



Sexual Harassment and Sexual Violence

Academic Officer:	Vice Provost – Academic Personnel
Academic Office:	AP – Academic Personnel
Student Officer:	VP – Student Affairs
Student Office:	SA – Student Affairs
Staff Officer:	VP – Human Resources
Staff Office:	HR – Human Resources
Issuance Date:	
Effective Date:	
Scope:	This policy applies to all University employees and students

	Academic	Student	Staff
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I. POLICY SUMMARY

The University of California is committed to creating and maintaining a community where all persons who participate in University programs and activities can work and learn together in an atmosphere free of all forms of harassment, exploitation, or intimidation. Every member of the University community should be aware that the University prohibits sexual harassment and sexual violence, and that such behavior violates both law and University policy. The University will respond promptly and effectively to reports of sexual harassment and sexual violence, and will take appropriate action to prevent, to correct, and when necessary, to discipline behavior that violates this policy on Sexual Harassment and Sexual Violence (hereafter referred to as *Policy*).

This *Policy* applies to the University of California campuses, the Lawrence Berkeley National Laboratory, the Medical Centers, and the Office of the President , and all auxiliary University locations.

II. DEFINITIONS

Consent as referenced in this *Policy* means:

1. Consent is *informed*. Consent consists of an affirmative, conscious decision by each participant to engage in mutually agreed-upon sexual activity. Consent to some form of sexual activity does not imply consent to other forms of sexual activity.
2. Consent is *voluntary*. It is given without coercion, force, threats, or intimidation; - it is a positive cooperation in the act or expression of intent to engage in the act pursuant to an exercise of free will.
3. Consent is given when the person is *not impaired or incapacitated*. A person cannot consent if s/he is unconscious or coming in and out of consciousness. A person cannot consent if s/he is under the threat of violence, bodily injury or other forms of coercion, or has a mental disorder, developmental disability, or physical disability that would impair his/her understanding of the act.
 - (a) Incapacitation is the physical and/or mental inability to make informed, rational judgments. States of incapacitation include, but are not limited to, unconsciousness, sleep and blackouts.
 - (b) Where alcohol or drugs are involved, incapacitation is distinct from drunkenness or intoxication, and is defined with respect to how the alcohol or other drugs consumed impacts a person's decision-making capacity, awareness of consequences, and ability to make fully informed judgments.

The factors to be considered include whether the accused knew, or a reasonable person in the position of the accused should have known, that the complainant was impaired or incapacitated.

Executive Officer: The University President, Chancellor, Lawrence Berkeley National Laboratory Director, or Vice President of Agricultural and Natural Resources.

Sexual Harassment is unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature, when submission to or rejection of this conduct explicitly or implicitly affects a person's employment or education, unreasonably interferes with a person's work or educational performance, or creates an intimidating, hostile or offensive working or learning environment. Sexual harassment includes sexual violence. In the interest of preventing sexual harassment and sexual violence, the University will respond to reports of any such conduct.

Sexual harassment may include incidents between any members of the University community, including faculty and other academic appointees, staff, coaches, residents and interns, students, student employees (when acting within the course and scope of employment), and non-student or non-employee participants in University programs, such as vendors, contractors, visitors, and patients. Sexual harassment may occur in hierarchical relationships or between peers, or between persons of the same sex or opposite sex. In determining whether the reported conduct constitutes sexual harassment, consideration shall be given to the record of the conduct as a whole and to the totality of the circumstances, including the context in which the conduct occurred.

Consistent with the University of California Policies Applying to Campus Activities, Organizations, and Students, Policy 100.00 on Student Conduct and Discipline, Section 102.09, harassment of one student by another is defined as unwelcome conduct of a sexual nature that is so severe and/or pervasive, and objectively offensive, and that so substantially impairs a person's access to University programs or activities that the person is effectively denied equal access to the University's resources and opportunities.

Sexual Violence is defined as physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent. This includes: sexual assault, rape, battery, and sexual coercion; domestic violence; dating violence; and stalking.

