



**Samuel Merritt University Campus Safety and Security Report
For the 2014 Calendar Year
Published September 30, 2015**

Statement on Emergency Notification, Response, Evacuation, and Timely Warnings

In the event a situation arises that constitutes an ongoing or continuing threat, a University- or Campus- wide “timely warning” will be issued via the SMU ALERT system.

The University will:

without delay, take into account the safety of the community, determine the content of the notification and initiate the notification system, unless the notification will, in the professional judgment of responsible authorities, compromise efforts to assist victims or to contain, respond to, or otherwise mitigate the emergency. (Department of Education, July 2010)

As part of Samuel Merritt University’s (SMU) plan to effectively respond to an emergency event on any of the campuses, an SMU ALERT communication system has been established. The SMU ALERT system delivers critical information to the SMU community members on any communication device chosen (phone, email, SMS text, pager, or fax) and it is the most effective way to share updates and information in the event of an emergency. In certain emergencies where the SMU ALERT system would not be as effective or access to internet or telecommunications are severely limited, the University may use University email, University phones, the University webpage, fire alerting systems, and/or teams of runners.

All students, faculty and staff are automatically enrolled in the SMU ALERT system that has been initially populated with phone numbers and/or SMU email address. You may store additional numbers for voice messages, text messages, email addresses for alerts, or change your phone number or email address.

Go to http://www.samuelmerritt.edu/smu_alert, click the button to “Update My Contact Information,” log in, and enter additional methods for contact or change them.

It is the responsibility of all students, faculty and staff to update personal information on a regular basis. There is also an opt-out button if you do not wish to receive any emergency communications from the University, although this is not the recommended choice.

Personal information and contact information is securely stored. The system is designed for use only when an incident disrupts normal campus operations or threatens the immediate health and safety of the campus community.

Anyone with information warranting a timely warning should report the circumstances to the Assistant Vice President of Enrollment and Student Services (AVPESS), Craig Elliott, at 510-869-6627, in person at Peralta MOB or celliott@samuelmerritt.edu or to the Director of Construction and Campus Development (DCCD), Lillian Harvin, at 510-869-6525 or lharvin@samuelmerritt.edu.

The Crisis Response Plan may be activated during a community or regional crisis that may impact University personnel or business operations. For example, a utility outage in nearby areas, a serious toxic spill on a major highway, or a brushfire in a local area may necessitate a plan activation to coordinate safety precautions or emergency information and support services for personnel.

Samuel Merritt University maintains a major emergency in the community that affects or potentially threatens students, faculty, and/or staff is a University emergency.

The University's Crisis Response Manual includes information about the structure of the crisis response and who will be involved in assessing and responding to a crisis. In addition, departments are expected to develop contingency plans and evacuation procedures, and individuals are expected to have their own safety kits and procedures in place as well as to know the plan. The University conducts training activity each year, participates in the crisis planning procedures of the medical center (the parent organization), and tests the emergency notification system on an annual basis. SMU will publish a summary of its test.

All members of the SMU community are notified on an annual basis that they are required to notify the University (through the individuals identified below) of any situation or incident on campus that involved a significant emergency or dangerous situation that may involve immediate or ongoing threats to the health and safety of students and/or employees on campus. The University administration will determine if the situation does in fact pose a threat to the community. If it is the case, Federal law requires the institution to immediately notify the campus community or appropriate segments of the community that may be affected by the situation.

The Director of Information Technology Services (ITS) has been designated as responsible for issuing these emergency notifications. The AVPESS or the DCCD may also initiate emergency notifications if the Director of ITS is unable. The AVPESS and/or the DCCD will confirm there is an emergency or dangerous situation that poses an immediate threat to the health and safety of some or all of the members of the SMU community and will collaborate with the President (or designee) and the Director of ITS to determine the content of the message. They will use some or all of the systems described above to communicate the threat to the University community or to the appropriate segment of the community, if the threat is limited to a particular building or segment of the population.

Statement on the Preparation of Disclosure of Crime Statistics

The Assistant Vice President of Enrollment and Student Services prepares this report to comply with the Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics Act. The full text of the report and the annual statistics can be found on the University website at <http://www.samuelmerritt.edu/campus-safety-security>. The report is prepared in coordination with contracted security teams at each campus (if applicable), key faculty and staff, and the Office of Student Services.

Campus crime, arrest and referral statistics include those reported to the Assistant Vice President of Enrollment and Student Services, designated campus officials, security teams, and outside law enforcement agencies. These statistics may also include crimes that have occurred in nearby private residences and businesses and is not required by law.

The University will only remove reports of crimes that have been “unfounded” by law enforcement and will disclose the number in the crime statistics.

Each year, on or before October 1, an email notification is made to all enrolled students and current faculty and staff regarding the updated report and how to access the information. A direct link to the report is included in the email and on the website. Notification to prospective students and prospective employees is made on the respective Admission and Employment webpages. Requests for the report in alternative formats may be made to the Assistant Vice President of Enrollment and Student Services by email (celliot@samuelmerritt.edu) or by phone at 510-869-6627.

Statement on the Reporting of Criminal Offenses and Encouraging Prompt and Accurate Crime Reporting

Community members, students, faculty, staff and guests have a duty to report all crimes and public safety related incidents in a timely manner (unless they are a mental health professional serving in that capacity) to 1) the security team noted below and to 2) the AVPESS and 3) the DCCD. Information on student behavioral violations are reported to the Assistant Vice President of Enrollment and Student Services per University policy for follow up. The University does not have a campus police department and thus we encourage you to contact both the University (via the individuals below) and the appropriate security team.

For crimes in progress or emergencies, contact the security team at your campus or call 911.

Campus	Security Number
Oakland	510-763-4001 or x5555
Sacramento	916-486-5800
San Francisco Peninsula	None on Site; call 911

In addition, you should report a crime to the following:

Assistant Vice President of Enrollment and Student Services	510 869-6627; 3100 Telegraph Ave, Suite 1000
Director of Construction and Campus Development	510 869-8785; 3195 Telegraph Avenue, Office 2850

If you are a victim of sexual violence, your first priority should be to get to a place of safety. You should then obtain necessary medical treatment. The University strongly advocates that a victim of sexual assault/violence report the incident in a timely manner to the Assistant Vice President of Enrollment and Student Services or Executive Director of Human Resources.

The report to a University official does not obligate the victim to prosecute nor will it subject the victim to scrutiny or judgmental opinions from employees and officers; but it ensures the victim can receive services offered by the University. The Assistant Vice President of Enrollment and Student Services and others will assist the student in notifying these authorities if the student requests.

The University will take immediate steps to protect complainants even before a final outcome in the investigations, including, but not limited to, prohibiting the accused from having contact with the complainant, campus escorts, academic support services, counseling, additional counseling visits, course withdrawal without penalty, or other remedies as may be appropriate.

The University offers counseling services through the Student Health and Counseling (SHAC) center and through a contracted arrangement with Sutter EAP. Counseling and support services outside the University system are available through Bay Area Crisis Centers.

University disciplinary proceedings, as well as special guidelines for handling cases of Equal Opportunity, Harassment, and Nondiscrimination, which includes acts of sexual assault, sexual and gender violence, and sexual misconduct are detailed in the Catalog and Student Handbook (and listed below).

Statement on Confidential Reporting

If you are the victim of a crime and do not wish to pursue action with the University's conduct process or the criminal justice system, we strongly encourage you to make a confidential report. With your permission, the people noted above can file a report on the details of the incident without revealing your identity. The purpose of a confidential report is to comply with your wish to keep the matter confidential while taking steps to insure the institution's compliance with this Federal law and insure the future safety of yourself and others. With such information, the University can maintain accurate records of the number of incidents involving students and alert the campus community to potential danger. Reports filed in this manner are counted and disclosed in the annual crime statistics for the University.

In cases indicating pattern, predation, weapons, threat and/or violence, the University will be unable to honor a request for confidentiality. In cases where the reporting party requests

confidentiality and the circumstances allow the University to honor that request, the University will offer interim supports and remedies to the reporting party and the community, but will not otherwise pursue formal action. A reporting party has the right, and can expect, to have reports taken seriously by the University when formally reported, and to have those incidents investigated and properly resolved through these procedures. Formal reporting still affords privacy to the reporter, and only a small group of officials who need to know will be told, including but not limited to investigators, witnesses, the University President, select senior administrators and the responding party. The circle of people with this knowledge will be kept as tight as possible to preserve a reporting party's rights and privacy. [Additionally anonymous reports can be made by victims and/or third parties. Note that these anonymous reports may prompt a need for the institution to investigate.

Statement Addressing Mental Health Counselors and Confidential Crime Reporting

Please note that persons employed by the University or contracted by the University to serve as professional counselors, when acting as such, are not considered to be a campus security authority and are not required to report crimes for inclusion into the annual disclosure of crime statistics. They are encouraged, if and when they deem appropriate, to inform persons being counseled of the procedures to report crimes on a voluntary basis for inclusion into the annual crime statistics.

