



2019 WEBSTER UNIVERSITY
DEPARTMENT OF PUBLIC SAFETY

Annual Security Report

Webster
UNIVERSITY

Irvine Metro Campus

QUICK REFERENCE RESOURCES

Emergency Contacts

Emergency	911
Irvine Police Dept. (non-emergency)	949-724-7000
Webster University – Irvine	949-450-9066
Webster University Department of Public Safety	314-246-7430 (non-emergency)
Sexual Offense Advocate (main campus)	314-252-8304 (24 hours a day)

The Department of Public Safety and Sexual Offense Advocate are located on the main campus in Webster Groves, Missouri; however, staff members can assist callers remotely or make appropriate referrals to local resources.

Webster Alert System

This is the University's free mass notification service which is used to alert all students, faculty & staff regarding important information regarding campus crimes, emergencies and other potentially life threatening events at their webster.edu email address. *Users are strongly encouraged to add a personal email address and mobile number to their account by logging into Connections and clicking on the Webster Alerts banner.*

The following telephone numbers connect callers with personnel at the main campus; however, staff and administrators at the main campus can either assist callers at branch campuses remotely or make appropriate local referrals.

University Title IX Coordinator

University Title IX Coordinator	314-246-7780
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Other Campus Resources

Dean of Students Office	314-968-6980
Academic Resource Center	314-246-7620
Financial Aid Office	314-968-6992
Counseling Services	314-968-7030
Immigration/Visa Information	314-246-7860

IRVINE METRO CAMPUS ANNUAL CRIME STATISTICS

This section of the Annual Security Report explains what type of crimes institutions are directed to include under the Clery Act, as well as how the University obtains and tabulates these statistics each year. Reporting tables are provided which include crime statistics for the calendar years 2016-2018.

Preparation of the Annual Crime Statistics

The statistics included in the Annual Security Report are compiled by the Department of Public Safety (DPS) with assistance from a wide range of other University administrative departments, including but not limited to Campus Directors and Assistant Directors at branch campuses, Student Affairs, Human Resources, and Title IX. DPS collects statistics from these departments and other University Campus Security Authorities (CSAs),¹ on an ongoing basis throughout the year and follows up with an annual request for confirmation that all reports of crimes received by CSAs have already been reported to DPS. DPS also annually requests crime statistics from local law enforcement agencies which could potentially respond to calls anywhere on this campus' Clery reportable geography.

Explanation of the 2016-2018 Crime Statistics Reporting Tables

Under the Clery Act, institutions are only directed to disclose statistics for specific offenses, (collectively referred to as Clery Act Crimes) which were reported to have occurred in one of the following four² geographical locations associated with the University:

On-Campus: 1) Any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of, or in a manner related to, the institution's educational purposes, including residence halls; or 2) Any building or property that is within or reasonably contiguous to the area identified in paragraph (1) of this definition, that is owned by the institution but controlled by another person, is frequently used by students, and supports institutional purposes (such as a food or other retail vendor).

Public Property: All public property, including but not limited to thoroughfares, streets, sidewalks, and parking facilities, that is within the campus, or immediately adjacent to and accessible from the campus.

¹ CSAs include members of DPS, as well as other University employees or volunteers with responsibility for campus security who are not members of DPS, and University officials with significant responsibility for student and campus activities, including but not limited to, student housing, student discipline and campus judicial proceedings. Because official responsibilities and job titles vary significantly on campuses, CSAs are classified by job function, not job title.

² Statistics for incidents occurring in on-campus student housing facilities are separately reported as a subset of on-campus property. However, there are no on-campus student housing facilities associated with this campus at this time.

Non-campus Buildings or Property: Any building or property owned or controlled by a student organization that is officially recognized by the institution; or any building or property owned or controlled by an institution that is used in direct support of, or in relation to, the institution's educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the institution. *Note that none of Webster University's officially recognized student organizations own or control any property at this time.*

Clery Act Crimes are categorized in four general categories. The Criminal Offenses category includes: Criminal Homicide, including Murder and Non-negligent Manslaughter, and Manslaughter by Negligence; Sexual Assault, including Rape, Fondling, Incest and Statutory Rape; Robbery; Aggravated Assault; Burglary; Motor Vehicle Theft; and Arson. The Hate Crimes category includes: any of the Criminal Offenses and any incidents of Larceny-Theft, Simple Assault, Intimidation, or Destruction/Damage/Vandalism of Property that were motivated by bias. The VAWA Offenses category includes: any incidents of Domestic Violence, Dating Violence and Stalking. (Note that Sexual Assault is also a VAWA Offense but is included in the Criminal Offenses category for Clery Act reporting purposes). The final category of Clery Act Crimes is referred to as Arrests and Referrals for Disciplinary Action and includes: Violations of Weapons Laws, Drug Abuse Violations and Liquor Law Violations. **Definitions of each offense are provided in Appendix A.**

It is also important to note:

- statistics are based on reports of **alleged** criminal offenses – and offenses are included regardless of whether or not the crime has been investigated, or whether a finding of guilt or responsibility has been made; and
- statistics are tabulated based on the date the Clery Act Crime was reported, not the date it allegedly occurred.

Criminal Offenses Reporting Table 2016-2018 (Irvine Metro Campus):

Offense	Year	Geographic Location		
		On-Campus Property	Non-Campus Property	Public Property
Murder/Non Negligent Manslaughter	2018	0	0	0
	2017	0	0	0
	2016	0	0	0
Manslaughter by Negligence	2018	0	0	0
	2017	0	0	0
	2016	0	0	0
Rape	2018	0	0	0
	2017	0	0	0
	2016	0	0	0
Fondling	2018	0	0	0
	2017	0	0	0
	2016	0	0	0
Incest	2018	0	0	0
	2017	0	0	0
	2016	0	0	0
Statutory Rape	2018	0	0	0
	2017	0	0	0
	2016	0	0	0
Robbery	2018	0	0	0
	2017	0	0	0
	2016	0	0	0
Aggravated Assault	2018	0	0	0
	2017	0	0	0
	2016	0	0	0
Burglary	2018	0	0	0
	2017	0	0	0
	2016	0	0	0
Motor Vehicle Theft	2018	0	0	0
	2017	0	0	0
	2016	0	0	0
Arson	2018	0	0	0
	2017	0	0	0
	2016	0	0	0

VAWA Offenses Reporting Table 2016-2018 (Irvine Metro Campus):

Offense	Year	Geographic Location		
		On-Campus Property	Non-Campus Property	Public Property
Domestic Violence	2018	0	0	0
	2017	0	0	0
	2016	0	0	0
Dating Violence	2018	0	0	0
	2017	0	0	0
	2016	0	0	0
Stalking	2018	0	0	0
	2017	0	0	0
	2016	0	0	0

Arrests and Disciplinary Referrals Reporting Table 2016-2018 (Irvine Metro Campus):

Offense	Year	Geographic Location		
		On-Campus Property	Non-Campus Property	Public Property
Arrests: Weapons: Carrying, Possessing, Etc.	2018	0	0	0
	2017	0	0	0
	2016	0	0	0
Disciplinary Referrals: Weapons: Carrying, Possessing, Etc.	2018	0	0	0
	2017	0	0	0
	2016	0	0	0
Arrests: Drug Abuse Violations	2018	0	0	0
	2017	0	0	0
	2016	0	0	0
Disciplinary Referrals: Drug Abuse Violations	2018	0	0	0
	2017	0	0	0
	2016	0	0	0
Arrests: Liquor Law Violations	2018	0	0	0
	2017	0	0	0
	2016	0	0	0
Disciplinary Referrals: Liquor Law Violations	2018	0	0	0
	2017	0	0	0
	2016	0	0	0

Hate Crimes

In addition to the statistics presented in the Reporting Tables on the preceding pages, institutions are required to report the statistics for hate crimes. There were no reported Hate Crimes during 2016, 2017, or 2018

Unfounded Crimes

Institutions are also required to disclose whether any crime reports were “unfounded” and subsequently withheld from crime statistics during each of the three most recent calendar years. A crime is considered unfounded for Clery Act purposes only if sworn or commissioned law enforcement personnel make a formal determination that the report is false or baseless.

There were no unfounded crimes in 2016, 2017, or 2018.

CAMPUS SAFETY

POLICIES AND PROCEDURES

This section of the Annual Security Report includes information about Webster University's Department of Public Safety, how to report crimes or suspicious activity to the University, and how the University communicates important safety information to its students, faculty, and staff.

Campus Safety

The Webster University Department of Public Safety (DPS) is located at the University's main campus in Webster Groves, Missouri. DPS is led by Director Rick Gerger who has over 20 years of law enforcement experience and holds a Bachelor of Science in Administration of Justice and a Master of Arts in Business and Organizational Security Management. DPS is a member of the University's Finance and Administration division, and reports to the CFO and Vice President for Finance and Administration.

The Director of Public Safety and other department personnel work collaboratively with local law enforcement and administrators and staff at the University's branch campuses. DPS and the branch campus administrators and staff are dedicated to providing protective and safety services to the campus community.

Jurisdiction and Enforcement Authority

Local law enforcement has jurisdiction over all Webster University owned or controlled property associated with this branch campus; however, the Campus Director, DPS, and administrators and staff on the main campus work collaboratively with local law enforcement to enforce University policy, as well as local and federal laws. Only local law enforcement has the power to make arrests on the Webster University property associated with this campus; however, University administrators or staff may assist local law enforcement with making arrests on University property, or with any search or seizure in connection with an arrest related to a crime committed on University property.

There are no written "memorandum of understanding" (MOU) agreements between the University and local law enforcement regarding the investigation of alleged criminal offenses. However, campus administrators and DPS work cooperatively with local law enforcement to enhance public safety services and campus security. None of the University's recognized student organizations own or control any on campus or non-campus buildings or structures.

Local law enforcement and campus administrators are responsible for the day to day campus security for all of the facilities on campus. DPS works closely with administrative departments on this branch campus on a dual approach to campus security – which entails both minimizing criminal opportunities whenever possible, and encouraging members of the campus community to take an active role in their own personal safety and the safety of others.

The Campus Director and other campus staff also employ a number of techniques to minimize criminal opportunities on campus generally.

Facility Maintenance

The campus' facilities and landscaping are maintained in a manner that minimizes hazardous conditions.

Access to Campus Facilities

This campus includes well-equipped classrooms and administrative space. The University's facilities are generally open during normal business hours and when classes are in session. Campus administrators are responsible for coordinating the issuance of any necessary access cards, keys and access codes for students, faculty and staff, and authorized visitors.

Security Awareness & Crime Prevention Programs

Education is another key component of maintaining a secure campus. The Department of Public Safety at the main campus in Webster Groves offers certain online resources which are available to campus community members at all of its branch campuses. The Department of Public Safety and the Campus Director plan to continue to work collaboratively to continue to develop additional security awareness and crime prevention programming for students, employees or faculty at this campus.

Crime Prevention Programs

The University provides all students, staff and faculty with access to a variety of videos on Campus Safety, including crime prevention tips. These videos can be accessed from student, staff, and faculty's Webster University Connections page under the "Crisis Response" tab. Additional crime prevention tips are provided in Appendix A to this Report.

Regardless of the specific focus of the programs presented, the University's security awareness and crime prevention presentations emphasize the need for participants to be responsible for their own security and safety, as campus safety requires collaboration between the University, students, faculty and staff.

Additional crime prevention, security awareness programs and resources (including Active Shooter training) are also available to interested individuals and groups of students, parents, staff and faculty by request.

Reporting Criminal or Suspicious Activity and Emergencies

The University strongly encourages all members of the campus community (as well as visitors) to promptly and accurately report any criminal or suspicious activity and emergencies as outlined below as soon as possible, even if the victim of a crime elects to, or is unable to, make such a report. It is essential that all crimes are reported using these methods so that the Campus Director can determine whether a Timely Warning³ needs to be issued to the campus community, and consider whether the incident should be included annual crime statistics.

The University also strongly encourages individuals to report any crimes which occur off campus to the Campus Director. While these crimes are not included in the Annual Security Report,⁴ the Campus Director can work with DPS to determine which local law enforcement agency to contact for assistance.

Contacting the University about Criminal Actions, Suspicious Activities or Emergencies on Campus

Campus community members should report criminal action, suspicious activity or other emergencies occurring on campus to the Campus Director at the main campus number listed in the Quick Reference section of this Report. If a reporting party cannot reach the Director, or the crime, suspicious activity or emergency is taking place outside of regular business hours, reporting parties should contact law enforcement/first responders by calling 911. Anytime an individual reports an incident directly to law enforcement instead of the Campus Director, he or she should follow up with a brief voicemail to the Director.

Confidential Reports

The University understands that there are times when a victim of a crime does not want to pursue action within the university system or the criminal justice system; however reporting parties may still want to consider making a confidential report. With a reporting party's permission, the Campus Director (or the Campus Director's designee) can file a report without revealing the reporting party's identity. The purpose of a confidential report is to comply with a reporting party's desire to keep the matter confidential, while allowing the University to take the necessary steps to ensure the future safety of the reporting party and campus community. Confidential reports also allow the University to determine where there is a pattern of crime with regard to a particular location, method, or assailant, and assess whether a Timely Warning (described in more detail in the Timely Warning section of this document) is needed. These Confidential reports are also included in the University's annual crimes statistics.

Important note: confidential reporting is not available for reports of sexual assault, dating violence, domestic violence or stalking. As explained in later sections of the Annual Security Report, the University must share the reporting party's identity with a Title IX Coordinator anytime it receives a report involving one of those crimes. See the section of the Report titled "Reporting Sexual Assault,

³Timely Warnings are Clery mandated safety alerts that are issued to the campus community under certain circumstances. The University's policies and procedures regarding Timely Warnings are explained in a later section of this Report.

⁴Unless the incident took place on reportable non-campus property as that term is defined by the Department of Education.

Dating Violence, Domestic Violence or Stalking” for additional detail on how to report these types of offenses confidentially.

The University communicates annually with the individuals on the main campus in Webster Groves who act in the role of a licensed pastoral or professional counselors regarding the procedures for Confidential Reporting described above, and asks these counselors to inform their clients about confidential reporting as they deem appropriate. Regardless of whether a report is made confidentially or not, statistics included in the Annual Security Report never include any identifying information for any of the involved parties.

University Response to Reports of Crime or Suspicious Activity

Whenever the Campus Director receives a report of a crime or suspicious activity, the Campus Director will relay that information to DPS at the main campus, and work with DPS to document the incident. If the reporting party requests the involvement of the local law enforcement, the Campus Director and DPS can assist reporting parties with this request. Reporting parties should be aware that reports (and any associated investigation) involving students may be referred to Student Affairs and/or a Title IX Coordinator for review and possible disciplinary referral depending on the nature of the report. Likewise, reports involving employees/faculty members may be forwarded to Human Resources and/or a Title IX Coordinator for review and possible disciplinary referral.

Higher Education Opportunity Act Victim Notification

It is University policy to, upon written request, disclose to the alleged victim of a crime of violence or a non-forcible sex offense, the report on the results of any disciplinary proceeding conducted by the institution against a student who is the alleged perpetrator of such crime or offense. If the alleged victim is deceased as a result of such crime or offense, the next of kin of such victim shall be treated as the alleged victim for purposes of this paragraph.

Webster Alerts Mass Notification System

Webster University’s Webster Alerts system is powered by Rave Alert™, a global leader in higher education emergency notification. Webster Alerts are used to notify the campus community about certain crimes and emergencies as described more fully below in the following sections of the Annual Security Report related to Timely Warnings and Emergency Notifications. The University may also use Webster Alerts to communicate unexpected school closures from time to time; however, it is never used to send information regarding advertising or campus activities.

Students, faculty and staff are automatically enrolled in the Webster Alerts system; however, their account initially only lists their webster.edu email address, and they are only signed up to receive alerts for the campus(es) they attend classes at or are employed at. Students, faculty and staff cannot opt out of receiving communications at their webster.edu email address related to certain crimes or emergencies which may affect their campus(es).

The University strongly encourages students, faculty and staff to also add additional contact information such as personal email addresses and mobile numbers to their Webster Alerts account. Individuals are provided an opportunity to add up to three personal email addresses and three mobile numbers to their

account. This also allows account holders to add other individuals such as parents or guardians to their account if they wish. Other individuals who are interested in signing up for a Webster Alerts account can request an account by contacting the Director of Public Safety, Rick Gerger at 314-246-8708 or rickgerger06@webster.edu. Instructions for accessing Webster Alerts accounts is provided in new student, faculty and staff orientation materials. Account holders can always edit their current contact information and campus preferences at any time simply by logging onto Connections and clicking on the Webster Alerts banner.

Timely Warning Policies and Procedures

What Are Timely Warnings?

It is the University's policy to issue Timely Warnings to the campus community any time a campus security authority (or local law enforcement agency) receives a report of a Clery Act crime that has occurred on Clery Act geography that, in the judgment of the Campus Director (or his/her designee)⁵, constitutes a serious or continuing threat to students, faculty or employees. The University's Timely Warnings are known as "Campus Safety Alerts," and these Alerts will be distributed as soon as pertinent information is available, in a manner that withholds the names of victims as confidential, and with the goal of aiding in the prevention of similar crimes.

When Are Timely Warnings Issued?

Whenever the Campus Director receives a report of a Clery Act crime that has occurred on Clery Act geography, the Director evaluates that crime on a case by case basis to determine whether, based on the facts known at that time, there is an ongoing threat to the campus community. Factors taken into consideration include, but are not limited to: the nature of the crime and the continuing danger to the campus community. Campus Safety Alerts are typically issued for the following Uniform Crime Reporting Program (UCR)/National Incident Based Reporting System (NIBRS) crime classifications:

- Murder/Non-Negligent Manslaughter;
- Aggravated Assault (cases involving assaults among known parties, such as two roommates fighting which results in an aggravated injury, will be evaluated on a case-by-case basis to determine if the individual is believed to be an ongoing threat to the larger campus community);
- Robbery involving force or violence (cases including pick pocketing and purse snatching will typically not result in the issuance of a Timely Warning Notice, but will be assessed on a case-by-case basis);
- Sexual Assault (considered on a case-by-case basis depending on the facts of the case, when and where the incident occurred, when it was reported, and the amount information known by the Campus Director) – in cases involving sexual assault, they are often reported long after the incident occurred, thus there is no ability to distribute a "timely" warning notice to the community; however, all cases of sexual assault, including stranger and non-stranger/acquaintance cases, will be assessed for potential issuance of a Timely Warning Notice;
- Major incidents of Arson;

⁵ Note that any of the Campus Director's responsibilities outlined anywhere in the "Timely Warning Policies and Procedures" section of this Report may also be fulfilled by a designee of the Director's choosing.

- Other Clery Act Crimes as determined necessary by the Campus Director.

The institution is not required to issue a Timely Warning with respect to crimes reported to a pastoral or professional counselor.

What Is Included in a Timely Warning?