1. **Domestic Violence** is defined as abuse committed against an adult or a minor who is a spouse or former spouse, cohabitant or former cohabitant, or someone with whom the abuser has had a child or is having or has had a dating or engagement relationship.
2. **Dating Violence** is defined as abuse committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.
3. **Sexual Assault** occurs when physical sexual activity is intentionally engaged in without the consent of the other person. The conduct may include physical force, violence, threat, or intimidation; ignoring the objections of the other person; causing the other person's intoxication or impairment through the use of drugs or alcohol; taking advantage of the other person's incapacitation (including voluntary intoxication), state of intimidation, or other inability to consent.
4. **Stalking** is behavior in which a person repeatedly engages in a course of conduct directed at another specific person, that places that person in reasonable fear of his or her safety or the safety of a third person or persons.

III. POLICY TEXT

A. General

The University of California is committed to creating and maintaining a community where all persons who participate in University programs and activities can work and learn together in an atmosphere free of all forms of harassment, exploitation, or intimidation. Every member of the University community should be aware that the University prohibits sexual harassment and sexual violence, and that such behavior violates both law and University policy. The University will respond promptly and effectively to reports of sexual harassment and sexual violence and will take appropriate action to prevent, to correct, and when necessary, to discipline behavior that violates this *Policy*.

This *Policy* applies to the University of California campuses, the Lawrence Berkeley National Laboratory, the Medical Centers, and the Office of the President, including Agriculture and Natural Resources, and all auxiliary University locations.

B. Prohibited Acts

This *Policy* prohibits sexual harassment and sexual violence as defined in Section II of this *Policy*.

C. Consensual Relationships

This *Policy* covers unwelcome conduct of a sexual nature. Consensual romantic relationships between members of the University community are subject to other University policies. For example, policies governing faculty-student relationships are detailed in The Faculty Code of Conduct.¹ While romantic relationships between members of the University community may begin as consensual, they may evolve into situations that lead to charges of sexual harassment or sexual violence, subject to this *Policy*.

D. Gender Identity, Gender Expression, or Sexual Orientation Discrimination

Harassment that is not sexual in nature but is based on gender, gender identity, gender expression, sex-stereotyping, or sexual orientation also is prohibited by the University's nondiscrimination policies² if it denies or limits a person's ability to participate in or benefit from University educational programs, employment, or services. While discrimination based on these factors may be distinguished from sexual harassment, these types of discrimination may contribute to the creation of a hostile work or academic environment. Thus, in determining whether a hostile environment due to sexual harassment exists, the University may take into account acts of discrimination

¹ The Faculty Code of Conduct may be found in the [Academic Personnel Manual \(APM\) Section 015](#).

² [University of California Nondiscrimination and Affirmative Action Policy Regarding Academic and Staff Employment](#); [Nondiscrimination and Affirmative Action Policy Statement for University of California Publications Regarding Employment Practices](#); [Academic Personnel Manual \(APM\) Section 035, Affirmative Action and Nondiscrimination in Employment](#); [Personnel Policies for Staff Members 12, Nondiscrimination in Employment](#); [University of California Policies Applying to Campus Activities, Organizations, and Students](#); and [Nondiscrimination Policy Statement for University of California Publications Regarding Student-Related Matters](#).

based on gender, gender identity, gender expression, sex-stereotyping, or sexual orientation.

E. Retaliation

This *Policy* also prohibits retaliation against a person who reports sexual harassment or sexual violence, assists someone with a report of sexual harassment or sexual violence, or participates in any manner in an investigation or resolution of a sexual harassment or sexual violence report. Retaliation includes threats, intimidation, reprisals, and/or adverse actions related to employment or education.

