

UNIVERSITY OF CALIFORNIA PROCEDURES FOR RESPONDING TO REPORTS OF SEXUAL HARASSMENT

The campuses, DOE Laboratories, Medical Centers, the Office of the President, including Agriculture and Natural Resources, and all auxiliary University locations (the *locations*) shall implement the following procedures for responding to reports of sexual harassment.

The primary purpose of the procedures is to require the locations (1) to offer sexual harassment training and education to all members of the University community and to provide, consistent with California Government Code 12950.1, sexual harassment training and education to each supervisory employee; (2) to provide all members of the University community with a process for reporting sexual harassment in accordance with the policy; and (3) to provide for prompt and effective response to reports of sexual harassment in accordance with the policy.

These procedures also cover reports of retaliation related to reports of sexual harassment. Any exceptions to these procedures must be approved by the Senior Vice President, Business and Finance.

A. Local Sexual Harassment Resources

1. Title IX Compliance Coordinator (Sexual Harassment Officer)

Each location shall designate a Title IX Compliance Coordinator (Sexual Harassment Officer) whose responsibilities include, but may not be limited to, the duties listed below.

- a. Plan and manage the local sexual harassment education and training programs. The programs should include wide dissemination of this policy to the University community; providing educational materials to promote compliance with the policy and familiarity with local reporting procedures; and training University employees responsible for reporting or responding to reports of sexual harassment.
- b. Develop and implement local procedures to provide for prompt and effective response to reports of sexual harassment in accordance with this policy, and submit the local procedures to the Associate Vice President, Human Resources and Benefits for review and approval.
- c. Maintain records of reports of sexual harassment at the location and actions taken in response to reports, including records of investigations, voluntary resolutions, and disciplinary action, as appropriate.
- d. Prepare and submit an annual report to the Office of the President, for submission to The Regents, on sexual harassment complaint activity during the preceding calendar year in a format specified by the Associate Vice President, Human Resources and Benefits.

2. *Trained Sexual Harassment Advisors*

Local procedures may designate trained individuals other than the Title IX Compliance Coordinator (Sexual Harassment Officer) to serve as additional resources for members of the University community who have questions or concerns regarding behavior that may be sexual harassment.

The names and contact information for the Title IX Compliance Coordinator (Sexual Harassment Officer) and any designated trained sexual harassment advisors shall be posted with the University's *Policy on Sexual Harassment* on the location's website and be readily accessible to the University community.

B. Procedures for Reporting and Responding to Reports of Sexual Harassment

1. *Making Reports of Sexual Harassment*

All members of the University community are encouraged to contact the Title IX Compliance Coordinator (Sexual Harassment Officer) if they observe or encounter conduct that may be subject to the University's *Policy on Sexual Harassment*. Reports of sexual harassment may be brought to the Title IX Compliance Coordinator (Sexual Harassment Officer), to a human resources coordinator, or to any manager, supervisor, or other designated employee responsible for responding to reports of sexual harassment. If the person to whom harassment normally would be reported is the individual accused of harassment, reports may be made to another manager, supervisor, human resources coordinator, or designated employee. Managers, supervisors, and designated employees shall be required to notify the Title IX Compliance Coordinator (Sexual Harassment Officer) or other appropriate official designated to review and investigate sexual harassment complaints when a report is received.

Reports of sexual harassment shall be brought as soon as possible after the alleged conduct occurs, optimally within one year. Prompt reporting will enable the University to investigate the facts, determine the issues, and provide an appropriate remedy or disciplinary action. For reports of sexual harassment brought after one year, locations shall respond to reports of sexual harassment to the greatest extent possible, taking into account the amount of time that has passed since the alleged conduct occurred.

2. *Options for Resolution*

Individuals making reports of sexual harassment shall be informed about options for resolving potential violations of the *Policy on Sexual Harassment*. These options shall include procedures for Early Resolution, procedures for Formal Investigation, and filing complaints or grievances under applicable University complaint resolution or grievance procedures. Individuals making reports also shall be informed about policies applying to confidentiality of reports under this policy (see F. below). Locations shall respond to the greatest extent possible to reports of sexual harassment brought anonymously or brought by third parties not directly involved in the harassment. However, the response to such reports may be limited if information contained in the report cannot be verified by independent facts.

Individuals bringing reports of sexual harassment shall be informed about the range of possible outcomes of the report, including interim protections, remedies for the individual harmed by the harassment, and disciplinary actions that might be taken against the accused as a result of the report, including information about the procedures leading to such outcomes.