Once the Campus Director determines that a Campus Safety Alert should be issued to the campus community, he or she will draft the content of the Alert. The Campus Director has primary responsibility for developing the content of the Campus Safety Alert; however, the Director of Public Safety (or designee) or Chief Communications Officer (or designee) at the Webster Groves campus are also authorized to draft Alerts if necessary.

The content of Campus Safety Alerts varies depending on what information is known at the time and the type of offense involved; however, the following information (if known) is typically included unless it could potentially compromise law enforcement efforts or victim confidentiality:

- Date/time/location of the crime;
- Brief description of the crime;
- Suspect description(s);
- Local law enforcement contact information;
- Relevant crime prevention or safety tips.

How Are Timely Warnings Issued?

Campus Safety Alerts are always communicated via blast emails to all email addresses associated with this campus which are registered with Webster Alerts. This will always include every student, faculty, and staff's webster.edu email address, as well as any additional email addresses which these individuals have added to their Webster Alerts accounts. The University may also choose, on a case by case basis, to supplement the primary methods of issuing Campus Safety Alerts with one or more of the following additional methods of communications: text messages to mobile numbers registered with the Webster Alerts system associated with this campus, posting information to the University's official social media pages, posting information to the University's official website, or posting paper flyers in strategic locations on campus.

The Campus Director has primary responsibility for issuing the Campus Safety Alerts to the campus community using the methods described above; however, the Director of Public Safety (or designee) or Chief Communications Officer (or designee) at the Webster Groves campus are also authorized to issue Alerts via any of these methods if necessary.

Updates to Timely Warnings

In the event that the Campus Director determines that an update to the original Campus Safety Alert should be issued, the update will be prepared and issued using the same procedures and methods as the initial Campus Safety Alert.

Campus Safety Advisories

While the Clery Act does not require universities to issue Timely Warnings for non-Clery Act Crimes or crimes which do not occur on Clery Act Geography; the Campus Director may choose from time to time to issue notices to the campus community of other types of crimes or crimes which occur nearby the University but outside its Clery Act Geography. These notices are known as “Campus Safety Advisories” and they may be issued in a variety of ways to all or a portion of the members of the campus community. The Director of Public Safety (or designee) may from time to time assist the Campus Director in communicating these voluntary Advisories to the appropriate members of the campus community at times.

EMERGENCY RESPONSE AND EVACUATION POLICIES AND PROCEDURES

The University understands that taking proactive steps regarding emergency planning is an important step in maintaining a safe campus for students, faculty, staff and visitors. This section of the Annual Security Report addresses the University's emergency response and evacuation policies and procedures, and explains how the University communicates information about emergencies or dangerous situations on campus to the campus community.

Immediate Emergency Response Procedures

Broadly speaking, the University's Emergency Operations Plan (EOP) establishes policies, procedures and organizational structures and roles essential for Webster University to respond to, and recover from, crisis and emergency situations that threaten lives, property, public health and the safety of faculty, staff, students and visitors in any location controlled, leased, or owned by Webster University. DPS leads the University's efforts to develop and implement the Plan; however, department heads, building managers on campus, and the Campus Directors at Webster University's branch campuses are also responsible for developing emergency response plans, contingency plans and continuity of operations plans for their staff and areas of responsibility as appendices to and under the umbrella of the Plan. The Plan calls for the University to respond to crisis situations using the standards of the nationally recognized Incident Command System. DPS officers and other University personnel at the main campus in Webster Groves, Missouri receive training in the Incident Command System and Responding to Crisis Incidents on campus and undergo refresher training annually.

The University's Plan focuses on the following objectives:

- Establishing the basic organizational and operational roles and procedures to be used in the event of any emergency or crisis situation occurring within or on a campus or site controlled, leased, or owned by Webster University.
- Articulating clear command and control mechanisms that, when deployed, positions the University to secure and/or commit all appropriate resources toward minimizing the threat of the crisis and protecting lives, property, services and normal operations of the University.
- Creating a learning-centered environment that emphasizes community responsibility through an understanding of key concepts prevention, intervention, and response. By focusing on prevention, we reduce the necessity of intervention and response.

The Plan also identifies broad response measures for various types of crisis/incidents, including but not limited to: bomb threats, civil protests, explosions, fires, hazardous materials incidents, infrastructure failure, severe weather, natural disasters, violent/criminal incidents, terrorism and public relations emergencies.

In the event of an emergency on campus, local administrators and staff at this campus will work collaboratively with local law enforcement and first responders to respond to, and summon the necessary resources, to mitigate, investigate, and document the emergency or dangerous situation. It is essential that the Campus Director remains an active part of emergency response so that the Campus Director (or the Campus Director's designee) can ensure the appropriate emergency notifications go out to the appropriate segment(s) of the campus community.

Evacuation Procedures

The University's EOP includes general evacuation guidelines; however, any time the University determines that an evacuation is necessary, the specific evacuation procedure would be affected by a myriad of factors, including the type of threat, the occupancy of the other buildings and areas of the campus at the time of the incident, etc. Students, faculty, staff and visitors to the campus community are expected to follow the instructions of any first responders on the scene. These first responders may instruct you to evacuate the building you are inside of, or shelter in place. You may be instructed to shelter in place if circumstances dictate that evacuation outside the building/area is not advisable. These situations include, but are not limited to, tornados, severe weather and chemical attack.

At the sound of a fire alarm or if you are instructed to evacuate, leave your work area immediately and proceed to the nearest exit, and leave the building. If you are the first to recognize a fire situation, activate the alarm, evacuate to a safe location using the nearest exit, and dial 911.

1. Remain calm.
2. Do NOT use elevators, use the stairs.
3. Assist individuals with physical mobility issues evacuate if you can do so safely. If you are aware of an individual with mobility issues who is unable to exit without using an elevator, assist that individual with securing a safe location near a stairwell, and immediately inform the responding Fire Department of the individual's location.
4. Proceed to a clear area at least 150 feet from the building. Keep all walkways clear for emergency vehicles.
5. Make sure all personnel are out of the building.
6. Do not re-enter the building.

Shelter-in-Place Procedures – What It Means to “Shelter-in-Place”

If an incident occurs and the buildings or areas around you become unstable, or if the air outdoors becomes dangerous due to toxic or irritating substances, it is usually safer to stay indoors, because leaving the area may expose you to that danger. To “shelter-in-place” simply means that you should make a shelter of the building that you are in, and with a few adjustments this location can be made even safer and more comfortable until it is safe to go outside.

If the building you are in is not damaged, stay inside in an interior room until you are told it is safe to come out. If your building is damaged, take your personal belonging (purse, wallet, access card, etc.) and follow the evacuation procedures for your building (close your door, proceed to the nearest exit, and use the stairs instead of the elevators). Once you have evacuated, seek shelter at the nearest building quickly. If emergency responders are on the scene, follow their directions.

How You Will Know to “Shelter-in-Place”

A shelter-in-place notification may come from University personnel or local first responders.

How to “Shelter-in-Place”

No matter where you are, the basic steps of shelter-in-place will generally remain the same. Should the need ever arise, follow these steps, unless instructed otherwise by campus administrators or local emergency personnel:

1. If you are inside, stay where you are. Collect any emergency shelter-in-place supplies and a telephone to be used in case of emergency. If you are outdoors, proceed into the closest building quickly or follow instructions from emergency personnel on the scene.
2. Locate a room to shelter inside. It should be:
 - An interior room;
 - Above ground level; and
 - Without windows or with the least number of windows. If there is a large group of people inside a particular building, several rooms maybe necessary.
3. Shut and lock all windows (tighter seal) and close exterior doors.
4. Turn off air conditioners, heaters, and fans.
5. Close vents to ventilation systems as you are able. (University personnel will coordinate with the property manager to turn off the ventilation as quickly as possible.)
6. Make a list of the people with you and ask someone to call the list in to local law enforcement so they know where you are sheltering. If only students are present, one of the students should call in the list.
7. Turn on a radio or TV and listen for further instructions.
8. Make yourself comfortable.

Emergency Notifications Policies & Procedures

What Are Emergency Notifications?

It is the University’s policy to immediately notify the campus community (in the form of an Emergency Notification) any time the Campus Director (or his/her designee)⁶ confirms that there is a significant emergency or dangerous situation which poses an immediate threat to the health or safety of students, faculty or staff occurring on the campus. The Campus Director is also responsible for determining the appropriate segments or segments of the campus community to receive a notification based on the type of incident involved and its location.

When Are Emergency Notifications Issued?

Any time the Campus Director is notified about a potential emergency or dangerous situation on the University’s Clery Act Geography, the Campus Director will then reach out to the appropriate University administrators, DPS personnel on the main campus, local first responders and/or the National Weather

⁶ Note that any of the Campus Director’s responsibilities outlined anywhere in the “Emergency Notification Policies and Procedures” section of this Report may also be fulfilled by a designee of the Director’s choosing.

Service to quickly gather enough basic information to evaluate whether the situation poses an immediate threat to the health or safety of students, faculty or staff at that time. If the Campus Director confirms that there is not a significant emergency or dangerous situation which poses an immediate threat to the health or safety of students, faculty or staff at this time, the Director will continue to monitor the situation closely.

Examples of situations which would require an Emergency Notification include, but are not limited to: an active shooter on campus, serious inclement weather such as a tornado, or a serious spill of hazardous materials. Whenever there is confirmation of a significant emergency or dangerous situation as described above, Webster University will, without delay, and taking into account the safety of the community, determine the content of the notification and initiate the notification system, unless issuing a notification will, in the professional judgment of responsible authorities, compromise efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency.

What Is Included in an Emergency Notification?

Once the Campus Director determines that an Emergency Notification should be issued, the Director will draft the content of the Emergency Notification. The Campus Director has primary responsibility for developing the content of the Emergency Notifications, however, the Director of Public Safety (or designee) and Chief Communications Officer (or designee) at the Webster Groves campus are also authorized to draft Notifications if necessary.

The content of Emergency Notifications varies depending on what information is known at the time and the type of emergency involved, however, the following information (if known) is typically included:

- The nature of the emergency;
- The action to be taken (e.g., Evacuate; Seek Storm Shelter; Shelter in Place);
- Additionally, “GO TO” and “AVOID” may be used in the event normal response procedures would place personnel at risk; and
- Where to obtain further information and/or updates on the emergency.

How Are Emergency Notifications Issued?

Emergency Notifications are always communicated via the following methods: blast emails to all addresses⁷ associated with this campus which are registered with Webster Alerts; text message alerts to any mobile devices associated with this campus which are registered with Webster Alerts; broadcast announcements through all IP phones located on campus; and an alert posted on the University’s official website.⁸

⁷This will always include every students, faculty, and staff’s webster.edu email address, as well as any additional email addresses these individuals have added to their Webster Alerts accounts.

⁸Anytime there is an emergency notification posted to the University’s website it will appear in a banner at the top of the page: www.webster.edu.

The University may also choose, on a case by case basis, to supplement the primary methods of issuing Emergency Notifications with one or more of the following additional methods of communications: posts on the University's official social media pages; alerts posted to digital signage located on campus; and desktop alerts to any computers on campus which are connected to the University's network.

The Campus Director has primary responsibility for disseminating the Emergency Notifications in the primary and secondary methods described above; however, the Director of Public Safety (or designee) and Chief Communications Officer (or designee) at the Webster Groves campus are also authorized to disseminate Notifications via any of these methods if necessary.

Communicating Emergency Notifications to the Larger Community

The University always provides information regarding any emergency notifications to the larger community by posting information on the University website's main page (www.webster.edu). The University may also decide on a case by case basis to utilize its official social media accounts or provide information directly to local or national media.

Follow Up Information Regarding Campus Emergencies

The Campus Director will stay in close contact with appropriate University administrators, DPS personnel on the Webster Groves campus, local first responders and/or the National Weather Service as the situation unfolds, so that the Director can determine when it is appropriate to provide follow up information to the community. Any follow up information will be provided using the same procedures and methods as the initial Emergency Notification.

Publication & Tests of Emergency Response and Evacuation Procedures

The University publicizes its emergency response and evacuation procedures annually by blast email to all "webster.edu" email addresses, in conjunction with at least one test per calendar year. This same information is also publicly available year round on the DPS website at: <http://www.webster.edu/public-safety/crisis/>. Additional crisis response materials can also be found on students, faculty, and staff's Connections home page on the right hand side of the home screen of the Connections home page under the "Crisis Response" heading after you have logged into your account.

The University conducts a variety of tests of its emergency plans and evacuation policies and procedures. Tests include regularly scheduled drills, exercises, and appropriate follow-through activities, designed for assessment and evaluation of emergency plans and capabilities. These tests, which may be announced or unannounced, are designed to assess and evaluate the emergency plans and capabilities of the institution. Drills are relatively small-scale activities that are designed to focus on specific areas or specific sections of this plan which are normally developed and evaluated by internal personnel to help acquire knowledge/skills. Exercises are generally larger in scale and are formal events and are designed to be as close to "real-life" as possible. They are typically not stopped or interrupted to make corrections except for safety concerns or real incidents that could impact the participants. The exercises have a debriefing and a critique at the conclusion. The purpose of exercises is to test the knowledge/skills of the participants.

For example, Public Safety on the Webster Groves campus works collaboratively with other departments to annually test the University's Webster Alerts systems which is used by this and all other branch campuses. The University also conducts annual tabletop exercises involving a different hypothetical emergency or crisis to test its emergency response and evacuation procedures.

After each the conclusion of each drill or exercise, a University official responsible for coordinating the drill/exercise will document: a description of the drill/exercise, the date/time of the drill/exercise, and whether it was announced or unannounced.

ALCOHOL AND DRUG POLICY & EDUCATION PROGRAMS

The University recognizes that effective Alcohol and Drug policy and education programs are another important aspect of campus safety. The University's full Drug and Alcohol Policy is available at: http://www.webster.edu/student-handbook/drug_alcohol_policy.html. Select portions of the University's Drug and Alcohol Policy and the associated education programs are explained in this section of the Annual Security Report.

University Alcohol Policy

The University expects its students to observe all federal, state and local laws, including those related to the possession, use, sale and consumption of alcoholic beverages. The Campus Director and the Dean of Students Office at the main campus in Webster Groves work collaboratively to enforce these laws.

The Dean of Students Office, other offices and departments in Student Affairs, and the Campus Director work together to maintain standards governing the allowable use of alcohol on campus and at campus events. When on campus, students who are 21 years of age or older may consume alcoholic beverages only at University sanctioned events. The University prohibits drinking games on campus. While off-campus, students are expected to uphold the policies of the Student Code of Conduct. Behavior occurring off-campus that is that is detrimental to the University or members of the campus community is governed by this Code. Webster reserves the right to take actions that address the violations through educational intervention or sanctions.

Students, faculty or staff in violation of the University's Alcohol Policy are referred to Student Affairs (students) or Human Resources (faculty/staff) and may be referred to local law enforcement if they are in violation of any local or federal alcohol laws.

University Drug Policy

The possession, use and sale of illegal drugs is prohibited on this campus and illegal under both state and federal law. Administrators and staff at this campus work collaboratively with administrators and staff members at the Webster Groves campus to enforce these laws. Students, faculty or staff in violation of the University's Drug Policy will be referred to Student Affairs (students) or Human Resources (faculty/staff) and may be referred to local law enforcement if they are in violation of any local or federal drug laws.

Drug and Alcohol-Abuse Education Programs

Oversight for the University's Alcohol and other Drug Education and Prevention (AOD) program is formally housed within Student Affairs. Dr. Patrick Stack, Director of Counseling/Life Development is a Certified Reciprocal Advanced Alcohol Drug Counselors (CRAADC) and provides leadership and education in this area. A CRAADC credential requires a minimum of a Master's degree in mental health

counseling, didactics in substance abuse education and prevention, 100 hours of supervision, and candidates must successfully pass a national exam.

Drug and Alcohol programs are coordinated through the collective efforts of Student Affairs on the Webster Groves campus, which includes the key offices of the Dean of Students Office, Counseling/Life Development, Student Health Services, Housing and Residential Life, Multicultural Center and International Student Affairs (MCISA), First-Year Experience Program (FYE), Office of Student Engagement, the University Center, and Campus Dining. Collectively, Student Affairs supports and promotes healthy decision making that leads to a healthy learning environment.

Specifically, our efforts include developing programs associated with student involvement, relationships, personal development, social responsibility and the use of alcohol, tobacco, and other drugs. Some of the program elements related to drug or alcohol-abuse education programs include:

Counseling/Life Development: Counseling/Life Development at the main campus is available to assist students at branch campuses with alcohol/drug issues. Professional counselors provide treatment for substance abuse. Specifically, Counseling staff engage the University community in the following ways:

- Counseling /Life Development provides an on-line self-evaluation for alcohol that can be accessed worldwide through the counseling/life development website. This evaluation will provide recommendations and resources, including contacting a member of the counseling staff for guidance. Students are also able to take a comprehensive on-line wellness screening for alcohol/drugs provided through the National Wellness Institute (NWI).

Dean of Students Office

- The Dean of Students Office partners with other departments and administration at the branch campuses to assist with programming efforts as needed.

Title IX

- The effects of alcohol and drug usage are addressed within the University's sexual misconduct prevention programming.
- Issues related to alcohol and drug usage are included in the training provided to individuals serving on the University Conduct Board.

Human Resources

- The Office of Human Resources is required to communicate with all employees regarding drug/alcohol abuse in the workplace.

POLICIES AND PROCEDURES RELATED TO SEXUAL ASSAULT, DATING VIOLENCE, DOMESTIC VIOLENCE, AND STALKING

This section of the Annual Security Report discusses the serious topic of sexual assault, dating violence, domestic violence, and stalking. The following pages include important information on topics such as prohibited conduct, and options for reporting sexual assault, dating violence, domestic violence, and stalking. This section also includes information on associated disciplinary proceedings, as well as information about the University's education and awareness campaigns, and local resources (both on campus and in the community) available to assist reporting parties with a wide range of issues.

Policy on Sexual Assault, Harassment, and Other Sexual Offenses

Webster University is committed to maintaining a safe learning and working environment that is free of discrimination, harassment, sexual violence, and other forms of sexual misconduct that undermine its educational mission. Our training programs and educational tools related to sexual assault, harassment and other sexual offenses inform Webster students and employees of these prohibited activities and the corresponding obligations and procedures for reporting and responding to related complaints.

While the University makes every effort to educate the community to prevent sexual assault, harassment, and other sexual offenses from occurring, we are also committed to providing support to those affected when this behavior does occur. The University's Policy on Sexual Assault, Harassment, and Other Sexual Offenses (referred to hereinafter as the "Sexual Misconduct Policy") describes the University's programs to prevent dating violence, domestic violence, sexual assault, and stalking. The full policy is available at: <http://www.webster.edu/human-resources/policies/sexual-harassment-policy.html>. The University's Policy prohibits (among other conduct) the crimes of domestic violence, dating violence, sexual assault, and stalking.

The definitions of the offenses of sexual assault, dating violence, domestic violence, and stalking used in reporting Clery Act crimes in the annual statistics appear below.⁹ These definitions of dating violence, domestic violence, and stalking come from the Violence Against Women Act (VAWA), and the definition of sexual assault comes from the FBI's UCR program and which can be found in Appendix A of 34 CFR Part 668.

