



U.S. Department of Justice

Civil Rights Division

SJSU

Resolution Agreement
between
The United States of America
and
San José State University



INTRODUCTION

In June 2020, the Educational Opportunities Section of the United States Department of Justice’s Civil Rights Division and the United States Attorney’s Office for the Northern District of California (collectively, the “Department” or “United States”) initiated a compliance review of San José State University (“SJSU”) to investigate SJSU’s response to reports of employee-on-student sexual harassment involving an athletic trainer (the “Athletic Trainer”) within the SJSU Athletics Department (“SJSU Athletics”). The Department also investigated allegations of retaliation by SJSU against two SJSU Athletics employees (Employees “A” and “B”) in connection with reports involving the Athletic Trainer. The Department conducted this investigation under Title IX of the Education Amendments of 1972 (“Title IX”). During the course of the investigation, SJSU fully cooperated with, and worked in good faith to respond to, the Department’s requests for information; the Department appreciates SJSU’s cooperation. The Department found that SJSU failed to comply in certain respects with Title IX’s prohibitions against sex discrimination.

As a recipient of federal financial assistance from the Department, SJSU must comply with Title IX and provide students, faculty, and staff an educational environment free of discrimination on the basis of sex.¹ The United States and the Board of Trustees of the California State University, on behalf of SJSU (California State University and SJSU referred to collectively as the “University”) enter voluntarily into this Resolution Agreement (“Agreement”) to memorialize SJSU’s commitment to comply with Title IX by:

- Maintaining clear, consistent, and equitable policies and grievance procedures that provide for prompt and equitable resolution of student and employee complaints alleging sex discrimination;
- Ensuring that the Title IX Coordinator² has the necessary resources and independence;
- Prohibiting retaliation against students and employees under Title IX;
- Taking action designed to prevent the recurrence of sexual harassment that creates a hostile educational environment; and
- Delivering training to students and employees to ensure they understand their rights and SJSU’s obligations under Title IX.³

This Agreement does not constitute an admission by the University as to any finding reached by the Department, and the University disputes the factual findings and legal conclusions reached by the Department. Rather than the Department conducting further investigation and/or the parties addressing these disputed issues through litigation, the University and the Department agree to resolve the Department’s findings through this Agreement. In return for SJSU’s compliance with this Agreement, the Department will not initiate litigation against the University based on its findings of non-compliance with Title IX, provided SJSU continues its efforts and implements the provisions of this Agreement in good faith and subject to the enforcement terms in Section 9 below.

¹ See 20 U.S.C. § 1681 *et seq.*; 28 C.F.R. pt. 54.

² The Title IX Coordinator position at SJSU is referred to as the Title IX and Gender Equity Officer.

³ Compliance with and expiration of this Agreement does not release SJSU from its ongoing requirements to comply with federal statutes and regulations, including Title IX.



TABLE OF CONTENTS

<u>Definitions of Agreement Terms</u>	<u>4</u>
<u>Section 1. Campus Title IX Office and Personnel Structure</u>	<u>7</u>
<u>Section 2. Notice of Nondiscrimination</u>	<u>9</u>
<u>Section 3. Procedures and Protocols</u>	<u>10</u>
<u>Section 4. Informational Materials and Outreach</u>	<u>13</u>
<u>Section 5. SJSU Athletics</u>	<u>16</u>
<u>Section 6. Training</u>	<u>19</u>
<u>Section 7. Surveys</u>	<u>23</u>
<u>Section 8. Reporting Requirements</u>	<u>25</u>
<u>Section 9. Enforcement</u>	<u>28</u>
<u>Section 10. Terms and Termination</u>	<u>30</u>
<u>Signatures of Parties to the Agreement</u>	<u>31</u>
<u>Appendix A. Additional Relief</u>	<u>32</u>
<u>Appendix B. Reporting Deadlines</u>	<u>35</u>



DEFINITIONS OF AGREEMENT TERMS

- A. **“Adverse Action”** means an action that has a substantial and material adverse effect on a Student or Employee’s ability to participate in an SJSU education program or activity, or on an Employee’s employment, free from Discrimination, Harassment, or Retaliation. Minor or trivial actions or conduct not reasonably likely to do more than anger or upset a person do not constitute an Adverse Action.
- B. **“Days”** means calendar days. If a deadline falls on a weekend, an SJSU, state, or federal holiday, or a date when SJSU is otherwise closed, that deadline will be extended to the first regular business day following.
- C. **“Disciplinary Action”** means any action taken to correct a violation of the prohibitions against Sex Discrimination (including Sexual Harassment and Retaliation) as defined in this Agreement and University systemwide policy. Disciplinary Actions for Employees include, but are not limited to, suspension, demotion, and termination of employment. Disciplinary Actions for Students include, but are not limited to, probation, suspension, and expulsion.
- D. **“Document”** includes written, printed, and electronic records and communications.
- E. **“Employee”** means a person legally holding a position at SJSU as an employee. This term includes full-time, part-time, permanent, tenured, probationary, temporary, intermittent, casual, and per-diem employment positions. This term does not include auxiliary or foundation employees or other third parties.
- F. **“Informational Materials”** are materials (other than policies and procedures) designed with the purpose of informing the public about relevant policies, procedures, reporting pathways, resources, and prevention strategies. These materials may include, but are not limited to, websites, brochures, handouts, posters, and flyers.
- G. **“Remedies”** means individualized services offered as reasonably appropriate and available, and without fee or charge, to a Title IX complainant (Student or Employee) at the conclusion of the formal complaint process where the complaint has been substantiated in accordance with University systemwide policy. Remedies may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escorts, restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.
- H. **“Retaliation”** means Adverse Action taken against a Student or Employee because the Student or Employee has or is believed to have:
 - 1. Exercised rights under Title IX;
 - 2. Reported or opposed conduct which was reasonably and in good faith believed to be in violation of Title IX;
 - 3. Assisted or participated in a Title IX-related investigation/proceeding regardless of whether the Complaint was substantiated; or



4. Assisted someone in reporting or opposing a violation of Title IX or assisted someone in reporting or opposing Title IX-related Retaliation.
- I. **“Sex Discrimination”** means an Adverse Action taken against a Student or Employee by another Student, an SJSU Employee, or other person under SJSU’s control on the basis of sex prohibited by Title IX, including, but not limited to, Sexual Harassment and Retaliation.
- J. **“Sexual Harassment”** refers to unwelcome verbal, nonverbal, or physical conduct of a sexual nature that creates a hostile environment, as prohibited by Title IX, including sexual assault, dating violence, domestic violence, and stalking, as well as “quid pro quo” sexual harassment.
- K. **“Student”** means an applicant for admission, admitted student, enrolled student, an extended education student, a student between academic terms, a graduate awaiting a degree, a student currently serving a suspension or interim suspension, or a student who withdraws while a disciplinary matter (including investigation) is pending.
- L. **“Student-Athlete”** means a Student who has been recruited to participate on, or is rostered to, any SJSU intercollegiate athletic team (i.e., an athletic team established by a national association for the promotion or regulation of college athletics; excluding club or intramural sports) and cheerleading. This definition includes Students who participate in pre-commitment recruitment activities for recruits but who do not roster.
- M. **“Supportive Measures”** means individualized services offered as reasonably appropriate and available, and without fee or charge to a Student or Employee. Supportive Measures are designed to restore or preserve equal access to SJSU education programs or activities without unreasonably burdening any other Student or Employee, including to protect a Student’s or Employee’s safety or the educational environment.
- N. **“Title IX Liaison”** refers to any non-Title IX Personnel Employee who, in addition to their primary duties at SJSU, is tasked with facilitating communications and collaborations between the SJSU unit where they are primarily employed and the Title IX Office. A Title IX Liaison does not play an active role in the formal Title IX process (e.g., conducting intake, investigations, informal resolution, adjudication, or appeal of Title IX complaints).
- O. **“Title IX Office”** is SJSU’s designated office, led by the Title IX and Gender Equity Officer (referred to in this Agreement as the Title IX Coordinator) and supporting Title IX Personnel, responsible for coordinating SJSU’s implementation of and compliance with Title IX.
- P. **“Title IX Personnel”** refers to any SJSU Employee whose primary job responsibilities involve implementing campus-wide Title IX compliance, and includes the Title IX Coordinator, Deputy Title IX Coordinator, Title IX investigators, and other Title IX Office Employees.