F. Dissemination of the Policy, Educational Programs, and Employee Training

As part of the University's commitment to providing a working and learning environment protected from sexual harassment and sexual violence, this *Policy* shall be disseminated widely to the University community through publications, websites, new employee orientations, student orientations, and other appropriate channels of communication. The locations shall make educational materials available to all members of the University community to promote compliance with this *Policy* and familiarity with local reporting procedures. In addition, the locations shall designate University employees responsible for reporting sexual harassment and sexual violence and provide training to those designated employees. Generally, such persons include supervisors, managers, academic administrators, deans, department chairs, student advisors, graduate advisors, residence hall staff, coaches, law enforcement officers, student judicial affairs staff, counselors, and health center staff. Each location shall post a copy of this *Policy* in a prominent place on its website. (See Section V. Procedures)

G. Reporting of Sexual Harassment or Sexual Violence

Any member of the University community may report conduct that may constitute sexual harassment or sexual violence under this *Policy* to any supervisor, manager, or Title IX Officer. In addition, supervisors, managers, and other designated employees are responsible for taking whatever action is necessary to prevent and address sexual harassment or sexual violence and to report it promptly to the Title IX Compliance Coordinator (Sexual Harassment Officer) or other appropriate official designated to review and investigate sexual harassment and sexual violence complaints. An individual also may file a complaint or grievance alleging sexual harassment or sexual violence under the applicable University complaint resolution or grievance procedure (*Section V. Procedures; Appendix I: University Complaint Resolution and Grievance Procedures*)

Complainants should be advised of reporting procedures, including written information about:

1. to whom the alleged offense should be reported;
2. options regarding reporting to law enforcement (both on-campus and local police), and to be assisted by campus authorities in notifying law enforcement authorities if the complainant so chooses, or to decline to notify law enforcement authorities;
3. their rights and the University's responsibilities regarding orders of protection, no contact orders, restraining orders, or similar lawful orders issued by criminal or civil courts; and
4. the importance of preserving evidence as may be necessary to the proof of criminal domestic violence, dating violence, sexual assault, or stalking, or in obtaining a protection order;

Locations shall identify and publish in their campus implementing procedures of this *Policy*, on- and off-campus resources for reporting sexual harassment or sexual violence, including law enforcement, medical, and victim support services (Section V. Procedures).

H. Response to Reports of Sexual Harassment or Sexual Violence

The locations shall provide a prompt and effective response to reports of sexual harassment or sexual violence in accordance with Section V. Procedures. A prompt and effective response may include Early Resolution, Formal Investigation, and/or targeted training or educational programs.

Upon findings of sexual harassment or sexual violence, the University may offer remedies to the individual or individuals harmed by the harassment and/or violence consistent with applicable complaint resolution and grievance procedures (*Appendix I: University Complaint Resolution and Grievance Procedures*). Such remedies may include counseling, an opportunity to repeat course work without penalty, changes to student housing assignments, or other appropriate interventions. Any member of the University community who is found to have engaged in sexual harassment or sexual violence is subject to disciplinary action up to and including dismissal in accordance with the applicable University disciplinary procedure (*Appendix II: University Disciplinary Procedures*) or other University policy. Generally, disciplinary action will be recommended when the conduct is sufficiently severe, persistent, or pervasive that it alters the conditions of employment or limits the opportunity to participate in or benefit from educational programs. Any manager, supervisor, or designated employee responsible for reporting or responding to sexual harassment or sexual violence who knew about the incident and took no action to stop it or failed to report the prohibited act also may be subject to disciplinary action. Conduct by an employee that is sexual harassment or sexual violence or retaliation in violation of this Policy is considered to be outside the normal course and scope of employment.

J. Intentionally False Reports

Individuals who make reports that are later found to have been intentionally false or made maliciously without regard for truth may be subject to disciplinary action under the applicable University disciplinary procedure (*Appendix II: University Disciplinary Procedures*). This provision does not apply to reports made in good faith, even if the facts alleged in the report cannot be substantiated by an investigation.

K. Free Speech and Academic Freedom

As participants in a public university, the faculty and other academic appointees, staff, and students of the University of California enjoy significant free speech protections guaranteed by the First Amendment of the United States Constitution and Article I, Section I of the California Constitution. This *Policy* is intended to protect members of the University community from discrimination, not to regulate protected speech. This *Policy* shall be implemented in a manner that recognizes the importance of rights to freedom of speech and expression. The University also has a compelling interest in free inquiry and the collective search for knowledge and thus recognizes principles of academic freedom as a special area of protected speech. Consistent with these principles, no provision of this *Policy* shall be interpreted to prohibit conduct that is legitimately related to the course content, teaching methods, scholarship, or public commentary of an individual faculty member or the educational, political, artistic, or literary expression of students in classrooms and public forums. However, freedom of speech and academic freedom are not limitless and do not protect speech or expressive conduct that violates federal or state anti-discrimination laws.