Dating Violence: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party'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:

⁹ Appendix D provides applicable state law definitions for these crimes. The definitions under state law are not used to classify crimes in the included annual statistics; however, they are provided for education and awareness purposes.

- 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: A Felony or misdemeanor crime of violence¹⁰ committed –

- By a current or former spouse or intimate partner of the victim;
- By a person with whom the victim shares a child in common;
- By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
- By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
- By any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- Fear for her, his, or others' safety; 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 which the stalker 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 victim.
- Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Sexual Assault: An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI’s Uniform Crime Reporting (UCR) program. Per the National Incident-Based Reporting System User Manual from the FBI UCR Program, A sex offense is “any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.”

- **Rape:** The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

¹⁰The term “crime of violence” is defined by 18 U.S. Code Section 16 as follows:

- (a) an offense that has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or
- (b) any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

- **Fondling:** The touching of the private parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
- **Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- **Statutory Rape:** Sexual intercourse with a person who is under the statutory age of consent.

While all sexual assaults reported to a Campus Security Authority or DPS are included in the annual crime statistics without regard to the issue of consent, the definition of consent (both in regard to the Sexual Misconduct Policy and any applicable state law) is an essential component of the Sexual Misconduct Policy and the University's primary and ongoing prevention and awareness programs.

The University's Sexual Misconduct Policy defines Sexual Consent as the "positive, unambiguous, and voluntary agreement to engage in specific sexual activity throughout a sexual encounter."

The Sexual Misconduct Policy expands on this definition by explaining that,

Consent cannot be inferred from the absence of a "no;" clear "yes," verbal or otherwise, is necessary. Consent to some sexual acts does not constitute consent to others, nor does past consent to a given act constitute present or future consent. Consent must be ongoing throughout a sexual encounter and can be revoked at any time.

Consent cannot be obtained by threat, coercion, or force. Agreement under such circumstances does not constitute consent.

Consent cannot be obtained from someone who is asleep or otherwise mentally or physically incapacitated, whether due to alcohol, drugs, or some other condition. A person is mentally or physically incapacitated when that person lacks the ability to make or act on considered decisions to engage in sexual activity. Engaging in sexual activity with a person whom you know -- or reasonably should know -- to be incapacitated constitutes sexual misconduct and is a violation of this policy."

The Sexual Misconduct Policy uses the University's definition of consent provided above; however, any applicable state law definition will be provided in Appendix D for education and awareness purposes. The University's definition of consent is used to identify potential misconduct from a sexual assault perspective in connection with disciplinary procedures.

Webster University's Title IX Team

Webster University's Title IX Team is led by the University's designated Interim Title IX Coordinator, Kimberley Pert. Ms. Pert is the person Webster University has designated to ensure Webster complies with Title IX. The Title IX Coordinator's duties include overseeing all Title IX reports of alleged policy violations and identifying and addressing any pattern or systemic problems that arise during the review of such reports of alleged policy violations.

The Interim Title IX Coordinator has ultimate oversight responsibility; however, she reserves the right to engage additional trained Deputy Title IX Coordinators on an ad-hoc basis as necessary. In the event a Deputy Title IX Coordinator is assigned to a specific case, he or she is referred to as the “Lead” Title IX Coordinator for that case. Members of this Title IX team receive training at least on an annual basis related to carrying out their roles and responsibilities. Contact information for Ms. Pert appears below. Ms. Pert is located at the Webster Groves main campus, but she handles Title IX at all of the University’s U.S. branch campuses.

Designated Title IX Coordinator

Kimberley Pert
Interim University Title IX Coordinator
470 E. Lockwood Ave.
St. Louis, MO 63119
314-246-7780
pertk61@webster.edu

Reporting Sexual Assault, Dating Violence, Domestic Violence or Stalking

The University offers individuals a number of reporting options which are outlined below; however, the University strongly encourages reporting to the Sexual Offense Advocate. The Sexual Offense Advocate is trained to provide assistance in making decisions about pursuing medical attention, counseling/support services, filing campus disciplinary procedures, preserving evidence, and filing criminal and/or civil charges. In cases where the alleged perpetrator poses a perceived threat to the campus community, the Sexual Offense Advocate may work with the appropriate administrators to issue a temporary ban from or restricted access to campus for that person. Regardless of which reporting option an individual ultimately chooses, he or she, at his or her discretion, may choose anyone he or she would prefer to serve as a support person at all times.

Confidential Reports to the Sexual Offense Advocate

A person who is the reporting party of a sexual offense, or who witnesses a sexual offense, is encouraged to make a report to the Sexual Offense Advocate. **Individuals are encouraged to first report any issues to the Sexual Offense Advocate as such initial reports will be kept completely confidential as the Sexual Offense Advocate is not required to report any information about an incident to the Title IX Coordinator without a reporting party's permission.** Reports of sexual assault, dating violence, domestic violence or stalking made to the Sexual Offense Advocate which meet the definition of a Clery Act Crime and which occur within this campus’ Clery Act Geography are still included in the annual crime statistics, but the statistics never include any personal-identifying information. Sexual assaults reported to the Sexual Offense Advocate which meet the definition of a Clery Act Crime and which occur within the University’s Clery Act Geography may also result in a Timely Warning (Campus Safety Alert); however, Timely Warnings never include information that identifies the reporting party.

The Sexual Offense Advocate can advise reporting parties regarding their options in making a report about any sexual offense pursuant to these policies and procedures to the Title IX Coordinator.

The Sexual Offense Advocate is located on the Webster Groves campus, but is available to assist individuals at any of the University's campuses. The Advocate can be reached 24 hours a day, seven days a week at: 314-252-8304.

The Sexual Offense Advocate is designated by the University as the support and resource person for all students and employees who believe they have experienced sexual assault or a sexual offense. The Sexual Offense Advocate is available to assist campus community members with the following areas of concern:

- The Sexual Offense Advocate has training in crisis intervention and support techniques, and provides emotional, medical, and/or judicial support either directly or through on- or off-campus referral.
- The Sexual Offense Advocate informs the person of all rights under this policy and provides procedural information and support as needed. The Advocate also works with Campus Directors when necessary to advise the person regarding options available for filing civil and/or criminal charges related to the offense. Those who believe they have experienced a sexual offense may also report the offense directly to the Title IX Coordinator, the Department of Public Safety at the Webster Groves campus, or local law enforcement as explained below.
- The Sexual Offense Advocate may serve as the reporting party's support person during all proceedings carried out under University auspices. The Advocate's role is separate from the administrative functions associated with the Hearing Board or other hearing procedures.

The Sexual Offense Advocate can assist the reporting party in understanding options related to pressing civil and/or criminal charges as well as in the process of working with DPS and/or local law enforcement authorities.

Reports to the Department of Public Safety (Located on the Webster Groves Campus)

Reporting parties also have the option of reporting sexual offenses the Department of Public Safety (DPS) at the Webster Groves campus. DPS can be reached at 314-968-6911 (emergency) or 314-968-7430. Anytime an individual reports a sexual assault or incident of dating violence, domestic violence or stalking to DPS, DPS will automatically contact the Sexual Offense Advocate, and the incident will be forwarded to the Title IX Coordinator for review regardless of whether the reporting party chooses to participate in a university disciplinary proceeding or pursue criminal charges.

Reports to Local Law Enforcement

As noted above, both the Sexual Offense Advocate and DPS can assist reporting parties with notifying local law enforcement agencies. Alternatively, reporting parties also have the option of reporting incidents directly to local law enforcement authorities themselves. The first page of this Report titled "Quick Reference Resources" lists the non-emergency number for local law enforcement with jurisdiction over this branch campus.

Sexual assault, dating violence, domestic violence and stalking also constitute potential criminal acts that could be grounds for criminal and/or civil action. Reporting parties have the right to file a criminal complaint against the perpetrator of the sexual offense and a complaint with Webster University

simultaneously; however, reporting parties also always have the right to decline to notify law enforcement.

Reports to a Title IX Coordinator or Deputy Title IX Coordinator

The Sexual Offense Advocate will strongly recommend that all individuals confidentially reporting sexual offenses to the Sexual Offense Advocate file a written statement with the Title IX Coordinator or Deputy Title IX Coordinator. Individuals also have the option to make reports directly to a Title IX Coordinator or Deputy Title IX Coordinator. Once reported to the Title IX Coordinator or Deputy Title IX Coordinator, any necessary interim steps will be taken pursuant to the Sexual Misconduct Policy. Additionally, such reports will be handled consistent with the University's Sexual Misconduct Policy regarding investigation, adjudication, and resolution.

Important Information Regarding Confidentiality

Webster University will make every effort reasonably possible to preserve the privacy of an individual who makes a report under this policy and to protect the confidentiality of the information reported consistent with applicable legal requirements. The degree to which confidentiality can be protected, however, depends upon the University's legal duty to respond to the information reported and the professional role of the person being consulted as explained above in the sections describing the different responsibilities of the University Sexual Offense Advocate, DPS, and the Title IX Coordinators. Any University official who is approached about a reported offense prohibited by the Sexual Misconduct Policy should make these limits clear before the reporting party discloses any facts to that official. **There are only two types of University employees who are not required to forward these types of reports to a Title IX Coordinator: 1) the Sexual Offense Advocate,¹¹ 2) a Professional or Pastoral Counselor¹² who is who is employed by the University in that capacity and is acting in that role at the time the disclosure is made.**

As required by law, disclosures to any other Webster University employee of a sexual assault, incident of dating violence, domestic violence or stalking will be forwarded to a Title IX Coordinator, and in the event that the incident meets the definition of a Clery Act Crime and allegedly took place on the

¹¹ As explained previously, reports of sexual assault, dating violence, domestic violence or stalking made to the Sexual Offense Advocate which meet the definition of a Clery Act Crime and which allegedly occur on Clery Act Geography are still included in the University's annual crime statistics, but these statistics never include any personal-identifying information. Sexual assaults reported to the Sexual Offense Advocate may also result in a Timely Warning (Campus Safety Alert); however, Timely Warnings never include information that identifies the reporting party.

¹² Note that disclosures to a professional or pastoral counselor at the University, who is acting in that role at the time the information is received, will not be included in the University's annual crime statistics, and will not result in a Timely Warning (Campus Safety Alert) unless the reporting party gives his or her permission for the counselor to forward information about the incident to another employee or department at the University such as the Sexual Offense Advocate, a Title IX Coordinator, or the Department of Public Safety.

University's Clery Act Geography associated with this campus will be included in this campus' annual crime statistics, and may result in a Timely Warning (Campus Safety Alert). However, the annual crime statistics and Timely Warnings never include any personally identifying information¹³ about the reporting party.

Other Considerations Regarding Incidents of Sexual Assault, Dating Violence, Domestic Violence or Stalking

Seeking Prompt Medical Attention

Regardless of whether (or to whom) an individual chooses to make a report, the University strongly encourages anyone who has experienced sexual intrusion, sexual penetration, dating or domestic violence to seek prompt medical attention. A medical examination can identify any internal trauma, test for sexually transmitted diseases, as well as obtain appropriate medical evidence should one choose to pursue legal charges at some later date. In the event that an individual chooses not to participate in forensic evidence collection, health care providers can still treat injuries and take steps to address concerns of pregnancy and/or sexually transmitted diseases.¹⁴

The section of this Report titled "Community Resources Available to Reporting Parties" contains local resources which can provide information about sexual assault and forensic exams, including referrals to medical providers. The Sexual Offense Advocate can also assist individuals with finding local medical resources.

Preserving Evidence

Regardless of when and to whom an individual chooses report to, it is important that a reporting party immediately preserve any evidence that may assist in establishing the facts of the alleged violation so that authorities and relevant administrators may ultimately take appropriate action against the responding party. The importance of preserving evidence that may assist in proving that the alleged criminal offense occurred or may be helpful in obtaining a protection order. Such evidence may include, but is not necessarily limited to, physical evidence or electronic or written communications.

Preserving Physical Evidence through a Forensic Exam

Any individual who believes he or she may wish to pursue legal charges are advised not to bathe, douche, smoke, change clothing or clean the bed/linen/area where they were assaulted (if the offense

¹³ The term personally identifying information is defined in section 40002(a)(20) of the Violence Against Women Act of 1994 (42 U.S.C. 1395(1)(20)).

¹⁴ Under the Violence Against Women and Department of Justice Reauthorization Act of 2005, starting in 2009, states must certify that they do not "require a victim of sexual assault to participate in the criminal justice system or cooperate with law enforcement in order to be provided with a forensic medical exam, reimbursement for charges incurred on account of such an exam, or both."

occurred within the past 96 hours) prior to a medical exam. However, individuals who have already engaged in any of these activities, can still choose to have an exam performed.

Preserving Other Forms of Evidence

In cases where individuals believe they may be interested in pursuing criminal and/or civil charges, it is also important to work with local law enforcement agencies so that statements can be taken and evidence can be collected immediately. Reporting parties are also encouraged to save evidence such as letters, notes, emails, records of phone calls, videos, photos, texts, social media postings (Facebook, Twitter, etc.), computer screenshots, voicemails, or any other form of evidence that may be helpful to a criminal investigation or campus judicial proceeding.

Amnesty from University Drug and Alcohol Policy

In an effort to encourage reports of sex offenses, individuals who report sexual misconduct, either as a reporting party or a third party witness, will not be subject to disciplinary action by the University for his/her/their own personal consumption of alcohol or drugs at or near the time of the incident, provided any such violations did not and do not place the health or safety of any other person at risk. The University may, however, initiate an educational discussion or pursue other educational remedies regarding alcohol or other drugs. The amnesty policy applies to the University's student conduct process.

University Response to Reports of Sexual Assault, Dating Violence, Domestic Violence or Stalking

The University will promptly and effectively respond to reports of sexual offenses and harassment and will take appropriate action to prevent, correct, and if necessary discipline behavior that violates this policy. The University's Sexual Misconduct Policy includes a number of different options for reporting sexual assaults, incidents of dating violence, domestic violence or stalking. While the University takes reporting parties' confidentiality very seriously, it is important for reporting parties to recognize that the level of confidentiality their report will receive under law varies depending on who they make their report to. **The only way in which an individual can report a sexual offense with complete confidentiality is to contact the Sexual Offense Advocate or another professional or pastoral counselor at the University.** Note that these individuals are located on the Webster Groves campus, but are available to assist individuals at the U.S. branch campuses by phone.

As explained above, the University also strongly encourages reporting parties to notify local law enforcement authorities (and can assist in doing so); however, it is important to know that regardless of who the incident is reported to, reporting parties¹⁵ always have the right to decline to notify local law enforcement authorities. Similarly, the University never requires reporting parties to participate in any investigation or disciplinary proceeding.

¹⁵ The only exception is in cases involving a minor, as the University must notify law enforcement pursuant to certain states' law.

The University strictly prohibits retaliation against a party who reports a sexual offense, or for assisting another in reporting a sexual offense or filing a complaint. Retaliation is a clear violation of University policy, and applicable law, and is a serious offense that may result in separate disciplinary action.

Any time a student or employee reports to the University that the student or employee has been a victim of dating violence, domestic violence, sexual assault, or stalking, whether the offense occurred on or off campus, the institution will provide the student or employee with a written explanation of the student or employee's rights and options, including:

- the procedures affected individuals should follow if a crime of dating violence, domestic violence, sexual assault or stalking has occurred;
- information about how the institution will protect the confidentiality of reporting parties and other necessary parties;
- a statement that the institution will provide written notification to students and employees about support services within the institution and in the community;
- a statement regarding the institution's provisions about options for, available assistance in, and how to request interim protective measures; and
- an explanation of the procedures for institutional disciplinary action.

Anytime a reporting party is referred to the Title IX team, the lead Title IX Coordinator for that case will also provide the reporting party with the same written explanation of rights and options.

Orders of Protection

Webster University encourages reporting parties of sexual misconduct to make a formal report to the appropriate local law enforcement authorities for the purpose of filing a criminal complaint and/or seeking and enforcing a no contact, restraining or similar Court Order. The University Sexual Offense advocate (314-252-8304/24 hours a day) or one of the contacts listed below in the "Community Resources Available to Reporting Parties" section of this Report can assist individuals with information regarding obtaining a protective order under applicable state law.

Members of the Webster University community who receive a lawful order of protection (including ex parte orders) should provide a copy to the Campus Director and to the applicable University appointed Title IX Coordinator. The University also suggests that individuals with orders of protection meet with the Campus Director to develop a Safety Action Plan – a plan intended to reduce the risk of harm while on campus or coming and going from campus. This plan may include, but is not limited to, escorts and special parking arrangements.

In addition to orders of protection issued by the courts, Webster University may impose a university-based no contact directive. A university-based no contact directive prohibits an individual from contacting a specific person or specific people until rescinded. Contact includes, but is not limited to: in person, by phone, text messaging, social media, by third person, etc. Members of the Title IX Team, the Dean of Students Office, or other duly appointed University Official may issue a no contact directive.

Students or staff also have the right to request that their campus directory information on file be removed from public sources by directing a request to the Office of the Registrar, Loretto Hall 63, Webster Groves Main Campus, 314-968-7450/800-987-3447, registraroffice@webster.edu.

Interim Protective Measures Available to Reporting Parties

The University provides written notification to reporting parties about options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or protective measures. The institution will provide such protective measures if they are reasonably available, regardless of whether the victim chooses to report the crime to campus police or local law enforcement.

Whenever an individual reports a sexual assault, incident of dating violence, domestic violence or stalking, the written explanation of the reporting party's rights and options provided by the University will include information regarding how to request changes to academic, living, transportation and working situations or protective measures; and the University is obligated to comply with any reasonable requests following a report of an alleged sexual assault, incident of domestic violence, dating violence or stalking. Title IX Coordinators and their designees may also decide to implement certain interim interventions and protective measure pending an investigation or hearing on an alleged sex offense.

Working in conjunction with the Sexual Offense Advocate, the Title IX team has ability to make interim protective measures available to reporting parties and responding parties involved in reports of sexual assaults and offenses before the report is resolved, or in special circumstances even if the reporting party chooses not to file a complaint.

These options include modifications to: academic schedules, campus housing, student leadership, working situations, as well as providing academic support or making special arrangements for withdrawing or dropping classes without penalty, if requested and reasonably available, regardless of whether the reporting party chooses to file a formal report. No contact measures may also be implemented.

Any interim protective measures imposed should avoid any lasting negative effects on the any party before any findings of responsibility are made as much as is possible in the circumstances presented.

The University maintains the confidentiality of any protective measures provided to any involved party to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the accommodations or protective measures. The Lead Title IX Coordinator for each case reviews options and interim protective measures with the reporting party, and in doing so explains that he or she will limit the information shared with University employees in other campus departments involved in certain accommodations/protective measures (e.g., Housing and Residential Life, Academic Affairs, Human Resources, etc.) The Title IX Coordinator provides the most minimal amount of information possible in order to effect the accommodation/protective measure, and never communicates the reason for the requested accommodation/protective measure to anyone outside of the Title IX Team.