* * *



These two websites and one webpage are referenced throughout this Agreement:

1. **“Main SJSU Website”**: <https://www.sjsu.edu>.
2. **“SJSU Title IX Webpage”**: <https://www.sjsu.edu/titleix>.
3. **“SJSU Athletics Website”**: <https://sjsuspartans.com>.



Section 1. CAMPUS TITLE IX OFFICE AND PERSONNEL STRUCTURE

- A.** As part of its ongoing evaluation of SJSU's campus Title IX Office structure, SJSU will provide to the Department an overview of a revised Title IX Office structure that clarifies the Title IX Coordinator's authority and responsibility to implement consistent campus-wide responses to reports of Sex Discrimination. SJSU's submission will affirm or provide for the following:
- 1.** The Title IX Coordinator has the experience, training, and expertise to coordinate and carry out Title IX compliance.
 - 2.** The Title IX Coordinator has a position within SJSU administration that is consistent with the scope of the position's oversight and vests the Title IX Coordinator with the appropriate authority, independence, and resources to fulfill this role effectively.
 - 3.** The Title IX Coordinator oversees Title IX Personnel and Title IX Liaisons in their Title IX roles.
 - 4.** With respect to Deputy Title IX Coordinators, SJSU will update or develop:
 - a.** Position descriptions for all Employees serving as Deputy Title IX Coordinators, to include their Title IX duties, responsibilities, and reporting lines;
 - b.** An overview of the reporting, communication, and approval protocols between and among the Title IX Coordinator, the Deputy Title IX Coordinators, and other Title IX Personnel;
 - c.** An overview and schedule for the campus Title IX onboarding and periodic ongoing Title IX training provided to Deputy Title IX Coordinators (in compliance with provision 6.F.1.); and
 - d.** Protocols for the Title IX Coordinator to conduct or contribute to annual performance evaluations of the Deputy Title IX Coordinators.
 - 5.** With respect to Title IX Liaisons, SJSU will develop:
 - a.** A description of duties for all Employees serving as Title IX Liaisons;
 - b.** An overview of the reporting, communication, and approval protocols between and among the Title IX Coordinator, the Title IX Liaisons, and other Title IX Personnel;
 - c.** An overview and schedule for the campus Title IX onboarding and periodic ongoing training provided to Title IX Liaisons (in compliance with provision 6.F.2.); and
 - d.** Protocols for regular feedback provided to Title IX Liaisons from the Title IX Office.
 - 6.** SJSU will ensure there is sufficient funding for the Title IX Office to:
 - a.** Recruit, hire, and provide ongoing training (discussed in provision 6.F.1.) to qualified Title IX personnel, including a Title IX Coordinator, Deputy Title IX Coordinator, a minimum of two Title IX investigators, and one administrative assistant;
 - b.** Ensure timely and effective response to reports of Sex Discrimination;



Section 2. NOTICE OF NONDISCRIMINATION

- A.** SJSU will maintain its notice of nondiscrimination policy, including a statement that SJSU neither discriminates nor tolerates discrimination on the basis of sex in its education programs and activities. This notice will identify the Title IX Coordinator’s name, on-campus office address, email address, and telephone number (accessible by text messaging) (“contact information”). SJSU will publish this notice in all student and employee handbooks, athletics handbooks, housing handbooks and manuals, and course catalogs. This notice will be included on the SJSU Title IX Webpage and the SJSU Athletics Website.
- B.** Within 30 Days of the date of this Agreement, SJSU will submit to the Department for review and approval documentation confirming that an updated notice of nondiscrimination has been included and/or posted in all web-based locations identified in provision 2.A. The Department will provide any feedback within 15 Days of receipt.
- C.** Within 30 Days of receiving feedback or approval from the Department under provision 2.B., SJSU will submit to the Department documentation demonstrating that an updated notice of nondiscrimination has been included in all publications and locations identified in provision 2.A.



Section 3. PROCEDURES AND PROTOCOLS

- A.** SJSU will continue to uphold the University’s systemwide policies that prohibit Sex Discrimination, including Sexual Harassment that creates a hostile environment and Retaliation, as required by Title IX, as well as grievance procedures providing for the prompt, equitable, and effective investigation, adjudication (where appropriate), and appeal (where applicable) of all reports of alleged Sex Discrimination over which SJSU has jurisdiction.
- B.** To support SJSU’s implementation of the University systemwide policies that prohibit Sex Discrimination and related grievance procedures, SJSU will maintain one case management database or system (“Case Management System”) for the secure electronic storage of all reports of Sex Discrimination (including all related files, e.g., Documents or media) received by the Title IX Office. Access to reports of Sex Discrimination, related files, and the Case Management System will be limited only to designated Title IX Personnel. The Title IX Coordinator may share information with SJSU administrators where necessary to effectuate Supportive Measures, Remedies, Disciplinary Actions, or other actions required by University policies. The SJSU Case Management System will be designed to capture or maintain the following information for all reports (if available):
1. The date of the report and the date, nature, and location of the incident;
 2. The name of the reporter or whether the report was anonymous;
 3. The name and title of the person who received the report;
 4. The name of the person alleged to have experienced Sex Discrimination, if other than the reporter, and affiliation with SJSU;
 5. The name of the respondent and affiliation with SJSU;
 6. Any SJSU formal community context (e.g., athletic team, student organization, department, or office) in which the incident arose;
 7. Whether a formal complaint was received by SJSU, along with copies of the notice of allegations provided to the parties. If SJSU dismissed the formal complaint, a copy of the written notice of dismissal sent to the parties with reason for the dismissal;
 8. Whether SJSU opened an investigation and, if applicable, its reason for declining to investigate;
 9. The name of the person assigned to investigate the complaint and/or implement any Supportive Measures;
 10. All Supportive Measures offered and implemented;
 11. The names of all witnesses identified by either party, interview notes (or summaries, as available), and for any witnesses who were not interviewed, an explanation of why they were not interviewed;



12. Whether the parties engaged in informal resolution and, if so, the name of the person who facilitated the informal resolution process, and the outcomes achieved through the informal resolution;
13. The dates of the start of the investigation, the review of evidence, the final report, any hearing, and the stages of the appeals process;
14. Any significant correspondence between Title IX Personnel and the parties during the pendency of the investigation, hearing, and appeals; and
15. SJSU's findings at the adjudication and appeal stages, including all Disciplinary Actions taken and Remedies implemented.

If the Case Management System cannot capture all of the above information, SJSU will otherwise maintain the information (if available) in its files.