L. Additional Enforcement Information

The federal Equal Employment Opportunity Commission (EEOC) and the California Department of Fair Employment and Housing (DFEH) also investigate complaints of unlawful harassment, including sexual violence, in employment. The U.S. Department of Education Office for Civil Rights (OCR) investigates complaints of unlawful harassment and sexual violence by students in educational programs or activities. These agencies may serve as neutral fact finders and attempt to facilitate the voluntary resolution of disputes with the parties. For more information, contact the nearest office of the EEOC, DFEH or OCR listed in the telephone directory.

IV. COMPLIANCE / RESPONSIBILITIES

A. Implementation of the Policy

The Vice Provost – Academic Personnel, the Vice President – Student Affairs, and the Vice President – Human Resources are the Responsible Officers for this policy and have the authority to implement the policy and to develop procedures or other supplementary information to support the implementation of this policy. Responsible Officers may apply appropriate and consistent interpretations to clarify the policy provided that the interpretations do not result in substantive changes to the underlying policy.

The Executive Officer at each location is authorized to establish and is responsible for local procedures necessary to implement the policy.

B. Revisions to the Policy

The President is the Policy Approver and has the authority to approve policy revisions upon recommendation by the Responsible Officers

The Responsible Officers have the authority to initiate revisions to the policy, consistent with approval authorities and applicable Bylaws and Standing Orders of The Regents.

The Executive Vice President – Business Operations has the authority to ensure that policies are regularly reviewed, updated, and consistent with other governance policies.

C. Approval of Actions

Actions within this policy must be approved in accordance with local procedures. Executive Officers and Responsible Officers are authorized to determine responsibilities and authorities at secondary administrative levels in order to establish local procedures necessary to implement this policy.

D. Compliance with the Policy

The following roles are designated at each location to implement compliance monitoring responsibility for this policy:

The Executive Officer at each location will designate the local management office to be responsible for the ongoing reporting of policy compliance.

The Executive Officer is accountable for monitoring and enforcing compliance mechanisms and ensuring that monitoring procedures and reporting capabilities are established. Local procedures must be consistent with this policy.

The Responsible Officers are accountable for reviewing the administration of this policy. The Senior Vice President – Chief Compliance and Audit Officer will periodically audit and monitor compliance to this policy.

E. Noncompliance with the Policy

Noncompliance with the policy is managed in accordance with the Policy on Student Conduct and Discipline, Personnel Policies for Staff Members 61, 62, 63, 64, 65, and 67 pertaining to disciplinary and separation matters, and in accordance with University policies, including but not limited to, [The Faculty Code of Conduct \(APM - 015\)](#) and [University Policy on Faculty Conduct and the Administration of Discipline \(APM - 016\)](#), Non-Senate Academic Appointees/Corrective Action and Dismissal (APM - 150) or, as applicable, collective bargaining agreements. Reference Section VI and Appendices I and II.

V. PROCEDURES

The Executive Officer at each location shall identify and publish in their local implementing procedures of this *Policy* on- and off- University-locations resources for reporting sexual harassment or sexual violence, including law enforcement, medical, and victim support services.

A. Location Responsibilities

The locations shall, in accordance with state and federal law:

1. Offer sexual harassment and sexual violence training and education to all members of the University community and consistent with California Government Code 12950.1, provide sexual harassment training and education to each supervisory employee;
2. Add to existing education programs promoting awareness of rape and acquaintance rape the topics of domestic violence, dating violence, sexual assault, and stalking; Include in education programs specifically for incoming students and new employees the definition of consent, options for bystander intervention, and risk reduction awareness information;
3. Offer annual training on issues related to sexual violence, as defined in this *Policy*, for individuals conducting formal investigations of reports;
4. Provide all members of the University community with a process for reporting sexual harassment or sexual violence in accordance with the *Policy*; and
5. 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 or sexual violence. Any exceptions to these procedures must be approved by the Executive Officer at each location.