On Campus Resources Available to Parties Reporting Sexual Assault, Dating Violence, Domestic Violence or Stalking

Whenever an individual reports a sexual assault, incident of dating violence, domestic violence or stalking, the written explanation of the reporting party's rights and options provided by the University will include information on the following resources:

Counseling & Mental Health Services – There are no counseling or mental health services available on site at this branch campus, but the University's Sexual Offense Advocate can assist with referrals to local resources in addition to the Community Resources listed below.

Health Services - There are no health services available on site at this branch campus, but the University's Sexual Offense Advocate can assist with referrals to local resources in addition to the Community Resources listed below.

Victim Advocacy Services – As explained above, the University's Sexual Offense Advocate can assist reporting parties with a full range of advocacy services.

Legal Assistance – The University does not offer reporting parties legal assistance on campus, but the University's Sexual Offense Advocate can assist with referrals to local resources in addition to the Community Resources listed below.

Visa & Immigration Assistance - Blerina Polovina, Director of International Admissions International Recruitment, can assist reporting parties at any of the branch campuses with visa or immigration matters. Ms. Polovina is located on the Webster Groves campus and can be reached at 314-246-7860 or by email at kongjble@webster.edu.

Student Financial Aid - The Office of Financial Aid can assist reporting parties at any of the branch campuses with financial aid matters. This office is located on the Webster Groves campus and can be reached at 314-968-6992 or by email at financialaid@webster.edu.

Additional Services – Reporting parties can always contact the University's Sexual Offense Advocate or a Title IX Coordinator for assistance with other related services which are not included here.

Community Resources Available to Parties Reporting Sexual Assault, Dating Violence, Domestic Violence or Stalking

Whenever an individual reports a sexual assault, incident of dating violence, domestic violence or stalking, the written explanation of the reporting party's rights and options provided by the University will include information on the following community resources:

Counseling, Mental Health, Health Services, Victim Advocacy Services, & Legal Assistance – Community Service Programs (CSP) can provide a wide range of referrals to local resources. CSP can be reached 24 hours a day at (949) 831-9110. More information about CSP is available at: <https://www.cspinc.org/Sexual%20Assault>.

Visa & Immigration Assistance – The National Customer Service Center for the U.S. Citizenship and Immigration Service (USCIS) is: 1-800-375-5283. The closest field office is located at: 34 Civic Center Plaza Santa Ana, CA 92701. More information is available at: <https://www.uscis.gov/about-us/find-uscis-office/field-offices/california-santa-ana-field-office>

Student Financial Aid - The Department of Education's Federal Student Aid office's website is: <https://fafsa.ed.gov/>. They can be reached by phone at 1-800-433-3243.

General Information Regarding Institutional Disciplinary Proceedings Related to Reports of Sexual Assault, Dating Violence, Domestic Violence or Stalking

As explained below, the University offers reporting parties the option of either an Administrative or Hearing Board Process. However, the information in this section applies to all University disciplinary proceedings resulting from a reports of sexual assault, dating violence, domestic violence or stalking.

The University will take disciplinary action against an individual found to have engaged in sexual assault, domestic violence, dating violence, and/or stalking. The type and severity of disciplinary action taken will depend upon the specific violation(s) and the specific circumstances of each case. A person may be found responsible for violating more than one section of the University's Sexual Misconduct Policy.

Webster is committed to providing prompt, fair, and impartial investigation and resolution of reports of violations under the Sexual Misconduct Policy. The University's disciplinary process is consistent with the University's policy, transparent to the reporting party and responding party and will include a prompt, fair, and impartial investigation and resolution process. All reports received by the Title IX Coordinator are handled consistent with the Sexual Misconduct Policy regarding investigation, adjudication, and resolution.

The Sexual Misconduct Policy states that both parties will be notified regarding procedures used in the hearings. Information can also be provided regarding legal options; however, it is recommended that legal advice be obtained from a competent attorney. The University's proceedings also provide the reporting party and the responding party with the same opportunities to have an advisor of his/her choice present during any institutional disciplinary proceeding. This includes the right to be accompanied by an advisor (i.e., any individual who provides the reporting party or responding party support, guidance, or advice) to any related meeting or proceeding. The University will not limit the choice of or presence of an advisor for either the reporting or responding party in any meeting or institutional disciplinary proceeding; however advisors may not speak on behalf of either the reporting or responding party. In addition, if either the reporting or responding party wishes to have an attorney present, he/she must provide two business days' notice to the Title IX Coordinator or designee. These restrictions are communicated to all reporting and responding parties in their initial meeting with a Title IX Coordinator.

The Sexual Misconduct Policy also makes clear that both parties have the right to testify either in writing or verbally.

The reporting party and the responding party may request to have witnesses testify. Such requests are granted at the discretion of the Hearing Officer/Chair. Witnesses must be identified in writing to the Hearing Office/Chair at least 48 hours prior to the hearing. The Hearing Officer will inform both parties within 24 hours of the hearing of the witnesses who may appear at the hearing. In addition, the reporting party and the responding party each have the opportunity to present an impact statement to the administrator or Hearing Officer following a decision of responsibility, but prior to the imposition of sanctions.

Timeframe for Disciplinary Proceedings

The University's proceedings are completed within reasonably prompt timeframes and includes a process that allows for the extension of timeframes for good cause with written notice to the reporting party and the responding party of the delay and the reason for the delay. The University's Sexual Misconduct Policy specifically states:

The University seeks to resolve all reports within a timely manner. All time frames expressed in [the Sexual Misconduct Policy] are meant to be guidelines rather than rigid requirements. Extenuating circumstances may arise that require the extension of time frames, especially due to the geographic spread of the University's campuses in various states, countries, and time zones. Extenuating circumstances may include the complexity and scope of the allegations, the number of witnesses involved, the availability of the parties or witnesses, any intervening school break or vacation, or other unforeseen circumstances. The University intends to complete a typical investigation within sixty (60) days following receipt of the report. Further, both the reporting party and responding party will be updated throughout the investigative process, including with timely notice of meetings where either or both the reporting party and the responding party may be present.

In general, a reporting party and responding party can expect that the process will proceed according to the time frames provided in this policy. In the event that the investigation and resolution exceed this time frame, the University will attempt to notify all parties of the reason(s) for the delay and the expected adjustment in time frames. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness. However, due to the geographic spread of the University's campuses, it may be difficult to complete the process within the time frames provided in this policy depending on the circumstances.

In all cases of allegations of violations of [the Sexual Misconduct Policy], the reporting party and responding party will receive simultaneous notification, in writing, of: (1) any result of a disciplinary proceeding; (2) procedures for the reporting party and responding party to appeal the result of the disciplinary proceeding; (3) any change in the result of a disciplinary proceeding; and (4) when the results of any disciplinary proceeding become final.

The University's proceedings are also conducted in a manner that includes timely notice of meetings at which the reporting party or responding party, or both, may be present. Specifically, the University's Sexual Misconduct Policy states, "... both the reporting party and responding party will be updated throughout the investigative process, including with timely notice of meetings where either or both the reporting party and the responding party may be present." The proceedings will also provide timely and equal access to the reporting party, the responding party, and appropriate officials to any information that will be used during informal and formal disciplinary meetings and hearings. Specifically, the Sexual Misconduct Policy states, "Both parties have the right to a copy of all written witness, reporting party, and responding party statements regarding the report (with names and identifying information of other students/individuals redacted to the extent required by federal privacy laws and consistent with this policy)."

Officials Conducting Disciplinary Proceedings

The University also has two separate hearing boards that may be convened to hear reports regarding violations of this policy: the Sexual Offense Hearing Board and the Administrative Hearing Board for Sexual Offenses. The University's Sexual Misconduct Policy states that in all cases, Title IX Coordinators, administrators and the Hearing Board members will avoid participating in any matters where a conflict of interest or material bias for or against the reporting party or the responding party is present. Sexual Offense Hearing Board members who have a previous relationship with the Reporting Party or Responding Party or who may otherwise be unable to remain impartial while serving on the board are provided an opportunity to recuse themselves and an alternative board member will assume their position. Additionally, both the Reporting Party and Responding Party may request a particular board member be replaced if the individual believes the board member will not remain impartial throughout the hearing process. This request is subject to approval by the chairperson of the Sexual Offense Hearing Board. All of the officials involved in conducting the disciplinary process receive, at a minimum, annual training on the issues related to dating violence, domestic violence, sexual assault, and stalking and on how to conduct an investigation and hearing process that protects the safety of the reporting party and promotes accountability.

Notifications to Reporting and Responding Parties

The Sexual Misconduct Policy states that in all cases of allegations of violations of the Policy, the reporting party and responding party will receive simultaneous notification, in writing, of: (1) any result of a disciplinary proceeding (including the rationale for the result and any sanctions imposed); (2) procedures for the reporting party and responding party to appeal the result of the disciplinary proceeding; (3) any change in the result of a disciplinary proceeding (including the rationale for the result); and (4) when the results of any disciplinary proceeding become final.

Standard of Evidence

Each type of disciplinary proceeding described above uses a "preponderance of evidence standard." The "preponderance" standard is met if the proposition is more likely to be true than not true. The responding party must not be presumed responsible. Instead responsibility, must be established by a "preponderance of the evidence" (e.g., "more likely than not") standard. The Hearing Board's decision in this regard requires a conscientious and rational judgment on the whole record. "Preponderance"

means more than half. If, for example, the hearing board concludes that the evidence—considered overall—weighs equally on both sides, the preponderance standard has not been met and the charges have not been proven.

Sanctions

According to the University's Sexual Misconduct Policy:

In determining sanctions, Lead Title IX Coordinators, administrators and the Hearing Boards will consider the nature and seriousness of the offense. Sanctions are determined by the administrator or the Hearing Board and implemented by the appropriate administrator. Sanctions include: written reprimand, mandatory educational and/or counseling programs, restriction of campus access, disciplinary probation, suspension, or termination (in the case of employees), or expulsion (in the case of students).

Administrators and/or the Hearing Board will also consider environmental remedies beyond sanctions for the responding party.

Either the reporting party or the responding party may appeal the decision of the administrator to the Hearing Board or the decision of the Hearing Board to the Provost.

The procedures for appeals are included in later sections of this Report.

Protective Measures

In addition to interim remedies, the University may put in place as protective measures for reporting parties before a report is resolved, the University also offers reporting parties the opportunity to request additional protective measures in connection with the University's conduct proceeding itself. For instance, reporting parties have a choice between an administrative resolution process and a hearing board process. The administrative resolution does not require the reporting party to interact with the responding party in person. Protective measures such as remote participation or a privacy shield are available to reporting parties who choose to participate in the hearing board process.

The University also frequently institutes protective measures in addition to imposing sanctions when a responding party is found responsible. As noted above in connection with interim protective measures, these types of protective measures may include but are not limited to: the modification of academic schedules, campus housing, student leadership, working situations, or no contact orders. The University may also choose to provide a reporting party with academic support or make special arrangements for withdrawing or dropping classes without penalty, if requested and reasonably available.

University Disciplinary Processes

This section of the Report provides information from the University's Sexual Misconduct Policy regarding the available Administrative and Hearing Board Processes. It is important to note that the decision whether to pursue the Administrative Process or Hearing Board Processes described below is at the sole

discretion of the reporting party. These processes and the process for an appeal associated with these processes are outlined below.

The final disciplinary process described in this section is titled the “Expedited Process for Suspension or Dismissal of Students or Employees.” The Expedited Process is only used in the most serious, “high risk” cases, in which the responding party student or employee may pose a serious threat to the health and safety of students and/or employees. This process and the process for an appeal of this process is also outlined below.

WEBSTER UNIVERSITY ADMINISTRATIVE PROCESS

The following Administrative Process will be followed for all reports of sexual assault, sexual harassment or other sexual misconduct filed pursuant to this Policy regardless of whether the reports involve students and/or employees:¹⁶

1. The reporting party has the option of meeting with a Sexual Offense Advocate or a Title IX Coordinator or Deputy Title IX Coordinator to discuss options available under this policy. During this meeting, the Sexual Offense Advocate or Title IX Coordinator will give the reporting party a copy of this policy, review it, discuss interim remedies, and he or she will make the reporting party aware of his or her option to report the alleged sexual offense(s) to the police and assist if the reporting party desires. The meeting will also discuss the reporting party’s option to proceed under the Administrative Process (as described in this section of the Report) or choose the Hearing Board Process (as described in a later section of this Report). The reporting party will also be informed that she/he may proceed or decline to notify local authorities.
2. A written statement must be completed by the reporting party. The written statement will describe the reporting party’s allegations, the facts relevant to the report, the name(s) of the responding party, and it will identify witnesses with information relating to the allegations. Absent extenuating circumstances, the University will obtain a written statement within ten (10) days of the Title IX Coordinator or Deputy Title IX Coordinator learning of a reporting party’s filing of the report.
3. The Sexual Offense Advocate, Title IX Coordinator or Deputy Title IX Coordinator will promptly review the reporting party’s written statement to ensure a complete understanding of the nature of the report. This review will occur within one business day of the Sexual Offense Advocate’s, Title IX Coordinator’s or Deputy Title IX Coordinator’s receipt of the reporting party’s report, unless extenuating circumstances prevent a review of the report within this time frame. In this event, the review will occur as soon as possible.

¹⁶ Note that while the initial administrative process is the same for all reports regardless of whether those reports involve students and/or employees, the appeals process differs depending on whether the responding party is a student or employee. Both of these appeals processes are provided below.

4. If a Sexual Offense Advocate or a Deputy Title IX Coordinator receives reporting party's written statement, she or he will promptly inform the University Title IX Coordinator that a report has been received. The Title IX Coordinator will be informed within one working day of the Sexual Offense Advocate's or Deputy Title IX Coordinator's receipt of the reporting party's written statement, unless extenuating circumstances prevent him or her from communicating this information within this timeframe. In this event, the Title IX Coordinator is to be informed as soon as possible.
5. The Sexual Offense Advocate and/or a Title IX Coordinator will refer the reporting party to the appropriate Title IX Coordinator (the "Lead Title IX Coordinator" for the case), who will be responsible for oversight of the investigation and resolution of the report. The Sexual Offense Advocate and/or Title IX Coordinator will make this referral within two days of receipt of the reporting party's written report, unless extenuating circumstances prevent him or her from completing the referral within this timeframe. In this event, the referral is to be made as soon as possible.

When the reporting party and responding party are both students, the Lead Title IX Coordinator is a Deputy Title IX Coordinator assigned to the Dean of Students Office. When the reporting party and responding party are both employees, the Lead Title IX Coordinator is the Title IX Coordinator or a Deputy Title IX Coordinator assigned to the Human Resources Office. When the reporting party and responding party include both a student and an employee, a Title IX Coordinator from the Dean of Students Office and Human Resources Office will be jointly responsible for oversight, investigation and resolution of the report.

6. After receiving the written statement, the Lead Title IX Coordinator or designee will meet with the reporting party within ten working days and:
 - a. Clarify his/her statement,
 - b. ask what the reporting party would like to achieve as an outcome,
 - c. reiterate that the reporting party may simultaneously pursue a report via the University's procedures and a criminal complaint with the appropriate police department,
 - d. explain the University's investigative and adjudicative process, and
 - e. provide the reporting party with a copy of this policy.
7. The Lead Title IX Coordinator or designee will next inform the responding party of the report in writing and in person (or by phone) and will instruct the responding party that he/she is to have no contact with reporting party (unless the reporting party's identity can be maintained as confidential pursuant to Section X.C. above while still providing the responding party a meaningful and fair defense). The Lead Title IX Coordinator will also schedule a meeting with the responding party and invite him or her to bring an advisor to the meeting. The Lead Title IX Coordinator will also invite the responding party to submit a written statement, which will describe the responding party's statement of relevant events, provide facts relevant any encounters with the reporting party, and identify

witnesses with information relating to the allegations. The responding party is to be informed that the written statement will be shared with the reporting party.

8. The Lead Title IX Coordinator or designee then meets with the responding party, ideally within five working days of informing the responding party of the report, and:
 - a. shares the written report (with names and identifying information of other students/individuals redacted to the extent required by federal privacy laws and consistent with this policy) with the responding party,
 - b. explains the process,
 - c. provides a written copy of the policy;
 - d. asks for a supplemental written response within 72 hours (which can include any documents or additional witness information supporting the responding party's response to the report); and
 - e. again informs the responding party that they are to have no contact with the reporting party and that violation of this instruction can result in discipline.
9. The Lead Title IX Coordinator or designee (or in the case of an employee, a Human Resources representative designated by the Title IX Coordinator) interviews any potential witnesses and will review any documents concerning the report, including but not limited to emails and text messages relating to the report. In the meetings with the reporting party and responding party, the Lead Title IX Coordinator or designee will request that each party submit written questions he/she believes should be asked of various witnesses to better uncover relevant facts for the investigation. The Lead Title IX Coordinator or designee will generally try to include all relevant questions, but may, in his/her discretion, ask, alter, or omit any or all submitted questions. In most situations, the Lead Title IX Coordinator or designee will attempt to complete all necessary interviews within thirty (30) working days of receipt of the written statement.
10. The Lead Title IX Coordinator or designee will meet again with the reporting party.
11. The Lead Title IX Coordinator will share the responding party's written response(s) with the reporting party and discusses any additional information the reporting party provides.
12. The Lead Title IX Coordinator will make a recommendation on the case using the preponderance of the evidence (more likely than not) standard and he or she will make a recommendation to the appropriate administrator for action, including the imposition of sanctions and/or environmental remedies. The determination as to who is the appropriate administrator is based on the concrete circumstances of each individual case. The administrator may not be an individual who has had prior involvement in the case.
13. The administrator must then accept or modify the Lead Title IX Coordinator's recommendation. When evaluating the evidence used to support the Lead Title IX Coordinator's recommendation, the administrator must also use the preponderance of the evidence (more likely than not) standard.

14. The administrator, absent any extenuating circumstances, will communicate a final decision to the Lead Title IX Coordinator within five working days of receipt of the Lead Title IX Coordinator's recommendations.
15. Absent extenuating circumstances, the Lead Title IX Coordinator will communicate the decision, in writing, to the reporting party and then the responding party, in separate meetings, within 1 working day of the administrator's decision.
16. The Lead Title IX Coordinator will make the reporting party and the responding party aware of the appeal process and the requirement that written appeals are due to the Lead Title IX Coordinator for that matter within 10 calendar days of the date of the written decision. The University intends to complete a typical investigation and Administrative Process within sixty (60) days following receipt of the report.

APPEAL of a determination and/or sanctions reached during the Administrative Process if both parties are students or if the responding party is a student:

Either party may file a written appeal with the Lead Title IX Coordinator within 10 calendar days of receipt of the determination from the Administrative Process. Grounds for filing an appeal are limited to:

- Procedural error(s)
- New evidence
- Excessive or too lenient sanctions
- The decision was arbitrary, capricious, and against the manifest weight of the evidence.