- C. SJSU will retain complete records and supporting Documents related to any reported incident of alleged Sex Discrimination for no less than 7 years beginning from the date of the record's creation. For reports of Sexual Harassment involving Employee respondents, SJSU will further maintain all records and supporting Documents related to any incident of alleged Sexual Harassment for the period of employment and no less than 7 years following the date of the Employee's final day of employment.
- D. SJSU will establish an internal operating protocol through which the Title IX Coordinator will collaborate with other SJSU units. These SJSU units must include the SJSU University Police Department ("UPD"), the Office of Student Conduct and Ethical Development, Athletics, University Housing Services, the Division of Student Affairs, and University Personnel. This internal operating protocol will establish coordination for:
 1. Determining appropriate Supportive Measures during the report, investigation, and adjudication process, with the Title IX Coordinator providing final approval on any Supportive Measures and Remedies;
 2. Assessing whether Supportive Measures and Remedies approved by the Title IX Coordinator are effective in keeping complainants safe by evaluating any concerns raised about Supportive Measures or Remedies and SJSU's response to any such concerns; and
 3. Discussing trends in reported incidents of Sexual Harassment on campus (including frequency and location of incidents).
- E. In addition to the requirements of provision 3.D., SJSU will develop an internal operating protocol for coordinating with UPD and local law enforcement. The internal operating protocol will:
 1. Consistent with state law, including with the consent of the complainant, require that UPD promptly disclose to the Title IX Coordinator within two Days all reports of Sexual Harassment made to UPD;



- 2.** Require UPD, upon receipt of a complaint of Sexual Harassment, to provide the reporter or complainant with information about Title IX resources, referrals to campus and community resources, and the reporter’s rights under Title IX and University systemwide policies that prohibit Sex Discrimination, irrespective of a criminal justice response;
 - 3.** Require that the Title IX Coordinator be involved, as appropriate and consistent with federal and state law and University systemwide policies, in decisions relating to Timely Warnings and Emergency Notifications; and
 - 4.** Establish when and how, consistent with applicable federal and state law, UPD will obtain and share with the Title IX Office information received from local law enforcement about Sexual Harassment allegations.
- F.** For the duration of this Agreement, unless required by federal or state law, SJSU will not make material modifications to its implementation procedures or internal operating protocols of University systemwide policies that prohibit Sex Discrimination and related grievance procedures without seeking the Department’s review and approval, which the Department will not unreasonably delay or withhold.
- G.** If the University revises its systemwide policies that prohibit Sex Discrimination or related grievance procedures, or if SJSU revises its campus implementation procedures or internal operating protocols, SJSU will promptly update all appropriate campus sources, including online (e.g., the Main SJSU Website and the SJSU Title IX Webpage) and all student and employee handbooks, athletics handbooks and manuals, housing handbooks, and course catalogs.
- H.** Within 90 Days of the date of this Agreement, SJSU will submit to the Department for review and approval drafts of the implementation procedures or internal operating protocols required by this Section. The Department will provide any feedback on a rolling basis within 60 Days of receipt.
- I.** No later than 15 Days after finalizing or revising the implementation procedures or internal operating protocols required by this Section, SJSU will provide links to digital versions of the internal operating protocols on the SJSU Title IX Webpage. At that time, SJSU will provide written confirmation that it has implemented the following from this Section of the Agreement:
- (1) establishment of the Case Management System in accordance with provision 3.B.;
 - (2) establishment of the internal operating protocols described in provisions 3.D. and 3.E.; and
 - (3) any updates, as appropriate, to the campus sources outlined in provision 3.G.



Section 4. INFORMATIONAL MATERIALS AND OUTREACH

- A.** SJSU will provide appropriate staffing for student support services, including support services for complainants, respondents, and witnesses involved in grievance procedures. Funding for this purpose will be provided to support the SJSU Title IX Webpage development and maintenance, SJSU’s Campus Survivor Advocate, Student Health Center, and Counseling and Psychological Services.
- B.** SJSU will develop and/or revise user-friendly, streamlined Informational Materials for Students and Employees designed to describe Title IX-related policies and grievance procedures.
 - 1.** The Informational Materials will cover such topics as: what conduct constitutes Sex Discrimination, including Sexual Harassment and Retaliation; the differences between a complainant and witness; grievance procedures; what to expect during the complaint process, including timeframes; Supportive Measures and Remedies; informal resolution options; and the relationship between the Title IX Office and UPD.
 - 2.** All Informational Materials will include the contact information for the Title IX Office.
 - 3.** SJSU will, on a regular basis during each semester, disseminate the Informational Materials to Students and Employees, including through social media platforms, at student and employee orientations and trainings (via link or hard copy), and, as appropriate, on-campus postings and/or distribution.
- C.** SJSU will also develop and/or revise Informational Materials and distribute to Students and Employees that describe the pathways for reporting Title IX concerns. These Informational Materials will:
 - 1.** Identify by name the Title IX Coordinator as the individual responsible for coordinating SJSU’s efforts to comply with and carry out its responsibilities under Title IX, along with their contact information;
 - 2.** Identify by name the Deputy Title IX Coordinators and Title IX Liaisons and explain the role of Deputy Title IX Coordinators and Title IX Liaisons in supporting the Title IX Coordinator, along with their contact information;
 - 3.** Describe the pathways available to Students and Employees to make reports, including:
 - a.** Via email to the Title IX Coordinator through the email address, TitleIX@sjsu.edu.
 - b.** Through SJSU’s web-based reporting form,⁴ which will be reasonably accessible (e.g., within three clicks) to Students, Employees, and third-parties via both the SJSU Title IX Webpage and the Main SJSU Website. This form will also be digitalized to allow for completion on mobile phones. The reporting form will:

⁴ SJSU currently maintains a web-based Title IX Incident Reporting Form at https://cm.maxient.com/reportingform.php?SanJoseStateUniv&layout_id=97.



- i. Include an option for the reporter to elect to have the form serve as a complaint that is subject to University systemwide policy grievance procedures;
 - ii. Provide the Title IX Coordinator’s contact information; and
 - iii. Provide for secure submission that is routed directly to the Title IX Office.
- D. To help Employees understand their reporting obligations, SJSU will maintain and/or revise Informational Materials written for Employees that:
 1. Define the duty of Employees to timely report disclosures and knowledge of Sexual Harassment to the Title IX Coordinator;
 2. Explain Employees’ responsibilities upon receiving a report of Sexual Harassment;
 3. Identify by office and/or title all Employees who are confidential resources (i.e., Employees who do not have a duty to report in accordance with state law);
 4. Explain the responsibilities of confidential resources upon receiving a report of Sexual Harassment, including keeping the report confidential, informing the reporter that the disclosure does not constitute notice to SJSU, providing the reporter with information on how to report to the Title IX Coordinator, and, where appropriate, providing SJSU with non-identifying aggregated information indicating patterns of Sexual Harassment, such as multiple reports of sexual assault in the same location; and
 5. Explain exceptions to confidentiality (e.g., where the report involves suspected abuse or neglect of a minor or imminent risk of harm to self or others).
- E. SJSU will designate its Title IX Webpage as a hub for student and employee-facing Informational Materials on rights and responsibilities related to Title IX, including all University systemwide policies, SJSU internal operating protocols described in Section 3, and all Informational Materials described in this Section. By the start of each academic year, SJSU will revise the SJSU Title IX Webpage to provide up-to-date links to the University systemwide policies that prohibit Sex Discrimination, including Sexual Harassment and Retaliation, and related grievance procedures, as well as the Informational Materials. SJSU also will update the SJSU Title IX Webpage to:
 1. Post this Agreement and Agreement Summary, along with summary updates of the Agreement, until the expiration of this Agreement;
 2. Provide contact information for the Department of Justice’s Civil Rights Division, including the Division’s email address and phone line dedicated to SJSU (Community.SJSU@usdoj.gov and 1-833-591-0289) until the expiration of this Agreement; and
 3. Provide information on how to access the Division’s website (<https://civilrights.justice.gov>).
- F. By the start of each academic year, SJSU will update the SJSU Athletics Website to:



1. Include a direct link to the SJSU Title IX Webpage that is reasonably accessible (e.g., within three clicks) from the SJSU Athletics homepage; and
 2. Provide contact information for the Title IX Coordinator.
- G.** Within 120 Days of the date of this Agreement, SJSU will confirm to the Department compliance with provision 4.A. Additionally, SJSU will submit to the Department for review and approval all proposed drafts or revisions of Informational Materials and updates to its Main SJSU Website, SJSU Title IX Webpage, and SJSU Athletics Website. The Department will provide any feedback on a rolling basis within 60 Days of receipt.
- H.** No later than 30 Days after the Informational Materials required by this Section have been finalized, SJSU will publish a notice on the Main SJSU Website and SJSU Title IX Webpage, the President's Blog, and via email to all Students and Employees that updated Informational Materials are available in the Title IX Office and on the Title IX Webpage. Within 15 Days after providing such notice, SJSU will provide the Department with documentation demonstrating that it has implemented this Section of the Agreement, including copies of, or links to, the Informational Materials.
- I.** After the 2021-2022 academic year, SJSU will confirm to the Department that links to University systemwide policies that prohibit Sex Discrimination and related grievance procedures as well as the Informational Materials have been distributed to Students and Employees within 90 Days of the start of each academic year during the term of the Agreement. If the Informational Materials are updated and/or revised, SJSU will also submit copies to the Department within 90 Days of the start of each academic year during the term of the Agreement.



Section 5. SJSU ATHLETICS

A. Addressing Sexual Harassment by the Athletic Trainer

1. SJSU will review existing rosters to identify all female Student-Athletes at SJSU during the Athletic Trainer's employment with SJSU (August 2006 to August 2020). Specifically:
 - a. Within 60 Days after the date of this Agreement, SJSU will contact all such Student-Athletes via email using their email addresses currently on file with the SJSU registrar (current students) or Alumni and Community Engagement (former students). This communication will include: (i) a statement that in 2021, SJSU determined that the Athletic Trainer engaged in Sexual Harassment of Student-Athletes in violation of University policies; (ii) an invitation, remaining open for a period of one calendar year, for individuals to contact SJSU's Title IX Coordinator to report Sexual Harassment by the Athletic Trainer, with an option to remain anonymous; (iii) notice that any person who wishes to receive Supportive Measures and/or Remedies from SJSU may request that SJSU investigate their report against the Athletic Trainer to determine if there was a violation of SJSU policy at the time of the misconduct; (iv) notice that any person who makes a report may be entitled to reasonable Supportive Measures and/or Remedies; (v) contact information for SJSU's Title IX Coordinator; and (vi) the Department's email address and phone line dedicated to SJSU (Community.SJSU@usdoj.gov and 1-833-591-0289);
 - b. Within 30 Days of the date of this Agreement (and before sending or posting), SJSU will share a draft of this communication for Department review and approval;
 - c. SJSU will also post a link to this communication on the Main SJSU Website, the SJSU Title IX Webpage, and on the alumni website starting 14 Days after the communication is approved for the one calendar year period;
 - d. Every two months, starting 30 Days after the communication in provisions 5.A.1.a. and 5.A.1.c. are sent and posted, SJSU will provide the Department, through a secured file sharing network, a copy of all written responses to the communications in provisions 5.A.1.a. and 5.A.1.c. received by the Title IX Office; and
 - e. Upon request, SJSU will provide the Department additional information related to SJSU's responses to complaints involving the Athletic Trainer.
2. Under the terms of Appendix A, the University will provide Supportive Measures, Remedies, and/or financial relief to all former and current SJSU Student-Athletes and employees found to have been sexually harassed by the Athletic Trainer.

B. Addressing Retaliation by SJSU against SJSU Athletics Employees

1. SJSU has revised the "Needs Improvement" ratings under "Compliance" in the 2019-2020 performance evaluation of SJSU Employee A to reflect his performance during that term.



2. Within 30 Days of the date of this Agreement, SJSU's President will express appreciation, in writing, for Employee A's efforts to protect Student-Athletes from Sexual Harassment by the Athletic Trainer.
3. SJSU has confirmed that Employee B's personnel file contains no document that negatively references protected activity under Title IX.
4. Relevant University Personnel administrators and the Athletics Director will be instructed that if they receive requests for employment references regarding Employee A or Employee B, they will, consistent with University policy, provide the following information only: name, dates of employment, last title held and (if authorized) compensation.

C. SJSU Athletics Structure and Engagement

1. The Athletics Director will meet each semester with the Student-Athlete Advisory Committee and the Title IX Coordinator to discuss trends in reports of Sexual Harassment involving Student-Athletes and to develop proactive measures for preventing Sexual Harassment of Student-Athletes. SJSU will share with participants that the purpose of these meetings is not to address individual Student circumstances, and SJSU Employees will be instructed not to disclose or discuss any personally identifiable information about Students or Employees during the meetings.
2. In addition to the training required in Section 6, the Title IX Coordinator or designee-Deputy Title IX Coordinator will meet annually with all Student athletic teams within SJSU Athletics to provide information about students' rights under Title IX, campus reporting options, campus and community resources, and to answer questions directly from Student-Athletes.

D. SJSU Athletics Sports Medicine

1. The Title IX Coordinator and Director of Sports Medicine, who are conducting a review of the SJSU Sports Medicine and Athletics Training Program, will offer recommendations for improvement to policies, practices, and procedures, specifically aimed at prevention of Sexual Harassment by athletic trainers. SJSU will notify the Department of these recommendations. For any recommendation that SJSU does not adopt, SJSU will provide the basis for declining the recommendation.
2. SJSU Sports Medicine and Athletics Training Program will develop consultation coordination protocols with the Student Health Center for treating Student-Athletes.
3. Athletic trainers will report to the Director of Sports Medicine and will be required to consult with medical experts and physicians, as necessary, in either the Student Health Center or Athletics.
4. SJSU has revised its Sports Medicine and Athletics Training Chaperone Policy and submitted the policy to the Department for review and approval. The Department will provide feedback on the policy within 30 Days of the date of this Agreement. The University also has created user-friendly Informational Materials summarizing the Chaperone Policy that will be: provided to



Student-Athletes, coaches, and Sports Medicine and Athletics staff annually; visible where students sign up or check in for treatment; and posted prominently in the training rooms. The Department will provide feedback within 30 Days of the date of this Agreement on these Informational Materials.

5. Links to the revised policies, practices, and procedures referenced in this Section will be distributed to all enrolled Student-Athletes and Athletics Employees who participate in the operation of the Athletics Training program, including trainers, physicians, coaches, and other volunteers.
6. Within 120 Days of the date of this Agreement, SJSU will submit its proposal for changes to the Athletics Training consultation coordination protocols with the Student Health Center to the Department for review and approval. The Department will provide any feedback within 45 Days of receipt.



Section 6. TRAINING

A. General

1. SJSU will continue to provide annual training to all Students⁵ and all new and continuing Employees on the following topics: what conduct constitutes Sexual Harassment and Retaliation; Student and Employee rights under Title IX; University systemwide policies regarding Sex Discrimination; University procedures for reporting and responding to complaints of Sex Discrimination; Confidential Resources; and access to Supportive Measures, Remedies, and resources for those affected by Sexual Harassment and Retaliation.
2. SJSU will also continue to provide periodic live trainings⁶ to audiences who have been determined to benefit from additional training, including Employees (e.g., student employees, resident advisors, and employees/faculty in certain departments), and Students (e.g., graduate students, students involved in Greek life, Student-Athletes, international students, and students in ROTC). In addition to the topics identified in provision 6.A.1., these trainings will cover the following topics: how to report Sex Discrimination, Sexual Harassment, and Retaliation (i.e., to the Title IX Office and UPD); bystander intervention; and affirmative consent in sexual interactions.
3. Any synchronous or asynchronous online training will be interactive and test the knowledge of the trainee at checkpoints to test and apply the learner's understanding.
4. SJSU will establish a plan and the infrastructure necessary to provide the training required by this Section on an ongoing basis and to monitor whether all Students and Employees have completed the required training set forth in this Section.

