

Written Notice of Reporting Options, Rights & Resources for UC San Diego Students: Sexual Assault, Dating Violence, Domestic Violence, and Stalking

Contents

| | |
|---|----|
| Glossary of Terms..... | 2 |
| Resources..... | 3 |
| Understanding Confidentiality vs. Privacy | 7 |
| Law Enforcement Reporting Options | 9 |
| Civil Reporting Options & Protective Orders | 11 |
| University Reporting Options | 13 |
| University No Contact Orders & Interim Measures and Remedies..... | 15 |

Glossary of Terms

CARE at SARC – Campus Advocacy, Resources, and Education at the Sexual Assault Resource Center is the University’s confidential advocacy and education office for sexual assault, dating violence, domestic violence, and stalking. CARE at SARC provides free and confidential crisis intervention counseling, safety planning, individual counseling, accompaniment, and advocacy for UC San Diego students, staff, and faculty who are victims of sexual assault, relationship violence, and stalking. All communications with users of CARE services are privileged and confidential under California Evidence Code sections 1035.2 and 1037.2. Accordingly, employees in the CARE Office are not mandatory reporters under Title IX or the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act.

Complainant – any person who files a report of sexual violence, dating violence, domestic violence, or stalking; or any person who has been the alleged subject of such prohibited conduct.

Interim Measure – individualized support services provided by the University to help any person who has been subject to sexual violence, dating violence, domestic violence, or stalking, participate in campus life at the University and continue with their studies or work; or steps taken by the University to ensure a complainant has equal access to its education programs and activities before the final outcome of an investigation.

OPHD – the Office for the Prevention of Harassment & Discrimination is the University’s Title IX office and provides administrative options (including investigations, if applicable) for persons who have been the alleged subject of prohibited conduct, including, but not limited to, sexual violence, dating violence, domestic violence, or stalking.

Petitioner – any person who presents a formal, written application to a court, officer, or legislative body that requests action on a certain matter.

Reporting Party – any person who files a report of sexual violence, dating violence, domestic violence, or stalking.

Respondent – a person alleged to have engaged in prohibited conduct and about whom a report of sexual violence, dating violence, domestic violence, or stalking is made.

Victim or Survivor – used interchangeably and meaning any person who has experienced sexual violence, dating violence, domestic violence or stalking. “Victim” is most commonly used in the criminal justice system process. “Survivor” is typically used in the context of advocacy and support services.

This document is intended to summarize laws, policies, and procedures. It does not alter or modify any policy, law, or procedure. Nor does this document create, confer, alter, or modify the legal status or legal rights of any person.

Resources

1. Resources for Victims/Survivors

The following is a list of on-campus and off-campus resources that offer a variety of services in the areas of victim advocacy, counseling, health, mental health, legal assistance, visa and immigration assistance, student financial aid and other areas. CARE at SARC can serve as an advocate with any of these resources if requested. These resources are available to victims/survivors whether or not they choose to make a criminal or administrative report.

Confidential Resources On-Campus:

| Service Provider | Types of Services | Contact |
|--|---|---|
| CARE at the Sexual Assault Resource Center | Confidential & free advocacy, accompaniment, and crisis intervention services to UC San Diego students, staff, and faculty who are victims/survivors. | (858) 534-5793 http://care.ucsd.edu |
| Counseling and Psychological Services (CAPS) | Counseling and mental health services for currently registered UC San Diego students. | (858) 534-3755 http://caps.ucsd.edu/ |
| Student Legal Services (SLS) | Confidential services and advice to registered UC San Diego students and referrals to private attorneys. | (858) 534-4374 http://sls.ucsd.edu |
| Student Health Services | Medical services to registered UC San Diego students. | (858) 534-3300 http://studenthealth.ucsd.edu |
| Office of the Ombuds | Confidential, neutral and informal dispute resolution services for faculty, staff, students, non-Senate academics, postdoctoral trainees and employees of the UC San Diego Health System. | (858) 534-0777 http://ombuds.ucsd.edu |
| Healer Education Assessment and Referral Program (HEAR) (medical and pharmacy students, residents, fellows, health faculty, hospital staff and all health trainees) | Confidential counseling and referrals for UC San Diego Health students, staff and faculty. | (858) 657-6795 (858) 657-6799 https://medschool.ucsd.edu/som/hear/Pages/default.aspx |