Upon receipt of a written appeal from either party:

1. The Lead Title IX Coordinator will contact one of the Sexual Offense Hearing Board hearing officers.
2. The Lead Title IX Coordinator will present to the Hearing Board officer a written summary of the case along with the appeal letter(s) and letters describing the initial finding(s) and sanction(s).
3. The Sexual Offense Hearing Board hearing officer has 10 working days to decide on the legitimacy of the appeal, with the following possible outcomes:
 - a. Find that there are no grounds for an appeal and uphold the decision of the administrator, or
 - b. Hold a meeting of the Sexual Offense Hearing Board to review the appeal and make a decision on the appeal

4. The act of filing an appeal usually postpones the action required by the initial decision until the appeal process is completed, unless the Lead Title IX Coordinator determines that postponement of the sanction may result in a serious threat to the University community.
5. At the conclusion of the Administrative Process and appeal process, the Hearing Board officer will provide a determination report to the Lead Title IX Coordinator, including sanctions, who will then communicate it, in writing, to both/all parties in separate meetings simultaneously.

The decision(s) rendered through this appeal procedure are final.

APPEAL of a determination and/or sanctions reached during the Administrative Process if both parties are employees or if the responding party is an employee.

Either party may file a written appeal with the Lead Title IX Coordinator within 10 calendar days of receipt of the written determination from the Administrative Process. Grounds for filing an appeal are limited to:

- Procedural error(s)
- New evidence
- Excessive or too lenient sanctions
- The decision was arbitrary, capricious, and against the manifest weight of the evidence.

Upon receipt of a written appeal from either party:

1. The Lead Title IX Coordinator contacts the Chief Human Resources Officer who will convene a 5-member Administrative Hearing Board for Sexual Offenses comprised of appropriate members of the University leadership team. This may include deans of academic units or designated administrators from administrative units. A dean or administrator who has been involved in the report in any way will not sit on the Hearing Board for a given case.
2. The Administrative Hearing Board for Sexual Offenses meets within 10 working days of being convened. Their first order of business is to appoint a chair.
3. The Lead Title IX Coordinator provides the Hearing Board members with a written summary of the case, copy of the initial decision(s)/sanction(s), and a copy of the written appeal.
4. The Administrative Hearing Board for Sexual Offenses meets and reviews all reports and documentation submitted and renders decision to the Lead Title IX Coordinator for the case.

5. The act of filing an appeal usually postpones the action required by the initial decision until the appeal process is completed, unless the Lead Title IX Coordinator determines that postponement of the sanction may result in a serious threat to the University community.
6. At the conclusion of the Administrative Process and appeal process, the Hearing Board chair will provide a written determination report to the Lead Title IX Coordinator, including sanctions, who will then communicate it, in writing, to both/all parties in separate meetings simultaneously

The decision(s) rendered through this appeal procedure are final.

HEARING BOARD PROCESSES GENERALLY

The University has two separate hearing boards that may be convened to hear reports regarding violations of this policy: the Sexual Offense Hearing Board and the Administrative Hearing Board for Sexual Offenses. Members of these two boards receive training on this policy and their roles and responsibilities as hearing board members at least on an annual basis.

Sexual Offense Hearing Board

The Sexual Offense Hearing Board hears cases in which the reporting party and responding party are both students or in which the responding party is a student.

The Sexual Offense Hearing Board responsible for any given case consists of a Hearing Officer and six individuals chosen from members of Webster's students, faculty, administration and staff in consultation with the Associate Vice President and Dean of Students and the Associate Vice President and Chief Human Resources Officer.

When a hearing is called, the Associate Vice President and Dean of Students or designee, will convene a meeting of potential Hearing Board members to review the Policy on Sexual Assault, Harassment and Other Sexual Offenses and its related procedures.

The Hearing Board is responsible for hearing cases of alleged violations of this policy and and/or appeals of decisions from the Administrative Process or the Hearing Board Process and determining and administering disciplinary actions up to and including expulsion from the University.

Administrative Hearing Board for Sexual Offenses

The Administrative Hearing Board for Sexual Offenses hears cases in which the reporting party and responding party are both employees or in which the responding party is an employee.

The Administrative Hearing Board for Sexual Offenses responsible for any given case consists of a chair and four other individuals chosen from members of Webster's Administrative and Academic

leadership team. Members appointed will not have been involved in the initial report or its appeal.

When a hearing is called, the Chief Human Resources Officer will convene a meeting of Hearing Board members to review the Policy on Sexual Assault, Harassment and Other Sexual Offenses and its related procedures.

The Hearing Board is responsible for hearing cases of alleged violations of this policy and/or appeals of decisions reached during the Administrative Process or the Hearing Board Process Report Procedure and recommending disciplinary actions up to and including termination from the University. Consideration of sanctions and disciplinary actions will be made in conjunction with other University policies related to employment matters.

FUNDAMENTAL ASSUMPTIONS REGARDING ALL PARTIES TO A HEARING IN THE HEARING BOARD PROCESS

- Both parties will be notified regarding procedures used in the hearings. Information can also be provided regarding legal options; however, it is recommended that legal advice be obtained from a competent attorney.
- Each party may have a support person or process advisor of their choosing present at the hearing (e.g., student, parent, faculty, staff, attorney); however this person may not speak on his/her behalf. If the party wishes to have an attorney present, the party must provide two business days' notice to the Title IX Coordinator or designee.
- No reference to past consensual sexual relations of the reporting party or the responding party may be introduced at any time during the proceedings.
- The fact that the responding party and/or the reporting party may have been under the influence of alcohol or other drugs or subject to some other sort of mental dysfunction does not excuse or justify the commission of any sexual offense as defined herein, and may not be used as a defense.
- Both parties have the right to a copy of all written witness, reporting party, and responding party statements regarding the report (with names and identifying information of other students/individuals redacted to the extent required by federal privacy laws and consistent with this policy).
- Both parties have the right to testify either in writing or verbally.
- The reporting party and the responding party may request to have witnesses testify. Such requests are granted at the discretion of the Hearing Officer/Chair. Witnesses must be identified in writing to the Hearing Office/Chair at least 48 hours prior to the hearing. The Hearing Officer will inform both parties within 24 hours of the hearing of the witnesses who may appear at the hearing. Testimony of witnesses that

demonstrates a pattern, habit, or routine of sexual misconduct similar to that which is alleged is considered relevant and may be heard as part of the impact statement, only in determining the sanction for a person found responsible for a sexual offense.

- The reporting party and the responding party each have the opportunity to present an impact statement to the administrator or Hearing Officer following a decision of responsibility, but prior to the imposition of sanctions.
- A hearing may only be invoked when both parties are members of the Webster University community. In the event that both parties were members of the Webster University community at the time of the alleged incident and one of the parties is no longer a member of the community, the appropriate administrator will determine the proper means of resolution in consultation with the Dean of Students and Chief Human Resources Officer.

SPECIFIC PROCESSES FOR EACH WEBSTER UNIVERSITY HEARING BOARD

As previously, the decision to pursue the Administrative Process described above, or the Hearing Board Processes described below, is at the sole discretion of the reporting party. This section provides information regarding the Sexual Offense Hearing Board Process (which is used when both parties are students or the responding party is a student), and the Administrative Hearing Board Process (which is used when both parties are employees or the responding party is an employee).

Sexual Offense Hearing Board Process

The following Hearing Board Process Procedure is followed for all reports of sexual misconduct filed pursuant to the Sexual Misconduct Policy when both parties are students or the responding party is a student:

1. The reporting party has the option of meeting with a Sexual Offense Advocate or a Title IX Coordinator to discuss options available under this Policy. During this meeting, the Sexual Offense Advocate or Title IX Coordinator will make the reporting party aware of this policy and interim remedies and he or she will make the reporting party aware of his or her option to report the alleged sexual offense(s) to the police. The meeting will also discuss the reporting party's option to proceed under the Administrative Process (as described above) or choose the Hearing Board Process (as described in this section).
2. A written statement must be completed by the reporting party. The written statement will describe the reporting party's allegations, the facts relevant to the report, and it will identify witnesses with information relating to the allegations. Absent extenuating circumstances, the University will obtain a written statement within ten (10) days of the Title IX Coordinator or Deputy Title IX Coordinator learning of a reporting party's report.

3. The Sexual Offense Advocate or Title IX Coordinator/Deputy Coordinator will promptly review the reporting party's written statement to ensure a complete understanding of the nature of the report. This review will occur within one business day of the Sexual Offense Advocate, Title IX Coordinator/Deputy Coordinator's receipt of the reporting party's report, unless extenuating circumstances prevent a review of the report within this time frame. In this event, the review will occur as soon as possible.
4. If a Sexual Offense Advocate or a Deputy Title IX Coordinator receives reporting party's written statement, he or she will promptly inform the Title IX Coordinator that a report has been received. The Title IX Coordinator will be informed within one working day of the Sexual Offense Advocate or Deputy Title IX Coordinator's receipt of the reporting party's written statement, unless extenuating circumstances prevent him or her from communicating this information within this timeframe. In this event, the Title IX Coordinator is to be informed as soon as possible.
5. The Sexual Offense Advocate and/or Title IX Coordinator will refer the reporting party to a Lead Title IX Coordinator, who will be responsible for oversight of the investigation and resolution of the report. The Sexual Offense Advocate and/or Title IX Coordinator will make this referral within two working days of receipt of the reporting party's written report, unless extenuating circumstances prevent him or her from completing the referral within this timeframe. In this event, the referral is to be made as soon as possible.
6. When the reporting party and responding party are students, the Lead Title IX Coordinator is a Deputy Title IX Coordinator assigned to the Dean of Students Office. When the reporting party and responding party are employees, the Lead Title IX Coordinator is the Title IX Coordinator or a Deputy Title IX Coordinator assigned to the Human Resources Office. When the reporting party and responding party include both a student and employee, Title IX Coordinators from the Dean of Students Office and Human Resources Office will be jointly responsible for oversight, investigation, and resolution of the report.
7. After receiving the written statement, the Lead Title IX Coordinator or designee will meet with the reporting party within ten working days and:
 - a. Clarify his/her statement,
 - b. ask what the reporting party would like to achieve as an outcome,
 - c. reiterate that the reporting party may simultaneously pursue a report via the University's procedures and a criminal complaint with the appropriate police department,
 - d. explain the University's investigative and adjudicative process, and
 - e. provide the reporting party with a copy of this policy.

8. The Lead Title IX Coordinator or designee will next inform the responding party of the report in writing and in person (or by phone) and will instruct the responding party that he/she is to have no contact with reporting party (unless the reporting party's identity can be maintained as confidential pursuant to Section X.C.¹⁷ of the Sexual Misconduct Policy while still providing the responding party a meaningful and fair defense). The Lead Title IX Coordinator will also schedule a meeting with the responding party and invite him or her to bring an advisor to the meeting. The Lead Title IX Coordinator will also invite the responding party to submit a written statement, which will describe the responding party's statement of relevant events, provide facts relevant any encounters with the reporting party, and identify witnesses with information relating to the allegations. The responding party is to be informed that the written statement will be shared with the reporting party.
9. The Lead Title IX Coordinator or designee will endeavor to meet with the responding party within five working days or as soon thereafter as possible, and no later than ten working days absent extenuating circumstances. At that time, the Lead Title IX Coordinator or designee:
 - a. shares the written report (with names and identifying information of other students/individuals redacted to the extent required by federal privacy laws) with the responding party,
 - b. explains the process,
 - c. provides a written copy of the policy;
 - d. asks for a supplemental written response within 72 hours (which can include any documents or additional witness information supporting the responding party's response to the report); and
 - e. again informs the responding party that they are to have no contact with the reporting party and that violation of this instruction can result in discipline.
10. The Lead Title IX Coordinator or designee (or in the case of an employee, a Human Resources representative designated by the Title IX Coordinator) interviews any potential witnesses and reviews any documents concerning the report, including but not limited to emails and text messages relating to the report. In the meetings with the reporting party and responding party, the Lead Title IX Coordinator or designee will request that each party submit written questions he/she believes should be asked of various witnesses to better uncover relevant facts for the investigation. The Lead Title IX Coordinator or designee will generally try to include all relevant questions, but may, in his/her discretion, ask, alter, or omit any or all submitted questions. In most situations, the Lead Title IX Coordinator or designee will attempt to complete all

¹⁷ Section X.C. of the Sexual Misconduct Policy discusses the confidentiality of reports made to responsible employees as that term is defined under the Policy. Please review that section of the Sexual Misconduct Policy or contact a Title IX Coordinator for additional information about this important issue.

necessary interviews within thirty (30) working days of receipt of the responding party's written statement.

11. The Lead Title IX Coordinator or designee will meet again with reporting party.
12. The Lead Title IX Coordinator or designee will share the responding party's written response(s) with the reporting party and discusses any additional information the reporting party provides.
13. The Lead Title IX Coordinator or designee will work with the Sexual Offense Hearing officer to schedule a hearing. Because of the small size of some campuses and the wide geographic boundaries of the University, it is possible that hearings for personnel at extended and/or international campus locations may be held via conference call, skype, video teleconferencing or other means of technology.
14. The Lead Title IX Coordinator or designee will inform the reporting party and responding party of the Sexual Offense Hearing Board meeting and the protocols that will be used during the hearing and will notify named witnesses of the same. The Lead Title IX Coordinator or designee will also provide a summary of investigation to be presented to the Hearing Board, and allow for questions by the Hearing Board regarding the investigation.
15. A Sexual Offense Hearing Officer will conduct the hearing.
16. The reporting party will be offered the opportunity to make an impact statement.
17. The responding party will be offered the opportunity to make an impact statement.
18. The members of the Hearing Board will be given the opportunity to question the reporting party, the responding party and any witnesses.
19. The Sexual Offense Hearing Board will make a decision on the case using the preponderance of the evidence standard (i.e. more likely than not standard) and determine sanctions and/or environmental remedies and inform the Lead Title IX Coordinator assigned to the case, in writing, of the same.
20. The Lead Title IX Coordinator or designee, absent any extenuating circumstances, will communicate the decision in writing to the reporting party and then the responding party, in separate meetings, within 1 working day of the decision of the Hearing Board.
21. The Lead Title IX Coordinator or designee will provide a letter to the responding party and reporting party that outlines the decision and resolution, makes them aware of the appeal process and informs them that appeals are due within 10 calendar days of the

date of the letter. The University intends to complete a typical investigation and Hearing Board Process within sixty (60) days following receipt of the report.

APPEAL of a determination reached during the Sexual Offense Hearing Board Process:

Either party may file a written appeal with the Lead Title IX Coordinator within 10 calendar days of receipt of the written determination from the hearing board process report procedure. Grounds for filing an appeal are limited to:

- Procedural error(s)
- New evidence
- Excessive or too lenient sanctions
- The decision was arbitrary, capricious, and against the manifest weight of the evidence

If either party files a written appeal within 10 calendar days of the determination:

1. The Lead Title IX Coordinator will contact the Provost, Senior Vice President and Chief Operating Officer and will present a written summary of the case, the earlier decision, and the appeal letter(s).
2. The Provost, Senior Vice President and Chief Operating Officer has 10 working days to decide on the appeal, with the following possible outcomes:
 - a. Find that there are no grounds for an appeal and uphold the decision of the Sexual Offense Hearing Board
 - b. Refer the case to a hearing before an alternate Sexual Offense Hearing Board
3. The act of filing an appeal usually postpones the action required by the initial decision until the appeal process is completed, unless the administrator determines that postponement of the sanction may result in a serious threat to the University community.
4. The Provost, Senior Vice President and Chief Operating Officer must provide a report to the Title IX Coordinator describing his/her decision.
5. The Lead Title IX Coordinator will report the decision, in writing, to the involved parties simultaneously.

The decision of the Provost, Senior Vice President and Chief Operating Officer or the alternate Sexual Offense Hearing Board is final.

Administrative Hearing Board Process

The following Hearing Board Process will be followed for all reports of sexual misconduct filed pursuant to the Sexual Misconduct Policy when both parties are employees or the responding party is an employee:

1. The reporting party has the option of meeting with a Sexual Offense Advocate or a Title IX Coordinator to discuss options available under this Policy. During this meeting, the Sexual Offense Advocate or Title IX Coordinator will make the reporting party aware of this policy and interim remedies and he or she will make the reporting party aware of his or her option to report the alleged sexual offense(s) to the police.
2. A written statement must be completed by the reporting party. The written statement will describe the reporting party's allegations, the facts relevant to the report, and it will identify witnesses with information relating to the allegations. A written statement is required even if the reporting party chooses not to participate in a preliminary meeting with a Sexual Offense Advocate or a Title IX Coordinator in the manner set forth in paragraph 1 above.
3. The Sexual Offense Advocate or Title IX Coordinator/Deputy Coordinator will review the reporting party's written statement to ensure a complete understanding of the nature of the report.
4. If a Sexual Offense Advocate or a Deputy Title IX Coordinator receives reporting party's written statement, he or she will promptly inform the Title IX Coordinator that a report has been received.
5. The Sexual Offense Advocate and/or Title IX Coordinator will refer the reporting party to a Lead Title IX Coordinator, who will be responsible for oversight of the investigation and resolution of the report.
 - a. When the reporting party and responding party are students, the Lead Title IX Coordinator is a Deputy Title IX Coordinator assigned to the Dean of Students Office. When the reporting party and responding party are employees, the Lead Title IX Coordinator is the Title IX Coordinator or a Deputy Title IX Coordinator assigned to the Human Resources Office. When the reporting party and responding party include both a student and employee, Title IX Coordinators from the Dean of Students Office and Human Resources Office will be jointly responsible for oversight, investigation, and resolution of the report.
6. After receiving the report, the Lead Title IX Coordinator or designee will meet with the reporting party and:
 - a. Clarify his/her statement,
 - b. ask what the reporting party would like to achieve as an outcome, and

- c. reiterate that the reporting party may simultaneously pursue a report via the University's procedures and a criminal complaint with the appropriate police department,
 - d. explain the University's investigative and adjudicative process, and
 - e. provide the reporting party with a copy of this policy.
7. The Lead Title IX Coordinator or designee will next inform the responding party of the report in writing and in person (or by phone) and will instruct the responding party that he/she is to have no contact with the reporting party (unless the reporting party's identity can be maintained as confidential pursuant to Section X.C.¹⁸ above while still providing the responding party a meaningful and fair defense). The Lead Title IX Coordinator will also schedule a meeting with the responding party and invite him or her to bring an advisor to the meeting.
8. The Lead Title IX Coordinator or designee then meets with the responding party and:
- a. shares the written report (with names and identifying information of other students/individuals redacted to the extent required by federal privacy laws and consistent with this policy) with the responding party,
 - b. explains the process,
 - c. provides a written copy of the policy;
 - d. asks for written response within 72 hours (which can include any documents or witness information supporting the responding party's response to the report); and
 - e. again informs the responding party that they are to have no contact with the reporting party and that violation of this instruction can result in discipline.
9. The Lead Title IX Coordinator or designee (or in the case of an employee, a Human Resources representative designated by the Title IX Coordinator) interviews any potential witnesses and reviews any documents concerning the report, including but not limited to emails and text messages relating to the report.
10. The Lead Title IX Coordinator or designee will meet again with the reporting party.
11. The Lead Title IX Coordinator or designee will share the responding party's written response with reporting party and discusses any additional information the reporting party provides.
12. The Lead Title IX Coordinator or designee will work with the Administrative Hearing Board to schedule a hearing. Because of the small size of some campuses and the wide

¹⁸ Section X.C. of the Sexual Misconduct Policy discusses the confidentiality of reports made to responsible employees as that term is defined under the Policy. Please review that section of the Sexual Misconduct Policy or contact a Title IX Coordinator for additional information about this important issue.

geographic boundaries of the University, it is possible that hearings for personnel at extended and/or international campus locations may be held via conference call, skype, video teleconferencing or other means of technology.

