STANFORD LEGAL OFFICE MEMORANDUM

TO: Stanford University Community

FROM: Debra Zumwalt, Vice President and General Counsel

SUBJECT: Compliance with the Updated Santa Clara County Order of March 31, 2020

DATE: April 15, 2020

On March 31, 2020, Santa Clara County announced an updated “shelter in place” order (the “Updated Order”) to help slow the spread of the coronavirus, the full text of which is available at https://www.sccgov.org/sites/phd/DiseaseInformation/novel-coronavirus/Pages/order-health-officer-033120.aspx. This Updated Order, which takes effect at 11:59 p.m. on March 31, 2020 and will continue to be in effect until 11:59 p.m. on May 3, 2020 (unless extended or changed), supersedes the prior “shelter in place” order that was issued by Santa Clara County on March 16, 2020 (the “Prior Order”). Similar to the Prior Order, the Updated Order allows for certain designated activities to continue but otherwise requires people to remain and work in their residences and stay away from others as much as possible. As with the Prior Order, Stanford University is committed to complying fully with the Updated Order. This order is identical to orders in place in the counties of Alameda, Contra Costa, Marin, San Francisco, and San Mateo, as well as the city of Berkeley, so it is also applicable to our facilities in those areas.

The purpose of this memorandum is to provide legal guidance on this issue so that we are in compliance with the Updated Order and acting consistently throughout the University.

Expectations for Students Who Are Sheltering In Place in University Housing

Questions have arisen about expectations for students who are sheltering in place in university housing. The Updated Order provides that, “All public and private gatherings of any number of people occurring outside a single household or living unit are prohibited, except for the limited purposes expressly permitted in this Order.” We interpret “a single household or living unit” to mean people living in the same individual student room, suite, or apartment unit and not the members of a dormitory, row house or building. Consistent with the Updated Order, there should be no public or private gatherings in residential lounges, libraries, kitchens, seminar rooms, courtyards or other common spaces. Further, any gatherings within a single household or unit must be limited to only its residents.
While nothing in the Updated Order prohibits members of a single household or living unit from engaging in essential travel or activities together (as set forth in the Updated Order), all onsite activity at Stanford must comply with social distancing requirements.

**Employees Who May Work on Campus under the Updated Santa Clara County Order of March 31, 2020**

Questions have arisen about which employees/contractors may be allowed to come to campus to carry out essential activities. The purpose of this memorandum is to provide legal guidance on this issue so that we are in compliance with the Updated Order and acting consistently throughout the University. Except to the limited extent necessary to provide care or as otherwise necessary to carry out permitted work, the Updated Order makes expressly clear that onsite activity at Stanford must comply with social distancing requirements.\(^1\) This memorandum supersedes the memorandum that I issued on March 18, 2020.

Stanford University remains an “Essential Business” as defined in Section 13(f)(xv) of the Updated Order. As such, consistent with the Prior Order certain University employees may continue to conduct work on campus pursuant to the Updated Order for various purposes as outlined below.

- **Emergency Services.** All first responders, emergency management personnel, emergency dispatchers, and law enforcement personnel, and others who need to perform essential services are exempt from the Updated Order.\(^2\) This includes the Department of Public Safety, the Palo Alto Fire Department and Stanford Emergency Medical Services.

- **Healthcare.** Employees who support healthcare operations may travel to Stanford to perform these duties on site. This includes those working at Vaden, the hospitals and clinics, pharmacies, and those providing services to animals. It also includes the operators who handle emergency healthcare calls.

- **Educational Operations.** This includes the University’s operations that (1) facilitate distance learning or (2) perform essential functions. This permits faculty, Teaching Assistants and staff to come to campus as needed to engage in all activity necessary to facilitate remote teaching and learning, such as preparing materials and using video facilities to record or broadcast lectures. In addition, people may come to campus to perform other “essential functions” of the University. For example, VPSA personnel and others in student-facing roles may come to campus to provide services for the thousands of students residing on campus.