B. Training for Students

1. SJSU will continue to provide mandatory annual training to Students, which will cover the topics identified in provision 6.A.1. and identify SJSU's Title IX Coordinator and Deputy Title IX Coordinators, describe their roles and responsibilities, and provide the contact information for the Title IX Coordinator.
 - a. SJSU will ensure that its Students have received the annual training required by this Section by the end of the Spring 2022 semester and then annually, thereafter, for the duration of the Agreement.
 - b. Prior to the final scheduled training each year covered by this Agreement, SJSU will issue notices to all Students who have not yet taken the training, informing them that the training must be completed prior to the end of that year. SJSU will flag the account of each

⁵ For the purposes of Section 6, "Student(s)" means an enrolled student, an extended education student, or a student between academic terms.

⁶ "Live training" refers to in-person or synchronous training.



Student who has not completed the mandatory annual training which will require them to complete training before they can take courses in the next term.

2. In addition to the annual training for Students described in provision 6.B.1., SJSU will provide a live presentation and distribute Informational Materials (described in Section 4) during orientation, including orientation for undergraduate students, graduate students, and transfer students. The presentation will introduce the Title IX Office and the Title IX Personnel, describe the resources available from the Title IX Office and confidential resources, and explain what conduct constitutes Sex Discrimination. This training will be recorded and an interactive version of the recorded training will be provided to any Student who is unable to attend orientation.
3. SJSU will also hold at least two campus-wide events (at least one during the fall semester and one during the spring semester) that address prevention issues surrounding Sex Discrimination.

C. Additional Training for Student-Athletes⁷

1. In addition to the training described in provision 6.B.1., SJSU will maintain, develop, or contract for annual live training for Student-Athletes, as described in provision 6.A.2. The training for Student-Athletes will also:
 - a. Provide relevant examples of Sex Discrimination aligned to the Student-Athlete experience;
 - b. Identify resources available specifically to Student-Athletes who have experienced Sexual Harassment or Retaliation; and
 - c. Explain SJSU's Sports Medicine and Athletics Training Chaperone Policy, including informed consent in the context of medical treatment and athletic training services.
2. All Student-Athletes will complete the live training before or during the Spring 2022 semester, and thereafter during their first semester on campus each year for the duration of this Agreement.

D. Training for Employees

1. SJSU will continue to provide mandatory annual training to Employees, which will cover all of the topics identified in provision 6.A.1. and will also:
 - a. Identify SJSU's Title IX Coordinator and Deputy Title IX Coordinators, describe their roles and responsibilities, and provide the contact information for the Title IX Coordinator;
 - b. Define and provide examples of conduct that constitutes Sex Discrimination, including Sexual Harassment and Retaliation;

⁷ For the purposes of Section 6, "Student-Athlete(s)" means only those who are rostered to any SJSU intercollegiate athletic team.



- c. Explain Employee reporting obligations, and the importance of reporting, including where and to whom reports of Sexual Harassment should be made; and
 - d. Explain how to notify reporters of the Employee's obligation to refer the report to the Title IX Office and of the reporter's rights.
 2. Subject to applicable labor laws and collective bargaining agreements, during the Spring 2022 semester, SJSU will ensure its Employees receive the training required by this Section and then annually, thereafter, for the duration of this Agreement.
 3. Subject to applicable labor laws and collective bargaining agreements, SJSU will train new Employees within 60 Days of beginning employment at SJSU and then annually, thereafter, for the duration of this Agreement.

E. Additional Training for SJSU Athletics Employees

1. In addition to the annual training for Employees described in provision 6.D., SJSU will maintain, develop, or contract for live training for all SJSU Athletics Employees and volunteers who provide services to students. The training will cover the subject-matter of the training designed for Student-Athletes (described in provision 6.C.1.), including the concepts of informed consent when receiving medical treatment, affirmative consent under Title IX, reporting options and pathways, and campus and community resources.
2. In addition to the annual training for Employees described in provision 6.D., and the training for all SJSU Athletics Employees described in provision 6.E.1., SJSU will maintain, develop, or contract for additional live training on informed consent for all SJSU Athletics Training and Sports Medicine staff, including any volunteer or paid physicians and trainers who interact with Student-Athletes and any clinician assigned to oversee SJSU athletic trainers. The content of this training will be approved by the Title IX Coordinator.

F. Additional Training for Title IX Personnel and Title IX Liaisons

1. In addition to the annual training for Employees described in provision 6.D. and existing University systemwide training offered by the Chancellor's Office, SJSU will develop or contract for supplemental annual live trainings for all Title IX Personnel, as set forth in provision 1.A.6.a., focused on the campus-level implementation of the University's Title IX policies. That training will cover, to the extent not covered by University systemwide training, such topics as how to conduct and create records of a prompt and equitable Title IX investigation using SJSU's Title IX resources, trauma-informed interviewing and investigative techniques, how to conduct a Title IX investigation during a concurrent criminal investigation involving UPD or local law enforcement, and SJSU's implementation procedures and operating protocols.
2. In addition to the annual training for Employees described in provision 6.D., SJSU will develop or contract for additional annual live trainings for all Title IX Liaisons tailored to their role and responsibilities.



G. Additional Training for SJSU Police Department (UPD)

1. In addition to the annual training for Employees described in provision 6.D., SJSU will maintain, develop, or contract for annual live training for all UPD officers whose duties include potential encounters with student-victims of Sexual Harassment or investigations of allegations of Sexual Harassment, including sexual assault, dating violence, domestic violence, or stalking. This training will:
 - a. Provide strategies on evidence-based, trauma-informed interviewing and investigative techniques in the context of young adult victims;
 - b. Address strategies for investigating drug- and alcohol-facilitated sexual assault and dating violence;
 - c. Discuss collection and preservation of evidence of sexual assault; and
 - d. Help officers recognize and eliminate potential bias based on sex (including gender, gender identity, and sexual orientation) in policing.

H. Submission for Review

1. Within 120 Days of the date of this Agreement, SJSU will submit a detailed overview of the training described in this Section for Department review and approval. The Department will provide any feedback within 45 Days of receipt.



Section 7. SURVEYS

A. Campus-Wide Survey

1. SJSU will conduct a campus-wide survey for all Students and Employees during the 2023-2024 academic year that will include questions aimed at assessing SJSU's effectiveness in carrying out its Title IX obligations, as well as Students' and Employees' knowledge of Title IX resources.
2. No later than 60 Days before the scheduled date of survey administration, SJSU will submit its proposed Title IX-related survey questions and assessment methodology to the Department for review and approval. If the Department proposes any changes within 30 Days thereafter, SJSU will resubmit for review before conducting the survey, and delay survey administration if there is insufficient time to address Department changes.
3. Within 90 Days after completion of the survey, SJSU will provide the Department with a report outlining the survey results and recommendations of next steps, if necessary, to remedy the results.

