

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