An individual who is subjected to retaliation (e.g., threats, intimidation, reprisals, or adverse employment or educational actions) for having made a report of sexual harassment in good faith, who assisted someone with a report of sexual harassment, or who participated in any manner in an investigation or resolution of a report of sexual harassment, may make a report of retaliation under these procedures. The report of retaliation shall be treated as a report of sexual harassment and will be subject to the same procedures.

3. *Procedures for Early Resolution*

The goal of Early Resolution is to resolve concerns at the earliest stage possible, with the cooperation of all parties involved. Locations are encouraged to utilize Early Resolution options when the parties desire to resolve the situation cooperatively and/or when a Formal Investigation is not likely to lead to a satisfactory outcome. Early Resolution may include an inquiry into the facts, but typically does not include a formal investigation. Means for Early Resolution shall be flexible and encompass a full range of possible appropriate outcomes. Early Resolution includes options such as mediating an agreement between the parties, separating the parties, referring the parties to counseling programs, negotiating an agreement for disciplinary action, conducting targeted educational and training programs, or providing remedies for the individual harmed by the harassment. Early Resolution also includes options such as discussions with the parties, making recommendations for resolution, and conducting a follow-up review after a period of time to assure that the resolution has been implemented effectively. Early Resolution may be appropriate for responding to anonymous reports and/or third party reports. Steps taken to encourage Early Resolution and agreements reached through early resolution efforts should be documented.

While the University encourages early resolution of a complaint, the University does not require that parties participate in Early Resolution prior to the University's decision to initiate a formal investigation. Some reports of sexual harassment may not be appropriate for early resolution, but may require a formal investigation at the discretion of the Title IX Compliance Coordinator (Sexual Harassment Officer) or other appropriate official designated to review and investigate sexual harassment complaints.

4. *Procedures for Formal Investigation*

In response to reports of sexual harassment in cases where Early Resolution is inappropriate (such as when the facts are in dispute in reports of serious misconduct, or when reports involve individuals with a pattern of inappropriate behavior or allege criminal acts such as stalking, sexual assault or physical assault) or in cases where Early Resolution is unsuccessful, the location may conduct a Formal Investigation. In such cases, the individual making the report shall be encouraged to file a written request for Formal Investigation. The wishes of the individual making the request shall be considered, but are not determinative, in the decision to initiate a Formal Investigation of a report of sexual harassment. In cases where there is no written request, the Title IX Compliance Coordinator (Sexual Harassment Officer) or other

appropriate official designated to review and investigate sexual harassment complaints, in consultation with the administration, may initiate a Formal Investigation after making a preliminary inquiry into the facts.

Formal Investigation of reports of sexual harassment shall incorporate the following standards:

- a. The individual(s) accused of conduct violating the Policy on Sexual Harassment shall be provided a copy of the written request for Formal Investigation or otherwise given a full and complete written statement of the allegations, and a copy of the Policy on Sexual Harassment and Procedures for Responding to Reports of Sexual Harassment.
- b. The individual(s) conducting the investigation shall be familiar with the Policy on Sexual Harassment and have training or experience in conducting investigations.
- c. The investigation generally shall include interviews with the parties if available, interviews with other witnesses as needed, and a review of relevant documents as appropriate. Disclosure of facts to parties and witnesses shall be limited to what is reasonably necessary to conduct a fair and thorough investigation. Participants in an investigation shall be advised that maintaining confidentiality is essential to protect the integrity of the investigation.
- d. Upon request, the complainant and the accused may each have a representative present when he or she is interviewed. Other witnesses may have a representative present at the discretion of the investigator or as required by applicable University policy or collective bargaining agreement.
- e. At any time during the investigation, the investigator may recommend that interim protections or remedies for the complainant or witnesses be provided by appropriate University officials. These protections or remedies may include separating the parties, placing limitations on contact between the parties, or making alternative working or student housing arrangements. Failure to comply with the terms of interim protections may be considered a separate violation of the Policy on Sexual Harassment.
- f. The investigation shall be completed as promptly as possible and in most cases within 60 working days of the date the request for formal investigation was filed. This deadline may be extended on approval by a designated University official.
- g. Generally, an investigation should result in a written report that at a minimum includes a statement of the allegations and issues, the positions of the parties, a summary of the evidence, findings of fact, and a determination by the investigator as to whether University policy has been violated. The report also may contain a recommendation for actions to resolve the complaint, including educational programs, remedies for the complainant, and a referral to disciplinary procedures as appropriate. The report shall be submitted to a designated University official with authority to implement the actions necessary to resolve the complaint. The report may be used as evidence in other related procedures, such as subsequent complaints, grievances and/or disciplinary actions.
- h. The complainant and the accused shall be informed promptly in writing when the investigation is completed. The complainant shall be informed if there were findings made that the policy was or was not violated and of actions taken to resolve the

