

Policy References: UC Sexual Harassment/Violence Policy
UC PPSM 62, Corrective Action - Professional & Support Staff
UC PPSM 64, Termination of Career Employees - Professional & Support Staff
UC PPSM 65, Termination of Career Employees — Managers and Senior Professionals, Salary Grades I through VII
UC PPSM 70, Complaint Resolution

I. Purpose

This procedure provides the primary information and guidance for students, staff, or others about reporting allegations of sexual harassment and sexual violence, and for UCOP's responsibility for responding to such reports. While there are other complaint resolution and grievance procedures through which such complaints may be made, this section takes precedence over any other available procedures

II. Reporting Sexual Harassment and Sexual Violence and Confidential Advice Resources

Individuals reporting sexual harassment or sexual violence are encouraged to report these acts as soon as possible after the alleged conduct occurs; preserve any potential evidence for administrative or criminal investigations, and provide as much information as possible. A lack of corroborating evidence should not discourage individuals from reporting sexual violence and will not affect UCOP's obligation to respond to such reports.

A. Confidential Advice Resources

Individuals can seek confidential advice and information about making a report of sexual harassment or sexual violence by contacting:

- Faculty and Staff Assistance Program: (415) 476-8279

Confidential resources are not considered designated officials as described in II.B., below. Consultation with these resources will not lead to a report of sexual harassment or sexual violence unless additional action is taken by the individual seeking advice.

B. Reporting sexual Harassment or Sexual Violence

1. Individuals who experience or observe behavior that may be sexual harassment and/or sexual violence may report Policy violations to any of the following designated officials:

a. Reporting Sexual Harassment

- i. The Sexual Harassment Officer (SHO)/Title IX Officer
- ii. Human Resource Business Partners
- iii. Employee and Labor Relations
- iv. Any supervisor or manager

b. Reporting Sexual Violence

- i. All of the above; and/or,
- ii. UCB Police Department at (510) 642-3333

A designated official who receives a report alleging sexual harassment or sexual violence is to immediately consult with the SHO/Title IX Officer and has an obligation to respond to reports of sexual harassment and sexual violence, even if the individual making the report requests that no action be taken. Failure to report sexual harassment or sexual violence allegations to the SHO/Title IX Officer may be grounds for disciplinary action.

C. Reporting Sexual Harassment or Sexual Violence: PPSM Complaint Resolution or Grievance Procedures.

1. 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.
2. A complaint or grievance may be filed instead of or in addition to making a report to one of the individuals identified in II.B, above.
3. 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.
4. If a complaint or grievance alleging sexual harassment or sexual violence is filed under a complaint resolution or grievance procedure and under II.B above, the complaint or grievance will be held in abeyance pending the outcome of the early resolution or formal investigation procedures described in section III, below.
5. A complainant or the accused may also file a complaint alleging that the actions taken in response (i.e., the process or procedures used by the Director/Title IX Compliance Officer/Sexual Harassment Officer) to the report of sexual harassment or sexual violence did not follow Policy with the Executive Director, Local Human Resources or designee. Such a complaint may not be filed to address a disciplinary sanction imposed upon the accused. Any complaint regarding the resolution of a report of sexual harassment or sexual violence must be filed with 30 days of the date the individual was notified of the outcome of the sexual harassment or sexual violence investigation or other resolution process pursuant to this Procedure, and/or of the actions taken by the administration in response to the report of sexual harassment or sexual violence, whichever is later.

D. Reporting Retaliation

1. An individual who believes that s/he has been subjected to retaliation for reporting sexual harassment or sexual violence in good faith, assisting someone with such a report, or participating in any manner in an investigation or resolution of a report of sexual harassment or sexual violence, may make a report of retaliation under the procedures described in II.B, above.

2. A report of retaliation will be subject to these same procedures.

III. UCOP's Response to Reports of Sexual Harassment or Sexual Violence

A. The UCOP will inform individuals making reports of sexual harassment and sexual violence of resolution processes (e.g., early resolution, formal investigation, complaint resolution or grievance procedures), confidentiality policies, and the range of possible outcomes (including interim protections, remedies for the individual harmed by the harassment and disciplinary action that may be taken against the respondent).