Non-Confidential Resources On-Campus:

| Service Provider | Types of Services | Contact |
|---|--|--|
| Office for the Prevention of Harassment & Discrimination (OPHD) (Title IX) | Receives reports of allegations of sexual violence, dating violence, domestic violence, and stalking and conducts the administrative fact-finding investigation and non-investigation processes. | (858) 534-8298 http://ophd.ucsd.edu |
| Office of Student Conduct | Receives, processes and resolves student conduct complaints. | (858) 534-6225 http://studentconduct.ucsd.edu |
| Financial Aid Office | Provides financial aid services to current UC San Diego students. | (858) 534-4480 http://fao.ucsd.edu |
| International Students & Programs Office | Provides advising and immigration services, and facilitates global education through programs and services to the UC San Diego community. | (858) 534-3730 http://ispo.ucsd.edu |
| Undocumented Student Services | Provides services for UC San Diego students who are undocumented or from mixed-status families regarding legal and financial concerns and visa and immigration services. | (858) 822-6916 http://undoc.ucsd.edu |

Law Enforcement Resources:

| Service Provider | Types of Services | Contact |
|---------------------------------------|---|--|
| UC San Diego Police Department | Conducts patrol, investigation, crime prevention education and related law enforcement duties for the UC San Diego community. | (858) 534-4357 (non-emergency) 9-1-1 (emergency) http://police.ucsd.edu |

| | | |
|--|--|--|
| San Diego Police Department – Northern Division | Conducts patrol, investigation, crime prevention, and related law enforcement duties for neighborhoods surrounding UC San Diego. | (858) 552-1700 (non-emergency) 9-1-1 (emergency) https://www.sandiego.gov/police/services/divisions/northern/ |
| San Diego County Sheriff’s Department | Provides general law enforcement, detention and court services for the people of San Diego County. | (858) 565-5200 9-1-1 (emergency) http://www.sdsheriff.net/ |

Community, National, Global Resources:

| Service Provider | Types of Services | Contact |
|---|---|--|
| Center for Community Solutions (CCS) | Confidential 24-hour crisis hotline, emergency shelter, accompaniment, legal, counseling services for victims of sexual assault and domestic violence in San Diego County. | (888) 385-4657 www.ccssd.org |
| Women’s Resource Center | Confidential 24-hour crisis hotline, support services, counseling, shelter and education for North San Diego County residents involved in or threatened by domestic violence or sexual assault. | (760) 757-3500 https://www.wrcsd.org/ |
| San Diego Stalking Hotline | Confidential support and information for victims of stalking. | (619) 515-8900 http://www.sdcda.org/preventing/stalking/ |
| Casa Cornelia Law Center | Free legal services to victims of human and civil rights violations. Assistance with visa and immigration issues for undocumented victims of crime. | (619) 231-7788 https://casacornelia.org/ |
| San Diego Family Justice Center | Provides support to victims/survivors and children of family violence, including legal services, food, shelter, clothing, spiritual support, medical services and other services. | (619) 533-6000 https://www.sandiego.gov/sandiegofamilyjusticecenter |
| RAINN (Rape, Abuse, and Incest National Network) | National network supporting victims/survivors of sexual assault and abuse. 24/7 free and confidential hotline and chat services. | (800) 656-4673 https://www.rainn.org/ |

| Service Provider | Types of Services | Contact |
|---|---|--|
| U.S. Department of State – Office of Overseas Citizens Services | Assists victims/survivors who are overseas with local and/or US-based resources for victims of crime, including local legal representation. | From the US or Canada: 1-(888)-407-4747 From overseas: +1-(202)-501-4444 https://travel.state.gov/content/passports/en/emergencies.html |
| US Department of Education Financial Aid | Provides federal financial aid assistance. | (800) 4FED-AID https://www2.ed.gov/about/contacts/gen/index.html |

2. Non-Reporting Options

Not reporting is always an option. Victims/Survivors who choose not to report may still utilize any of the confidential resources listed above. CARE at SARC is always available to victims/survivors to provide information, emotional support, crisis intervention support, support groups, and/or assistance with obtaining a medical exam. If the victim/survivor would like to seek support off campus, the Center for Community Solutions (CCS) provides services to victims/survivors in San Diego County. Other confidential resources on campus include Counseling and Psychological Services (CAPS), Faculty and Staff Assistance Program (FSAP) and the Office of the Ombuds.