Statement on Campus Access

The University shares facilities with various medical centers and businesses, and some overlap of access by the public and medical center staff will happen. In these areas, the public can use the space as a part of visiting the medical center or business, and the respective security team will take responsibility for security and access.

In other areas, access to the University facilities is limited to current faculty, staff and students, approved contractors, medical center facilities staff, and medical center security staff, and is maintained through swipe card access via campus identification badges. Faculty, staff and students must wear their University ID (and campus identification badges if separate) while on campus and have it visible, above the waist, at all times.

During business hours, faculty, staff and students have access to University facilities via their swipe card. During holidays, after business hours and weekends, access is limited or not permitted. Facilities staff will provide updates prior to holidays on what access is available. The University is closed the week between Christmas and New Year's Eve and special permission is required to be on campus during that time.

Please note that emergencies or extenuating circumstances may necessitate changes to any posted schedules.

Statement on Campus Law Enforcement

Samuel Merritt University does not have its own police force, public safety, or security team and it utilizes services with the security team or building management at each of its campuses.

The security team has the authority to ask persons for identification and determine whether individuals have lawful business with Samuel Merritt University. This security team also has the ability to collect reports of incidents. They do not have arrest power. Criminal incidents are referred to the local police who have jurisdiction at the campus. All crime victims and witnesses are strongly encouraged to immediately report the crime to the security team at that campus as well as one of the University officials listed above. Prompt reporting will assure timely warning notices and disclosure of statistics.

Security Officers are licensed Private Security through the state of California, with the authority to detain, protect, and preserve life, property, and assets in accordance with their training and equipped status. The business park for the San Francisco Peninsula Campus does not have a security service.

The security teams on each campus have a long-standing relationship with local, county, state, and Federal law enforcement agencies in the ongoing application of security practices. There are no formal MOU's or SLA's with agencies, but it is the practice of each security department to cooperate with all police activity, and to work with law enforcement on all levels.

Police are involved in addressing all criminal activity that occurs on campus. This is stated in multiple policy documents, and a police report number is required on all criminal event incident reports.

In compliance with the statutory requirements that require institutions to adopt and implement written policies and procedures to ensure that reports of violent crimes, hate crimes, or sexual assaults are immediately, or as soon as practically possible, disclosed to local law enforcement (established by AB 1433 (Gatto, 2014), specified in the California Education Code (Ed. Code, § 67383, subd. (a) and Ed. Code, § 67381)) and responded to in sensitive and culturally appropriate manner, the University is working on implementing MOU's with the police departments in San Mateo, Sacramento, and Oakland.

Statement Addressing Disclosures to Alleged Victims of Crimes of Violence or Non-forcible Sex Offenses

Samuel Merritt University will disclose to the alleged victim of a crime of violence, sexual misconduct/harassment or a non-forcible sex offense, the results of any disciplinary hearing conducted by the University against the member of the University community who is the alleged perpetrator of the crime or offense. If the alleged victim is deceased as a result of the crime or offense, Samuel Merritt University will provide the results of the disciplinary hearing to the victim's next of kin, if so requested.

Statement on Campus Sex Offenses

Students, faculty, and staff are required to report sex offenses to the Assistant Vice President of Enrollment and Student Services. As required by the Higher Education Amendments of 1992,

the University provides an annual report of campus crime statistics, including all sex offenses. See Campus Security Act of 1990 in the Federal and State Regulatory Policies section.

Statement on Safety Awareness and Education Programs for Students and Employees

The University will provide annually safety educational programming to promote the awareness of safety, crime prevention, sexual misconduct and violence, which may include rape, acquaintance rape and other forcible and non-forcible sex offences, domestic violence, dating violence, sexual assault.

The following are descriptions of awareness programs provides to students and employees on an annual basis:

- Student Orientation: tips on personal safety, how to report emergencies to the campuses local security team and police, and awareness of the University alert system;
- Community Learning Series: programs in the community learning series include education and information on dating/relationship/domestic violence, gender violence, bystander training (helping skills for effective intervention), sexual assault, consent, risk reduction, key health issues and healthy living. In addition, resources are distributed on how to report.
- Clery and Title IX Training: The university provides online training on Clery and Title IX as part of its online compliance training. This training is required of all student and all employees annual training.
- Clery Campus Security Authority (CSA) Training: CSA's have an additional online training module that they complete annually as well.
- Safety Tips: The University Facilities department regularly shares safety tips with the University community.

In addition, such educational programs may also be done at the request of students, by security in an ad hoc program, or because of a campus concern.

Statement Regarding Criminal Activity Off Campus

The University does not have any off-campus student organizations nor does it monitor off-campus activities of students, faculty and staff. It may respond to behavior of employees and students in an off-campus location if it is made aware of such behavior and that behavior violates University policy or is a safety concern.

Statement Addressing Alcoholic Beverages and Drugs

The possession, sale, or the furnishing of alcohol on the University campus is governed by California state law. Samuel Merritt University has been designated as "drug and alcohol free" and only under certain circumstances is the consumption of alcohol permitted. The possession, sale, manufacture or distribution of any controlled substance is illegal both under state and federal laws. Violators are subject to University disciplinary action, criminal prosecution, fine and imprisonment. It is unlawful to sell, furnish or provide alcohol to a person under the age of 21. The possession of alcohol by anyone under the age of 21 in a public place or place open to

public is illegal. It is also a violation of Samuel Merritt University policy for anyone to consume or possess alcohol in any public or private area of campus without prior University approval.

Statement Addressing Substance Abuse Education

The University offers substance abuse programs including informational materials, counseling services (through Student Health and Counseling for students and Sutter Employee Assistance Program (EAP) for employees), referrals to diversion programs or long-term treatment, and University disciplinary actions.

Statement on Sexual Offender Registration

In accordance with the Campus Sex Crimes Prevention Act of 2000, The Jeanne Clery Act and FERPA, Samuel Merritt University is providing a link to the California State Sex Offender Registry. The University is required to inform the campus community that a list of all registered sex offenders is available from the State of California Office of Attorney General at <http://www.meganslaw.ca.gov/>

Policy on Equal Opportunity, Harassment, and Nondiscrimination

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Samuel Merritt University affirms its commitment to promote the goals of fairness and equity in all aspects of the educational enterprise. All policies below are subject to resolution using University's resolution process, as detailed below. This process is applicable regardless of the status of the parties involved, who may be members or non-members of the campus community, students, student organizations, faculty, administrators and/or staff. University reserves the right to act on incidents occurring on-campus or off-campus, when the off-campus conduct could have an on-campus impact or impact on the educational mission of University.

The Executive Director of Human Resources, Elaine Lemay, serves as the Title IX Coordinator and oversees implementation of the University's policy on equal opportunity, harassment and nondiscrimination. Reports of discrimination, harassment and/or retaliation should be made to the Title IX Coordinator or deputy promptly, but there is no time limitation on the filing of the complaint, as long as the responding party¹ remains subject to University's jurisdiction. All reports are acted upon promptly while every effort is made by the University to preserve the privacy of reports. Anonymous reports may also be filed. Reporting is addressed more specifically below. In the event of a conflict of interest involving the Title IX Coordinator or to make reports of discrimination by the Title IX Coordinator, please contact the University President Sharon Diaz at 510.869.6512

¹ The responding party is the term used by the University to refer to the person accused of a policy violation. The University refers to the person bringing an accusation as the reporting party and is meant to reference the victim or complainant as the injured/harmed party.

This policy applies to behaviors that take place on the campus, at University-sponsored events and may also apply off-campus and to actions online when the Title IX Coordinator determines that the off-campus conduct affects a substantial University interest. A substantial University interest is defined to include:

- a) Any action that constitutes criminal offense as defined by federal or state law. This includes, but is not limited to, single or repeat violations of any local, state or federal law committed in the municipality where University is located;
- b) Any situation where it appears that the responding party may present a danger or threat to the health or safety of self or others;
- c) Any situation that significantly impinges upon the rights, property or achievements of self or others or significantly breaches the peace and/or causes social disorder; and/or
- d) Any situation that is detrimental to the educational interests of the University.

University: Any online postings or other electronic communication by students, including cyber-bullying, cyber-stalking, cyber-harassment, etc. occurring completely outside of University's control (e.g. not on University networks, websites or between University email accounts) will only be subject to this policy when those online behaviors can be shown to cause a substantial University disruption. Otherwise, such communications are considered speech protected by the 1st Amendment.

Off-campus discriminatory or harassing speech by employees may be regulated by the University only when such speech is made in an employee's official or work-related capacity.