B. Student-Athlete Survey

1. During the spring semester of the 2021-2022 academic year, SJSU will conduct a survey for Student-Athletes to establish a baseline for understanding SJSU's effectiveness in carrying out its Title IX obligations, including students' knowledge of Title IX resources, gather information about the incidence of Sexual Harassment in Athletics, and give students the opportunity to provide feedback and input on areas for improvement. In the 2023-2024 academic year, SJSU will repeat the survey. The Title IX Coordinator will oversee the development of the survey, which will be subject to approval by SJSU's Institutional Review Board ("IRB"), and will seek input from Institutional Research experts, UPD, campus health, student support services, and external subject matter experts.
2. The Title IX Coordinator will review the results of the survey with the Athletics Director, any Title IX Liaison assigned directly to SJSU Athletics, and the Student-Athlete Advisory Committee, and recommend to the Athletics Director actions or strategies to improve the Student-Athlete experience and compliance with Title IX.
3. No later than 60 Days before the scheduled date of survey administration, SJSU will submit its proposed survey and assessment methodology to the Department for review and approval. If the Department proposes any changes within 30 Days thereafter, SJSU will resubmit for review before conducting the survey and delay survey administration if there is insufficient time to address Department changes.
4. Within 90 Days of Student-Athletes' completion of the survey, in both the 2021-2022 and 2023-2024 academic years, SJSU will provide the Department with a report outlining the survey results and recommendations of next steps, if necessary, to remedy the results. SJSU will take appropriate steps to remedy any issues raised in the survey results. These steps will be



negotiated in good faith by SJSU and the Department to ensure SJSU is in compliance with Title IX and this Agreement.

C. SJSU Athletics Employees Survey

1. During the spring semester of the 2021-2022 academic year, SJSU will conduct a survey for SJSU Athletics Employees to assess their understanding of their reporting obligations related to Sexual Harassment, knowledge of specific Sexual Harassment and Retaliation prohibited by University policy, and awareness of reporting options and pathways, as well as to determine existing barriers to reporting and assess the impact of Retaliation on SJSU Athletics Employees. In the 2023-2024 academic year, SJSU will repeat the survey. The Title IX Coordinator will oversee the development of the survey, which will be subject to IRB approval, and will seek input from Institutional Research experts, UPD, University Personnel, and the Athletics Director.
2. The Title IX Coordinator will review the results of the SJSU Athletics Employees' survey with the Athletics Director, and recommend to the Athletics Director strategies to improve the culture in SJSU Athletics and its compliance with Title IX.
3. No later than 60 Days before the scheduled date of survey administration, SJSU will submit its proposed survey and assessment methodology to the Department for review and approval. If the Department proposes any changes within 30 Days thereafter, SJSU will resubmit for review before conducting the survey and delay survey administration if there is insufficient time to address Department changes.
4. Within 90 Days of the SJSU Athletics Employees' completion of the survey, in both 2021-2022 and 2023-2024, SJSU will provide the Department with a report outlining the survey results and recommendations of next steps, if necessary, to remedy the results. SJSU will take appropriate steps to remedy any issues raised in the survey results. These steps will be negotiated in good faith by SJSU and the Department to ensure SJSU is in compliance with Title IX and this Agreement.



Section 8. REPORTING REQUIREMENTS

- A.** SJSU will provide to the Department all documentation and information identified in Sections 1 through 7 of this Agreement in accordance with the timelines set forth above and summarized in the table attached as Appendix B.
- B.** By January 31 and July 31 of each year covered by this Agreement, SJSU will submit a progress status report to the Department for review. The January status report will cover the preceding July through December; the July status report will cover the preceding January through June.
- C.** Each status report will include:
 - 1.** An Excel spreadsheet, sent over an agreed-upon secured file sharing network, documenting all new reports to the Title IX Office of allegations of Sexual Harassment and/or Title IX Retaliation involving any Student-Athlete or SJSU Athletics Employee, SJSU's responses to these reports, and all open or active matters in the Title IX Office regarding Sexual Harassment and/or Title IX Retaliation involving any Student-Athlete or SJSU Athletics Employee.
 - a.** For each report, the spreadsheet will include the following information, where available:
 - i.** The complainant's name, status at the time of the report (e.g., Student, Employee), affiliations on campus (e.g., athletic team, Greek organization, office/department), and all prior reports/incidents involving the complainant;
 - ii.** The respondent's name or an agreed upon non-personally identifiable identifier to protect privacy of the parties, status at the time of the report (e.g., Student, Employee), affiliations on campus (e.g., athletic team, Greek organization, office/department), and all involvement in prior reports/incidents;
 - iii.** The date of the incident;
 - iv.** A description of the conduct;
 - v.** The date of the initial report;
 - vi.** The identity of the person to whom the report was made, by name and title;
 - vii.** The date the report was referred to the Title IX Coordinator;
 - viii.** Whether a complaint was filed;
 - ix.** Whether SJSU investigated and the dates the investigation began and concluded;
 - x.** Whether SJSU used its grievance procedures to adjudicate the complaint (and if not, how the complaint was resolved);
 - xi.** The findings made by SJSU and the date(s) on which the findings were communicated to the complainant and to the respondent;



- xii. All Supportive Measures taken and their duration;
 - xiii. The results of appeals, if any;
 - xiv. The date on which the results of the appeal were communicated to the complainant and to the respondent; and
 - xv. All Remedies and Disciplinary Actions imposed.
 - b. SJSU will provide to the Department an analysis of the data in the Excel spreadsheet that identifies patterns (if any) involving Sexual Harassment and Retaliation, including repeat offenders, reports involving specific Student or Employee populations (e.g., particular athletic teams), particular locations (e.g., an Athletics facility, locker room, or training room), particular patterns of behavior (e.g., drug- or alcohol-facilitated assaults, use of violence, employee-on-student harassment, minor-aged victims, or perpetration by individuals with a known criminal history). If patterns exist, the analysis will include a description of SJSU's actions to address the pattern(s).
 - c. The Department may request additional information about any report of Sexual Harassment or Retaliation documented. In such event, SJSU will have 45 Days to provide the requested documentation.
2. SJSU will review its Sexual Harassment and Retaliation complaints involving any Student during that reporting period and identify patterns (if any) involving repeat offenders, academic departments, particular locations (e.g., a specific campus building or sorority or fraternity house). If patterns exist, SJSU will describe those patterns and SJSU's taken or planned actions to address the patterns.
3. For each of the trainings and campus-wide events required by Section 6 of this Agreement:
 - a. The date and duration of each training and event conducted; and
 - b. Estimates of the number of Students and Employees who completed the training as required by Section 6 during the reporting period, and the total number of Students and Employees, with a description of the steps taken to provide such training and promote participation.
4. The dates of any meetings between SJSU Athletics leadership and the Student-Athlete Advisory Committee, as well as between the Title IX Coordinator (or designee-Deputy Title IX Coordinator) and all student athletic teams as required by the terms of provision 5.C.
5. In applicable reporting periods, a report documenting the administration of each survey required by this Agreement. SJSU will also provide the response rate to each survey; cumulative results of each survey question; comments provided in the survey, organized by theme; and an analysis of each survey's results as required by the terms of Section 7.
6. Copies of all complaints alleging Sexual Harassment or Retaliation against SJSU filed in court.



7. All concerns or recommendations from the SJSU community received in writing by the Title IX Office or Office of the President that relate to SJSU's Title IX obligations, protocols, or procedures.
8. A description of any new programs or activities or material changes to existing programs undertaken by SJSU to improve its Sexual Harassment prevention and response.