If a victim/survivor chooses not to report to law enforcement or to the University, they still have the right to receive medical treatment, advocacy services and an optional sexual assault forensic exam. In San Diego County, this exam is called a Non-Participatory Report (NPR).¹ The evidence will not include the victim/survivor’s name. The victim/survivor can decline a copy of the report (history, findings) to be included with evidence. The NPR may or may not trigger an investigation (without the participation of the victim/survivor). The NPR is free of cost to the victim/survivor. If the victim/survivor decides that they want to participate with law enforcement, the victim/survivor must call Palomar Health Services and sign a release. This release allows Palomar Health Services to provide identifying information to law enforcement. Physical evidence will be held by law enforcement for at least 20 years. The victim/survivor will be given written notice if law enforcement decides to destroy evidence. The evidence collected will be tested. The victim/survivor has the right to contact law enforcement to learn the status of DNA testing of the kit and other evidence. Under California Penal Code Section 11160, healthcare providers are mandated reporters and must report cases of sexual assault to law enforcement.

The NPR option for UC San Diego students, faculty and staff can be requested by contacting CARE at SARC at (858) 534-5793. CARE at SARC Advocates may in some instances provide transportation to the SART facility for victims who choose NPR. Victims/survivors also have the option of requesting a NPR through county rape crisis hotline: (858) 385-4657.

¹ In the state of California, the NPR is referred to as the “VAWA Exam” or the “924”.

3. Understanding Confidentiality vs. Privacy

A. *Confidentiality and Exceptions:*

UC San Diego encourages victims/survivors to talk to someone about what happened so they can get the support they need. Whether — and the extent to which — a University employee may maintain confidentiality (and not disclose information to OPHD) depends on the employee's position and responsibilities at the University. Potential complainants should understand the different levels of confidentiality in order to decide whether and to whom to report an incident. The following is accurate as of publication; please check University policy for up-to-date definitions.

B. *Responsible Employees:*

Responsible Employees are any University of California employee who is not a Confidential Resource as defined under the University of California *Sexual Violence and Sexual Harassment Policy*. If a Responsible Employee learns, in the course of employment, that a student may have experienced Prohibited Conduct as defined under the University of California *Sexual Violence and Sexual Harassment Policy*, they must promptly notify the Title IX Officer or designee. This includes resident assistants, graduate teaching assistants, and all other student employees, when disclosures are made to them in their capacities as employees. In addition, if any of the following people learn, in the course of employment, that any other person affiliated with the University may have experienced Prohibited Conduct, they must promptly notify the Title IX Officer or designee: Campus Police; Human Resources Administrators, Academic Personnel Administrators, and Title IX Professionals; Managers and Supervisors including Deans, Department Chairs, and Directors of Organized Research Units; and Faculty members. Despite the above, Responsible Employees need not report possible Prohibited Conduct they learn of while attending a public awareness event, such as "Take Back the Night", or disclosed by someone while participating in human subjects research that has either been approved by an Institutional Review Board (IRB) or certified as exempt from IRB review. Trainings by CARE at SARC and OPHD provide both confidential resources and reporting options.

C. *Confidential Communications:*

Some people are required by law to maintain near complete confidentiality; talking to them is sometimes called a "privileged communication." Physicians, psychotherapists, professional licensed counselors, clergy who work or volunteer on or off campus, and those who provide medical or mental health treatment or counseling (including those who act in that role under their supervision), and victim advocates may not report any information about an incident of sexual violence to anyone else at the University, including OPHD, without the complainant's consent, except in very limited circumstances that are explained below.

