

## **NON-DISCRIMINATION POLICY**

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## **I. CSU Policy Standard**

SDSU Research Foundation has adopted the [Interim CSU Non-Discrimination Policy](#) as a foundational framework that details prohibited conduct, capitalized terms, and policy definitions. While SDSURF will generally follow the CSU Non-Discrimination policy, the following specific processes, reporting procedures, forms, responsibilities, and requirements have been tailored to address situations unique to SDSURF.

All SDSU Research Foundation staff, principal investigators (PIs), project directors, and entities working on behalf of SDSURF are required to comply with these guidelines and policies. In cases where there are discrepancies between the CSU Non-Discrimination policy and SDSURF's policies, processes, and definitions, the SDSURF specific guidelines outlined in this document will prevail.

## **II. Scope**

This policy prohibits all such unlawful conduct directed at SDSURF employees, applicants, individuals providing services in the workplace (or anyplace where business is conducted through SDSURF, including off site locations and anywhere SDSURF research is being conducted) pursuant to a contract, unpaid interns, volunteers, and others involved in its operations by managers, supervisors, co-workers, or others. It also prohibits unlawful harassment of students by individuals associated with SDSURF. Visitors to and workers employed by the San Diego State University, by other auxiliaries, or by other public or private organizations engaged in business with SDSURF are expected to comply with this policy.

## **III. Reporting and Complaint Procedures**

Complainants are encouraged to report incidents of inappropriate or unwelcome conduct whenever it occurs during business, including at conferences and workshops offsite, and during activities at all SDSURF facilities and field sites where SDSURF work and research is being conducted. Employees, applicants, interns, volunteers, and students who believe that they have been harassed, discriminated against, or subjected to retaliation in violation of this Nondiscrimination Policy, or who are aware of such behavior

against others, should report all incidents. Complainants are not required to wait for the conduct to be repeated or to worsen.

Any incident of harassment, discrimination, retaliation, or conduct defined in this policy by any SDSURF employee or any other person, should be reported promptly to the employee's supervisor or manager and/or to the Chief Human Resources Officer or their designee. Managers who receive complaints or reports or who observe harassing or discriminatory conduct are required to immediately inform the Chief Human Resources Officer (or their designee). Individuals may contact Human Resources directly and are not required to report to their supervisor.

The Complaint Form in [Appendix A](#) may also be used to file a complaint.

All complaints of unlawful harassment and discrimination are taken seriously. SDSURF HR will respond promptly and in an appropriate manner to all Complaints and will take prompt, appropriate action to prevent continuation of, and correct, Nondiscrimination Policy violations.

Depending on the circumstances, the Foundation's response may or may not include a formal investigation. Investigations may include interviews of individuals who might have information pertaining to the alleged harassment or discrimination. If SDSURF begins an investigation, an effort will be made to keep the investigation, including the names of complaining individuals and witnesses, confidential to the extent possible. In the same way, anyone involved in an investigation of harassment, discrimination, or prohibited conduct outlined in this policy, has an obligation to keep all information about the investigation confidential. Failure to keep information about an investigation confidential may result in disciplinary action. SDSURF will only share information about a complaint of harassment or discrimination with those who need to know and in accordance with the reporting requirements in [Appendix B](#).

The standard of proof for investigations under these Procedures is the Preponderance of the Evidence. Preponderance of the Evidence is a standard of proof that determines whether alleged conduct more likely than not occurred based on the evidence presented or facts available at the time of the decision. The responsibility is not on the Parties, but on SDSURF to conduct an investigation that gathers sufficient evidence to determine whether discrimination, harassment, retaliation, or prohibited conduct occurred. The Complainant does not have the burden to prove, nor does the Respondent have the burden to disprove, the underlying allegation or allegations of misconduct. SDSURF presumes that the Respondent is not responsible for the

alleged conduct until a determination is made at the conclusion of the formal complaint process.

When the investigation is completed, SDSURF will normally communicate the investigation findings or determination to the complaining individual, the respondent and, if appropriate, to others directly involved including any reporting requirements in [Appendix B](#).

#### **IV. Responsibilities**

All SDSURF employees are required to complete training on how to prevent discrimination, harassment, retaliation, sexual misconduct, dating and domestic violence, and stalking and are encouraged to report such conduct.