B. Local Sexual Harassment and Sexual Violence 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 and sexual violence 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 or sexual violence in accordance with this *Policy*, and submit the local procedures to the applicable Responsible Officer for review and approval.
- (c) Maintain records of reports of sexual harassment and sexual violence at the location and actions taken in response to reports, including records of investigations, voluntary resolutions, and disciplinary action, as appropriate.
- (d) Identify and address any patterns or systemic problems that arise during the review of sexual harassment and sexual violence complaints.
- (e) Prepare and submit an annual report to the Vice President – Human Resources, for submission by the President to the Regents, on sexual harassment and sexual violence complaint activity during the preceding calendar year in a format specified by the Vice President – Human Resources.

2. Trained Sexual Harassment or Sexual Violence 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 or sexual violence.

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

C. Procedures for Reporting and Responding to Reports of Sexual Harassment or Sexual Violence

Reports of sexual harassment or sexual violence should be brought forward as soon as possible after the alleged conduct occurs. While there is no stated timeframe for reporting, prompt reporting will better enable the University to investigate the acts, determine the issues, and provide an appropriate remedy and/or action. All incidents should be reported even if a significant amount of time has passed. However, delay in reporting may impede the University's ability to conduct an investigation and/or effect appropriate remedial actions. The University will respond to reports of sexual harassment or sexual violence to the greatest extent possible, taking into account the amount of time that has passed since the alleged conduct occurred.

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*. This includes conduct by employees, students, or third parties. 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.

1. Making Reports of Sexual Harassment or Sexual Violence

For reports of sexual violence, including domestic violence, dating violence, sexual assault, or stalking, complainants should be advised of procedures to follow, including information in writing about:

- (a) to whom the alleged offense should be reported.
- (b) options regarding law enforcement and campus authorities, including notification of the complainant's option to notify law enforcement authorities, including on-campus and local police; be assisted by campus authorities in notifying law enforcement authorities if the complainant so chooses; or to decline to notify such authorities.
- (c) the rights of complainants and of the University's responsibilities regarding orders of protection, no contact orders, restraining orders, or similar lawful orders issued by criminal or civil courts.
- (d) the importance of preserving evidence as may be necessary to the proof of criminal domestic violence, dating violence, sexual assault, or stalking, or in obtaining a protection order.
- (e) Written notification to students or employees about existing counseling, health, mental health, victim advocacy, legal assistance, and other services available for victims both on-campus and in the community.
- (f) Written notification to victims about options for, and available assistance in, changing academic, living, transportation, and working situations, if requested by the complainant and if reasonably available, regardless of whether the victim chooses to report the crime to campus police or local law enforcement.

If a student or employee reports to the University that the student or employee has been a victim of domestic violence, dating violence, sexual assault, or stalking, whether the offense occurred on- or off-campus or any University location, shall be provided with a written explanation of the student or employee's rights and options.

2. Options for Resolution

Individuals making reports of sexual harassment or sexual violence shall be informed about options for resolving potential violations of the *Policy*. 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 G. below). Locations shall respond to the greatest extent possible to reports of sexual harassment and sexual violence brought anonymously or brought by third parties not directly involved in the asserted offenses. 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 and sexual violence shall be informed about the range of possible outcomes of the report, including interim protections, remedies for the individual harmed by the incident, 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 or sexual violence in good faith, who assisted someone with a report of sexual harassment or sexual violence, or who participated in any manner in an investigation or resolution of a report of sexual harassment or sexual violence, may make a report of retaliation under these procedures. The report of retaliation shall be treated as a report of sexual harassment or sexual violence 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 offense. 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 and sexual violence may not be appropriate for mediation (such as when the facts are in dispute in reports of serious misconduct, or when reports involve sexual violence or individuals with a pattern of inappropriate behavior or allege criminal acts such as stalking, sexual assault or physical assault) 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.

5. Procedures for Formal Investigation

In response to reports of sexual harassment or sexual violence in cases where Early Resolution is inappropriate 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 or sexual violence. 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.