All communications with users of CARE at SARC services are privileged and confidential under California Evidence Code Sections 1035.2 and 1037.2. Accordingly, employees in CARE at SARC are not mandatory reporters under Title IX or the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act.

However, even these employees must make reports to local law enforcement agencies and internally under certain circumstances explained below. The complainant should be informed if any of these conditions are applicable.

All professionals described above (i.e., physicians, psychotherapists, professional counselors, clergy, and sexual assault and domestic violence counselors and advocates) are mandatory child abuse and neglect reporters and are required to report incidents involving victims under 18 years of age to local law enforcement and internally pursuant to UC San Diego policies and procedures. These professionals will explain this limited exception to complainants, if applicable.

Any health practitioner employed in a health facility, clinic, physician's office, or local or state public health department or clinic is required to make a report if they provide medical services for a physical condition to a patient/complainant who they know or reasonably suspect is suffering from (1) a wound or physical injury inflicted by a firearm or (2) any wound or other physical injury inflicted upon where the injury is the result of assaultive or abusive conduct (including sexual violence, domestic violence and dating violence). Health care practitioners should explain this limited exception to patients, if applicable. This does not apply to sexual assault and domestic violence counselors and advocates.

Finally, some or all of these professionals may also have reporting obligations under California law to (1) local law enforcement in cases involving threats of immediate or imminent harm to self or others where disclosure of the information is necessary to prevent the threatened danger or (2) to a court if compelled by court order or subpoena in a criminal proceeding related to the sexual violence incident. If applicable, these professionals will explain this limited exception to victims/survivors.

Important: If a victim/survivor speaks only to a physician, therapist, professional counselor, clergy member or CARE at SARC advocate, the University will be unable to conduct an investigation or pursue disciplinary action against the respondent, if the victim/survivor chooses to maintain confidentiality.

Regardless of whether a victim/survivor decides to maintain confidentiality, these individuals will still assist victims/ survivors in receiving other necessary protection and support, such as victim advocacy, medical, mental health services, and/or legal services. However, these individuals may have limited ability to assist the complainant with University academic support or accommodations, or changes to University-based living or working schedules, as such accommodations likely require the involvement of other University officials.

Victims/Survivors can change their minds about reporting. A victim/survivor who at first requests confidentiality may later decide to file a complaint with the University or report the

incident to the police and thus have the incident fully investigated. CARE at SARC advocates can provide victims with that assistance if they wish.

The University will not generally notify parents or legal guardians of a complainant's report of sexual violence unless they are under the age of 18 or the complainant provides the University with written permission to do so. Under California law, and pursuant to University policy, certain University employees are mandatory child abuse and neglect reporters and should explain to victims under 18 years of age that they are required to report the incident to the police.

Because the University is under a continuing legal obligation to address the issue of sexual violence campus-wide, reports of sexual violence (including non-identifying reports) may also prompt the University to consider broader remedial action — such as increased monitoring, supervision or security at locations where the reported sexual violence occurred; increased education, training and prevention efforts, including targeting population groups; conducting climate assessments/victimization surveys; and revising its policies and practices. The University would not reveal the name of a complainant if any of these actions were pursued.

D. *Confidentiality and Obtaining Interim Measures:*

The University will protect the privacy of everyone involved in a report of sexual violence to the greatest degree possible under applicable law and University policy. Personally identifiable information about the complainant and other necessary parties will be shared only on a need-to-know basis, e.g., to those who are investigating/adjudicating the report or those involved in providing support services to the complainant, including interim measures. By only sharing personally identifiable information with individuals on a need-to-know basis, the University will maintain as confidential any interim measures and remedies provided to the complainant, to the extent that maintaining such confidentiality would not impair the ability of the University to provide interim measures and remedies, and to the extent permissible under applicable law and policy.

E. *Privacy and Public Recordkeeping:*

UC San Diego completes publicly available recordkeeping, including Clery reporting and disclosure, without including personally identifiable information about the victim/survivor as defined in Section 40002(a)(20) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)(20)). Specifically, UC San Diego does not publish the name of victims/survivors or other identifiable information regarding victims/ survivors in the Daily Crime and Fire Log or in the crime statistics that are disclosed in the *Annual Security and Fire Safety Report*. Furthermore, if a Timely Warning is issued on the basis of a report of dating violence, domestic violence, sexual assault or stalking, the name of the victim/survivor and other personally identifiable information about the complainant will be withheld.