Supervisory employees are required to take two hours of interactive sexual harassment training within six months of their assignment to a supervisory position and every two years thereafter as required by California law.

All other employees are required to take one hour of interactive sexual harassment training within six months of their start date and every two years thereafter as required by California law.

#### **V. Duty to Report**

Any Employee who knows or has reason to know of incidents that may violate this Nondiscrimination Policy has a duty to promptly report to the SDSURF Chief Human Resources Officer or their designee or by completing the Complaint Form in [Appendix A](#).

SDSURF will comply with all applicable institutional reporting requirements under sponsor agency and third-party awards, including but not limited to Federal awards, such as those of the National Institutes of Health (NIH) and National Science Foundation (NSF) as defined in [Appendix B](#).

#### **VI. Bystander Intervention**

There are five standard methods of bystander intervention that can be used when anyone witnesses harassment or discrimination and wants to help.

- A. A bystander can interrupt the harassment by engaging with the individual being harassed and distracting them from the harassing behavior.

- B. A bystander who feels unsafe interrupting on their own can ask a third party to help intervene in the harassment.
- C. A bystander can document the harassment incident to benefit a future investigation.
- D. A bystander might check in with the person who has been harassed after the incident, see how they are feeling and let them know the behavior was not ok; and
- E. If a bystander feels safe, they can confront the harassers and name the behavior as inappropriate. When confronting harassment, physically assaulting an individual is never an appropriate response.

Though not exhaustive, and dependent on the circumstances, the guidelines above can serve as a brief guide of how to react when witnessing harassment in the workplace. Any employee witnessing harassment as a bystander is encouraged to report it as described in Section III. Reporting and Complaint Procedures. A supervisor or manager that is a bystander to harassment must report it.

## **VII. References and Related Information**

In addition to the SDSU Research Foundation's internal complaint procedure, employees may also contact either the Equal Employment Opportunity Commission (EEOC) or the California Department of Fair Employment and Housing (DFEH) to report unlawful discrimination, harassment, and retaliation. The EEOC and the DFEH serve as neutral factfinders and will attempt to assist the parties to voluntarily resolve their disputes. These agencies will accept and investigate charges of unlawful discrimination or harassment. For more information, please go to:

- Equal Employment Opportunity Commission (EEOC)  
<https://www.eeoc.gov/>
- California Department of Fair Employment & Housing (DFEH)  
<http://www.dfeh.ca.gov/>

Any individual who is a recipient of funds from the **US Department of Energy (DOE)**, who believes that discrimination on the basis of sex may have occurred, may contact DOE's External Civil Rights Compliance and Enforcement Division at [civilrights@hq.doe.gov](mailto:civilrights@hq.doe.gov) .

If you have any questions concerning this Policy, please contact SDSURF Human Resources.

## **Appendix A – Complaint Form**

To access the SDSURF Complaint Adobe Sign Form past the following URL in your browser's address field or click on this link: [SDSURF Complain Adobe Sign Form](#)

URL:

[https://sandiegostate.na1.documents.adobe.com/public/esignWidget?wid=CBFCIBAA3AAABLbIqZhBgKjglAmNIE5TZDG6XaLKqq1HudDjqDZS43oI8yOv8A118yD1X5EFEKm1sE56NqFQ\\*](https://sandiegostate.na1.documents.adobe.com/public/esignWidget?wid=CBFCIBAA3AAABLbIqZhBgKjglAmNIE5TZDG6XaLKqq1HudDjqDZS43oI8yOv8A118yD1X5EFEKm1sE56NqFQ*)

## **Appendix B – Sponsored Program Reporting Requirements**

The SDSU Research Foundation is a recipient of research funding from the leading government agencies such as the National Science Foundation (NSF) and the National Institutes of Health (NIH), as well as third party contractors. The SDSU Research Foundation is committed to compliance with a policy to foster safe and harassment-free environments within the sponsors' expectations and requirements while also flowing down these requirements to sub award partners. These prime sponsors require that the SDSU Research Foundation inform them when an individual's ability to perform work on the project has been impacted. To ensure compliance, the SDSU Research Foundation has instated the following procedures.