In cases where a complainant states he or she does not want to pursue a Formal Investigation, the Title IX Compliance Coordinator should inform the complainant that the ability to investigate may be limited. In determining whether to go forward with a Formal Investigation, the Title IX Compliance Coordinator may consider: 1) the seriousness of the allegation, 2) in the case of a student complainant, the age of the student, 3) whether there have been other complaints or reports against the accused, and 4) the rights of the accused individual to receive information about the complainant and the allegations if formal proceedings with sanctions may result. Even if a complainant does not want to pursue an investigation, under some circumstances, the Title IX Compliance Coordinator may have an obligation to investigate, such as when there is a risk to the campus community if the accused remains on campus. The complainant should be made aware of this independent obligation to investigate the complaint.

- (a) In order to provide a prompt, fair, and impartial investigation and resolution, any Formal Investigation of reports of sexual harassment and/or sexual violence shall incorporate the following standards:
- i. The individual(s) accused of conduct violating the *Policy* 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*.
 - ii. The individual(s) conducting the investigation shall be familiar with the *Policy* and have training or experience in conducting investigations. For cases involving allegations of sexual violence, the individual(s) conducting the investigation must receive annual training on issues related to sexual violence. Such training includes how to conduct an investigation and hearing process that protects the safety of the complainants and promotes accountability.
- (b) If the alleged conduct is also the subject of a criminal investigation, the campus may not wait for the conclusion of the criminal investigation to begin an investigation pursuant to this *Policy*. However, a campus may need to delay temporarily the fact-finding portion of a sexual harassment investigation while the police are gathering evidence. Once notified that the police department has completed its gathering of evidence (not the ultimate outcome of the investigation or the filing of any criminal charges), the campus must promptly resume and complete its fact-finding for the sexual harassment investigation.
- (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) The investigator shall apply a preponderance of evidence standard in determining whether or not there has been a violation of this University *Policy*.
- (e) Upon request, the complainant and the accused may each have a representative present when he or she is interviewed, and at any subsequent proceeding or related meeting. Other witnesses may have a representative present at the discretion of the investigator or as required by applicable University policy or collective bargaining agreement.
- (f) At any time during the investigation, the investigator may recommend that interim protections or remedies for the parties 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 this *Policy*.

- (g) 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.
- (h) 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 this 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.
- (i) The complainant and the accused will be simultaneously informed in writing of:
 - i. The outcome of any University disciplinary proceeding that arises from an allegation of domestic violence, dating violence, sexual assault or stalking;
 - ii. The University's procedures for appealing the results of the proceeding;
 - iii. Any change to the results that occur prior to the time that such results become final; and
 - iv. When results become final.
- (j) 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.
- (k) The complainant and the accused may request a copy of the investigative report pursuant to University policy governing privacy and access to personal information.³ 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.

³ [UC Business and Finance Bulletin RMP-8, Legal Requirements on Privacy of and Access to Information.](#)

D. Complaints or Grievances Involving Allegations of Sexual Harassment or Sexual Violence

An individual who believes he or she has been subjected to sexual harassment or sexual violence 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 and sexual violence complaints under this *Policy*. A complaint or grievance alleging sexual harassment or sexual violence 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 or sexual violence 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 or sexual violence also may file a complaint or grievance alleging that the actions taken in response to the report of sexual harassment or sexual violence 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 or sexual violence 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 or sexual violence 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 or sexual violence, whichever is later.

1. Once a complaint or grievance is filed, the following *written* notifications must be given to the complainant:
 - (a) Notification about existing counseling, health, mental health, victim advocacy, legal assistance, and other services available for victims both on-campus and in the community.
 - (b) Notification to complainants about options for, and available assistance in, changing academic, living, transportation, and working situations, if requested by the complainant and if reasonably available, regardless of whether the complainant chooses to report the crime to campus police or local law enforcement.

If the report to the University involves allegations of domestic violence, dating violence, sexual assault, or stalking, whether the offense occurred on or off campus or any University location, the complainant shall be provided with a written explanation of rights and options.