4. Law Enforcement Reporting Options

It is a victim's/survivor's choice to report a crime. A victim/survivor may report an incident to law enforcement at any time. In the event of an emergency where immediate assistance is

required, a victim/survivor should dial 9-1-1 to be connected with the nearest police department. If there is no emergency, victims/survivors can file a police report at any time in the jurisdiction where the assault occurred. Victims/Survivors can reach the UC San Diego Police Department at (858) 534-HELP (4357) or the San Diego Police Department at (619) 531-2000. To file a non-emergency police report, a victim/survivor can contact the dispatch lines (858) 534-4357 for the UC San Diego Police Department or (619) 531-2000 for the San Diego Police Department and request an officer meet them at the location of their choosing. An officer will then meet with the victim/survivor and take their statement about the incident. This may include the gathering of physical evidence and/or photographing of injuries. The officer will then provide any necessary follow-up materials or information. A confidential victim advocate from CARE at SARC will assist the victim/survivor in filing the report if requested.

A. *Confidential Victim:*

A victim/survivor of specific offenses (enumerated in California Government Code Section 6254(f)(2)(A)) has the right to request to be listed as a confidential victim in a law enforcement agency's report. Being listed as a confidential victim in a law enforcement agency's report prevents the law enforcement agency from disclosing the confidential victim's name and address as a matter of public record. However, the confidential victim's information can be released to the prosecutor, parole officers of the Department of Corrections and Rehabilitation, hearing officers of the parole authority, probation officers of county probation departments, or other persons or public agencies where authorized or required by law. Please see California Penal Code Section 293 for more information.

B. *Medical Exams:*

Regardless of whether an incident of sexual violence is reported to the police, it is important to seek immediate medical attention, even if there is no evidence of serious injury. A medical examination is important to check for sexually transmitted infections or other infections/injuries and for pregnancy. A CARE at SARC advocate can help victims find an appropriate medical provider.

C. *Preserving Evidence:*

Victims/Survivors are encouraged to preserve all physical evidence, including but not limited to: clothing worn during the assault, bed sheets, and/or photos of any injuries. This evidence may be helpful in proving that a crime occurred, in the event the victim/survivor chooses to report now or in the future. It may also be helpful in obtaining a court-ordered protective or restraining order. If a victim/survivor does not have any evidence preserved, they still have an option to report the crime and request a medical evidentiary examination. In San Diego County, this exam is known as a Sexual Assault Forensic Exam (SAFE). It is recommended that the examination occurs within a reasonable timeframe after the assault for optimal evidence collection. If a sexual assault victim/survivor chooses to make a police report, the law enforcement official will meet with the victim/survivor, determine whether or not a crime occurred, and then alert the Sexual Assault Response Team (SART) facility where the SAFE will be conducted. Law enforcement will provide transportation to the facility, and the victim/survivor will meet with a victim

advocate before the exam begins. A specially trained medical provider, called a Sexual Assault Nurse Examiner (SANE), will conduct the exam.

If a victim/survivor chooses not to report to law enforcement, they still have the right to receive medical treatment, advocacy services and an optional sexual assault forensic exam. In San Diego County, this exam is called a Non-Participatory Report (NPR).² The evidence will not include the victim/survivor's name. The victim/survivor can decline a copy of the report (history, findings) to be included with evidence. The NPR may or may not trigger an investigation (without the participation of the victim/survivor). The NPR is free of cost to the victim/survivor. If the victim/survivor decides that they want to participate with law enforcement, the victim/survivor must call Palomar Health Services and sign a release. This release allows Palomar Health Services to provide identifying information to law enforcement. Physical evidence will be held by law enforcement for at least 20 years. The victim/survivor will be given written notice if law enforcement decides to destroy evidence. The evidence collected will be tested. The victim/survivor has the right to contact law enforcement to learn the status of DNA testing of the kit and other evidence. Under California Penal Code Section 11160, healthcare providers are mandated reporters and must report cases of sexual assault to law enforcement.