Inquiries about this policy and procedure may be made internally to:

Samuel Merritt University Title IX Coordinator
Elaine Lemay
Executive Director of Human Resources
Samuel Merritt University
3100 Telegraph Avenue
Oakland, CA 94609
(510) 869-6739
elemay@samuelmerritt.edu

Samuel Merritt University Title IX Deputy Coordinator
Craig M Elliott II PhD
Assistant Vice President for Enrollment and Student Services
Samuel Merritt University
3100 Telegraph Avenue

Oakland, CA 94609
(510) 869-6627
celliott@samuelmerritt.edu

Inquiries may be made externally to:

Office for Civil Rights (OCR)
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-1100
Customer Service Hotline #: (800) 421-3481
Facsimile: (202) 453-6012
TDD#: (877) 521-2172
Email: OCR@ed.gov
Web: <http://www.ed.gov/ocr>

San Francisco Office

U.S. Department of Education
50 Beale Street, Suite 7200
San Francisco, CA 94105-1813
Telephone: (415) 486-5555
Facsimile: (415) 486-5570
Email: OCR.SanFrancisco@ed.gov

Equal Employment Opportunity Commission (EEOC)
Contact: <http://www.eeoc.gov/contact/>

1. University Policy on Nondiscrimination

University adheres to all federal and state civil rights laws banning discrimination in public institutions of higher education. Samuel Merritt University will not discriminate against any employee, applicant for employment, student or applicant for admission on the basis of race, religion, color, sex, pregnancy, ethnicity, national origin (including ancestry), citizenship status, familial status, disability, age, sexual orientation, gender, gender identity, veteran or military status (including special disabled veteran, Vietnam-era veteran, or recently separated veteran), predisposing genetic characteristics or any other protected category under applicable local, state or federal law, including protections for those opposing discrimination or participating in any resolution process within the University or within the Equal Employment Opportunity Commission or other human rights agencies.

This policy covers nondiscrimination in employment and in access to educational opportunities. Therefore, any member of the campus community, guest or visitor who acts to deny, deprive or limit the educational, employment, residential and/or social access, benefits and/or

opportunities of any member of the campus community on the basis of their actual or perceived membership in the protected classes listed above is in violation of University policy on nondiscrimination. When brought to the attention of University, any such discrimination will be appropriately remedied by University according to the procedures below.

2. University Policy on Accommodation of Disabilities

University is committed to full compliance with the Americans With Disabilities Act of 1990 (ADA) and Section 504 of the Rehabilitation Act of 1973, which prohibit discrimination against qualified persons with disabilities, as well as other federal and state laws pertaining to individuals with disabilities. Under the ADA and its amendments, a person has a disability if he or she has a physical or mental impairment that substantially limits a major life activity. The ADA also protects individuals who have a record of a substantially limiting impairment or who are regarded as disabled by the institution whether qualified or not. A substantial impairment is one that significantly limits or restricts a major life activity such as hearing, seeing, speaking, breathing, performing manual tasks, walking or caring for oneself.

The Director of Disability Services (for students) and the Executive Director for Human Resources (for employees) have been designated as the ADA/504 Coordinator responsible for coordinating efforts to comply with these disability laws, including investigation of any complaint alleging noncompliance.

a. Students with Disabilities

University is committed to providing qualified students with disabilities with reasonable accommodations and support needed to ensure equal access to the academic programs and activities of University.

All accommodations are made on a case-by-case basis. A student requesting any accommodation should first contact the Director of Disability Services who coordinates services for students with disabilities. The coordinator reviews documentation provided by the student and, in consultation with the student, determines which accommodations are appropriate to the student's particular needs and academic programs.

b. Employees with Disabilities

Pursuant to the ADA, University will provide reasonable accommodation(s) to all qualified employees with known disabilities, where their disability affects the performance of their essential job functions, except where doing so would be unduly disruptive or would result in undue hardship.

An employee with a disability is responsible for requesting an accommodation in writing to the Executive Director for Human Resources and provide appropriate documentation. The

Executive Director for Human Resources will work with the employee's supervisor to identify which essential functions of the position are affected by the employee's disability and what reasonable accommodations could enable the employee to perform those duties.

3. University Policy on Discriminatory Harassment

Students, staff, administrators, and faculty are entitled to a working environment and educational environment free of discriminatory harassment. University's harassment policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial or sensitive subject matters protected by academic freedom. The sections below describe the specific forms of legally prohibited harassment that are also prohibited under University policy.

a. Discriminatory and Bias-Related Harassment

Harassment constitutes a form of discrimination that is prohibited by law. University will remedy all forms of harassment when reported, whether or not the harassment rises to the level of creating a hostile environment. When harassment rises to the level of creating a hostile environment, University may also impose sanctions on the harasser. University's harassment policy explicitly prohibits any form of harassment, defined as unwelcome conduct on the basis of actual or perceived membership in a protected class, by any member or group of the community.

A hostile environment may be created by verbal, written, graphic, or physical conduct that is sufficiently severe or persistent/pervasive and objectively offensive that it interferes with, limits or denies the ability of an individual to participate in or benefit from educational programs or activities or employment access, benefits or opportunities.²

Offensive conduct and/or harassment that does not rise to the level of discrimination or that is of a generic nature not on the basis of a protected status may not result in the imposition of discipline under University policy, but will be addressed through civil confrontation, remedial actions, education and/or effective conflict resolution mechanisms. For assistance with conflict resolution techniques, contact the Title IX Coordinator.

University condemns and will not tolerate discriminatory harassment against any employee, student, visitor or guest on the basis of any status protected by University policy or law.

b. Sexual Harassment

Both the Equal Employment Opportunity Commission and the State of California regard sexual harassment as a form of sex/gender discrimination and, therefore, as an unlawful discriminatory practice. University has adopted the following definition of sexual harassment,

² This definition of hostile environment is based on Federal Register / Vol. 59, No. 47 / Thursday, March 10, 1994: Department Of Education Office For Civil Rights, Racial Incidents And Harassment Against Students At Educational Institutions Investigative Guidance. The document is available at <http://www.ed.gov/about/offices/list/ocr/docs/race394.html>.

in order to address the special environment of an academic community, which consists not only of employer and employees, but of students as well.³

Sexual harassment is:

- unwelcome, sexual or gender-based verbal, written, online and/or physical conduct.⁴

Anyone experiencing sexual harassment in any University program is encouraged to report it immediately to the Title IX Coordinator.

Sexual harassment creates a hostile environment, and may be disciplined when it is:

- sufficiently severe, persistent/pervasive and objectively offensive that it,
 - has the effect of unreasonably interfering with, denying or limiting employment opportunities or the ability to participate in or benefit from the University's educational, social and/or residential program, and is
 - based on power differentials (*quid pro quo*), the creation of a hostile environment or retaliation.
- The prohibition on sexual harassment applies to all staff employees and students, and in particular to supervisors (including direct supervisory and other management staff). A sexual advance violates this policy regardless of whether the advance is expressly related to the affected employee's/student's employment/academic status. It is improper to make sexual advances, ask for, demand or seek by subtle pressure sexual favors or activity from an employee/student, or to subject another employee/student to verbal or physical conduct of a sexual nature where:

³ Also of relevance is the Office of Civil Rights 2001 statement on sexual harassment, "Revised Sexual Harassment Guidance: Harassment Of Students By School Employees, Other Students, Or Third Parties, Title IX," which can be found at <http://www2.ed.gov/legislation/FedRegister/other/2001-1/011901b.html>, as well as the April, 2011 Dear Colleague Letter on Campus Sexual Violence, which can be found at: http://www.whitehouse.gov/sites/default/files/dear_colleague_sexual_violence.pdf

⁴ Some examples of possible Sexual Harassment include:

- A faculty member insists that a student have sex with him/her in exchange for a good grade. This is harassment regardless of whether the student accedes to the request.
- A student repeatedly sends sexually oriented jokes around on an email list s/he created, even when asked to stop, causing one recipient to avoid the sender on campus and in the residence hall in which they both live.
- Explicit sexual pictures are displayed in an instructor's office or on the exterior of a door
- Two supervisors frequently 'rate' several employees' bodies and sex, commenting suggestively about their clothing and appearance.
- An instructor engages students in her class in discussions about their past sexual experiences, yet the conversation is not in any way germane to the subject matter of the class. She probes for explicit details, and demands that students answer her, though they are clearly uncomfortable and hesitant.
- An ex-girlfriend widely spreads false stories about her sex life with her former boyfriend to the clear discomfort of the boyfriend, turning him into a social pariah on campus
- Male students take to calling a particular brunette student "Monica" because of her resemblance to Monica Lewinsky. Soon, everyone adopts this nickname for her, and she is the target of relentless remarks about cigars, the president, "sexual relations" and Weight Watchers.
- A student grabbed another student by the hair, then grabbed her breast and put his mouth on it. While this is sexual harassment, it is also a form of sexual violence.