13. The Lead Title IX Coordinator or designee will inform the reporting party and responding party of the Administrative Hearing Board for Sexual Offenses meeting and the protocols that will be used during the hearing and will notify named witnesses of the same.
14. A Hearing Board chair will conduct the hearing.
15. The reporting party will be offered the opportunity to make an impact statement.
16. The responding party will be offered the opportunity to make an impact statement.
17. The members of the Hearing Board will be given the opportunity to question the reporting party, the responding party and any witnesses.
18. The Hearing Board will make a decision on the case using the preponderance of the evidence standard (i.e. more likely than not standard) and determine sanctions and/or environmental remedies and inform the Lead Title IX Coordinator assigned to the case, in writing, of the same.
19. The Lead Title IX Coordinator or designee will communicate the decision in writing to the reporting party and then the responding party, in separate meetings, within one working day of the hearing.
20. The Lead Title IX Coordinator or designee will provide a letter to the responding party and reporting party that outlines the decision and resolution, makes them aware of the appeal process and informs them that appeals are due within 10 calendar days.

APPEAL of a determination reached during the Administrative Hearing Board Process:

Either party may file a written appeal with the Lead Title IX Coordinator within 10 calendar days of receipt of the written determination from the hearing board process report procedure. Grounds for filing an appeal are limited to:

- Procedural error(s)
- New evidence
- Excessive or too lenient sanctions
- The decision was arbitrary, capricious, and against the manifest weight of the evidence

If either party files a written appeal within 10 calendar days of the determination:

1. The Lead Title IX Coordinator will contact the Provost, Senior Vice President and Chief Operating Officer and will present a written summary of the case, the earlier decision, and the appeal letter(s).
2. The Provost, Senior Vice President and Chief Operating Officer has 10 working days to decide on the appeal, with the following possible outcomes:
 - a. Find that there are no grounds for an appeal and uphold the decision of the Hearing Board
 - b. Refer the case to a hearing before an alternate Sexual Offense Hearing Board
3. The act of filing an appeal usually postpones the action required by the initial decision until the appeal process is completed, unless the administrator determines that postponement of the sanction may result in a serious threat to the University community.
4. The Provost, Senior Vice President and Chief Operating Officer must provide a report to the Title IX Coordinator describing his/her decision.
5. The Lead Title IX Coordinator will report the decision, in writing, to the involved parties simultaneously.

The decision of the Provost, Senior Vice President and Chief Operating Officer or the alternate Administrative Hearing Board for Sexual Offenses is final.

DESCRIPTION OF THE HEARING IN THE HEARING BOARD PROCESS FOR STUDENTS AND EMPLOYEES

This section applies to both the Sexual Offense Hearing Board and the Administrative Hearing Board for Sexual Offenses.

The Hearing Officer/Chair schedules a hearing within 10 working days after the report has been referred to him/her. The respective parties are notified of the time, place, and procedures of the hearing by the Hearing Officer/Chair. The Hearing Officer/Chair presides over the hearing.

The reporting party presents the report and provides any further information, evidence, or corroborating testimony pertinent to the incident. Members of the Hearing Board may then ask questions of the reporting party.

The responding party responds to the accusation providing any further information, evidence, or corroborating testimony pertinent to the incident. Members of the Hearing Board may then ask questions of the responding party.

At the discretion of the Hearing Officer/Chair, witnesses who have been previously identified to the Hearing Officer/Chair may be called to offer testimony. Members of the Hearing Board may ask questions of witnesses following their testimony.

Either the reporting party or the responding party may submit a list of suggested questions to the Hearing Officer/Chair (if possible, this should be done at least 24 hours prior to the hearing).

The use of these questions is at the discretion of the Hearing Board. As the parties and witnesses testify, either the reporting party or the responding party may propose additional questions of the other party or witnesses by submitting questions to the panel in writing during the proceedings.

Questions from the parties must be relayed through the Hearing Officer/Chair. There will be no direct questions from the responding party to the reporting party, or vice versa. All questions will be directed to the Hearing Officer/Chair who will relay the question to the other party, at his/her discretion. The Hearing Officer/Chair is encouraged to include all relevant questions, but may, in his/her discretion, ask, alter, or omit any or all submitted questions.

Generally, even if screened or testifying from a separate location, witnesses, including the reporting party and the responding party, should be visible to the hearing board while testifying.

Evidence may consist of testimony, physical evidence, prior statements concerning the incident in question, or any other evidence that the Hearing Board wishes to consider. The reliability and weight given to such evidence is within the discretion of the Hearing Board.

Either party may request a five to ten (5–10) minute recess at any time during the hearing. Requests are granted at the discretion of the Hearing Officer/Chair.

In determining whether a violation of the Policy on Sexual Assault, Harassment and Other Sexual Offenses has occurred, the Hearing Board will apply a preponderance of evidence standard. The “preponderance” standard is met if the proposition is more likely to be true than not true.

The responding party must not be presumed “guilty” (or “responsible”). Instead, guilt, or responsibility, must be established by a “preponderance of the evidence.” (e.g., “more likely than not”) standard. The Hearing Board’s decision in this regard requires a conscientious and rational judgment on the whole record. “Preponderance” means more than half. If, for example, the hearing board concludes that the evidence – considered overall – weighs equally on both sides, the preponderance standard has not been met and the charges have not been proven.

Hearings are confidential and closed to all but the principals of the case. At the discretion of the Hearing Officer/Chair, a transcript may be kept in audio taped or written form. The tape and transcript are the property of the University. Students and/or employees are not permitted to tape or otherwise record the proceedings. Transcripts will be kept by the appropriate administrator and may be reviewed but not copied or removed from the administrator’s office.

Based on a majority vote of the Hearing Board, the Hearing Officer/Chair issues the opinion as to whether a Policy violation occurred. In the event of a tie, the Hearing Officer/Chair will cast the deciding vote.

The written notification of the Board's decision is made by the Hearing Officer/Chair to the Lead Title IX Coordinator, who will convey the decision, in writing, to the parties within 24 hours of the completion of the hearing. The Hearing Board also determines disciplinary action (if any) to be taken. Disciplinary actions shall be implemented and monitored by the appropriate administrator and, in the event of disciplinary action against any University employee, the disciplinary action will be administered in accordance with other University policies related to employment.

A record of the final decision will be placed in the responding party's disciplinary and/or personnel file.

REQUIREMENTS FOR FILING AN APPEAL

As explained above, each separate disciplinary process (i.e., the Administrative Process, and both Hearing Board Processes) has its own specific process for appeal. The following section provides information regarding the requirements for filing an appeal which apply to each of these disciplinary processes.

The appeal must be written, addressed to the Lead Title IX Coordinator assigned to the original report, and delivered to that individual no more than 10 calendar days after written notification of the decision from the initial report.

Grounds for filing an appeal are limited to:

- Procedural error(s)
- New evidence
- Excessive or too lenient sanctions
- The decision was arbitrary, capricious, and against the manifest weight of the evidence.

The individual seeking the appeal must indicate, in writing, the specific bases or reasons for his or her appeal. The appeal statement should include the following: Name, ID#, address, phone number, email address, reason for appeal, and appropriate information regarding why the appeal should be granted. The letter should be of sufficient detail to stand on its own without accompanying testimony to permit the evaluation of the merit of the grounds for appeal. For example, if there were procedural errors, the errors should be identified and it should be noted what effect those errors had on the outcome of the case. If there is new evidence, the nature of that evidence and the potential effect on the outcome of the case should be noted. If the sanction is perceived to be excessive or too lenient, one should note why he or she believes the sanction was excessive or too lenient and should suggest what he or she believes to be a more reasonable sanction.

Finally, if the appeal claims that the decision was arbitrary, capricious, and against the manifest weight of the evidence, the appeal must point to the key evidence that demonstrates this point. Please note that appeals on this basis are not for purposes of rehashing the Administrative or Hearing Board Process, and

because each process will often rely on credibility determinations and weighing of countervailing evidence, appeals on these grounds will be sustained only in exceptional circumstances.

The Provost, Senior Vice President and Chief Operating Officer or Hearing Officer/Chair shall consider the written statement of appeal and, within 10 working days, recommend action to be taken.

The individuals involved will receive written notification of the decision from the Lead Title IX Coordinator for the case. If the result of the appeal is an order for a rehearing, the hearing procedures described herein shall apply.

EXPEDITED PROCESS FOR SUSPENSION OR DISMISSAL OF STUDENTS OR EMPLOYEES

In the most serious, “high risk”¹⁹ cases, in which the responding party student or employee may pose a serious threat to the health and safety of students and/or employees, the following process may be enacted, in consultation with the Associate Vice President and Dean of Students (related to responding party students) or in consultation with the Associate Vice President and Chief Human Resources Officer (related to responding party employees). Steps 1-3 can take place within a single day.

1. The responding party student or employee is informed of the charges against him/her via email, letter, or phone call.
2. The responding party student or employee has the opportunity to respond to these charges via email, letter, or phone call but must respond within no more than 72 hours or it will be deemed that no response is being made.
3. The responding party student or employee will have the opportunity to submit questions to be answered by his/her accuser(s).
4. The Associate Vice President and Dean of Students, or his/her designee, in consultation with University leadership, determines if the responding party student is responsible for a violation of the Policy on Sexual Assault, Harassment, or Other Sexual Offenses.
5. The Chief Human Resources Officer or designee, in consultation with appropriate administrative/academic leadership, determines if the responding party employee is responsible for a violation of the Policy on Sexual Assault, Harassment and Other Sexual Offenses.

¹⁹ Examples of these “high risk” cases include: violent crimes against a person; behavior resulting in felony charges or convictions; threats or harassment of such an egregious nature that campus safety is affected; or any behavior that strongly suggests the responding party may be a serious threat to the health and safety of students, faculty, or staff.

6. In consultation with appropriate members of leadership, and with consideration of other University policies, a decision is rendered on the appropriate decision/action to be taken.
7. The responding party is notified of the decision in writing.
8. The responding party student or employee has ten calendar days in which to forward a written appeal to the Associate Vice President and Dean of Students (for students), or the Associate Vice President and Chief Human Resources Officer (for employees). Any such appeal must set out the specific reasons supporting the appeal, including any contested finding of facts which are set out in the initial determination of sanctions. The written appeal will be reviewed by the appropriate body, or the Sexual Offense Hearing Board or the Administrative Hearing Board for Sexual Offenses.

Due to the seriousness of this kind of case, all requirements for advance notification are hereby waived.

Policy Regarding Educational Programs and Campaigns to Prevent Dating Violence Domestic Violence, Stalking and Sexual Assault

Webster University engages in comprehensive, intentional, and integrated programming, initiatives, strategies, and campaigns intended to end dating violence, domestic violence, sexual assault and stalking that are comprehensive, intentional, and integrated programming, initiatives, strategies, and campaigns intended to end dating violence, domestic violence, sexual assault, and stalking that—

1. Are culturally relevant, inclusive of diverse communities and identities, sustainable, responsive to community needs, and informed by research, or assessed for value, effectiveness, or outcome; and
2. Consider environmental risk and protective factors as they occur on the individual, relationship, institutional, community and societal levels.

The University places a strong emphasis on prevention and education programs and communications as effective ways to minimize sexual assault, harassment and other sexual offenses; to inform students and employees of key definitions of all types of sexual misconduct, the importance and meaning of consent in sexual relations and the role that incapacity plays in these offenses; strategies to stay safe, and bystander education. Programs to prevent dating violence, domestic violence, sexual assault, and stalking include both primary prevention and awareness programs directed at incoming students and new employees and ongoing prevention and awareness campaigns directed at students and employees.

Bystander Intervention

The University takes care to educate students, staff and faculty about safe and positive options to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault, or stalking. This is commonly referred to as bystander intervention. Bystander intervention includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene. The University recognizes the importance of educating the campus community how to safely engage in bystander intervention.

All students, are encouraged to report suspected sexual offenses, and in no case should intervene directly in a situation without assistance from the administration or authorities if doing so risks harm to the bystander or victim. Bystander intervention should be carried out only where safe and positive results are warranted. In all cases, bystanders should report any observed sexual offense. Employees are also required to comply with the reporting requirements for responsible employees.

Appendix E contains some suggested techniques for effectively engaging in bystander intervention. Additional training and information on bystander information is provided in all Primary Prevention and Awareness Programs and a number of the Ongoing Prevention and Awareness Campaigns.

Risk Reduction

Education on risk reduction is another important piece of education and awareness related to dating violence, domestic violence, sexual assault and stalking. In this context, risk reduction refers to options designed to decrease perpetration and bystander inaction, and to increase empowerment for victims in order to promote safety and to help individuals and communities address conditions that facilitate violence. Information on risk reduction is included in all Primary Prevention and Awareness Programs and a number of the Ongoing Prevention and Awareness Campaigns. The University's suggested risk reduction strategies are based on the needs of the campus community and never encourage victim blaming.

Primary Prevention and Awareness Programs

All new incoming students to all of Webster's campuses are currently required to complete an online sexual misconduct awareness and prevention course developed in house by the University's Title IX team, and administered through the World Classroom online system. The online course reviews Webster University community expectations, directs students to campus support and prevention resources, provides contact information for the University Sexual Offense Advocate and Title IX Coordinators, and provides Bystander Intervention techniques.

All new incoming faculty and staff identified as responsible employees under Title IX at all of Webster's campuses are currently required to complete the Webster Professional Development Series online course on Sexual Assault, Harassment and Other Sexual Offenses also developed in house. This online course covers the key elements of the following federal statutes: Title IX, the Clery Act, the Violence Against Women Act and Campus SaVE and Title VII. It also addresses employee rights and

responsibilities as well as identifies who the University considers to be responsible employees and their specific roles and responsibilities along with reference to the university's policy against sexual misconduct.

The University's primary prevention and awareness programs for students and faculty/staff both include the following components:

- A statement that the University prohibits the crimes of domestic violence, dating violence, sexual assault and stalking;
- The VAWA definitions of domestic violence, dating violence, sexual assault and stalking;
- Any applicable state law definitions of domestic violence, sexual assault and stalking;
- Any applicable state law definitions of consent;
- The University's definition of consent and the purposes for which that definition is used
- Descriptions of safe and positive options for bystander intervention;
- Information on risk reduction;
- A statement of policy regarding the institution's programs to prevent dating violence, domestic violence, sexual assault, and stalking, and of procedures that the institution will follow when one of these crimes is reported; and the procedural requirements for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, and stalking.

Ongoing Prevention and Awareness Campaigns

Webster University engages in ongoing prevention and awareness campaigns which focus on programming, initiatives, and strategies that are sustained over time and focus on increasing understanding of topics relevant to and skills for addressing dating violence, domestic violence, sexual assault, and stalking, using a range of strategies with audiences throughout the institution. The University utilizes a number of strategies and activities specifically designated to educate the community regarding sexual assault issues and to promote awareness of rape, acquaintance rape, and other sex offense prevention strategies.

The Sexual Offense Advocate and Title IX Coordinators at the main campus in Webster Groves work on a number of campaigns and programs, often in partnership with student or community groups each year at the Webster Groves campus. These individuals are also available to assist administration at branch campuses with similar campaigns and programming. The University also created its own "It's On Us" video in November 2015, and this video can be viewed by campus community members at all of the branch campuses by visiting: <http://www.webster.edu/sexual-misconduct/programs/#>. Community members at this and other branch campuses are encouraged to take the Pledge at <http://www.itsonus.org/>.

California Sex Offender Registry

In response to Section 121 of the Adam Walsh Child Protection and Safety Act of 2006 (42 U.S.C 16921), California created an online database which can be accessed by the public at: <https://www.meganslaw.ca.gov/>.

APPENDIX A – CLERY ACT CRIME DEFINITIONS

Murder/Non-Negligent Manslaughter: the willful (non-negligent) killing of one human being by another.

Manslaughter by Negligence: The killing of another person through gross negligence.

Sexual Assault: An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's Uniform Crime Reporting (UCR) program. Per the National Incident-Based Reporting System User Manual from the FBI UCR Program, A sex offense is "any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent."

- **Rape:** The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- **Fondling:** The touching of the private parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
- **Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- **Statutory Rape:** Sexual intercourse with a person who is under the statutory age of consent.

Robbery: the taking or attempting to take anything of value of the care, custody or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.

Aggravated Assault: an unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm.

Burglary: the unlawful entry of a structure to commit a felony or a theft. For reporting purposes this definition includes: unlawful entry with intent to commit a larceny or a felony; breaking and entering with intent to commit a larceny; housebreaking; safecracking and all attempts to commit any of the aforementioned.

Motor Vehicle Theft: the theft or attempted theft of a motor vehicle. (Classify as motor vehicle theft all cases where automobiles are taken by person not having lawful access, even though the vehicles are later abandoned – including joyriding).

Arson: the willful or malicious burning or attempt to burn, with or without intent to defraud a dwelling house, public housing, motor vehicle or aircraft, or personal property of another, etc.

Dating Violence: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based the reporting party'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: A Felony or misdemeanor crime of violence²⁰ committed –

- By a current or former spouse or intimate partner of the victim;
- By a person with whom the victim shares a child in common;
- By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
- By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
- By any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- Fear for her, his, or others' safety; 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 which the stalker 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 victim.
- Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Weapons: Carrying, Possessing, Etc.: This classification encompasses weapons offenses that are regulatory in nature.

²⁰ The term "crime of violence" is defined by 18 U.S. Code Section 16 as follows:

- (a) an offense that has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or
- (b) any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

Drug Abuse Violations: the violation of laws prohibiting the production, distribution and/or use of certain controlled substances and the equipment or devices utilized in their preparation and/or use. The unlawful cultivation, manufacture, distribution, sale, purchase, use, possession, transportation or importation of any controlled drug or narcotic substance. Arrests for violations of state and local laws, specifically those relating to the unlawful possession, sale, use, growing, manufacturing and making of narcotic drugs.

Liquor Law Violations: the violation of state or local laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession or use of alcoholic beverages, not including driving under the influence and drunkenness.

Hate crimes: a criminal offense that manifests evidence that the victim was intentionally selected because of the perpetrator's bias against the victim.

The Department of Education directs institutions to report statistics for hate crimes in connection with the following offenses: Murder and Non-negligent Manslaughter; Sexual Assault; Robbery; Aggravated Assault; Burglary; Motor Vehicle Theft; Arson. These definitions are provided above.