The NPR option for UC San Diego students, faculty and staff can be requested by contacting CARE at SARC at (858) 534-5793. CARE at SARC Advocates can provide transportation to the SART facility for victims who choose NPR. Victims/survivors also have the option of requesting a NPR through county rape crisis hotline: (858) 385-4657.

Student Health Services and UC San Diego Thornton Hospital DO NOT conduct SAFE/NPR forensic exams by request. If a victim/survivor visits a medical facility solely for the purpose of requesting a forensic exam, law enforcement will be notified. A victim/survivor has the right not to participate in the criminal justice system, either prior to the examination or at any other time.

Victims/Survivors of dating violence, domestic violence, sexual assault and stalking are also encouraged to preserve evidence by saving text messages, instant messages, social networking pages, other communications, pictures, logs or other copies of documents that may be useful to University investigators or police should the victim/survivor decide to report now or in the future.

5. Civil Reporting Options & Protective Orders

Victims/Survivors are encouraged to connect with CARE at SARC for assistance with civil reporting options and Protective Orders. CARE at SARC has information on when and where to make these requests and can provide support and accompaniment throughout the process.

A. *Filing a Civil Lawsuit:*

A victim/survivor may choose to file a civil lawsuit against the suspect, whether or not criminal charges have been filed. A civil lawsuit provides an opportunity to recover actual money damages, which may include compensation for medical expenses, lost wages, pain, suffering and

² In the state of California, the NPR is referred to as the "VAWA Exam" or the "924".

emotional distress. A CARE at SARC advocate can assist a victim/survivor with identifying the necessary steps and processes for filing a lawsuit if requested.

B. *Court-Ordered Restraining Orders:*

A victim/survivor may choose to obtain a restraining order (such as a domestic violence restraining order or a civil harassment restraining order). Restraining orders must be obtained from a court in the jurisdiction where the incident occurred. Restraining orders can protect a complainant who has experienced or is reasonably in fear of physical violence, sexual violence, domestic violence, dating violence and stalking.

C. *Emergency Protective Order (EPO):*

An Emergency Protective Order (EPO) is a type of restraining order that only law enforcement can ask for by calling a judge. Typically, this is done by an officer responding to the scene of a domestic violence incident. Judges are available to issue EPOs 24 hours a day. The EPO takes effect immediately and can last up to seven calendar days. The judge can order the alleged abuser to leave the domicile and stay away from the victim and their children for up to a week. This provides the victim with time to go to court to request a temporary restraining order.

D. *Temporary Domestic Violence Restraining Order (TRO):*

A TRO is a type of protective order. In order to obtain one, the petitioner must fill out paperwork explaining the facts and why a protective order is needed. If a judge agrees that protection is needed, the judge will issue a temporary restraining order. Temporary restraining orders usually last until the court hearing date, typically 20 to 25 days after the petition is filed.

E. *Criminal Protective Order (CPO):*

When there is a claim that a domestic violence incident occurred, a criminal charge (or charges) may be filed by a prosecutor (such as the City Attorney or District Attorney) against the person who allegedly committed the criminal act. The prosecutor commonly asks a judge to issue a Criminal Protective Order while the criminal case proceeds. A CPO typically requires the defendant (the person who allegedly committed the criminal act) to stay away from and not to hurt, threaten, or communicate with the victim/accuser. If the defendant is convicted of or pleads guilty to the criminal charge(s), the CPO may last for up to ten years after the case is over.

F. *Civil Harassment Restraining Order:*

A type of court order available to individuals who have been harassed by any of the following: a neighbor, roommate (as long as no dating/romantic relationship existed or exists), friend, family member more than two degrees removed (e.g., an aunt/uncle, niece/nephew, cousin, or more distant relative), stranger, or another person not closely related to the victim of the harassment.

An individual who has been civilly harassed by a current or former spouse/partner, or someone with whom a dating/romantic relationship existed, or a close relative (parent, child, brother,

sister, grandmother, grandfather, in-law) may qualify for a domestic violence restraining order, but would not qualify for a civil harassment restraining order.