- The submission to such behavior is a condition of any employment/academic opportunity, benefit, job retention, grade; or
- The submission to or rejection of such conduct is used as a basis for employment/academic decisions;
- It is improper for an employee/student to make sexual advances or to offer or suggest sexual favors or activity in exchange or in consideration for any personnel/academic action.
- It is improper to retaliate against an employee/student for refusing a sexual advance or for refusing a request, demand or pressure for sexual favors or activity or to retaliate against an employee/student who has reported an incident of possible sexual harassment to the University or to any government agency.
- Due to the possibility of misinterpretation of acts by other employees/students, the University discourages all roughhousing or physical contact, except that contact necessary and incidental to an employee's job/student's academic status. Further, certain kinds of physical conduct in the work/academic environment are particularly inappropriate and may be grounds for immediate discipline, including dismissal from the University. That conduct includes, but is not limited to:
 - Kissing or attempting to kiss an employee/student;
 - Touching or attempting to touch or pretending to touch the breasts, buttocks or genitals of an employee/student;
 - Physically restraining by force or blocking the path of an employee/student when accompanied by other conduct of a sexual nature;
 - Any other touching or attempted touching reasonably interpreted to be of a sexual nature.
- Sexual advances, unwelcome requests, demands, or subtle pressure for sexual favors or activity, lewd comments and sexual innuendoes are also prohibited. This conduct includes, but is not limited to:
 - Comments to an employee/student or others about the body of an employee/student which are intended to draw attention to the sex of the employee/student or can reasonably be interpreted to draw attention to the sex of the employee/student;
 - Comments to the employee/student or others about the sexual conduct, capability, or desirability of an employee/student;
 - Cat calls, whistles, or other conduct reasonably interpreted to be of a sexual nature.
- Sexually suggestive gestures are also prohibited.
- It is improper to subject employees/students to photographs, cartoons, articles, or other written or pictorial materials of a sexual nature after the employee/student has expressed his/her/hir displeasure with such activity. These materials may be offensive to the public as well and should not be on display in offices or public areas in any event.
- This policy is not intended to prohibit employees/students from asking other employees/students for social engagements. However, repeated requests where prior social invitations have been refused can be interpreted as sexual harassment.

Employees/students should refrain from persistent invitations after an employee/student has indicated that such invitations are unwelcome.

POLICY EXPECTATIONS WITH RESPECT TO CONSENSUAL RELATIONSHIPS⁵

There are inherent risks in any romantic or sexual relationship between individuals in unequal positions (such as faculty and student, supervisor and employee). These relationships may be less consensual than perceived by the individual whose position confers power. The relationship also may be viewed in different ways by each of the parties, particularly in retrospect. Furthermore, circumstances may change, and conduct that was previously welcome may become unwelcome. Even when both parties have consented at the outset to a romantic or sexual involvement, this past consent may not remove grounds for a later charge of a violation of applicable sections of this policy. The University does not wish to interfere with private choices regarding personal relationships when these relationships do not interfere with the goals and policies of the University. For the personal protection of members of this community, relationships in which power differentials are inherent (faculty-student, staff-student, administrator-student) are generally discouraged.

Consensual romantic or sexual relationships in which one party maintains a direct supervisory or evaluative role over the other party are unethical. Therefore, persons with direct supervisory or evaluative responsibilities who are involved in such relationships must bring those relationships to the timely attention of their supervisor, and will likely result in the necessity to remove the employee from the supervisory or evaluative responsibilities, or shift a party out of being supervised or evaluated by someone with whom they have established a consensual relationship. This includes Teaching Assistants and students over whom they have direct responsibility. While no relationships are prohibited by this policy, failure to self-report such relationships to a supervisor as required can result in disciplinary action for an employee.

c. Sexual Misconduct

State law defines various violent and/or non-consensual sexual acts as crimes. Additionally, Samuel Merritt University has defined categories of sexual misconduct, as stated below, for which action under this policy may be imposed. Generally speaking, the University considers Non-Consensual Sexual Intercourse violations to be the most serious, and therefore typically imposes the most severe sanctions, including suspension or expulsion for students and termination for employees. However, the University reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any act of sexual misconduct or other gender-based offenses, including intimate partner or relationship (dating and/or domestic) violence, non-consensual sexual contact and stalking based on the facts and circumstances of the particular complaint. Acts of sexual misconduct

⁵ This section is offered as an optional inclusion, as some campuses prefer to include this policy elsewhere, such as a faculty handbook and student handbook. We include it here to inform students, not just employees, of our expectations.

may be committed by any person upon any other person, regardless of the sex, gender, sexual orientation and/or gender identity of those involved. Violations include:

1) Sexual Harassment (as defined in section b above)

2) Non-Consensual Sexual Intercourse

Defined as:

- any sexual penetration or intercourse (anal, oral or vaginal)
- however slight
- with any object
- by a person upon another person
- that is without consent and/or by force

Sexual penetration includes vaginal or anal penetration by a penis, tongue, finger or object, or oral copulation by mouth to genital contact or genital to mouth contact.

3) Non-Consensual Sexual Contact⁶

Defined as:

- any intentional sexual touching
- however slight
- with any object
- by a person upon another person
- that is without consent and/or by force

Sexual touching includes any bodily contact with the breasts, groin, genitals, mouth or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

4) Sexual Exploitation

Sexual Exploitation refers to a situation in which a person takes non-consensual or abusive sexual advantage of another, and situations in which the conduct does not fall within the definitions of Sexual Harassment, Non-Consensual Sexual Intercourse or Non-Consensual Sexual Contact. Examples of sexual exploitation include, but are not limited to:

- Sexual voyeurism (such as watching a person undressing, using the bathroom or engaged in sexual acts without the consent of the person observed)
- Taking pictures or video or audio recording another in a sexual act, or in any other private activity without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent)
- Prostitution

⁶ The state definition of sexual assault is found at <http://www.leginfo.ca.gov/cgi-bin/calawquery?codesection=pen>, which is applicable to criminal prosecutions for sexual assault in California, but may differ from the definition used by University to address policy violations.

- Sexual exploitation also includes engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually transmitted disease (STD) and without informing the other person of the infection, and further includes administering alcohol or drugs (such as “date rape” drugs) to another person without his or her knowledge or consent

Consent⁷

- Consent is informed and an affirmative, unambiguous, and conscious decision by each participant to engage in mutually agreed-upon sexual activity. For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct.
- Consent is voluntary. It must be given without coercion, force, threats, or intimidation. Consent is an expression of free will.
- Consent in some form of sexual activity does not imply consent to other forms of sexual activity. Consent to sexual activity on one occasion is not consent to engage in sexual activity on another occasion. A current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Even in the context of a relationship, there must be mutual consent to engage in sexual activity. Consent must be ongoing throughout a sexual encounter and can be revoked at any time. Once consent is withdrawn, the sexual activity must stop immediately.
- Consent cannot be given when a person is incapacitated. A person cannot consent if she/he/ze is under the influence of drugs, alcohol, or medication, unconscious or coming in and out of consciousness. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has violated this policy.
- It is not an excuse that the individual responding party of sexual misconduct was intoxicated and, therefore, did not realize the incapacity of the other.
- Incapacitation is defined as a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the “who, what, when, where, why or how” of their sexual interaction). This policy also covers a person whose incapacity results from mental disability, involuntary physical restraint and/or from the taking of incapacitating drugs.
- A person cannot consent if she/he/ze is under the threat of violence, bodily injury or other forms of coercion. A person cannot consent if his/her/hir understanding of the act is affected by a physical or mental impairment.
- In the evaluation of any allegation it is not a valid excuse to alleged lack of affirmative consent that the responding party believed that the Reporting Party consented to the sexual activity under either of the following circumstances:
 - (A) The Responding Party’s belief in affirmative consent arose from the

⁷ The state definition of consent can be found at <http://www.leginfo.ca.gov/cgi-bin/calawquery?codesection=pen>, which is applicable to criminal prosecutions for sex offenses in California, but may differ from the definition used by University to address policy violations.

intoxication or recklessness of the accused.

- (B) The Responding Party did not take reasonable steps, in the circumstances known to the accused at the time, to ascertain whether the Reporting Party affirmatively consented.
- In The State of California a minor (meaning a person under the age of 18 years) cannot consent to sexual activity. This means that sexual contact by an adult with a person younger than 18 years old is a crime, as well as a violation of this policy, even if the minor wanted to engage in the act.

4. Other Civil Rights Offenses, When the Act is Based Upon the Status of a Protected Class

- Threatening or causing physical harm, extreme verbal abuse or other conduct which threatens or endangers the health or safety of any person on the basis of their actual or perceived membership in a protected class
- Discrimination, defined as actions that deprive other members of the community of educational or employment access, benefits or opportunities on the basis of their actual or perceived membership in a protected class
- Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another on the basis of actual or perceived membership in a protected class
- Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within the University community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity on the basis of actual or perceived membership in a protected class; hazing is also illegal under state law and prohibited by University policy
- Bullying, defined as
 - Repeated and/or severe
 - Aggressive behavior
 - Likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally
 - That is not speech or conduct otherwise protected by the 1st Amendment.
- Violence between those in an intimate relationship to each other on the basis of actual or perceived membership in a protected class (this includes romantic relationships, dating, domestic⁸ and/or relationship violence)⁹

⁸ The state definition of domestic violence is found at <http://www.leginfo.ca.gov/cgi-bin/calawquery?codesection=pen> , which is applicable to criminal prosecutions for domestic violence in California, but may differ from the definition used by University to address policy violations. [Included for VAWA Section 304 compliance purposes]

⁹

- Employee A has been in an intimate relationship with Employee B for over a year; Employee A punches Employee B in the face during an argument (Dating Violence).
- Student A has been in an intimate relationship with Student B for over a year; Students A & B live together. During an argument, Student A shoves Student B to the ground (Domestic Violence).