Section 9. ENFORCEMENT

- A.** If the Department chooses to provide feedback on any SJSU implementation procedure, internal operating protocol, training, or other Document subject to Department review and approval, SJSU will incorporate the Department’s feedback at the time specified in this Agreement or at the earliest practicable date thereafter, or object, and provide a basis for the delay or objection, in which case the Department and SJSU will negotiate in good faith to resolve the objection. If the Department and SJSU are unable to agree on revisions within 90 Days of the Department’s feedback, and the Department determines that SJSU’s refusal to incorporate the Department’s feedback constitutes or will lead to substantial non-compliance with the relevant provision of the Agreement, the Department may pursue relief under the provisions of this Section after giving SJSU 30 Days’ notice of its intent to pursue such relief. Within 30 Days of agreement, SJSU will provide documentation confirming implementation of the revisions.
- B.** If SJSU, despite its good faith efforts, anticipates that it will be unable to meet any timeline set forth in this Agreement, it will timely notify the Department of the delay and the reason for it. The parties will negotiate in good faith to agree on a reasonable adjusted timeline. If the Department, despite its good faith efforts, anticipates that it will be unable to meet any timeline set forth in this Agreement, it will timely notify SJSU of the delay.
- C.** In unusual circumstances where SJSU requires an expedited review by the Department, SJSU will notify the Department of the circumstance, and the parties will negotiate in good faith to agree on an adjusted timeline.
- D.** Once SJSU implements changes required by this Agreement and approved by the Department, SJSU will not substantively modify those changes during the period of the Agreement without obtaining the Department’s written approval, which the Department will not unreasonably withhold.
- E.** The Department will evaluate SJSU’s compliance with this Agreement during the first year of the Agreement. If the Department determines that SJSU is not in substantial compliance with the Agreement and requires additional resources to reach compliance, SJSU will take appropriate steps to address the Department’s concerns. If, after negotiating in good faith to resolve the Department’s concerns, the Department determines that SJSU’s failure to remain in substantial compliance remains ongoing, the Department may require that SJSU retain a Department-approved consultant to facilitate SJSU’s compliance, in addition to any of the other remedies outlined herein.
- F.** If the United States determines during the course of monitoring the Agreement that SJSU is not in substantial compliance with any provision of this Agreement, Title IX, or the implementing regulations, the Department will provide SJSU notice of non-compliance along with the basis for the determination, and a specific description of the matters at issue. SJSU will have an opportunity to act to correct or otherwise negotiate with the United States for the resolution of non-compliance within 45 Days of the notice.



- G.** In the event that SJSU does not correct non-compliance following notice from the Department and a period of negotiations as set forth in provision 9.F., the Department has agreed to first initiate mediation, the costs (if any) of which will be borne by SJSU,⁸ during which the parties will attempt to resolve their differences. If the parties are unable to resolve their differences at a mediation, the Department may initiate judicial proceedings to enforce this Agreement, Title IX, or the implementing regulations. The Department agrees that it will not initiate or pursue litigation without first attempting to resolve the issues through negotiation and mediation as provided in this Agreement.
- H.** For the duration of this Agreement, SJSU, including but not limited to the Title IX Office, SJSU Athletics, and UPD, will preserve and maintain all hard copy and electronically stored Documents pertinent to its compliance with the Agreement, and will provide information to the United States upon request, excluding information protected by the attorney-client privilege or work product doctrine.
- I.** The Department retains the right to evaluate SJSU's compliance with this Agreement, including the right to conduct site visits, observe trainings, interview SJSU Employees and Students (individually or through focus groups), and request any relevant additional information, reports, or data, including the investigative reports and files of the Title IX Office and UPD, as are reasonably necessary for the Department to determine whether SJSU has fulfilled the terms of this Agreement and is in compliance with federal law. The Department will provide SJSU with no less than 30 Days written notice in the event of any on-campus site visits or other visits.
- J.** By signing this Agreement, SJSU agrees to provide data and other information in a reasonable and timely manner in accordance with the reporting requirements of this Agreement. To ensure compliance with this Agreement, the Department may request additional status reports or the ability to inspect data or other information maintained by SJSU as determined necessary by the Department. SJSU will have 60 Days to respond to such requests.
- K.** The United States may enforce the terms of this Agreement, Title IX, the implementing regulations at 28 C.F.R. pt. 54, and all other applicable federal laws and regulations. In the event of an enforcement action brought by the United States, whether under the terms of this Agreement or otherwise, SJSU reserves all rights to challenge any purported legal, factual, or other basis of the enforcement action. In the event of substantive changes to state law or federal law governing the application of Title IX, this Agreement will remain in effect and the Department and SJSU agree to meet and confer if conflicts arise.

⁸ The Department will negotiate in good faith with SJSU to select a mediator and to limit associated costs, if any.



Section 10. TERMS AND TERMINATION

- A.** The date of the execution of this Agreement is the date of the United States' signature.
- B.** This Agreement will be in effect through the 2024-2025 academic year and will not terminate until at least 90 Days after the Department has received all reporting related to the 2024-2025 academic year, as required by this Agreement, and all other information requested by the Department, as permitted by this Agreement.
- C.** This Agreement is binding upon SJSU, including its principals, administrators, representatives, successors in interest, and legal representatives.
- D.** If any part of this Agreement is for any reason held to be invalid, unlawful, or otherwise unenforceable by a court of competent jurisdiction, that decision will not affect the validity of any other part of the Agreement. SJSU and the Department will meet within 15 Days of any decision to negotiate in good faith whether the Agreement should be revised or supplemented in response to the court's decision.
- E.** This Agreement is entered for the purpose of voluntarily resolving the Department's findings, which SJSU disputes. This Agreement is not and will not be construed as an admission of liability by SJSU.
- F.** This Agreement will not bar any individual from pursuing a complaint under Title IX against SJSU, but any benefits SJSU provides to any individual through this Agreement may be used as an offset, as appropriate.



SIGNATURES OF PARTIES TO THE AGREEMENT

For California State University, on behalf of San José State University:

MARY A. PAPAŽIAN
President
Office of the President
San José State University
One Washington Square
San José, California 95192-0002
sjsupres@sjsu.edu

For the United States:

STEPHANIE M. HINDS
Acting United States Attorney
Northern District of California

SHARANYA SAI MOHAN
Assistant United States Attorney
Northern District of California
450 Golden Gate Avenue
San Francisco, CA 94102
(415) 436-7198
sharanya.mohan@usdoj.gov

KRISTEN CLARKE
Assistant Attorney General

PAMELA S. KARLAN
Principal Deputy Assistant Attorney General
Civil Rights

SHAHEENA A. SIMONS, Chief
WHITNEY M. PELLEGRINO, Principal Deputy Chief
MICHELLE L. TUCKER, Trial Attorney
ANNE C. PARHAM, Trial Attorney
Educational Opportunities Section
Civil Rights Division
United States Department of Justice
150 M Street NE
Washington, DC 20002
(202) 305-3488
michelle.tucker@usdoj.gov
(202) 616-3982
anne.parham@usdoj.gov

Date: September 21, 2021

Attorneys for the United States



APPENDIX A Additional Relief

A. Former Student-Athletes Who Wish to Make a Complaint

1. Complaint Process

- a. Any former Student-Athlete may submit a written complaint of Sexual Harassment against the Athletic Trainer in accordance with University systemwide policy (Executive Order 1096 or any successor policy) to SJSU's Title IX Coordinator, so that the complaint may be investigated by SJSU to determine if there was a violation of University policy at the time of the alleged misconduct. The Title IX Coordinator will meet with the Student-Athlete to discuss their rights and options (including regarding Supportive Measures and Remedies) under Title IX, University policy, and subject to this Agreement.
- b. Former Student-Athletes will have until one year from the date of notice required under provision 5.A.1.a. to submit a written complaint.
- c. The Athletic Trainer will receive notice of any such complaints and will have an opportunity to respond to any allegations of misconduct in accordance with University systemwide policy; however, absent extenuating circumstances, the investigation process will not be delayed by more than a total of 30 Days.

2. Supportive Measures and Remedies. Any former Student-Athlete who makes a complaint may be entitled to the Remedies described in this paragraph (hereafter referred to as "Appendix A Remedies").