### **National Science Foundation (NSF)**

In accordance with NSF policy (see Chapter XI.A.1.g.), this section applies to all persons involved in NSF-funded off-campus or off-site research activities and applies to all SDSURF employees, individuals providing services in the workplace pursuant to a contract, unpaid interns, volunteers, and others involved in its operations.

NSF Principal Investigators (PI's) conducting off-campus or off-site research will be required to establish a communication plan within the team and to SDSURF in partnership with the Authorized Organization Representative (AOR) (*as assigned in Appendix C*) and define reporting roles and responsibilities. All Principal Investigators are expected to review this plan with all individuals conducting NSF-funded research off-campus or off-site, including non-SDSU or SDSU Research Foundation personnel that are present off-campus or off-site, and provide such individuals with this policy.

Any violation by any involved party should be reported promptly to the employee's supervisor/manager and to Human Resources. The same complaint procedure should be followed as mentioned in Section III. Complaints and Reporting Procedures. When the investigation has been completed, SDSURF will communicate the summary of the investigation as outlined in the sponsoring agency requirements.

SDSURF will ensure the PI has communicated our Code of Ethics Policy and includes clear and accessible means of reporting violation in accordance with NSF policies.

SDSURF is required to notify National Science Foundation (NSF) as set forth in [NSF Term & Condition 83 FR 47940](#) when:

- A. Any finding/determination that a Principal Investigator (PI) or any co-PI has been found to have violated SDSURF policies or codes of conduct, statutes, regulations, or executive orders relating to sexual harassment, other forms of harassment, or sexual assault; AND/OR
- B. If the PI or any co-PI is placed on administrative leave or the imposition of any administrative action on the PI or co-PI by the awardee relating to any finding/determination or an investigation of an alleged violation of SDSURF policies or codes of conduct, statutes, regulations, or executive orders relating to sexual harassment, other forms of harassment, or sexual assault.
- C. Such notifications will be submitted by SDSURF to the NSF's Office of Equity and Civil Rights website within ten business days from the date of the finding/determination, or the date of the placement of a PI or co-PI by SDSURF on administrative leave or the imposition of an administrative action, whichever is sooner.

Each notification will include the following information:

- 1. NSF Award Number; and
- 2. Name of PI or co-PI being reported; and
- 3. Type of Notification:
  - a. Finding/Determination that the reported individual has been found to have violated SDSURF policies or codes of conduct, statutes, regulations, or executive orders relating to sexual harassment, other forms of harassment, or sexual assault; AND/OR
  - b. Placement by SDSURF of the reported individual on administrative leave or the imposition of any administrative action on the PI or any co-PI by the SDSURF relating to any finding/determination or an investigation of an alleged violation of SDSURF policies or codes of conduct, statutes, regulations, or executive orders relating to sexual



harassment, other forms of harassment, or sexual assault;  
and

4. Description of the finding/determination and action(s) taken, if any; and
5. Reason(s) for, and conditions of, placement of the PI or any co-PI on administrative leave or imposition of administrative action. SDSURF, at any time, may propose a substitute investigator if it determines the PI or any co-PI may not be able to carry out the funded project or activity and/or abide by the award terms and conditions.

When the investigation has been completed, SDSURF will communicate the summary of the investigation to the complainant, to the respondent, and, if appropriate, to others who are involved (up to and including the National Science Foundation).

### **National Institutes of Health (NIH)**

SDSURF is required to notify the National Institutes of Health (NIH) when individuals identified as Project Director/Principal Investigator or other Senior/Key personnel in an NIH notice of award are removed from their position or are otherwise disciplined by SDSURF due to concerns about harassment, bullying, retaliation, or hostile working condition. SDSURF will notify NIH within 30 days of the removal or disciplinary action.

1. Notification must be submitted to NIH using the [NIH's dedicated online form](#)
2. All required notifications must include, at a minimum:
  - a. name of the Authorized Organization Representative submitting the notification
  - b. name of the individual of concern
  - c. description of the concern(s)
  - d. action(s) taken
  - e. any anticipated impact on the NIH-funded award(s)

For NIH-sponsored conference grant (R13 or U13) awards, SDSURF will ensure the PI has communicated the SDSURF Code of Ethics Policy and includes clear and accessible means of reporting violation in accordance with NIH policies.