Stalking¹⁰

- a. Stalking 1:
 - i. A course of conduct
 - ii. Directed at a specific person
 - iii. On the basis of actual or perceived membership in a protected class
 - iv. That is unwelcome, AND
 - v. Would cause a reasonable person to feel fear
 - b. [Stalking 2:
 - i. Repetitive and Menacing
 - ii. Pursuit, following, harassing and/or interfering with the peace and/or safety of another]
 - c. Examples of Stalking:
 - i. A student repeatedly shows up at another student's on-campus residence, always notifying the front desk attendant that they are there to see the resident. Upon a call to the resident, the student informs residence hall staff that this visitor is uninvited and continuously attempts to see them, even so far as waiting for them outside of classes and showing up to their on-campus place of employment requesting that they go out on a date together. Stalking 1.
 - ii. A graduate student working as a on-campus tutor received flowers and gifts delivered to their office. After learning the gifts were from a student they recently tutored, the graduate student thanked the student and stated that it was not necessary and would appreciate the gift deliveries to stop. The student then started leaving notes of love and gratitude on the graduate assistant's car, both on-campus and at home. Asked again to stop, the student stated by email: "You can ask me to stop, but I'm not giving up. We are meant to be together, and I'll do anything necessary to make you have the feelings for me that I have for you." When the tutor did not respond, the student emailed again, "You cannot escape me. I will track you to the ends of the earth. We are meant to be together." Stalking 2.
- Any other University rules, when a violation is motivated by the actual or perceived membership of the reporting party's sex or gender or in a protected class, may be pursued using this policy and process when the violation results in a discriminatory deprivation of educational or employments rights, privileges, benefits and/or opportunities.

¹⁰ The state definition of stalking can be found a <http://www.leginfo.ca.gov/cgi-bin/calawquery?codesection=pen>, which is applicable to criminal prosecutions for stalking in California, but may differ from the definition used by University to address policy violations. [Included for VAWA Section 304 compliance purposes.]

Sanctions for the above-listed “Other Civil Rights Behaviors” behaviors range from reprimand up through and including expulsion of students or termination of employees.

5. Retaliation

Retaliation is defined as any adverse action taken against a person participating in a protected activity because of their participation in that protected activity. Retaliation against an individual for alleging harassment, supporting a reporting party or for assisting in providing information relevant to a claim of harassment is a serious violation of University policy and will be treated as another possible instance of harassment or discrimination. Acts of alleged retaliation should be reported immediately to the Title IX Coordinator or to a deputy and will be promptly investigated. The University is prepared to take appropriate steps to protect individuals who fear that they may be subjected to retaliation.

6. Remedial Action

University will implement initial remedial and responsive and/or protective actions upon notice of alleged harassment, retaliation and/or discrimination. Such actions could include but are not limited to: no contact orders, providing counseling and/or medial services, academic support, living arrangement adjustments, providing a campus escort, academic or work schedule and assignment accommodations, transportation resources, safety planning, referral to campus and community support resources.

University will take additional prompt remedial and/or disciplinary action with respect to any member of the community, guest or visitor who has been found to engage in harassing or discriminatory behavior or retaliation. Procedures for handling reported incidents are fully described below. Deliberately false and/or malicious accusations of harassment, as opposed to reports which, even if erroneous, are made in good faith, are just as serious an offense as harassment and will be subject to appropriate disciplinary action.

7. Confidentiality and Reporting of Offenses Under This Policy

University officials, depending on their roles at the University, have varying reporting responsibilities and abilities to maintain confidentiality. In order to make informed choices, a reporting party should be aware of confidentiality and mandatory reporting requirements when consulting campus resources. On campus, some resources may maintain confidentiality, offering options and advice without any obligation to inform an outside agency or individual unless a reporting party has requested information to be shared. Other resources exist to report crimes and policy violations and these resources will take action when a reporting party shares notice of victimization with them. The following describes the reporting options at University:

a. Confidential Reporting

If a reporting party would like the details of an incident to be kept confidential, the reporting party may speak with the University psychologist(s), student health service providers, off-

campus local rape crisis counselors, domestic violence resources, local or state assistance agencies, or off-campus members of the clergy/chaplains who will maintain confidentiality except in extreme cases of immediacy of threat or danger or abuse of a minor. The Staff Psychologists and Family Nursing Practitioners in Student Health and Counseling (SHAC) and/or the Employee Assistance Program are available to help free of charge and can be seen on an emergency basis during normal business hours. These employees will submit anonymous statistical information for Clery Act purposes unless they believe it would be harmful to their client or patient.

b. Formal Reporting Options

University employees have a duty to report, unless they fall under the section above. Parties making a report may want to consider carefully whether they share personally identifiable details with non-confidential employees, as those details must be shared by the employee with the Title IX Coordinator. Otherwise, employees must share all details of the reports they receive. If a reporting party does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal resolution to be pursued, the reporting party may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and comply with federal law.

In cases indicating pattern, predation, weapons, threat and/or violence, the University will be unable to honor a request for confidentiality. In cases where the reporting party requests confidentiality and the circumstances allow the University to honor that request, the University will offer interim supports and remedies to the reporting party and the community, but will not otherwise pursue formal action. A reporting party has the right, and can expect, to have reports taken seriously by the University when formally reported, and to have those incidents investigated and properly resolved through these procedures. Formal reporting still affords privacy to the reporter, and only a small group of officials who need to know will be told, including but not limited to investigators, witnesses, the University President, select senior administrators and the responding party. The circle of people with this knowledge will be kept as tight as possible to preserve a reporting party's rights and privacy. [Additionally anonymous reports can be made by victims and/or third parties. Note that these anonymous reports may prompt a need for the institution to investigate.

8. Federal Timely Warning Obligations

Reporting parties should be aware that University administrators must issue timely warnings for incidents reported to them that pose a substantial threat of bodily harm or danger to members of the campus community. The University will make every effort to ensure that a reporting party's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

RESOLUTION PROCESS FOR COMPLAINTS OF HARASSMENT, SEXUAL MISCONDUCT AND OTHER FORMS OF DISCRIMINATION

Samuel Merritt University will act on any formal or informal report or notice of violation of the policy on Equal Opportunity, Harassment and Nondiscrimination that is received by the Title IX Coordinator or any member of the administration.

The procedures described below will apply to all resolutions involving students, staff or faculty members with the exception that unionized or other categorized employees will be subject to the terms of their respective collective bargaining agreements/employees' rights to the extent those agreements do not conflict with federal or state compliance obligations. Redress and requests for responsive actions for reports made about non-members of the community are also covered by these procedures.

1. Filing a Complaint

Any member of the community, guest or visitor who believes that the policy on Equal Opportunity, Harassment and Nondiscrimination has been violated should contact the Title IX Coordinator. It is also possible for employees to notify a supervisor, or for students to notify an administrator or faculty member, or any member of the community may contact the Assistant Vice President for Enrollment and Student Services. These individuals will in turn notify the Title IX Coordinator. The University website also includes a reporting form at [\[online form link\]](#) which may serve to initiate a resolution.

All employees receiving reports of a potential violation of University policy are expected to promptly contact the Title IX Coordinator or designee, within 24 hours of becoming aware of a report or incident. All initial contacts will be treated with the maximum possible privacy. In all cases, University will give consideration to the reporting party with respect to how the resolution is pursued, but reserves the right, when necessary to protect the community, to investigate and pursue a resolution when the reporting party chooses not to initiate or participate in a formal resolution.

2. Resolution Intake

Normally within two business days of receipt of notice or a report, the Title IX Coordinator¹¹ will make an initial determination as to whether a policy violation may have occurred and/or whether conflict resolution might be appropriate. If the report does not appear to allege a policy violation or if conflict resolution is desired by the reporting party, and appears appropriate given the nature of the alleged behavior, then the report does not proceed to investigation.

¹¹ If circumstances require, the President or Title IX Coordinator may designate another person to oversee the process below, should a report be made involving the Coordinator or if the Coordinator is otherwise unavailable or unable to fulfill their duties.

A full investigation will necessarily be pursued if there is evidence of a pattern of misconduct or a perceived threat of further harm to the community or any of its members. University aims to complete all investigations within a 60 calendar day time period, which can be extended as necessary for appropriate cause by the Title IX Coordinator with notice to the parties.

The University's resolution will not typically be altered or precluded on the grounds that civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced. However, the University may undertake a short delay (several days to weeks) in its investigation or resolution process, to comply with a law enforcement request for cooperation (e.g.: to allow for criminal evidence collection) when criminal charges on the basis of the same behaviors that invoke this process are being investigated. The University will promptly resume its investigation and processes once notified by law enforcement that the initial evidence collection process is complete.