B. Early Resolution

1. Early resolution may be used when parties want to resolve the situation cooperatively and/or when a formal investigation is unlikely to lead to a satisfactory outcome. Early resolution may include but is not limited to the following:

- a. No-fault conversation with written Confirmation.
- b. Mediating agreement between the parties.
- c. Separating the parties.
- d. Administrative review or preliminary inquiry, including fact-finding.
- e. Negotiating agreement for disciplinary action.
- f. Conducting targeted educational and training programs.
- g. Referring parties to a counseling program.
- h. Providing remedies and/or referral to support services for the individual harmed by the harassment.

2. The early resolution process shall be coordinated by the SHO and steps taken to encourage early resolution and agreements reached shall be documented.

3. While UCOP encourages early resolution of a complaint, UCOP does not require parties to participate in early resolution prior to UCOP's decision to initiate a formal investigation.

a. Some reports of sexual harassment or sexual violence may not be appropriate for early resolution but may require a formal investigation at the discretion of the SHO/Title IX Officer.

b. Mediation will not be used to resolve a complaint of sexual violence.

C. Formal investigation

1. An individual reporting sexual harassment or sexual violence may request a formal investigation and determination of whether University policy has been violated.

2. Generally, where early resolution is inappropriate (such as where the facts are in dispute in reports of serious misconduct, or when reports involve a pattern of inappropriate behavior or criminal acts such as sexual violence, or physical assault) or where early resolution was unsuccessful, the University will conduct a formal investigation.

3. The SHO/Title IX Officer will determine whether an investigation is necessary subject to this policy and the University of California policy on Sexual Harassment and Sexual

Violence. The wishes of the individual reporting the sexual harassment or sexual violence shall be considered, but are not determinative in the University's decision to initiate a formal investigation.

4. The Title IX Officer will initiate an investigation by:
 - a. Identifying a trained investigator familiar with this policy and procedure;
 - b. Providing the investigator with a charge letter describing the nature of the complaint, a definition of the standard of review and a date for the report to be completed; and
 - c. Notifying the individual who reported the sexual harassment or sexual violence and the respondent that an investigation has been initiated. The notification will include a statement of the allegations, the name of the investigator, a date for completion of the investigation, contact information for the SHO/Title IX Officer and a weblink to this procedure. The following shall be used to ensure a full, fair, and impartial investigation.
5. The following procedures shall be used to ensure a full, fair, and impartial investigation
 - a. The investigator will interview the parties, if available, as well as other witnesses as needed.
 - i. On request, parties may each have a representative present when interviewed by the investigator
 - ii. Other witnesses may be accompanied by a representative if required by applicable University policy or at the investigator's discretion.
 - iii. A representative who impedes or interferes with the investigative process may be excluded from the proceedings.
 - b. The investigator will review relevant evidence, including documents.
 - c. When appropriate, parties and witnesses will be instructed that maintaining confidentiality is necessary to protect the integrity of the investigation. Disclosure of facts or allegations to parties and witnesses will be limited to what is reasonably necessary to conduct a full and fair investigation.
 - d. The investigator may recommend interim protections or remedies for the complainant or witnesses at any time during the investigation.
 - i. Interim protections include but are not limited to separating the parties, placing limitations on contact between the parties, or making alternative academic, working, or housing arrangements
 - ii. Failure to comply with the terms of any interim protections may be considered a separate violation of Policy.
 - e. The investigator will prepare and submit a written report to the SHO/Title IX Officer. The report shall include the following components:
 - i. A statement of the allegations and issues.
 - ii. The positions of the parties.
 - iii. A summary of the evidence.