Institutions must also report statistics for hate crimes in connection with the following offenses which are not otherwise included in the annual crime statistics:

- **Larceny:** the unlawful taking, carrying, leading or riding away of property from the possession or constructive possession of another. (Larceny and theft mean the same thing in the UCR.) Constructive possession is the condition in which a person does not have physical custody or possession, but is in a position to exercise dominion or control over a thing.
- **Simple Assault:** an unlawful physical attack by one person upon another where neither the offender displays a weapon, nor the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration, or loss of consciousness.
- **Intimidation:** to unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.
- **Destruction/Damage/Vandalism of Property:** to willfully or maliciously destroy, damage, deface, or otherwise injure real or personal property without the consent of the owner or the person having custody or control of it.

Types of Bias reportable under the Clery Act:

- **Race:** A preformed negative attitude toward a group of persons who possess common physical characteristics, e.g., color of skin, eyes, and/or hair; facial features, etc., genetically transmitted by descent and heredity which distinguish them as a distinct division of humankind, e.g., Asians, blacks or African Americans, whites.
- **Religion:** A preformed negative opinion or attitude toward a group of persons who share the same religious beliefs regarding the origin and purpose of the universe and the existence or nonexistence of a supreme being, e.g., Catholics, Jews, Protestants, atheists.
- **Sexual Orientation:** A preformed negative opinion or attitude toward a group of persons based on their actual or perceived sexual orientation.
- **Gender:** A preformed negative opinion or attitude toward a person or group of persons based on their actual or perceived gender, e.g., male or female.
- **Gender Identity:** A preformed negative opinion or attitude toward a person or group of persons based on their actual or perceived gender identity, e.g., bias against transgender or gender non-conforming individuals.
- **Ethnicity:** A preformed negative opinion or attitude toward a group of people whose members identify with each other, through a common heritage, often consisting of a common language, common culture (often including a shared religion) and/or ideology that stresses common ancestry.
- **National Origin:** A preformed negative opinion or attitude toward a group of people based on their actual or perceived country of birth.
- **Disability:** A preformed negative opinion or attitude toward a group of persons based on their physical or mental impairments, whether such disability is temporary or permanent, congenital or acquired by heredity, accident, injury, advanced age or illness.

APPENDIX B – CRIME PREVENTION TIPS

While Webster University makes every effort to provide a safe campus, students, faculty, and staff must also do their part to help us maintain a safe environment. The University encourages everyone who attends, works or visits one of its campuses to follow basic personal and property crime prevention procedures.

Tips for Securing Valuables in an Office

- Always lock your office, even when you are away for a few minutes.
- If you have valuables stored in your office, do not leave them overnight.
- Never leave purses or other valuables unattended.
- Keep your desk and files locked when you are away.
- Never store money in your desk drawers or file cabinets
- Report all losses to your Campus Director immediately.

Tips for Securing Valuables in Residences

- Conspicuously mark items of value with a unique identifier making the items more difficult to sell and making it easier for law enforcement officials to return lost or stolen property.

Personal Safety Tips

- When walking alone after dark, walk on well-lighted, well-traveled walkways and plan your route ahead of time. Avoid places where attackers might hide (spaces between parked cars, overgrown shrubs, and dark passageways) and areas where you might get cornered. Remember that it is best to walk facing traffic.
- If anyone follows you while you are walking alone, look confident and let him or her know you are aware of their presence. Don't be polite or engage in conversation. If they continue to follow you, cross the street and/or change directions. If this doesn't work, walk toward other people or occupied buildings and stay away from places where you might get cornered.
- If you are trapped in your car and afraid for your safety, honk your horn in quick short bursts. This will attract people's attention.
- Make sure that all of the car doors are locked whenever you leave your vehicle.
- When returning to your car, have your keys ready so you can enter your car quickly and be aware of your surroundings. If you have to look into a purse or a pocket to find them, it takes extra time and you lose sight of what is around you, which could allow someone to sneak up on you.

Preventing Thefts from Vehicles

- Install a vehicle alarm or mechanical lock for the steering wheel or ignition.
- Always lock the doors and leave the windows rolled up.
- Keep valuables out of sight. Place valuable items in your trunk not the front or back seats.
- Know the license number, year, make and model of your vehicle.
- Never leave money, checkbooks, or credit cards in the vehicle at any time.

Preventing Bicycle Theft

- Keep bicycles locked any time they are unattended. Be sure the lock or cable goes through the front wheel, rear wheel and the frame, and secure it to a fixed object.

APPENDIX C – CALIFORNIA STATE STATUTES

§ 261.6. "Consent"; Effect of current or previous relationship

In prosecutions under Section 261, 262, 286, 287, or 289, or former Section 288a, in which consent is at issue, "consent" shall be defined to mean positive cooperation in act or attitude pursuant to an exercise of free will. The person must act freely and voluntarily and have knowledge of the nature of the act or transaction involved.

A current or previous dating or marital relationship shall not be sufficient to constitute consent where consent is at issue in a prosecution under Section 261, 262, 286, 287, or 289, or former Section 288a. Nothing in this section shall affect the admissibility of evidence or the burden of proof on the issue of consent.

§ 261.7. "Consent"; Communication to use condom or other birth control device

In prosecutions under Section 261, 262, 286, 287, or 289, or former Section 288a, in which consent is at issue, evidence that the victim suggested, requested, or otherwise communicated to the defendant that the defendant use a condom or other birth control device, without additional evidence of consent, is not sufficient to constitute consent.

§ 261. Rape; "Duress"; "Menace"

(a) Rape is an act of sexual intercourse accomplished with a person not the spouse of the perpetrator, under any of the following circumstances:

(1) Where a person is incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving consent.

(2) Where it is accomplished against a person's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the person or another.

(3) Where a person is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused.

(4) Where a person is at the time unconscious of the nature of the act, and this is known to the accused. As used in this paragraph, "unconscious of the nature of the act" means incapable of resisting because the victim meets any one of the following conditions:

(A) Was unconscious or asleep.

(B) Was not aware, knowing, perceiving, or cognizant that the act occurred.

(C) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraud in fact.

(D) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraudulent representation that the sexual penetration served a professional purpose when it served no professional purpose.

(5) Where a person submits under the belief that the person committing the act is someone known to the victim other than the accused, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief.

(6) Where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat. As used in this paragraph, "threatening to retaliate" means a threat to kidnap or falsely imprison, or to inflict extreme pain, serious bodily injury, or death.

(7) Where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official. As used in this paragraph, "public official" means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

(b) As used in this section, "duress" means a direct or implied threat of force, violence, danger, or retribution sufficient to coerce a reasonable person of ordinary susceptibilities to perform an act which otherwise would not have been performed, or acquiesce in an act to which one otherwise would not have submitted. The total circumstances, including the age of the victim, and his or her relationship to the defendant, are factors to consider in appraising the existence of duress.

(c) As used in this section, "menace" means any threat, declaration, or act which shows an intention to inflict an injury upon another.

§ 262. Spousal rape

(a) Rape of a person who is the spouse of the perpetrator is an act of sexual intercourse accomplished under any of the following circumstances:

(1) Where it is accomplished against a person's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the person or another.

(2) Where a person is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known, by the accused.

(3) Where a person is at the time unconscious of the nature of the act, and this is known to the accused. As used in this paragraph, "unconscious of the nature of the act" means incapable of resisting because the victim meets one of the following conditions:

(A) Was unconscious or asleep.

(B) Was not aware, knowing, perceiving, or cognizant that the act occurred.

(C) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraud in fact.

(4) Where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat. As used in this paragraph, "threatening to retaliate" means a threat to kidnap or falsely imprison, or to inflict extreme pain, serious bodily injury, or death.

(5) Where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official. As used in this paragraph, "public official" means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

(b) As used in this section, "duress" means a direct or implied threat of force, violence, danger, or retribution sufficient to coerce a reasonable person of ordinary susceptibilities to perform an act which otherwise would not have been performed, or acquiesce in an act to which one otherwise would not have submitted. The total circumstances, including the age of the victim, and his or her relationship to the defendant, are factors to consider in appraising the existence of duress.

(c) As used in this section, "menace" means any threat, declaration, or act that shows an intention to inflict an injury upon another.

(d) If probation is granted upon conviction of a violation of this section, the conditions of probation may include, in lieu of a fine, one or both of the following requirements:

(1) That the defendant make payments to a battered women's shelter, up to a maximum of one thousand dollars (\$1,000).

(2) That the defendant reimburse the victim for reasonable costs of counseling and other reasonable expenses that the court finds are the direct result of the defendant's offense.

For any order to pay a fine, make payments to a battered women's shelter, or pay restitution as a condition of probation under this subdivision, the court shall make a determination of the defendant's ability to pay. In no event shall any order to make payments to a battered women's shelter be made if it would impair the ability of the defendant to pay direct restitution to the victim or court-ordered child support. Where the injury to a married person is caused in whole or in part by the criminal acts of his or her spouse in violation of this section, the community property may not be used to discharge the liability of the offending spouse for restitution to the injured spouse, required by Section 1203.04, as operative on or before August 2, 1995, or Section 1202.4, or to a shelter for costs with regard to the injured spouse and dependents, required by this section, until all separate property of the offending spouse is exhausted.

§ 263. Penetration

The essential guilt of rape consists in the outrage to the person and feelings of the victim of the rape. Any sexual penetration, however slight, is sufficient to complete the crime.

§ 263.1. Legislative findings and declarations

(a) The Legislature finds and declares that all forms of nonconsensual sexual assault may be considered rape for purposes of the gravity of the offense and the support of survivors.

(b) This section is declarative of existing law.

§ 243.4. Sexual battery; Seriously disabled or medically incapacitated victims

(a) Any person who touches an intimate part of another person while that person is unlawfully restrained by the accused or an accomplice, and if the touching is against the will of the person touched

and is for the purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of sexual battery. A violation of this subdivision is punishable by imprisonment in a county jail for not more than one year, and by a fine not exceeding two thousand dollars (\$2,000); or by imprisonment in the state prison for two, three, or four years, and by a fine not exceeding ten thousand dollars (\$10,000).

(b) Any person who touches an intimate part of another person who is institutionalized for medical treatment and who is seriously disabled or medically incapacitated, if the touching is against the will of the person touched, and if the touching is for the purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of sexual battery. A violation of this subdivision is punishable by imprisonment in a county jail for not more than one year, and by a fine not exceeding two thousand dollars (\$2,000); or by imprisonment in the state prison for two, three, or four years, and by a fine not exceeding ten thousand dollars (\$10,000).

(c) Any person who touches an intimate part of another person for the purpose of sexual arousal, sexual gratification, or sexual abuse, and the victim is at the time unconscious of the nature of the act because the perpetrator fraudulently represented that the touching served a professional purpose, is guilty of sexual battery. A violation of this subdivision is punishable by imprisonment in a county jail for not more than one year, and by a fine not exceeding two thousand dollars (\$2,000); or by imprisonment in the state prison for two, three, or four years, and by a fine not exceeding ten thousand dollars (\$10,000).

(d) Any person who, for the purpose of sexual arousal, sexual gratification, or sexual abuse, causes another, against that person's will while that person is unlawfully restrained either by the accused or an accomplice, or is institutionalized for medical treatment and is seriously disabled or medically incapacitated, to masturbate or touch an intimate part of either of those persons or a third person, is guilty of sexual battery. A violation of this subdivision is punishable by imprisonment in a county jail for not more than one year, and by a fine not exceeding two thousand dollars (\$2,000); or by imprisonment in the state prison for two, three, or four years, and by a fine not exceeding ten thousand dollars (\$10,000).

(e)

(1) Any person who touches an intimate part of another person, if the touching is against the will of the person touched, and is for the specific purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of misdemeanor sexual battery, punishable by a fine not exceeding two thousand dollars (\$2,000), or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment. However, if the defendant was an employer and the victim was an employee of the defendant, the misdemeanor sexual battery shall be punishable by a fine not exceeding three thousand dollars (\$3,000), by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment. Notwithstanding any other provision of law, any amount of a fine above two thousand dollars (\$2,000) which is collected from a defendant for a violation of this subdivision shall be transmitted to the State Treasury and, upon appropriation by the Legislature, distributed to the Department of Fair Employment and Housing for the purpose of enforcement of the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code), including, but not limited to, laws that proscribe sexual harassment in places of employment. However, in no event shall an amount over two thousand dollars (\$2,000) be transmitted to the State Treasury until all fines, including any restitution fines that may have been imposed upon the defendant, have been paid in full.

(2) As used in this subdivision, "touches" means physical contact with another person, whether accomplished directly, through the clothing of the person committing the offense, or through the clothing of the victim.

(f) As used in subdivisions (a), (b), (c), and (d), "touches" means physical contact with the skin of another person whether accomplished directly or through the clothing of the person committing the offense.

(g) As used in this section, the following terms have the following meanings:

(1) "Intimate part" means the sexual organ, anus, groin, or buttocks of any person, and the breast of a female.

(2) "Sexual battery" does not include the crimes defined in Section 261 or 289.

(3) "Seriously disabled" means a person with severe physical or sensory disabilities.

(4) "Medically incapacitated" means a person who is incapacitated as a result of prescribed sedatives, anesthesia, or other medication.

(5) "Institutionalized" means a person who is located voluntarily or involuntarily in a hospital, medical treatment facility, nursing home, acute care facility, or mental hospital.

(6) "Minor" means a person under 18 years of age.

(h) This section shall not be construed to limit or prevent prosecution under any other law which also proscribes a course of conduct that also is proscribed by this section.

(i) In the case of a felony conviction for a violation of this section, the fact that the defendant was an employer and the victim was an employee of the defendant shall be a factor in aggravation in sentencing.

(j) A person who commits a violation of subdivision (a), (b), (c), or (d) against a minor when the person has a prior felony conviction for a violation of this section shall be guilty of a felony, punishable by imprisonment in the state prison for two, three, or four years and a fine not exceeding ten thousand dollars (\$10,000).

§ 286. Sodomy

(a) Sodomy is sexual conduct consisting of contact between the penis of one person and the anus of another person. Any sexual penetration, however slight, is sufficient to complete the crime of sodomy.

(b)

(1) Except as provided in Section 288, any person who participates in an act of sodomy with another person who is under 18 years of age shall be punished by imprisonment in the state prison, or in a county jail for not more than one year.

(2) Except as provided in Section 288, any person over 21 years of age who participates in an act of sodomy with another person who is under 16 years of age shall be guilty of a felony.

(c)

(1) Any person who participates in an act of sodomy with another person who is under 14 years of age and more than 10 years younger than he or she shall be punished by imprisonment in the state prison for three, six, or eight years.

(2)

(A) Any person who commits an act of sodomy when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for three, six, or eight years.

(B) Any person who commits an act of sodomy with another person who is under 14 years of age when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for 9, 11, or 13 years.

(C) Any person who commits an act of sodomy with another person who is a minor 14 years of age or older when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for 7, 9, or 11 years.

(D) This paragraph does not preclude prosecution under Section 269, Section 288.7, or any other provision of law.

(3) Any person who commits an act of sodomy where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, shall be punished by imprisonment in the state prison for three, six, or eight years.

(d)

(1) Any person who, while voluntarily acting in concert with another person, either personally or aiding and abetting that other person, commits an act of sodomy when the act is accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person or where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, shall be punished by imprisonment in the state prison for five, seven, or nine years.

(2) Any person who, while voluntarily acting in concert with another person, either personally or aiding and abetting that other person, commits an act of sodomy upon a victim who is under 14 years of age, when the act is accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 10, 12, or 14 years.

(3) Any person who, while voluntarily acting in concert with another person, either personally or aiding and abetting that other person, commits an act of sodomy upon a victim who is a minor 14 years of age or older, when the act is accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 7, 9, or 11 years.

(4) This subdivision does not preclude prosecution under Section 269, Section 288.7, or any other provision of law.

(e) Any person who participates in an act of sodomy with any person of any age while confined in any state prison, as defined in Section 4504, or in any local detention facility, as defined in Section 6031.4, shall be punished by imprisonment in the state prison, or in a county jail for not more than one year.

(f) Any person who commits an act of sodomy, and the victim is at the time unconscious of the nature of the act and this is known to the person committing the act, shall be punished by imprisonment in the state prison for three, six, or eight years. As used in this subdivision, "unconscious of the nature of the act" means incapable of resisting because the victim meets one of the following conditions:

(1) Was unconscious or asleep.

(2) Was not aware, knowing, perceiving, or cognizant that the act occurred.

(3) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraud in fact.

(4) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraudulent representation that the sexual penetration served a professional purpose when it served no professional purpose.

(g) Except as provided in subdivision (h), a person who commits an act of sodomy, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, shall be punished by imprisonment in the state prison for three, six, or eight years. Notwithstanding the existence of a conservatorship pursuant to the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving consent.

(h) Any person who commits an act of sodomy, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, and both the defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility for the care and treatment of the mentally disordered approved by a county mental health director, shall be punished by imprisonment in the state prison, or in a county jail for not more than one year. Notwithstanding the existence of a conservatorship pursuant to the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(i) Any person who commits an act of sodomy, where the victim is prevented from resisting by an intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused, shall be punished by imprisonment in the state prison for three, six, or eight years.

(j) Any person who commits an act of sodomy, where the victim submits under the belief that the person committing the act is someone known to the victim other than the accused, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief, shall be punished by imprisonment in the state prison for three, six, or eight years.

(k) Any person who commits an act of sodomy, where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official, shall be punished by imprisonment in the state prison for three, six, or eight years.

As used in this subdivision, "public official" means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

(l) As used in subdivisions (c) and (d), "threatening to retaliate" means a threat to kidnap or falsely imprison, or inflict extreme pain, serious bodily injury, or death.

(m) In addition to any punishment imposed under this section, the judge may assess a fine not to exceed seventy dollars (\$70) against any person who violates this section, with the proceeds of this fine to be used in accordance with Section 1463.23. The court, however, shall take into consideration the defendant's ability to pay, and no defendant shall be denied probation because of his or her inability to pay the fine permitted under this subdivision.

§ 287. Oral copulation

(a) Oral copulation is the act of copulating the mouth of one person with the sexual organ or anus of another person.

(b)

(1) Except as provided in Section 288, any person who participates in an act of oral copulation with another person who is under 18 years of age shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

(2) Except as provided in Section 288, any person over 21 years of age who participates in an act of oral copulation with another person who is under 16 years of age is guilty of a felony.

(c)

(1) Any person who participates in an act of oral copulation with another person who is under 14 years of age and more than 10 years younger than he or she shall be punished by imprisonment in the state prison for three, six, or eight years.

(2)

(A) Any person who commits an act of oral copulation when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for three, six, or eight years.

(B) Any person who commits an act of oral copulation upon a person who is under 14 years of age, when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 8, 10, or 12 years.

(C) Any person who commits an act of oral copulation upon a minor who is 14 years of age or older, when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 6, 8, or 10 years.

(D) This paragraph does not preclude prosecution under Section 269, Section 288.7, or any other provision of law.