complaint, if any, that are directly related to the complainant, such as an order that the accused not contact the complainant. In accordance with University policies protecting individuals' privacy, the complainant may generally be notified that the matter has been referred for disciplinary action, but shall not be informed of the details of the recommended disciplinary action without the consent of the accused.

- i. The complainant and the accused may request a copy of the investigative report pursuant to University policy governing privacy and access to personal information.¹ However, the report shall be redacted to protect the privacy of personal and confidential information regarding all individuals other than the individual requesting the report in accordance with University policy.

C. Complaints or Grievances Involving Allegations of Sexual Harassment

An individual who believes he or she has been subjected to sexual harassment may file a complaint or grievance pursuant to the applicable complaint resolution or grievance procedure listed in *Appendix I: University Complaint Resolution and Grievance Procedures*. Such complaint or grievance may be filed either instead of or in addition to making a report of sexual harassment to the Title IX Compliance Coordinator (Sexual Harassment Officer) or other appropriate official designated to review and investigate sexual harassment complaints under this policy. A complaint or grievance alleging sexual harassment must meet all the requirements under the applicable complaint resolution or grievance procedure, including time limits for filing.

If a complaint or grievance alleging sexual harassment is filed in addition to a report made to the Title IX Compliance Coordinator (Sexual Harassment Officer) or other appropriate official designated to review and investigate sexual harassment complaints under this policy, the complaint or grievance shall be held in abeyance subject to the requirements of any applicable complaint resolution or grievance procedure, pending the outcome of the Early Resolution or Formal Investigation procedures. If the individual wishes to proceed with the complaint or grievance, the Early Resolution or Formal Investigation shall constitute the first step or steps of the applicable complaint resolution or grievance procedure.

An individual who has made a report of sexual harassment also may file a complaint or grievance alleging that the actions taken in response to the report of sexual harassment did not follow University policy. Such a complaint or grievance may not be filed to address a disciplinary sanction imposed upon the accused. Any complaint or grievance regarding the resolution of a report of sexual harassment under this procedure must be filed in a timely manner. The time period for filing begins on the date the individual was notified of the outcome of the sexual harassment investigation or other resolution process pursuant to this policy, and/or of the actions taken by the administration in response to the report of sexual harassment, whichever is later.

¹ UC Business and Finance Bulletin RMP-8, Legal Requirements on Privacy of and Access to Information.

D. Remedies and Referral to Disciplinary Procedures

Findings of violations of the *Policy on Sexual Harassment* may be considered in determining remedies for individuals harmed by the sexual harassment and shall be referred to applicable local disciplinary procedures (Appendix II). Procedures under this policy shall be coordinated with applicable local complaint resolution, grievance, and disciplinary procedures to avoid duplication in the factfinding process whenever possible. Violations of the policy may include engaging in sexual harassment, retaliating against a complainant reporting sexual harassment, violating interim protections, and filing intentionally false charges of sexual harassment. Investigative reports made pursuant to this policy may be used as evidence in subsequent complaint resolution, grievance, and disciplinary proceedings as permitted by the applicable procedures.

E. Privacy

The University shall protect the privacy of individuals involved in a report of sexual harassment to the extent required by law and University policy. A report of sexual harassment may result in the gathering of extremely sensitive information about individuals in the University community. While such information is considered confidential, University policy regarding access to public records and disclosure of personal information may require disclosure of certain information concerning a report of sexual harassment. In such cases, every effort shall be made to redact the records in order to protect the privacy of individuals. An individual who has made a report of sexual harassment may be advised of sanctions imposed against the accused when the individual needs to be aware of the sanction in order for it to be fully effective (such as restrictions on communication or contact with the individual who made the report). However, information regarding disciplinary action taken against the accused shall not be disclosed without the accused's consent, unless it is necessary to ensure compliance with the action or the safety of individuals.