- iv. Findings of fact based on a preponderance of the evidence standard.
 - v. The investigator's determination as to whether University policy has been violated.
 - vi. The report may also contain a recommendation for actions to resolve the complaint.
 - f. The SHO/Title IX Officer will submit the report to the appropriate UCOP official with authority to implement the actions necessary to resolve the complaint. The report may be used as evidence in other procedures, such as subsequent complaints, grievances and/or disciplinary actions.
- 6. The investigation shall be conducted and completed as promptly as possible, usually within 60 working days of the date of initiation of the formal investigation. If a criminal investigation is occurring simultaneously, UCOP will not delay the administrative investigation to await the outcome of the criminal investigation, but may need to coordinate the collection of evidence with law enforcement authorities.
 - a. This deadline may be extended by the SHO/Title IX Officer
 - b. Written notice of the extension shall be provided to the complainant and the respondent.
- 7. Within 30 days of receiving the final report, the SHO/Title IX Officer shall notify the complainant and the respondent in writing that the investigation has been completed. This notification will indicate:
 - a. Whether or not there was a finding that University policy was violated.
 - b. Consistent with law and policies regarding confidentiality, whether action was taken to resolve the complaint.
 - c. How to obtain a copy of the final investigation report.
- 8. The complainant and respondent may request a copy of the final report from the UCOP Public Records Office at PRA@ucop.edu. The release of the report is subject to University policy regarding privacy and confidentiality and will generally be redacted to protect the privacy of personal and confidential information regarding all individuals other than the individual requesting the report(see VIII, below).

D. Discipline

- 1. Disciplinary action shall be considered following a finding of violation of the policy, including engaging in sexual harassment, sexual violence, retaliation, violating interim actions, or filing intentionally false charges of sexual harassment.
 - a. Disciplinary actions will be pursued according to the procedures described in the appropriate policy or union labor agreement.
 - b. Investigative reports prepared for a formal investigation under this policy may be used as evidence in disciplinary actions.

IV. Accommodations to Ensure Safety at Work

- A. When UCOP becomes aware of an employee's status as a victim of domestic violence, sexual assault, or stalking, and the employee requests a reasonable accommodation to ensure his/her safety while at work, UCOP must engage in a timely, good faith, and interactive process with the employee to determine effective reasonable accommodations. When determining whether the accommodation is reasonable, UCOP must consider exigent circumstances or danger facing the employee. Possible reasonable accommodations include, but are not limited to:
1. Transfer, reassignment, or modification of the employee's schedule
 2. Changing the employee's work telephone number and/or work location
 3. Installing a lock
 4. Assisting the employee with documenting the domestic violence, sexual assault, or stalking that occurs at the workplace
 5. Implementing new safety procedures
 6. Making adjustments to the job structure, workplace facility or work requirements
 7. Referring the employee to a victim assistance organization.

V. Privacy and Confidentiality

- A. The University shall protect the privacy of individuals involved in a report of sexual harassment or sexual violence to the extent permitted or required by law and University policy.
1. A report of sexual violence may result in the gathering of extremely sensitive information about individuals in the campus community. Accordingly, the University protects the privacy of individuals involved in a report of sexual violence to the greatest extent permitted or required by law and University policy.
 2. The University will comply with requests for confidentiality in all cases whenever possible, but may need to make disclosures to complete a fair investigation and ensure a working and learning environment free from sexual harassment and sexual violence.
 3. If disclosure is required by law or University policy, the records shall be redacted to protect the privacy of all persons other than the person requesting the report.
 4. An individual who has made a report of sexual harassment or sexual violence may be advised of the specific sanctions imposed against the respondent when the individual needs to be aware of the sanction in order for it to be fully effective (e.g., restrictions on communication or contact).
 5. Information on disciplinary actions taken against the respondent will not be disclosed without the respondent's consent, unless it is necessary to ensure compliance with the action, the safety of individuals, or is required by law.

- B. The University cannot guarantee anonymity. Requests that the complainant's name remain anonymous or not be disclosed to the respondent will be considered in the context of the due process rights of the respondent, the need to ensure a complete and fair investigation, and factors such as the safety and protection of the complainant and campus community.
- C. University employees designated in II.B.1, above, have an obligation to respond to reports of sexual harassment and sexual violence, even if the individual making the report requests that no action be taken and, therefore, cannot agree to keep such information confidential.

VI. Further Information

- A. The following agencies may serve as neutral fact finders to facilitate the voluntary resolution of disputes between parties. Contact information for the nearest office is available in local telephone books or on the agencies' Web sites.
 - 1. The federal Equal Employment Opportunity Commission (EEOC) and the California Department of Fair Employment and Housing investigate complaints of discrimination, including unlawful sexual harassment in employment.
 - 2. The U.S. Department of Education Office for Civil Rights investigates complaints of discrimination, including unlawful sexual harassment of students, in educational programs or activities.