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\(^1\) See Section 13(k) of the Updated Order -- "Social Distancing Requirements" includes maintaining at least six-foot social distancing from other individuals who are not part of the same household or living unit, washing hands with soap and water for at least twenty seconds as frequently as possible or using hand sanitizer, covering coughs or sneezes (into the sleeve or elbow, not hands), regularly cleaning high-touch surfaces, not shaking hands, and avoiding all social interaction outside the household when sick with a fever or cough.

\(^2\) Section 13(d) of the Order.
• **Food Services.** Workers may come to campus to prepare and provide food, however, food cannot be eaten on the site where it is provided or in other gathering areas. This allows the Dining Enterprises and other food service providers to continue on campus under these restrictions.

• **Residences.** People may come on campus who provide needed services for residences, including student residences, the Faculty Club rooms, and the SLAC guest house.

• **Essential Services Providers.** Those who provide services that are necessary to maintain the safety, sanitation, and essential operation of residences and the areas where work is allowed to continue, including LBRE personnel, cleaners, and utilities workers may continue to work on campus. As described in more detail below, a notable update in the Updated Order expressly prohibits services related to non-essential purposes such as cosmetic repairs.

• **Transportation Operations** necessary for the allowed business of the university and related facilities may continue, including the Marguerite shuttle service.

• **Professional services,** such as legal and accounting services that are needed to assist in compliance with non-elective, legally required activities. Examples would be the Legal Office, the University Tax Compliance office, the Office of the Chief Risk Officer operations and research compliance functions.

• **Other Key Services** includes operations related to essential infrastructure support such as maintenance workers, waste removal, grocery stores, the post office, and those services that provide the support or supplies necessary to operate. This includes certain IT services and maintenance of internet and telecommunications. This can also include EH&S, Emergency Operations personnel and committee members, and supervisors who need to be present to oversee the permitted activities. A notable change in the Updated Order relates to construction of housing, which is discussed in more detail below.

• **Minimum Basic Operations** includes the minimum necessary activities to maintain the value of the University’s inventory (such as research materials and facilities) and to ensure security, process payroll and employee benefits, and the minimum necessary activities to facilitate employees of the business being able to continue to work remotely from their residences. This provides the opportunity for security and certain Business, HR and IT functions to continue to be performed on site when necessary.

• **Research.** Research is an essential function of the University so research can be preserved or, in some cases, continue, especially certain medical research. For people who work in laboratories on campus, the Dean of Research has sent out two memoranda on who can be coming to the laboratories in support of research. That guidance can be found at two memoranda on who can be coming to the laboratories in support of research. That guidance can be found at https://healthalerts.stanford.edu/2020/03/17/updated-guidance-for-researchers-in-laboratories/. For clinical research please refer to https://stanfordmedicine.app.box.com/s/llloxoji3atl3bbe9s6n7h4s0yrmt8sb.

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3 Section 13(g) of the Updated Order.
Notwithstanding the foregoing, in certain respects the Updated Order is more restrictive than the Prior Order. These key distinctions are outlined below.

- **Social Distancing Protocol.** By 11:59 p.m. on April 2, 2020, all Essential Businesses must prepare, implement and post a “Social Distancing Protocol” at each of their facilities frequented by the public or employees. The Social Distancing Protocol must be substantially in the form mandated by Santa Clara County in Appendix A of the Updated Order which can be found at https://www.sccgov.org/sites/phd/DiseaseInformation/novel-coronavirus/Documents/Appendix-A-Social-Distancing-Protocol.pdf, and must be posted at or near the entrance of the relevant facility and easily viewable by the public and employees. A copy of the Social Distancing Protocol must also be provided to each employee performing work at the facility. The University is working on finalizing its Social Distancing Protocol and will make it available in advance of this deadline. This requires, among other things, the provision of sanitizers, disinfectants or hand washing facilities for those in the buildings.

- **Social Distancing Requirements.** The Updated Order expressly provides that all individuals must strictly comply with Social Distancing Requirements, except to the limited extent necessary to provide care (including childcare, adult or senior care, care to individuals with special needs, and patient care) or as otherwise necessary to carry out the work of Essential Businesses.  