3. Advisors

All parties are entitled to an advisor of their choosing to guide and accompany them throughout the resolution process. The advisor may be a friend, mentor, family member, attorney or any other supporter a party chooses to advise them. The parties may choose advisors from inside or outside the campus community.

The parties may be accompanied by their advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help their advisees prepare for each meeting, and are expected to advise ethically, with integrity and in good faith. The University cannot guarantee equal advisory rights, meaning that if one party selects an advisor who is an attorney, but the other party does not, or cannot afford an attorney, the University is not obligated to provide one. Additionally, responding parties may wish to contact organizations such as:

- FACE (<http://www.facecampusequality.org>)
- SAVE (<http://www.saveservices.org>),

Reporting parties may wish to contact organizations such as:

- The Victim Rights Law Center (<http://www.victimrights.org>), or the
- The National Center for Victims of Crime (<http://www.victimsofcrime.org>), which maintains the Crime Victim's Bar Association.

All advisors are subject to the same campus rules, whether they are attorneys or not. Advisors may not address campus officials in a meeting or interview unless invited to. Advisors may confer quietly with their advisees as necessary, as long as they do not disrupt the process. For longer or more involved discussions, the parties and their advisors should ask for breaks or step out of meetings to allow for private conversation. Advisors will typically be given an opportunity to meet in advance of any interview or meeting with the administrative officials conducting that interview or meeting. This pre-meeting will allow advisors to clarify any

questions they may have, and allows the University an opportunity to clarify the role the advisor is expected to take.

Advisors are expected to refrain from interference with the University investigation and resolution. Any advisor who steps out of their role in any meeting under the campus resolution process will be warned once and only once. If the advisor continues to disrupt or otherwise fails to respect the limits of the advisor role, the advisor will be asked to leave the meeting. When an advisor is removed from a meeting, that meeting will typically continue without the advisor present. Subsequently, the Title IX Coordinator will determine whether the advisor may be reinstated, may be replaced by a different advisor, or whether the party will forfeit the right to an advisor for the remainder of the process.

The University expects that the parties will wish to share documentation related to the allegations with their advisors. The University provides a consent form that authorizes such sharing. The parties must complete this form before the University is able to share records with an advisor. Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with 3rd parties, disclosed publicly, or used for purposes not explicitly authorized by the University. The University may seek to restrict the role of any advisor who does not respect the sensitive nature of the process or who fails to abide by the University's privacy expectations.

The University expects an advisor to adjust their schedule to allow them to attend University meetings when scheduled. The University does not typically change scheduled meetings to accommodate an advisor's inability to attend. The University will, however, make provisions to allow an advisor who cannot attend in person to attend a meeting by telephone, video and/or virtual meeting technologies as may be convenient and available.

A party may elect to change advisors during the process, and is not locked into using the same advisor throughout.

4. Investigation

If reporting party wishes to pursue a formal resolution or if University, based on the alleged policy violation, wishes to pursue a formal resolution, then the Title IX Coordinator appoints a trained investigator(s) to conduct the investigation, usually within two business days of determining that a resolution should proceed. Investigations are completed expeditiously, normally within 10 business days of notice to the Title IX Coordinator. Investigations may take longer when initial reports fail to provide direct first-hand information. The University may undertake a short delay (to allow evidence collection) when criminal charges on the basis of the same behaviors that invoke this process are being investigated. The University's resolution will not be altered or precluded on the grounds that civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced. All investigations will be thorough, reliable and impartial, prompt and fair and will entail interviews with all relevant parties and witnesses, obtaining available evidence and identifying sources of expert information, if necessary. At any point during the investigation, if it is determined there is no reasonable cause to believe that University policy has been violated, the Title IX Coordinator

has authority to terminate the investigation and end resolution proceedings.

Witnesses are expected to cooperate with and participate in the University's investigation. Witnesses may provide written statements in lieu of interviews during the investigation and may be interviewed remotely by phone, Skype (or similar technology), if they cannot be interviewed in person.

5. Interim Remedies

If, in the judgment of the Title IX Coordinator, the safety or well-being of any member(s) of the campus community may be jeopardized by the presence on-campus of the responding party or the ongoing activity of a student organization whose behavior is in question, the Title IX Coordinator may provide interim remedies intended to address the short-term effects of harassment, discrimination and/or retaliation, i.e., to redress harm to the reporting party and the community and to prevent further violations. These remedies may include referral to Student Health and Counseling (SHAC) or to the Employee Assistance Program, education to the community, altering the housing situation of the responding party or resident employee (or the reporting party, if desired), altering work arrangements for employees, providing campus escorts, implementing contact limitations between the parties, offering adjustments to academic deadlines, course schedules, etc.

The University may interim suspend a student, employee or organization pending the completion of investigation and procedures. In all cases in which an interim suspension is imposed, the student, employee or student organization will be given the opportunity to meet with the Title IX Coordinator prior to such suspension being imposed, or as soon thereafter as reasonably possible, to show cause why the suspension should not be implemented. The Title IX Coordinator has sole discretion to implement or stay an interim suspension under the policy on Equal Opportunity, Harassment and Nondiscrimination, and to determine its conditions and duration. Violation of an interim suspension under this policy will be grounds for expulsion or termination.

During an interim suspension or administrative leave, a student or employee may be denied access to the University campus/facilities/events. As determined by the Title IX Coordinator this restriction includes classes and/or all other University activities or privileges for which the student or employee might otherwise be eligible. At the discretion of the Title IX Coordinator alternative coursework or work options may be pursued to ensure as minimal an impact as possible on the responding party.

6. Resolution of Reported Misconduct

During or upon the completion of investigation, the Title IX Coordinator will review the investigation, which may include meeting with the investigators. Based on that review, the Title IX Coordinator will make a decision on whether there is reasonable cause to proceed with the resolution process.

If there is reasonable cause, the Title IX Coordinator will direct the investigation to continue and the allegation will be resolved through one of three processes discussed briefly here and in greater detail below:

- Conflict Resolution – typically used for less serious offenses and only when both parties agree to conflict resolution
- Administrative Resolution – resolution by a trained administrator

The process followed is dictated by the preference of the parties. Conflict Resolution will only occur if selected by both parties, otherwise the Administrative Resolution Process applies.

If, following a review of the investigation, the Title IX Coordinator decides by the preponderance of evidence that no policy violation has occurred, the process will end unless the reporting party requests that the Title IX Coordinator makes an extraordinary determination to re-open the investigation or to forward the matter for administrative resolution. This decision lies in the sole discretion of the Title IX Coordinator.

a. Conflict Resolution

Conflict resolution is often used for less serious, yet inappropriate, behaviors and is encouraged as an alternative to the formal investigation process to resolve conflicts. The Title IX Coordinator will determine if conflict resolution is appropriate, based on the willingness of the parties, the nature of the conduct at issue and the susceptibility of the conduct to conflict resolution. In a conflict resolution meeting, designated administrator(s) will facilitate a dialogue with the parties to an effective resolution, if possible. Sanctions are not possible as the result of a conflict resolution process, though the parties may agree to appropriate remedies. The Title IX Coordinator will keep records of any resolution that is reached, and failure to abide by the resolution can result in appropriate responsive actions.

Conflict resolution will not be the primary resolution mechanism used to address reports of sexual misconduct or violent behavior of any kind or in other cases of serious violations of policy, though it may be made available after the formal process is completed should the parties and the Title IX Coordinator believe that it could be beneficial. It is not necessary to pursue conflict resolution first in order to make a formal report and anyone participating in conflict resolution can stop that process at any time and request an administrative resolution.

Both parties will be notified of the outcome of Conflict Resolution, without undue delay between the notifications. Notification will be made in writing and may be delivered by one or more of the following methods: in person; mailed to the local or permanent address of the parties as indicated in official University records; or emailed to the parties' University-issued email account. Once mailed, emailed and/or received in-person, notice will be presumptively

delivered.

b. Administrative Resolution

Administrative Resolution can be pursued for any behavior that falls within the policy on Equal Opportunity, Harassment and Nondiscrimination, at any time during the process. The Title IX Coordinator will provide written notification to any member of University community who the responding party to an allegation of harassment, discrimination, or retaliation. Prior to meeting with University investigators, the parties will be provided with a written description of the alleged violation(s), a description of the applicable procedures and a statement of the potential sanctions/responsive actions that could result. This notice will include the time, date and location of the interview and a reminder that attendance is mandatory, superseding all other campus activities. If the responding party does not appear at the scheduled meeting, the meeting will be held in their absence.

The Administrative Resolution process consists of a prompt, thorough and impartial investigation, a finding on each of the alleged policy violations, and sanctions for findings of responsibility. Once the investigation described above is complete, the Title IX Coordinator will meet with the responding party to review the findings and the investigation report. The responding party may bring an advisor of their choosing to the meeting. The responding party may elect not to attend or participate, but the Administrative Resolution will proceed regardless.