(3) Any person who commits an act of oral copulation where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, shall be punished by imprisonment in the state prison for three, six, or eight years.

(d)

(1) Any person who, while voluntarily acting in concert with another person, either personally or by aiding and abetting that other person, commits an act of oral copulation (A) when the act is accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person, or (B) where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, or (C) where the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, shall be punished by imprisonment in the state prison for five, seven, or nine years. Notwithstanding the appointment of a

conservator with respect to the victim pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime described under paragraph (3), that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(2) Any person who, while voluntarily acting in concert with another person, either personally or aiding and abetting that other person, commits an act of oral copulation upon a victim who is under 14 years of age, when the act is accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 10, 12, or 14 years.

(3) Any person who, while voluntarily acting in concert with another person, either personally or aiding and abetting that other person, commits an act of oral copulation upon a victim who is a minor 14 years of age or older, when the act is accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 8, 10, or 12 years.

(4) This paragraph does not preclude prosecution under Section 269, Section 288.7, or any other provision of law.

(e) Any person who participates in an act of oral copulation while confined in any state prison, as defined in Section 4504 or in any local detention facility as defined in Section 6031.4, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

(f) Any person who commits an act of oral copulation, and the victim is at the time unconscious of the nature of the act and this is known to the person committing the act, shall be punished by imprisonment in the state prison for a period of three, six, or eight years. As used in this subdivision, "unconscious of the nature of the act" means incapable of resisting because the victim meets one of the following conditions:

(1) Was unconscious or asleep.

(2) Was not aware, knowing, perceiving, or cognizant that the act occurred.

(3) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraud in fact.

(4) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraudulent representation that the oral copulation served a professional purpose when it served no professional purpose.

(g) Except as provided in subdivision (h), any person who commits an act of oral copulation, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, shall be punished by imprisonment in the state prison, for three, six, or eight years. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving consent.

(h) Any person who commits an act of oral copulation, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, and both the defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in

any other public or private facility for the care and treatment of the mentally disordered approved by a county mental health director, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(i) Any person who commits an act of oral copulation, where the victim is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

(j) Any person who commits an act of oral copulation, where the victim submits under the belief that the person committing the act is someone known to the victim other than the accused, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

(k) Any person who commits an act of oral copulation, where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

As used in this subdivision, "public official" means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

(l) As used in subdivisions (c) and (d), "threatening to retaliate" means a threat to kidnap or falsely imprison, or to inflict extreme pain, serious bodily injury, or death.

(m) In addition to any punishment imposed under this section, the judge may assess a fine not to exceed seventy dollars (\$70) against any person who violates this section, with the proceeds of this fine to be used in accordance with Section 1463.23. The court shall, however, take into consideration the defendant's ability to pay, and no defendant shall be denied probation because of his or her inability to pay the fine permitted under this subdivision.

§ 289. Penetration by foreign object

(a)

(1)

(A) Any person who commits an act of sexual penetration when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for three, six, or eight years.

(B) Any person who commits an act of sexual penetration upon a child who is under 14 years of age, when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 8, 10, or 12 years.

(C) Any person who commits an act of sexual penetration upon a minor who is 14 years of age or older, when the act is accomplished against the victim's will by means of force, violence, duress,

menace, or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 6, 8, or 10 years.

(D) This paragraph does not preclude prosecution under Section 269, Section 288.7, or any other provision of law.

(2) Any person who commits an act of sexual penetration when the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, shall be punished by imprisonment in the state prison for three, six, or eight years.

(b) Except as provided in subdivision (c), any person who commits an act of sexual penetration, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act or causing the act to be committed, shall be punished by imprisonment in the state prison for three, six, or eight years. Notwithstanding the appointment of a conservator with respect to the victim pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(c) Any person who commits an act of sexual penetration, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act or causing the act to be committed and both the defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility for the care and treatment of the mentally disordered approved by a county mental health director, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(d) Any person who commits an act of sexual penetration, and the victim is at the time unconscious of the nature of the act and this is known to the person committing the act or causing the act to be committed, shall be punished by imprisonment in the state prison for three, six, or eight years. As used in this subdivision, "unconscious of the nature of the act" means incapable of resisting because the victim meets one of the following conditions:

(1) Was unconscious or asleep.

(2) Was not aware, knowing, perceiving, or cognizant that the act occurred.

(3) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraud in fact.

(4) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraudulent representation that the sexual penetration served a professional purpose when it served no professional purpose.

(e) Any person who commits an act of sexual penetration when the victim is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

(f) Any person who commits an act of sexual penetration when the victim submits under the belief that the person committing the act or causing the act to be committed is someone known to the victim other than the accused, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

(g) Any person who commits an act of sexual penetration when the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

As used in this subdivision, "public official" means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

(h) Except as provided in Section 288, any person who participates in an act of sexual penetration with another person who is under 18 years of age shall be punished by imprisonment in the state prison or in a county jail for a period of not more than one year.

(i) Except as provided in Section 288, any person over 21 years of age who participates in an act of sexual penetration with another person who is under 16 years of age shall be guilty of a felony.

(j) Any person who participates in an act of sexual penetration with another person who is under 14 years of age and who is more than 10 years younger than he or she shall be punished by imprisonment in the state prison for three, six, or eight years.

(k) As used in this section:

(1) "Sexual penetration" is the act of causing the penetration, however slight, of the genital or anal opening of any person or causing another person to so penetrate the defendant's or another person's genital or anal opening for the purpose of sexual arousal, gratification, or abuse by any foreign object, substance, instrument, or device, or by any unknown object.

(2) "Foreign object, substance, instrument, or device" shall include any part of the body, except a sexual organ.

(3) "Unknown object" shall include any foreign object, substance, instrument, or device, or any part of the body, including a penis, when it is not known whether penetration was by a penis or by a foreign object, substance, instrument, or device, or by any other part of the body.

(l) As used in subdivision (a), "threatening to retaliate" means a threat to kidnap or falsely imprison, or inflict extreme pain, serious bodily injury or death.

(m) As used in this section, "victim" includes any person who the defendant causes to penetrate the genital or anal opening of the defendant or another person or whose genital or anal opening is caused to be penetrated by the defendant or another person and who otherwise qualifies as a victim under the requirements of this section.

§ 261.5. Unlawful sexual intercourse with a minor; Misdemeanor or felony violation; Civil penalties

(a) Unlawful sexual intercourse is an act of sexual intercourse accomplished with a person who is not the spouse of the perpetrator, if the person is a minor. For the purposes of this section, a "minor" is a person under the age of 18 years and an "adult" is a person who is at least 18 years of age.

(b) Any person who engages in an act of unlawful sexual intercourse with a minor who is not more than three years older or three years younger than the perpetrator, is guilty of a misdemeanor.

(c) Any person who engages in an act of unlawful sexual intercourse with a minor who is more than three years younger than the perpetrator is guilty of either a misdemeanor or a felony, and shall be punished by imprisonment in a county jail not exceeding one year, or by imprisonment pursuant to subdivision (h) of Section 1170.

(d) Any person 21 years of age or older who engages in an act of unlawful sexual intercourse with a minor who is under 16 years of age is guilty of either a misdemeanor or a felony, and shall be punished by imprisonment in a county jail not exceeding one year, or by imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or four years.

(e)

(1) Notwithstanding any other provision of this section, an adult who engages in an act of sexual intercourse with a minor in violation of this section may be liable for civil penalties in the following amounts:

(A) An adult who engages in an act of unlawful sexual intercourse with a minor less than two years younger than the adult is liable for a civil penalty not to exceed two thousand dollars (\$2,000).

(B) An adult who engages in an act of unlawful sexual intercourse with a minor at least two years younger than the adult is liable for a civil penalty not to exceed five thousand dollars (\$5,000).

(C) An adult who engages in an act of unlawful sexual intercourse with a minor at least three years younger than the adult is liable for a civil penalty not to exceed ten thousand dollars (\$10,000).

(D) An adult over the age of 21 years who engages in an act of unlawful sexual intercourse with a minor under 16 years of age is liable for a civil penalty not to exceed twenty-five thousand dollars (\$25,000).

(2) The district attorney may bring actions to recover civil penalties pursuant to this subdivision. From the amounts collected for each case, an amount equal to the costs of pursuing the action shall be deposited with the treasurer of the county in which the judgment was entered, and the remainder shall be deposited in the Underage Pregnancy Prevention Fund, which is hereby created in the State Treasury. Amounts deposited in the Underage Pregnancy Prevention Fund may be used only for the purpose of preventing underage pregnancy upon appropriation by the Legislature.

(3) In addition to any punishment imposed under this section, the judge may assess a fine not to exceed seventy dollars (\$70) against any person who violates this section with the proceeds of this fine to be used in accordance with Section 1463.23. The court shall, however, take into consideration the defendant's ability to pay, and no defendant shall be denied probation because of his or her inability to pay the fine permitted under this subdivision.

§ 273.5. Infliction of injury on present or former spouse, present or former cohabitant, present or former fiance/fiancee, present or former dating partner, or parent of child; Punishment; Conditions of probation; Issuance of restraining order

(a) Any person who willfully inflicts corporal resulting in a traumatic condition upon a victim described in subdivision (b) is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for two, three, or four years, or in a county jail for not more than one year, or by a fine of up to six thousand dollars (\$6,000), or by both that fine and imprisonment.

(b) Subdivision (a) shall apply if the victim is or was one or more of the following:

(1) The offender's spouse or former spouse.

(2) The offender's cohabitant or former cohabitant.

(3) The offender's fiancée or fiancée, or someone with whom the offender has, or previously had, an engagement or dating relationship, as defined in paragraph (10) of subdivision (f) of Section 243.

(4) The mother or father of the offender's child.

(c) Holding oneself out to be the spouse of the person with whom one is cohabiting is not necessary to constitute cohabitation as the term is used in this section.

(d) As used in this section, "traumatic condition" means a condition of the body, such as a wound, or external or internal injury, including, but not limited to, injury as a result of strangulation or suffocation, whether of a minor or serious nature, caused by a physical force. For purposes of this section, "strangulation" and "suffocation" include impeding the normal breathing or circulation of the blood of a person by applying pressure on the throat or neck.

(e) For the purpose of this section, a person shall be considered the father or mother of another person's child if the alleged male parent is presumed the natural father under Sections 7611 and 7612 of the Family Code.

(f)

(1) Any person convicted of violating this section for acts occurring within seven years of a previous conviction under subdivision (a), or subdivision (d) of Section 243, or Section 243.4, 244, 244.5, or 245, shall be punished by imprisonment in a county jail for not more than one year, or by imprisonment in the state prison for two, four, or five years, or by both imprisonment and a fine of up to ten thousand dollars (\$10,000).

(2) Any person convicted of a violation of this section for acts occurring within seven years of a previous conviction under subdivision (e) of Section 243 shall be punished by imprisonment in the state prison for two, three, or four years, or in a county jail for not more than one year, or by a fine of up to ten thousand dollars (\$10,000), or by both that imprisonment and fine.

(g) If probation is granted to any person convicted under subdivision (a), the court shall impose probation consistent with the provisions of Section 1203.097.

(h) If probation is granted, or the execution or imposition of a sentence is suspended, for any defendant convicted under subdivision (a) who has been convicted of any prior offense specified in subdivision (f), the court shall impose one of the following conditions of probation:

(1) If the defendant has suffered one prior conviction within the previous seven years for a violation of any offense specified in subdivision (f), it shall be a condition of probation, in addition to the provisions contained in Section 1203.097, that he or she be imprisoned in a county jail for not less than 15 days.

(2) If the defendant has suffered two or more prior convictions within the previous seven years for a violation of any offense specified in subdivision (f), it shall be a condition of probation, in addition to the provisions contained in Section 1203.097, that he or she be imprisoned in a county jail for not less than 60 days.

(3) The court, upon a showing of good cause, may find that the mandatory imprisonment required by this subdivision shall not be imposed and shall state on the record its reasons for finding good cause.

(i) If probation is granted upon conviction of a violation of subdivision (a), the conditions of probation may include, consistent with the terms of probation imposed pursuant to Section 1203.097, in lieu of a fine, one or both of the following requirements:

(1) That the defendant make payments to a battered women's shelter, up to a maximum of five thousand dollars (\$5,000), pursuant to Section 1203.097.

(2)

(A) That the defendant reimburse the victim for reasonable costs of counseling and other reasonable expenses that the court finds are the direct result of the defendant's offense.

(B) For any order to pay a fine, make payments to a battered women's shelter, or pay restitution as a condition of probation under this subdivision, the court shall make a determination of the defendant's ability to pay. An order to make payments to a battered women's shelter shall not be made if it would impair the ability of the defendant to pay direct restitution to the victim or court-ordered child support. If the injury to a person who is married or in a registered domestic partnership is caused in whole or in part by the criminal acts of his or her spouse or domestic partner in violation of this section, the community property may not be used to discharge the liability of the offending spouse or domestic partner for restitution to the injured spouse or domestic partner, required by Section 1203.04, as operative on or before August 2, 1995, or Section 1202.4, or to a shelter for costs with regard to the injured spouse or domestic partner and dependents, required by this section, until all separate property of the offending spouse or domestic partner is exhausted.

(j) Upon conviction under subdivision (a), the sentencing court shall also consider issuing an order restraining the defendant from any contact with the victim, which may be valid for up to 10 years, as determined by the court. It is the intent of the Legislature that the length of any restraining order be based upon the seriousness of the facts before the court, the probability of future violations, and the safety of the victim and his or her immediate family. This protective order may be issued by the court whether the defendant is sentenced to state prison or county jail, or if imposition of sentence is suspended and the defendant is placed on probation.

(k) If a peace officer makes an arrest for a violation of this section, the peace officer is not required to inform the victim of his or her right to make a citizen's arrest pursuant to subdivision (b) of Section 836.

§ 646.9. Stalking

(a) 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, punishable by imprisonment in a county jail for not more than one year, or by a fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment, or by imprisonment in the state prison.

(b) Any person who violates subdivision (a) when there is a temporary restraining order, injunction, or any other court order in effect prohibiting the behavior described in subdivision (a) against the same party, shall be punished by imprisonment in the state prison for two, three, or four years.

(c)

(1) Every person who, after having been convicted of a felony under Section 273.5, 273.6, or 422, commits a violation of subdivision (a) shall be punished by imprisonment in a county jail for not more than one year, or by a fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment, or by imprisonment in the state prison for two, three, or five years.

(2) Every person who, after having been convicted of a felony under subdivision (a), commits a violation of this section shall be punished by imprisonment in the state prison for two, three, or five years.

- (d)** In addition to the penalties provided in this section, the sentencing court may order a person convicted of a felony under this section to register as a sex offender pursuant to Section 290.006.
- (e)** For the purposes of this section, "harasses" means engages in a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, torments, or terrorizes the person, and that serves no legitimate purpose.
- (f)** For the purposes of this section, "course of conduct" means two or more acts occurring over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct."
- (g)** For the purposes of this section, "credible threat" means a verbal or written threat, including that performed through the use of an electronic communication device, or a threat implied by a pattern of conduct or a combination of verbal, written, or electronically communicated statements and conduct, made with the intent to place the person that is the target of the threat in reasonable fear for his or her safety or the safety of his or her family, and made with the apparent ability to carry out the threat so as to cause the person who is the target of the threat to reasonably fear for his or her safety or the safety of his or her family. It is not necessary to prove that the defendant had the intent to actually carry out the threat. The present incarceration of a person making the threat shall not be a bar to prosecution under this section. Constitutionally protected activity is not included within the meaning of "credible threat."
- (h)** For purposes of this section, the term "electronic communication device" includes, but is not limited to, telephones, cellular phones, computers, video recorders, fax machines, or pagers. "Electronic communication" has the same meaning as the term defined in Subsection 12 of Section 2510 of Title 18 of the United States Code.
- (i)** This section shall not apply to conduct that occurs during labor picketing.
- (j)** If probation is granted, or the execution or imposition of a sentence is suspended, for any person convicted under this section, it shall be a condition of probation that the person participate in counseling, as designated by the court. However, the court, upon a showing of good cause, may find that the counseling requirement shall not be imposed.
- (k)**
- (1)** The sentencing court also shall consider issuing an order restraining the defendant from any contact with the victim, that may be valid for up to 10 years, as determined by the court. It is the intent of the Legislature that the length of any restraining order be based upon the seriousness of the facts before the court, the probability of future violations, and the safety of the victim and his or her immediate family.
- (2)** This protective order may be issued by the court whether the defendant is sentenced to state prison, county jail, or if imposition of sentence is suspended and the defendant is placed on probation.
- (l)** For purposes of this section, "immediate family" means any spouse, parent, child, any person related by consanguinity or affinity within the second degree, or any other person who regularly resides in the household, or who, within the prior six months, regularly resided in the household.
- (m)** The court shall consider whether the defendant would benefit from treatment pursuant to Section 2684. If it is determined to be appropriate, the court shall recommend that the Department of Corrections and Rehabilitation make a certification as provided in Section 2684. Upon the certification, the defendant shall be evaluated and transferred to the appropriate hospital for treatment pursuant to Section 2684.

APPENDIX D – BYSTANDER INTERVENTION TIPS

The University encourages the campus community to recognize that we all have an opportunity to make a difference and reduce the incidents of sexual misconduct on our campus, by learning how to intervene when we witness a situation that makes us uncomfortable, or we know is wrong. One method of bystander intervention is referred to as the “3 D’s - Distract, Delegate, and Direct.” Information about how to engage in this method appears below. **IMPORTANT REMINDER:** You should always assess whether you can safely intervene before engaging in any of the techniques described below.

Distract. This technique involves causing some form of distraction that will interrupt the flow of what is happening. Once you identify a high risk situation you can attempt to distract either of the two individuals.

Examples:

- Ask one of the people to help you find a lost item.
- Interrupt to ask for directions.
- Spill a drink.
- Start talking to the couple and don’t leave, so isolation cannot happen.
- An easy technique you can use is to invite the targeted individual to go outside for some fresh air. Once he or she is away from the other person, check in and ask if she or he needs help.

Delegate. When a bystander doesn’t feel safe to approach the situation alone, she or he can involve others.

Examples:

- Group intervention. There are power in numbers. If you don’t feel comfortable going by yourself, ask a group to go with you. Say to one’s friends, I am concerned for that person. Can you find their friends and get them to check on the situation, while I stay here and watch?
- Ask a bouncer at a bar to look into the situation
- Ask the host to intervene. For example, I am worried for that girl, who is so drunk. Could you let that guy know that upstairs is off limits?

Direct. With the direct approach, you confront either the potential target or the person who you think is potentially about to commit a sexual assault.

Examples:

- Say to the couple, “we are finding her friends and they will take her home.”
- Say to the targeted individual, “I am not letting a stranger take you home.”
- Say to the possible perpetrator, “Hey, you can’t take them upstairs; it’s not a good idea.”

Please contact one of the University’s Title IX Coordinators or the Sexual Offense Advocate with any questions about the material provided in this Appendix or about bystander intervention generally.