- **Construction.** The allowable construction is more limited than under the Prior Order. The type of construction that could be allowable for Stanford includes:
  a. Projects associated with Healthcare Operations, including creating or expanding Healthcare Operations, provided that such construction is directly related to the COVID-19 response;
  b. Affordable housing that is or will be income-restricted, including multi-unit or mixed-use developments containing at least 10% income-restricted units;
  c. Construction necessary to ensure that existing construction sites that must be shut down under the Updated Order are left in a safe and secure manner, but only to the extent necessary to do so; and
  d. Construction or repair necessary to ensure that residences and buildings containing Essential Businesses are safe, sanitary, or habitable to the extent such construction or repair cannot reasonably be delayed.

- **Recreational Activities.** The Updated Order provides that residents can engage in certain outdoor recreation, including walking, hiking, bicycling, and running, in

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4 See Section 13(k) of the Updated Order -- "Social Distancing Requirements" includes maintaining at least six-foot social distancing from other individuals who are not part of the same household or living unit, washing hands with soap and water for at least twenty seconds as frequently as possible or using hand sanitizer, covering coughs or sneezes (into the sleeve or elbow, not hands), regularly cleaning high-touch surfaces, not shaking hands, and avoiding all social interaction outside the household when sick with a fever or cough.
compliance with Social Distancing Requirements and with the following limitations:

a. Outdoor recreation in parks and open spaces (including the Dish) must comply with restrictions by government and other entities that manage the area to reduce crowding and risk of transmission of COVID-19. This may include restricting the number of entrants, closing the area to vehicular access and parking, or closure to all public access;

b. Use of recreational areas with high-touch equipment or that encourage gathering, including playgrounds, outdoor gym equipment, picnic areas, dog parks, and barbecue areas, is prohibited outside of residences, and all such areas shall be closed to public access including by signage and, as appropriate, by physical barriers;

c. Use of shared facilities for recreational activities including, golf courses, tennis and volleyball courts, climbing walls, pools, gyms, and basketball courts is prohibited and those areas must be closed for recreational purposes, including by signage and, as appropriate, by physical barriers; and

d. The use of shared equipment may only be engaged in by members of the same household or living unit. We interpret this to mean people living in the same room or suite and not the members of a row house or dormitory.

- Moving Residences. Moving residences is permitted only if it is not possible to defer an already planned move or if the move is necessitated by safety, sanitation, or habitability reasons (and if the move is permitted, moving services that facilitate the move are also allowed). When moving into or out of the Bay Area region, the Updated Order provides that individuals are strongly urged to quarantine for 14 days.

- Essential Services Providers Update. Plumbers, electricians, exterminators, and other service providers who provide services that are necessary to maintaining the habitability, sanitation, and operation of residences and Essential Businesses are still permitted, but the Updated Order expressly provides that such services cannot relate to cosmetic or other purposes.

- Landscapers. Landscapers, gardeners, and similar service professionals are permitted to continue working only to the limited extent necessary to maintain the habitability, sanitation, and operation of businesses or residences, or the safety of residents, employees, or the public (such as fire safety or tree trimming to prevent a dangerous condition), and not for cosmetic or other purposes such as upkeep.

- Residential Transaction Service Providers. A narrow carve-out has been added to permit work by service providers that enable residential transactions (including rentals and home sales), but residential viewings must generally be done virtually and other restrictive rules apply.

As with the Prior Order, in all cases, if the work can be done from the residence of a faculty member, employee or student, that should be the method used. The Updated

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5 The San Mateo County order restricts travel for recreation to no more than 5 miles from your residence.
Order makes this point even more clear by providing that Essential Businesses must maximize the number of employees who work from home, excepting only those employees who cannot perform their job duties from home.

**Further Questions**

If employees need to come to work as allowed under the Updated Order and these guidelines and they would like a letter from their manager about the need for them to do so, your school/unit HR can provide the template for such a letter.

Please reach out to the Office of the General Counsel (OGCAdvice@stanford.edu) or Human Resources (vphumanresources@stanford.edu) if you have any questions about how the Updated Order applies to your specific situation.

Stay well!