During the meeting, the Title IX Coordinator review the investigation report with the responding party and will render a finding utilizing the preponderance of the evidence standard, based on the information provided by the investigation. The Title IX Coordinator in consultation as appropriate, will also determine appropriate sanctions or remedial actions.

The Title IX Coordinator will prepare a written report detailing the finding, the information supporting that finding and any information excluded from consideration and why. This report typically does not exceed two pages in length.

The Title IX Coordinator will inform the responding party and the reporting party of the final determination in writing within 3 business days of the Administrative Resolution. The final determination letter, incorporating the report described above, will be made in writing and will be delivered either:

- i. In person, or
- ii. Mailed to the local address of the respective party as indicated in official University records. If there is no local address on file, mail will be sent to the party's permanent address.

iii. Emailed to the SMU email address of the respective parties

Where the responding party is found not responsible for the alleged violation(s), the investigation will be closed. Where a violation is found, the University will act to end the discrimination, prevent its recurrence, and remedy its effects on the victim and the university community. In cases involving sexual misconduct, sexual harassment, stalking and/or intimate partner violence, the written notification includes the finding, any resulting responsive actions, and the rationale for the decision. This written notification of final decision is delivered to the parties without undue delay between the notifications, and is considered a final determination. No appeal is provided.

e. Sanctions

Factors considered when determining a sanction/responsive action may include:

- The nature, severity of, and circumstances surrounding the violation
- An individual's disciplinary history
- Previous reports or allegations involving similar conduct
- Any other information deemed relevant in the Administrative Resolution.
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment and/or retaliation
- The need to remedy the effects of the discrimination, harassment and/or retaliation on the reporting party and the community

i. Student Sanctions

The following are the usual sanctions that may be imposed upon students or organizations singly or in combination:

- *Warning:* A formal statement that the behavior was unacceptable and a warning that further infractions of any University policy, procedure or directive will result in more severe sanctions/responsive actions.
- *Probation:* A written reprimand for violation of the Code of Student Conduct, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any University policy, procedure or directive within a specified period of time. Terms of the probation will be specified and may include denial of specified social privileges, exclusion from co-curricular activities, non-contact orders and/or other measures deemed appropriate.
- *Suspension:* Termination of student status for a definite period of time not to exceed two years, and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure at University.
- *Expulsion:* Permanent termination of student status, revocation of rights to be on campus for any reason or attend University-sponsored events.

- *Withholding Diploma.* University may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities if the student has a complaint pending, or as a sanction if the student is found responsible for an alleged violation.
- *Revocation of Degree.* University reserves the right to revoke a degree awarded from University for fraud, misrepresentation or other violation of University policies, procedures or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- *Organizational Sanctions.* Deactivation, de-recognition, loss of all privileges (including University registration), for a specified period of time.
- *Other Actions:* In addition to or in place of the above sanctions, University may assign any other sanctions as deemed appropriate.

ii. Employee Discipline

Responsive actions for an employee who has engaged in harassment, discrimination and/or retaliation include warning, required counseling, demotion, suspension with pay, suspension without pay and termination.

f. Withdrawal or Resignation While Charges Pending

Students: Should a student decide to leave and not participate in the investigation and/or hearing, the process will nonetheless proceed in the student's absence to a reasonable resolution and that student will not be permitted to return to the University unless all sanctions have been satisfied.

Employees: Should an employee resign while charges are pending, the records of the Title IX Coordinator will reflect that status, as will University responses to any future inquiries regarding employment references for that individual. The Title IX Coordinator will act to promptly and effectively remedy the effects of the conduct upon the reporting party and the community.

h. Failure to Complete Sanctions/Comply with Discipline

All responding parties are expected to comply with conduct sanctions/discipline/corrective actions within the time frame specified by the Title IX Coordinator. Failure to follow through on conduct sanctions/discipline/corrective actions by the date specified, whether by refusal, neglect or any other reason, may result in additional sanctions/discipline/corrective actions and/or suspension, expulsion and/or termination from University and may be noted on a student's official transcript. A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

i. Records

In implementing this policy, records of all allegations, investigations, and resolutions will be kept by the Title IX Coordinator.

j. Statement of the Rights of the Parties

Statement of the Reporting Party's rights:

- The right to investigation and appropriate resolution of all credible reports or notice of sexual misconduct or discrimination made in good faith to university officials;
- The right to be informed in advance of any public release of information regarding the incident;
- The right of the reporting party not to have any personally identifiable information released to the public, without his or her consent.
- The right to be treated with respect by university officials;
- The right to have university policies and procedures followed without material deviation;
- The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence.
- The right not to be discouraged by university officials from reporting sexual misconduct or discrimination to both on-campus and off-campus authorities.
- The right to be informed by university officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option to be assisted by campus authorities in notifying such authorities, if the student so chooses. This also includes the right not to report, if this is the victim's desire;
- The right to have reports of sexual misconduct responded to promptly and with sensitivity by campus law enforcement and other campus officials.
- The right to be notified of available counseling, mental health, victim advocacy, health, legal assistance, student financial aid, visa and immigration assistance, or other student services for victims of sexual assault, both on campus and in the community;
- The right to a campus no contact order (or a trespass order against a non-affiliated 3rd party) when someone has engaged in or threatens to engage in stalking, threatening, harassing or other improper behavior that presents a danger to the welfare of the reporting party or others;
- The right to notification of and options for, and available assistance in, changing academic and living situations after an alleged sexual misconduct incident, if so requested by the victim and if such changes are reasonably available (no formal report, or investigation, campus or criminal, need occur before this option is available).

Accommodations may include:

- Exam (paper, assignment) rescheduling;
- Taking an incomplete in a class;
- Transferring class sections;

- Temporary withdrawal;
 - Alternative course completion options.
- The right to have the institution maintain such accommodations for as long as is necessary, and for protective measures to remain confidential, provided confidentiality does not impair the institution's ability to provide the accommodations or protective measures.
- The right to be fully informed of campus policies and procedures as well as the nature and extent of all alleged violations contained within the report;
- The right to ask the investigators to identify and question relevant witnesses, including expert witnesses;
- The right to be informed of the names of all witnesses who will be called to give testimony, at least two business day prior to the hearing, except in cases where a witness' identity will not be revealed to the responding party for compelling safety reasons (this does not include the name of the alleged victim/reporting party, which will always be revealed);
- The right not to have irrelevant prior sexual history admitted as evidence in the resolution process;
- The right to regular updates on the status of the investigation and/or resolution.
- The right to have reports heard by investigators who have received at least eight hours of annual sexual misconduct training;
- The right to preservation of privacy, to the extent possible and permitted by law;
- The right to meetings, interviews that are closed to the public;
- The right to petition that any investigator be recused on the basis of demonstrated bias;
- The right to bring a victim advocate or advisor of the reporting party's choosing to all phases of the investigation and resolution proceeding;
- The right to provide evidence by means other than being in the same room with the responding party;
- The right to make or provide an impact statement in person or in writing to the investigators following determination of responsibility, but prior to sanctioning;
- The right to be informed of the outcome and sanction of the resolution process in writing, without undue delay between the notifications to the parties, and usually within 1 business day of the end of the process;
- The right to be informed in writing of when a decision of the university is considered final, any changes to the sanction to occur before the decision is finalized, to be informed of the finding and sanction of the resolution process;
- The right of the Reporting Party or any witness in an investigation of sexual assault, domestic violence, dating violence, or stalking not to be subject to disciplinary sanctions

for a violation of the University's student conduct policy at or near the time of the incident, unless the institution determines that the violation was egregious, including, but not limited to, an action that places the health or safety of any other person at risk or involves plagiarism, cheating, or academic dishonesty.

Statement of the Responding Party's rights:

The rights of the responding party should also be prominently indicated. These should include, among others particular to your university:

- The right to investigation and appropriate resolution of all credible reports of sexual misconduct made in good faith to university administrators;
- The right to be informed in advance, when possible, of any public release of information regarding the report.
- The right to be treated with respect by university officials;
- The right to have university policies and procedures followed without material deviation;
- The right to be informed of and have access to campus resources for medical, health, counseling, and advisory services;
- The right to be fully informed of the nature, policies and procedures of the campus resolution process and to timely written notice of all alleged violations within the report, including the nature of the violation and possible sanctions;
- The right to a hearing on the report, including timely notice of the hearing date, and adequate time for preparation;
- The right to be informed of the names of all witnesses who will be interviewed, except in cases where a witness' identity will not be revealed to the responding party for compelling safety reasons (this does not include the name of the reporting party, which will always be revealed);
- The right not to have irrelevant prior sexual history admitted as evidence in a campus resolution process;
- The right to have reports addressed by investigators who have received at least 8 hours of annual training;
- The right to petition that any investigator be recused on the basis of demonstrated bias;
- The right to meetings and interviews that are closed to the public;
- The right to have an advisor of their choice to accompany and assist in the campus resolution process.
- The right to a fundamentally fair resolution, as defined in these procedures;
- The right to make or provide an impact statement in person or in writing to the investigators following any determination of responsibility, but prior to sanctioning;

- The right to a decision based solely on evidence presented during the resolution process. Such evidence shall be credible, relevant, based in fact, and without prejudice;
- The right to be informed of the outcome and sanction of the resolution process in writing, without undue delay between the notifications to the parties, and usually within 1 business day of the end of the process;
- The right to be informed in writing of when a decision of the university is considered final, any changes to the sanction to occur before the decision is finalized, to be informed of the finding and sanction of the resolution process.