UC San Diego complies with California law in recognizing restraining orders and protective orders. A complainant who obtains a restraining order should provide a copy of the order to the UC San Diego Police Department. In order to comply with the restraining order, CARE at SARC advocates and the UC San Diego Police will assist a complainant with setting up escorts, establishing special parking arrangements, changing classroom or employment locations, or additional measures as needed. UC San Diego cannot apply for a restraining order for a complainant in California. However, CARE at SARC advocates can offer assistance with obtaining a restraining order.

6. University Reporting Options

Complaints of sexual violence, dating violence, domestic violence, or stalking may be addressed through the University administrative process. A complainant or reporting party can report an incident to the University by contacting the Office for the Prevention of Harassment & Discrimination (OPHD) in person, by email, by phone call or by filing a report online at Bias Incident Report Form. OPHD is the UC San Diego Title IX Office. A complainant has the right to have an advisor and/or a support person or advocate present with them while making a complaint to OPHD. Please note that the University administrative process is separate from any criminal or civil process (see Law Enforcement Reporting Options and/or Civil Reporting Options for more information). If the complainant requests of OPHD or another University employee that their identity remain completely confidential, OPHD or the employee will explain that the University cannot always honor that request and cannot guarantee complete confidentiality. If the complainant wishes to maintain confidentiality or request that no investigation be conducted or disciplinary action taken, the University must weigh that request against the University's obligation to provide a safe, nondiscriminatory environment for all students, employees and third parties, including the complainant.

Under those circumstances, the University will determine whether the complainant's request for complete confidentiality and/or no investigation can be honored under the facts and circumstances of the particular case, including whether the University has a legal obligation to report the incident, conduct an investigation or take other appropriate steps. The University may weigh the request for confidentiality against the following factors: the seriousness of the alleged harassment; the complainant's age; whether there have been other harassment complaints about the same individual or about the same location; whether a weapon was used; whether the school possesses other means to obtain relevant evidence; and the alleged harasser's rights to receive information about the allegations if the information is maintained by the school as an "education record" under the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g; 34 C.F.R. Part 99. Without information about the complainant's identity, the University's ability to meaningfully investigate the incident and pursue disciplinary action against the respondent may be severely limited.

To the extent possible, information reported to OPHD or other University employees will be shared only with individuals responsible for handling the University's response to the incident.

The University must balance the privacy interests of people involved in a report of “Prohibited Conduct” as defined under the University of California *Sexual Violence and Sexual Harassment Policy*, against the need to gather information, ensure a fair process, and stop, prevent and remedy “Prohibited Conduct” as defined under the *Sexual Violence and Sexual Harassment Policy*. In this context, the University tries to protect people’s privacy to the extent permitted by law and University policies. The University protects the privacy of personally identifiable information per all applicable state and federal privacy laws, and University policies.

The University will not require the complainant to participate in any investigation or disciplinary proceeding if they do not wish to participate. The entire investigation process from initial investigation to final result shall be prompt, fair and impartial. Both the complainant and the respondent will be notified of the investigation. The investigator will meet separately with the complainant, the respondent and other potential witnesses to gather information. When that process is complete (usually within 60-90 business days; please see [Section VIII.D](#) below for more detailed information), the investigator will prepare and submit a report addressing whether or not a University policy was violated. The standard of evidence in these cases is preponderance of the evidence, with the University bearing the burden of proof. Preponderance of the evidence means that it is “more likely than not” that the respondent is responsible for the charged violation.

For an overview of the University complaint process as it pertains to sexual violence, dating violence, domestic violence, and stalking, please see the enclosed University of California *Sexual Violence and Sexual Harassment Policy*.

A. University Disciplinary Process:

At the conclusion of an investigation, the case will proceed to an adjudication and/or disciplinary process. The applicable adjudication process will be initiated based on several factors including the affiliation of the Respondent, as well as the date, location, and type of incident. The disciplinary process is set forth in the following university policies:

When the Respondent is a Student:

[Student Investigation and Adjudication Framework for Non-DOE Covered Conduct](#), or
[Student Investigation and Adjudication Framework for DOE-Covered Conduct](#)

When the Respondent is a Staff member:

[Investigation and Adjudication Framework for Staff and Non-Faculty Academic Personnel](#)

When the Respondent is a Faculty member:

[Investigation and Adjudication Framework for Senate and Non-Senate Faculty](#)

As the victim/survivor, you are not required to participate in any University disciplinary procedure and may choose not to be a part of it.

