify as above for tenure. If rank does not concur with tenure, there is no prejudice to applying again in a subsequent year if this request for rank is denied.

2. **Procedure for rank of Professor:** Advancement to the rank of professor implies that one has exceeded in a significant and ongoing manner the level of achievement required for promotion to the rank of Associate Professor (cf. Article 19.2 of Statutes). Application for full professorship can ordinarily occur no sooner than the completion of five full years of service as an Associate Professor of JST.

VI. SABBATICAL AND JUNIOR FACULTY DEVELOPMENT LEAVES

This section replaces 3.7.1 through 3.7.2 of the SCU Faculty Handbook.

A. Sabbatical Leave

Sabbatical leave is an absence from JST-SCU granted by the President for the purpose of research, improvement of effectiveness in teaching or in the other duties of teachers. For the purpose of promotion in rank or advancement to tenure, sabbatical leave is considered as service to JST-SCU. It is granted only to regular teachers, who are eligible for a sabbatical leave of one year after six years of full-time teaching. More frequent sabbatical leaves for shorter periods of time may be arranged, provided that the total sabbatical time during each seven years does not exceed one full year. Adequate financial provision for sabbatical leaves shall be made by JST-SCU. (Statutes Article 22)

A. 1. General Policy On Sabbatical Leaves

It should be noted that leaves are not granted automatically on request. Because there are other factors besides an individual faculty member's need which must be considered, it may be impossible to grant a particular request, or it may be necessary to change the specific time or length of time requested.

The Board of Directors has stipulated that, generally, no more than three regular faculty members may be on sabbatical or leave of absence at the same time.

The faculty member will be required to sign a statement that he/she will return to the School for one year of fulltime service following the completion of the sabbatical leave. Time spent on sabbatical counts fully for promotion and, if applicable, tenure.

A. 2 Eligibility

A permanent tenured full-time faculty member or Senior Lecturer is eligible to apply for one year of sabbatical leave to follow six-years of full-time teaching. Remuneration for sabbaticals is determined by the formula in Section A.2.3.

Three semesters prior to a faculty member's eligibility, the Dean shall give notification in writing. Generally, the faculty member is expected to apply for the sabbatical as scheduled, and no more than two postponements will be granted.

A. 2. 1 Application Policy and Procedure

By mid-October one year prior to the projected sabbatical, faculty members requesting sabbatical leave shall submit a written proposal with an updated curriculum vitae to the committee on Appointment, Rank and Tenure. The Committee shall recommend the sabbatical or not on the merits of this proposal as well as on the basis of length of service, quality of previous scholarly work, previous sabbatical report, etc.

The recommendation of this committee shall be communicated to the Provost by the chair of the Appointment, Rank and Tenure Committee. The Dean will make a separate recommendation. Final approval (or disapproval for stated causes) shall be given in writing by the Provost.

If the sabbatical request is deemed meritorious, the School will ordinarily make every effort to grant the sabbatical for the period requested, or within the following one or two years. Moreover, if a faculty member postpones a sabbatical at the request of the School, the clock for the next sabbatical begins from the time he or she was eligible for the sabbatical which was postponed.

During the sabbatical, the faculty member may not accept a teaching position elsewhere, except under unusual circumstances and with prior approval of the Dean.

A. 2. 3 Remuneration

For each semester of full-time employment, up to a maximum of two semesters per academic year, an eligible faculty member accrues 1/18 of her/his base pay for sabbatical leave. For example, after nine semesters or four and one-half years of regular service, a tenured faculty member is eligible for one semester of sabbatical leave at 100% of base annual salary; after 18 semesters or 9 years of regular service, a tenured faculty member or Senior Lecturer is eligible for two semesters of sabbatical leave at 100 % of base annual salary.

After 9 semesters and up to 18 semesters of full-time service, a faculty member eligible for sabbatical may take a two-semester sabbatical leave at a reduced salary if the accrued service is insufficient to permit a sabbatical leave at full pay. For example, after 12 semesters or six years of regular service, a full year of sabbatical leave will be remunerated at 12/18 or 66.7% of base annual salary; after 16 semesters of regular service, a full year of sabbatical leave will be remunerated at 16/18 or 88.9% of base annual salary.

Any semesters of accrued service that are not utilized for a sabbatical leave may be credited to a subsequent sabbatical leave. There will be no additional accrual of sabbatical time after 18 semesters of service unless the faculty member has had to delay a sabbatical leave in the interest of the department, college, or University. In such cases, with the written approval of the Provost, any additional quarters will be credited to a subsequent sabbatical leave. Sabbatical salary may not exceed 100% of the faculty member's regular salary.

If a salary increase is granted to all faculty members, faculty on sabbatical when the increase is granted shall be eligible for the same increase.

A. 2. 4 Reports on Sabbaticals

Upon return from sabbatical, a detailed report of the actual results of the project must be filed with the Dean's office no later than April 1 for those on sabbatical during the fall semester, and October 1 for those on sabbatical during the spring semester or the full academic year. The Dean will then forward a copy of the report to the Committee on Appointment, Rank and Tenure for its review and comments. These comments will be submitted to the Provost for final approval.

B. Junior Faculty Development Leaves

Junior faculty will be encouraged to develop a research proposal towards publication and are eligible to apply for one of the following to take place during their fourth or fifth year of service at JST.

- i.) a semester of leave for research;
- ii.) a semester of unpaid leave for research funded by outside sources;
- iii.) a semester of reduced teaching load which needs to be arranged with the dean.

The first and second options, for research or unpaid leave, are handled through proposals evaluated by the Appointment, Rank and Tenure Committee after a mid-probationary review resulting in a recommendation for continuation through the probationary period. The third option is negotiated with the Dean.

Section VI.B revised by a vote of the JST Academic Council, Fall 2021

Revisions approved by the JST Board of Directors, January 21, 2022

Revisions approved by SCU Board of Trustees, June 3, 2022