8. Disabilities Accommodation in the Equity Resolution Process

Samuel Merritt University is committed to providing qualified students, employees or others with disabilities with reasonable accommodations and support needed to ensure equal access to the Equity Resolution Process at the University. Anyone requesting such accommodations or support should contact the Director of Disability Services, who will review the request and, in consultation with the person requesting the accommodation, as well as the person coordinating the Equity Resolution Process, will determine which accommodations are appropriate and necessary for full participation.

**2014 Crime Statistics Sheet – Amended 2016-09-30
Samuel Merritt University-Oakland**

Offense (Reported By Hierarchy)	Year	On Campus	Non Campus	Public Property	Total
Murder/Non Negligent Manslaughter	2014	0	0	0	0
	2013	0	0	0	0
	2012	0	0	0	0
Negligent Manslaughter	2014	0	0	0	0
	2013	0	0	0	0
	2012	0	0	0	0
Sex Offenses, Forcible (Rape, Sodomy, Sexual Assault w/object and Fondling)	2014	0	0	0	0
	2013	0	0	0	0
	2012	0	0	0	0
Sex Offenses, Non Forcible (Incest and Statutory)	2014	0	0	0	0
	2013	0	0	0	0
	2012	0	0	0	0
Robbery	2014	0	0	1	1
	2013	0	0	0	0
	2012	0	0	2	2
Aggravated Assault	2014	0	0	0	0
	2013	0	0	3	3
	2012	0	0	0	0
Burglary	2014	0	0	0	0
	2013	2	0	0	2
	2012	3	0	0	3
Motor Vehicle Theft	2014	0	0	1	1
	2013	3	0	0	3
	2012	0	0	0	0
Liquor Law Arrests	2014	0	0	0	0
	2013	0	0	0	0
	2012	0	0	0	0
Drug Law Arrests	2014	0	0	0	0
	2013	0	0	0	0
	2012	0	0	0	0
Weapons Law Arrests	2014	0	0	0	0
	2013	0	0	0	0
	2012	0	0	0	0
Liquor Law Violations Referred for Disciplinary Action	2014	0	0	0	0
	2013	0	0	0	0
	2012	0	0	0	0
Drug Law Violations Referred for Disciplinary Action	2014	0	0	0	0
	2013	0	0	0	0
	2012	0	0	0	0
Weapons Law Violations Referred for Disciplinary Action	2014	0	0	0	0
	2013	0	0	0	0
	2012	0	0	0	0

**2014 Crime Statistics Sheet – Amended 2016-09-30
Samuel Merritt University-Oakland**

Offense (Crimes Not Reported By Hierarchy)	Year	On Campus	Non Campus	Public Property	Total
Arson	2014	0	0	0	0
	2013	0	0	0	0
	2012	0	0	0	0
Domestic Violence	2014	0	0	0	0
	2013	0	0	0	0
	NA	NA	NA	NA	NA
Dating Violence	2014	0	0	0	0
	2013	1	0	0	1
	NA	NA	NA	NA	NA
Stalking	2014	0	0	0	0
	2013	0	0	0	0
	NA	NA	NA	NA	NA

HATE CRIME REPORTING: (DO NOT INCLUDE IN THE CHART ABOVE)

No hate crimes were reported for 2014, 2013, or 2012.

Note: The University leased a non-campus apartment for SMU students in Paso Robles, CA in 2015. At that time, it was discovered that the University was also leasing another non-campus apartment for SMU students in Clovis, CA. No crimes have been reported at either apartment. SMU will amend the Annual Crime and Safety reports for the years 2012, 2013, and 2014 to reflect this correction.

2014 Crime Statistics Sheet
Samuel Merritt University-Sacramento (SRC)

Offense (Reported By Hierarchy)	Year	On Campus	Public Property	Total
Murder/Non Negligent Manslaughter	2014	0	0	0
	2013	0	0	0
	2012	0	0	0
Negligent Manslaughter	2014	0	0	0
	2013	0	0	0
	2012	0	0	0
Sex Offenses, Forcible (Rape, Sodomy, Sexual Assault w/object and Fondling)	2014	0	0	0
	2013	0	0	0
	2012	0	0	0
Sex Offenses, Non Forcible (Incest and Statutory)	2014	0	0	0
	2013	0	0	0
	2012	0	0	0
Robbery	2014	0	0	0
	2013	0	0	0
	2012	0	0	0
Aggravated Assault	2014	0	0	0
	2013	0	0	0
	2012	0	0	0
Burglary	2014	0	0	0
	2013	0	0	0
	2012	0	0	0
Motor Vehicle Theft	2014	0	0	0
	2013	0	0	0
	2012	0	0	0
Liquor Law Arrests	2014	0	0	0
	2013	0	0	0
	2012	0	0	0
Drug Law Arrests	2014	0	0	0
	2013	0	0	0
	2012	0	0	0
Weapons Law Arrests	2014	0	0	0
	2013	0	0	0
	2012	0	0	0
Liquor Law Violations Referred for Disciplinary Action	2014	0	0	0
	2013	0	0	0
	2012	0	0	0
Drug Law Violations Referred for Disciplinary Action	2014	0	0	0
	2013	0	0	0
	2012	0	0	0
Weapons Law Violations Referred for Disciplinary Action	2014	0	0	0
	2013	0	0	0
	2012	0	0	0

**2014 Crime Statistics Sheet
Samuel Merritt University-Sacramento (SRC)**

Offense (Crimes Not Reported By Hierarchy)	Year	On Campus	Public Property	Total
Arson	2014	0	0	0
	2013	0	0	0
	2012	0	0	0
Domestic Violence	2014	0	0	0
	2013	0	0	0
	NA	NA	NA	NA
Dating Violence	2014	0	0	0
	2013	0	0	0
	NA	NA	NA	NA
Stalking	2014	0	0	0
	2013	0	0	0
	NA	NA	NA	NA

HATE CRIME REPORTING: (DO NOT INCLUDE IN THE CHART ABOVE)

No hate crimes were reported for 2014, 2013, or 2012.

2014 Crime Statistics Sheet
Samuel Merritt University-San Mateo (SFPC)

Offense (Reported By Hierarchy)	Year	On Campus	Public Property	Total
Murder/Non Negligent Manslaughter	2014	0	0	0
	2013	0	0	0
	2012	0	0	0
Negligent Manslaughter	2014	0	0	0
	2013	0	0	0
	2012	0	0	0
Sex Offenses, Forcible (Rape, Sodomy, Sexual Assault w/object and Fondling)	2014	0	0	0
	2013	0	0	0
	2012	0	0	0
Sex Offenses, Non Forcible (Incest and Statutory)	2014	0	0	0
	2013	0	0	0
	2012	0	0	0
Robbery	2014	0	0	0
	2013	0	0	0
	2012	0	0	0
Aggravated Assault	2014	0	0	0
	2013	0	0	0
	2012	0	0	0
Burglary	2014	0	0	0
	2013	0	0	0
	2012	0	0	0
Motor Vehicle Theft	2014	0	0	0
	2013	0	0	0
	2012	0	0	0
Liquor Law Arrests	2014	0	0	0
	2013	0	0	0
	2012	0	0	0
Drug Law Arrests	2014	0	0	0
	2013	0	0	0
	2012	0	0	0
Weapons Law Arrests	2014	0	0	0
	2013	0	0	0
	2012	0	0	0
Liquor Law Violations Referred for Disciplinary Action	2014	0	0	0
	2013	0	0	0
	2012	0	0	0
Drug Law Violations Referred for Disciplinary Action	2014	0	0	0
	2013	0	0	0
	2012	0	0	0
Weapons Law Violations Referred for Disciplinary Action	2014	0	0	0
	2013	0	0	0
	2012	0	0	0

**2014 Crime Statistics Sheet
Samuel Merritt University-San Mateo (SFPC)**

Offense (Crimes Not Reported By Hierarchy)	Year	On Campus	Public Property	Total
Arson	2014	0	0	0
	2013	0	0	0
	2012	0	0	0
Domestic Violence	2014	0	0	0
	2013	0	0	0
	NA	NA	NA	NA
Dating Violence	2014	0	0	0
	2013	0	0	0
	NA	NA	NA	NA
Stalking	2014	0	0	0
	2013	0	0	0
	NA	NA	NA	NA

HATE CRIME REPORTING: (DO NOT INCLUDE IN THE CHART ABOVE)

No hate crimes were reported for 2014, 2013, or 2012.