E. Remedies and Referral to Disciplinary Procedures

Findings of violations of the *Policy* may be considered in determining remedies for individuals harmed by the sexual harassment or sexual violence 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 fact-finding process whenever possible. Violations of the *Policy* may include engaging in sexual harassment or sexual violence, retaliating against a complainant reporting sexual harassment or sexual violence, violating interim protections, and filing intentionally false charges of sexual harassment or sexual violence. 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.

F. Privacy

The University shall protect the privacy of individuals involved in a report of sexual harassment or sexual violence to the extent permitted by law and University *Policy*. A report of sexual harassment or sexual violence 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 or sexual violence. 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 or sexual violence 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). In addition, when the offense involves a crime of violence or a non-forcible sex offense, the Family Educational Rights and Privacy Act permits disclosure to the complainant the final results of a disciplinary proceeding against the alleged accused, regardless of whether the University concluded that a violation was committed. Information regarding disciplinary action taken against the accused shall not be disclosed without the accused's consent, unless permitted by law as noted above, or unless it is necessary to ensure compliance with the action or the safety of individuals.

G. Confidentiality of Reports of Sexual Harassment and Sexual Violence

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 or sexual violence. These resources provide individuals who may be interested in bringing a report of sexual harassment or sexual violence 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 counseling centers. Individuals who consult with confidential resources shall be advised that their discussions in these settings are not considered reports of sexual harassment or sexual violence 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 or sexual violence, 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 or sexual violence 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 sexual violence 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.

H. Retention of Records Regarding Reports of Sexual Harassment and Sexual Violence

The office of the Title IX Compliance Coordinator (Sexual Harassment Officer) is responsible for maintaining records relating to sexual harassment and sexual violence 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.

VI. RELATED INFORMATION

- [Violence Against Women Reauthorization Act \(VAWA\) of 2013](#)
- [Academic Personnel Manual \(APM\) Section 015](#), The Faculty Code of Conduct (referenced in Section III.D, footnote 1)
- [Academic Personnel Manual \(APM\) Section 016, University Policy on Faculty Conduct and the Administration of Discipline](#) (referenced in Section III.D, footnote 1)
- [Academic Personnel Manual \(APM\) Section 035, Affirmative Action and Nondiscrimination in Employment](#) (referenced in Section III.D, footnote 2)
- Academic Personnel Manual (APM) Section 150, Non-Senate Academic Appointees/Corrective Action and Dismissal
- [Nondiscrimination and Affirmative Action Policy Statement for University of California Publications Regarding Employment Practices](#) (referenced in Section III.D, footnote 2)
- [Nondiscrimination Policy Statement for University of California Publications Regarding Student-Related Matters](#) (referenced in Section III.D, footnote 2)
- [Personnel Policies for Staff Members 12 \(Nondiscrimination in Employment\)](#) (referenced in Section III.D, footnote 2)
- [Policy on Student Conduct and Discipline](#)
- [Student-Related Policy Applying to Nondiscrimination on the Basis of Sex](#)
- [University of California Nondiscrimination and Affirmative Action Policy Regarding Academic and Staff Employment](#) (referenced in Section III.D, footnote 2)
- [UC Business and Finance Bulletin RMP-8, Legal Requirements on Privacy of and Access to Information](#)
- [University of California Policies Applying to Campus Activities, Organizations, and Students](#) (referenced in Section III.D, footnote 2)

[NOTE: links to applicable State and Federal Law, as well as OCR “Dear Colleague” letter will be included]

VII. FREQUENTLY ASKED QUESTIONS

[to be developed]

VIII. REVISION HISTORY

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

Lawrence Berkeley National 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 or sexual violence 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 or sexual violence. Because the forms of unacceptable behavior listed in *The Faculty Code of Conduct* are interpreted to apply to sexual harassment or sexual violence, a violation of the University's *Policy on Sexual Harassment and Sexual Violence* 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 procedures.
- D. Provisions of the [Personnel Policies for Staff Members](#), and the Lawrence Berkeley National Laboratory 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 or sexual violence and provide for disciplinary action for violation of University policy.