## Appendix C – Definitions of Terms

- A. **Administrative Leave / Administrative Action:** Any temporary/ interim suspension or permanent removal of an employee, a Principal Investigator (PI), or co-PI, or any administrative action imposed on the employee, PI, or co-PI by the SDSU Research Foundation or awardee under organization policies or codes of conduct, statutes, regulations, or executive orders, relating to employment activities, including but not limited to the following: teaching, advising, mentoring, research, management/administrative duties, or presence on SDSURF property.
- B. **Authorized Organization Representative (AOR):** Administrative official who is authorized to make certifications and assurances on behalf of a proposing organization. SDSURF officials are the Sponsored Research Administration Director and/or Assistant Vice President of Research Support Services.
- C. **Employee** means a person legally holding a position in the SDSU Research Foundation. This term includes full-time, part-time, temporary, intermittent, contract, student, and per-diem positions. Employee also includes individuals who were employed by the SDSURF at the time the Complaint was filed and have since left the employ of the SDSURF. This term does not include SDSU Employees or other Third Parties.
- D. **National Institute of Health (NIH):** A part of the U.S. Department of Health and Human Services, is the nation's medical research agency funding important discoveries that improve health, lengthen life, and reduce illness and disability.
- E. **National Science Foundation (NSF):** An independent agency of the United States federal government that supports fundamental research and education in all the non-medical field of science and engineering. Its medical counterpart is the National Institute of Health (NIH).
- F. **Reasonable Accommodation:** SDSURF will provide reasonable accommodation to qualified individuals with a disability in accordance

with federal and state guidelines, unless doing so would cause undue business hardship. Reasonable accommodation will be determined by SDSURF Human Resources following an interactive process with those involved to identify the nature and extent of the restrictions and the appropriate accommodation.

- G. **SDSURF Chief Human Resources Officer (CHRO)** means who is responsible for administering this Nondiscrimination Policy and coordinating compliance with related state and federal laws prohibiting Discrimination, Harassment, and Retaliation. The SDSURF CHRO may delegate tasks to one or more **designees**, provided that any designee shall be an HR Representative, or an external consultant, and the SDSURF CHRO or their designee retains overall responsibility and authority.
- H. **Third-Party** means a person other than an SDSURF Employee. Examples include employees of SDSU, students of SDSU, unpaid interns, volunteers, applicants for employment, independent contractors, vendors, and their employees, and visitors.
- I. **Training:** All SDSURF employees receive training on how to prevent discrimination, harassment, retaliation, sexual misconduct, dating and domestic violence, and stalking and to encourage reporting of such conduct. Supervisory employees will go through two hours of interactive sexual harassment training within six months of the employee's assignment to a supervisory position and every two years thereafter as required by California law.

Students of SDSU are provided training on discrimination and harassment during orientation and must complete post-orientation modules that contain information on SDSU's policies. Additionally, all incoming students are required to complete Mandatory Sexual Violence Prevention and Awareness training, which provides information on the University's mechanisms for reporting to the University's Center for the Prevention of Harassment and Discrimination (CPHD).

- J. **Working Days** are defined as Monday through Friday, excluding all SDSURF recognized holidays or closures where the Complaint originated.
- K. **Workplaces** include anyplace where business is conducted through SDSURF, and any agency and project supported and funded through SDSURF inclusive but not limited to on SDSURF property, on SDSU campus, off-campus, and off-site locations, conferences, in the field, and other areas where data/information/samples are being collected, or research activities are conducted.

## Appendix D – Acknowledgement and Agreement



### **NON-DISCRIMINATION POLICY ACKNOWLEDGMENT AND AGREEMENT**

I acknowledge that I have received a copy of the SDSURF Non-Discrimination Policy and the [Interim CSU Non-Discrimination Policy](#). I understand that these policies reflect important legal rights and obligations with respect to conduct in the workplace and in all work-related settings. I agree to carefully review the policies and abide by them.

I am funded partially or in full by \_\_\_\_\_NSF or \_\_\_\_\_NIH (checkmark)

I have reviewed the specific agency requirements and policies and procedures for reporting harassment.

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**

**Printed Name:** \_\_\_\_\_