- a. Requests for Appendix A Remedies will be made to SJSU's Title IX Coordinator no later than 30 Days after the Notice of Investigative Outcome is final (i.e., no longer subject to appeal).
- b. The Title IX Coordinator may, in their discretion, also offer appropriate Supportive Measures while the investigation of a former Student-Athlete's written complaint is in progress. The types of Supportive Measures available to those who submit a complaint are described in Executive Order 1096 and will be provided at the discretion of the Title IX Coordinator.
- c. Appendix A Remedies (defined below in provision A.2.d.) will be offered to any former Student-Athlete whose complaint of Sexual Harassment by the Athletic Trainer is substantiated in accordance with applicable University systemwide policy.
- d. Each of the following Appendix A Remedies will be offered to former Student-Athletes whose complaints have been substantiated, as determined by SJSU's Title IX Coordinator:
 - i. SJSU will offer up to 12 sessions of psychological counseling (in-person or via remote tele-health methods). Any sessions will be commenced within 60 Days of the former



Student-Athlete's request for Remedies and will be completed within one calendar year of the Student-Athlete's first session.

- ii. Former Student-Athletes may receive referral assistance from SJSU's Title IX Office for alternative or continuing psychological counseling. (The cost of any such alternative or continuing counseling will be borne by the Student-Athlete.)
- iii. Any former SJSU Student-Athlete who withdrew from, or earned a D or F in, a course at SJSU, where the Athletic Trainer's Sexual Harassment as described in the Agreement contributed to this outcome, may take that course through SJSU's Open University ("extension" program) at no charge. If the course is unavailable through Open University, SJSU will provide reasonable access (also at no charge) to an equivalent course at such time that the equivalent course is otherwise offered at SJSU.
 - (1) Enrollment in all courses is subject to operative pre-requisites and course capacity.
 - (2) Former Student-Athletes may audit the course, rather than taking the course for a grade.
 - (3) Because earned grade point averages cannot be modified after graduation, grade point averages of former Student-Athletes will not be modified to reflect the results of courses taken pursuant to this Agreement.
 - (4) Former Student-Athletes must indicate their intent to pursue this option within 60 Days of requesting Remedies.
- iv. During enrollment in any courses described in provision A.2.d.iii., above, former Student-Athletes will have access to professional academic advising resources consistent with levels of access offered to current Students.
- v. Former Student-Athletes who wish to consider career changes will have access to a career counselor for up to one year, consistent with levels of access offered to current Students. Any such career counseling services will be commenced within 60 Days of the Student-Athlete's request for Remedies and will conclude within one calendar year of the request.

B. Current Student-Athletes Who Wish to Make a Complaint

- 1. Any current Student-Athlete may report Sexual Harassment by the Athletic Trainer in accordance with University policy (Executive Order 1097 or any successor policy) to SJSU's Title IX Coordinator so that the complaint may be investigated by SJSU to determine if there was a violation of SJSU policy at the time of the alleged misconduct. The Title IX Coordinator will meet with the Student-Athlete to discuss their rights and options under Title IX and University policy, including Supportive Measures and Remedies (not limited to those identified in provision A.2.d.).



C. Current and Former Student-Athletes or Employees Who Previously Raised Allegations against the Athletic Trainer

1. SJSU agrees to pay \$125,000 to any current or former Student-Athlete or Employee who participated in SJSU's 2009-10 or 2020-21 investigations, and/or who participated in the Department's Title IX investigation, and who alleged during these investigations that they were sexually harassed by the Athletic Trainer. As a condition of receiving this payment, individuals accepting payment under this Agreement will release, prior to the time of the execution of this Agreement, any and all civil monetary claims against the University (including any current or former employee, agent, trustee, volunteer, auxiliary organization or other representative other than the Athletic Trainer) arising out of or related to the Athletic Trainer's alleged Sexual Harassment and/or the University's response to the Athletic Trainer's alleged Sexual Harassment through the date of this Agreement.
2. Such current and former Student-Athletes or Employees will also be entitled to the Appendix A Remedies described in provision A.2.d. (as applicable).

D. Reporting

1. On at least a quarterly basis, SJSU will provide the Department with an updated Excel spreadsheet identifying the names of all individuals receiving Supportive Measures, Remedies, and/or or financial relief in accordance with Appendix A.



APPENDIX B Reporting Deadlines

The following table summarizes SJSU’s reporting deadlines to the Department as required by the terms of this Agreement.

REQUIREMENTS		DEADLINE
Section 1. Campus Title IX Office and Personnel Structure		
<input type="checkbox"/>	Submit overview of revised campus Title IX Office structure and funding for Title IX Office	Within 90 Days
Section 2. Notice of Nondiscrimination		
<input type="checkbox"/>	Submit documentation demonstrating updated notice of nondiscrimination has been posted on web-based locations	Within 30 Days
<input type="checkbox"/>	Submit documentation demonstrating updated notice of nondiscrimination in required publications and locations	Within 30 Days of Department’s feedback
Section 3. Procedures and Protocols		
<input type="checkbox"/>	Submit revised implementation procedures and internal operating protocols	Within 90 Days
<input type="checkbox"/>	Provide links to digital versions of internal operating protocols published on SJSU Title IX Webpage	Within 15 Days of finalizing Department-approved policies
Section 4. Informational Materials and Outreach		
<input type="checkbox"/>	Confirm appropriate staffing for student support services	Within 90 Days
<input type="checkbox"/>	Submit drafts or revisions of Informational Materials and updates to Main SJSU Website, SJSU Title IX Webpage, and SJSU Athletics Website	Within 120 Days
<input type="checkbox"/>	Publish a notice on Main SJSU Website and SJSU Title IX Webpage, the President’s Blog, and via email to all Students and Employees that all Informational Materials are available in the Title IX Office and on the Title IX Webpage	Within 30 Days of finalizing Department-approved Materials
<input type="checkbox"/>	Provide documentation demonstrating compliance, including copies of or links to the Informational Materials	Within 15 Days of publication
<input type="checkbox"/>	Confirm to Department that links to CSU systemwide policies and grievance procedures have been distributed to Students and Employees	Within 90 Days of the start of each academic year
<input type="checkbox"/>	Submit copies of any updated or revised Informational Materials	Within 90 Days of the start of each academic year
Section 5. SJSU Athletics		
<input type="checkbox"/>	Share draft of communications to be sent to female Student-Athletes	Within 30 Days
<input type="checkbox"/>	Send approved communication to female Student-Athletes	Within 60 Days
<input type="checkbox"/>	Post a link to approved communication on SJSU Title IX webpage and alumni website	Within 14 Days of Department approval



<input type="checkbox"/>	Produce any written responses from female Student-Athletes	Every two months starting 30 days after the communications are sent and posted
<input type="checkbox"/>	Express appreciation for Employee A's efforts to protect Student-Athletes from Sexual Harassment	Within 30 Days
<input type="checkbox"/>	Propose changes to the Athletic Training Program's policies, practices, procedures, and coordination protocols with Student Health Center	Within 120 Days
Section 6. Training		
<input type="checkbox"/>	Submit detailed overview of each required training	Within 120 Days
Section 7. Surveys		
<input type="checkbox"/>	Submit proposed survey and assessment methodology for each required survey	Within 60 Days before the start of semester during which survey will be conducted
<input type="checkbox"/>	Provide report outlining results and recommendations of survey	90 Days after completion of each survey
Section 8. Reporting Requirements		
<input type="checkbox"/>	Produce status report	By January 31 and July 31 each year
Appendix A. Additional Relief		
<input type="checkbox"/>	Provide spreadsheet of Supportive Measures, Remedies, and financial relief provided	Quarterly