Disciplinary procedures for sexual misconduct, dating and domestic violence, and stalking will:

- Provide for a prompt, fair, and impartial process from the initial investigation to the final

- result;
- Be conducted by officials without a conflict of interest or bias for either party and who receive annual training on how to conduct an investigation and hearing process that protects the safety of victims/survivors and promotes accountability;
 - Provide the complainant and the respondent the same opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice;
 - Simultaneously inform the complainant and the respondent in writing of:
 - The outcome of the disciplinary proceeding;
 - The procedures available to appeal the results of the disciplinary proceeding;
 - Any change to the disciplinary results that occurs prior to the time such results become final; and
 - When disciplinary results become final.

The Office for the Prevention of Discrimination and Harassment is a resource for community members to learn more about these disciplinary processes and is available to answer questions via email, telephone, or in-person/remote meetings. Community members can request information only meetings to learn about these processes, during which they will not be required to share any information about the incident.

7. University No Contact Orders, Interim Measures and Remedies

A. University-Issued No Contact Orders:

A complainant, respondent, and/or OPHD staff member may request the Office of Student Conduct issue a no contact order relating to a sexual violence and sexual harassment incident involving a UC San Diego student respondent. The request must specify the reasons the requesting party wants the no contact order issued. CARE at SARC advocates can assist victims/survivors and Respondent Support Advisors can assist respondents with requesting no contact orders.

The Office of Student Conduct (OSC) will evaluate the no contact order request, determine whether it should be issued, and notify the parties of its determination via email. The complainant, respondent, and/or investigator may request OSC to consider modifying the no contact order after its issuance and until the order is removed or expires. Modification requests may be made when the circumstances necessitating the order change and/or new information becomes available to support/not support the order.

If a no contact order is violated, the University may initiate student conduct proceedings appropriate to the status of the party violating the order (student, faculty, staff) and may assign sanctions if the party is found responsible for violating the no contact order.

For staff and faculty at UC San Diego, no contact orders are implemented and facilitated through the department leadership or Employee or Labor Relations, as appropriate.

B. *University-Facilitated Supportive and Remedial Measures:*

The University will provide supportive and remedial measures (including both interim measures and mitigating measures) if a complainant requests them, and if they are reasonably available, regardless of whether a complainant chooses to report to the police or to the University. If reasonably available, a complainant may be offered changes to academic, living, working or transportation situations. Examples of options for a potential change include the following:

- Academic – obtaining an extension on a class project, paper or exam; transferring to a different section of a class; or withdrawing and taking a class at another time.
- Living – moving to a different room or residence hall.
- Working – changing work hours or office space; taking an investigative leave.
- Transportation – assigning different parking spots; obtaining safety escorts.

The University will work with a complainant to identify the appropriate supportive and remedial measures after considering a variety of factors, such as the specific need expressed by a complainant; the age of the individuals involved; the severity or pervasiveness of the allegations; any continuing effects on the complainant; whether a complainant and alleged respondent share the same residence hall, dining hall, class, transportation or job location; and whether other judicial measures have been taken to protect a complainant (e.g., civil protection orders).

A victim/survivor is encouraged to contact CARE at SARC, where all services are confidential, free and available to UC San Diego students, faculty or staff. CARE at SARC advocates can assist a victim in requesting supportive and remedial measures to the appropriate department. CARE at SARC advocates can also serve as liaisons to instructors, housing coordinators, supervisors, human resources, financial aid, and other departments as needed to assist with changes to academic, living, working and transportation situations with a complainant's consent. If a victim/survivor chooses not to report to OPHD, it may affect their ability to obtain supportive and remedial measures. For a complainant who has chosen to report to OPHD, OPHD will determine with them whether any supportive and remedial measures need to be put into place.