F. Confidentiality of Reports of Sexual Harassment

Each location shall identify confidential resources with whom members of the University community can consult for advice and information regarding making a report of sexual harassment. These resources provide individuals who may be interested in bringing a report of sexual harassment with a safe place to discuss their concerns and learn about the procedures and potential outcomes involved. These resources shall be posted on the location's website and prominently displayed in common areas. Confidential resources include campus ombudspersons and/or licensed counselors in employee assistance programs or student health services. Individuals who consult with confidential resources shall be advised that their discussions in these settings are not considered reports of sexual harassment and that without additional action by the individual, the discussions will not result in any action by the University to resolve their concerns.

The locations shall notify the University community that certain University employees, such as the Title IX Compliance Coordinator (Sexual Harassment Officer), managers, supervisors, and other designated employees have an obligation to respond to reports of sexual harassment, even if the individual making the report requests that no action be taken. An individual's requests regarding the confidentiality of reports of sexual harassment will be considered in determining

an appropriate response; however, such requests will be considered in the dual contexts of the University's legal obligation to ensure a working and learning environment free from sexual harassment and the due process rights of the accused to be informed of the allegations and their source. Some level of disclosure may be necessary to ensure a complete and fair investigation, although the University will comply with requests for confidentiality to the extent possible.

G. Retention of Records Regarding Reports of Sexual Harassment

The office of the Title IX Compliance Coordinator (Sexual Harassment Officer) is responsible for maintaining records relating to sexual harassment reports, investigations, and resolutions. Records shall be maintained in accordance with University records policies, generally five years after the date the complaint is resolved. Records may be maintained longer at the discretion of the Title IX Compliance Coordinator (Sexual Harassment Officer) in cases where the parties have a continuing affiliation with the University. All records pertaining to pending litigation or a request for records shall be maintained in accordance with instructions from legal counsel.

APPENDIX I: University Complaint Resolution and Grievance Procedures

Applicable complaint resolution and grievance procedures for members of the University community:

Academic Personnel:

Members of the Academic Senate	Senate Bylaw 335
Non-Senate Academic Appointees	APM - 140
Exclusively Represented Academic Appointees	Applicable collective bargaining agreement

Students:

Policies Applying to Campus Activities, Organizations and Students, Section 110.00

Staff Personnel:

Senior Managers	PPSM II-70
Managers and Senior Professionals, Salary Grades VIII and IX	PPSM 71
Managers and Senior Professionals, Salary Grades I – VII; and Professional and Support Staff	PPSM 70
Exclusively Represented Staff Personnel	Applicable collective bargaining agreement
DOE Laboratory Employees	Applicable Laboratory policy

All:

The *University of California Policy on Reporting and Investigating Allegations of Suspected Improper Governmental Activities (Whistleblower Policy)* and the *University of California Policy for Protection of Whistleblowers from Retaliation and Guidelines for Reviewing Retaliation Complaints (Whistleblower Protection Policy)*, which govern the reporting and investigation of violations of state or federal laws or regulations and University policy, including sexual harassment.

APPENDIX II: University Disciplinary Procedures

Applicable disciplinary action procedures if a report of sexual harassment results in a recommendation for disciplinary action:

- A. The *Faculty Code of Conduct* (APM - 015) as approved by the Assembly of the Academic Senate and by The Regents outlines ethical and professional standards which University faculty are expected to observe. It also identifies various forms of unacceptable behavior which are applicable in cases of sexual harassment. Because the forms of unacceptable behavior listed in the *Faculty Code of Conduct* are interpreted to apply to sexual harassment, a violation of the University's *Policy on Sexual Harassment* constitutes a violation of the *Faculty Code of Conduct*. The *University Policy on Faculty Conduct and the Administration of Discipline* (APM - 016), as approved by the Assembly of the Academic Senate and by The Regents, outlines sanctions and disciplinary procedures for faculty.
- B. Provisions of the policy on *Non-Senate Academic Appointees/Corrective Action and Dismissal* (APM - 150) (applicable to non-exclusively represented academic appointees) and collective bargaining agreements (applicable to exclusively represented academic appointees) provide for corrective action or dismissal for conduct which violates University policy.
- C. The *Policies Applying to Campus Activities, Organizations, and Students* sets forth in Section 100.00 the types of student misconduct that are subject to discipline and the types of disciplinary actions that may be imposed for violation of University policies or campus regulations.
- D. Provisions of the *Personnel Policies for Staff Members*, and the DOE Laboratories personnel policies (applicable to non-exclusively represented staff employees), and collective bargaining agreements (applicable to exclusively represented staff employees) prohibit conduct which violates University policy with respect to sexual harassment and provide for disciplinary action for violation of University policy.