



PLEASE POST

October 15, 2003

**DEANS, DEPARTMENT CHAIRS, and DIRECTORS**

**Re: Proposed New Policy on Conflicts of Interest Created by Consensual Relationships and Proposed Revised Policy on Sexual Harassment and Procedures for Responding to Reports of Sexual Harassment**

Enclosed for formal review are a proposed new Policy on Conflicts of Interest Created by Consensual Relationships and a proposed revised Policy on Sexual Harassment and Procedures for Responding to Reports of Sexual Harassment.

Please make these policies available to your faculty and other interested parties for comment. Opinions of faculty members are of particular importance, given the central role of shared governance in the University. However, your final response should convey your opinion of the impact of this policy from an administrative point of view.

Individual faculty members with concerns about these policies should forward their comments to Academic Senate leadership. Individual staff members with concerns about these policies should submit their comments to the office of Assistant Vice Chancellor Lubbe Levin, who will be requesting responses from staff in a separate letter.

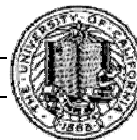
Thank you for your attention to this matter. Please return any comments to me by **Friday, November 7, 2003.**

Sincerely yours,

A handwritten signature in cursive script that reads "Donna L. Vredevoe".

Donna L. Vredevoe, Ph.D.  
Vice Chancellor  
Academic Personnel

Enclosure



OFFICE OF THE PRESIDENT

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September 25, 2003

**CHANCELLORS  
LABORATORY DIRECTORS  
VICE PRESIDENT GOMES  
ACADEMIC COUNCIL CHAIR PITTS**

**Proposed New Policy on Conflicts of Interest Created by Consensual Relationships, and  
Proposed Revised Policy on Sexual Harassment and Procedures for Responding to Reports of  
Sexual Harassment**

Enclosed for formal review are a proposed new *Policy on Conflicts of Interest Created by Consensual Relationships* and a proposed revised *Policy on Sexual Harassment and Procedures for Responding to Reports of Sexual Harassment*. The policies were developed by a work group of representatives from Academic Affairs, the Academic Senate, General Counsel, Student Academic Services, and UCOP Human Resources, as well as campus Human Resources and Title IX staff. The policies incorporate comments from the Academic Personnel Directors, Chief Human Resources Officers, Title IX Officers, Vice Chancellors—Student Affairs, and other campus leaders involved during the informal review process.

The proposed new *Policy on Conflicts of Interest Created by Consensual Relationships* covers all members of the University community, including faculty and other academic personnel, students, senior managers, staff employees, and contract employees. The policy addresses the potential conflicts of interest which may be created when one individual in a consensual relationship has supervisory, decision-making, oversight, evaluative, or advisory authority over the other individual. In addition, the policy prohibits relationships between students and particular members of the University community, such as senior managers, coaches, and professional counselors. Violations of the policy may be addressed through existing applicable academic, student, or staff complaint resolution, grievance and/or disciplinary procedures.

The proposed revised *Policy on Sexual Harassment and Procedures for Responding to Reports of Sexual Harassment* updates the policy and procedures issued on April 23, 1992. As you know, The Regents have taken a special interest in the University's response to sexual harassment and Senior Vice President Mullinix has indicated to the Board that the policy and procedures would be revised. The policy and procedures cover all members of the University community, including faculty and other academic personnel, staff employees, coaches, medical residents, students, and non-student or non-employee participants in University programs.

Revisions to the policy include: an updated definition of sexual harassment; a clarification of the University's obligation to respond promptly and effectively to reports of sexual harassment; provisions for training employees and educating the University community regarding sexual harassment; a prohibition on filing intentionally false reports; and a statement that the policy shall be implemented in a manner that recognizes principles of free speech and academic freedom. The Procedures include a requirement that each location designate a Title IX Compliance Coordinator to receive reports of sexual harassment and to oversee the sexual harassment prevention programs. The Procedures require each location to develop procedures for responding to reports of sexual harassment, including provisions for early resolution, formal investigations, and complaints or grievances involving allegations of sexual harassment.

This constitutes a formal review and employees should be given the opportunity to comment.

We would appreciate your comments on the policies by November 21, 2003. Comments may be directed to Mona Litrownik at [Mona.Litrownik@ucop.edu](mailto:Mona.Litrownik@ucop.edu) or (510) 987-9019.

C. Judson King  
Provost and Senior Vice President--  
Academic Affairs

Joseph P. Mullinix  
Senior Vice President--  
Business and Finance

Enclosures

cc: President Atkinson  
Associate Vice President Boyette  
Associate Vice President Galligani  
Assistant Vice President Switkes  
Special Assistant Gardner  
General Counsel and Vice President for Legal Affairs Holst

## **POLICY ON CONFLICTS OF INTEREST CREATED BY CONSENSUAL RELATIONSHIPS**

### **Introduction**

A consensual relationship, for purposes of this policy, is defined as one in which two individuals are involved by mutual consent in a romantic, physically intimate, and/or sexual relationship. This definition includes domestic partners and spouses.<sup>1</sup> A consensual relationship that might be appropriate in other circumstances is inappropriate when it occurs between members of the University community if one individual has power or authority over the other. These relationships pose a potential conflict of interest when one individual has responsibility for supervising, directing, overseeing, evaluating, advising, or influencing the employment or educational status of the other.

The potential for conflicts of interest created by consensual relationships where one individual has power or authority over the other is of serious concern to the University. Such consensual relationships may lead to an abuse of power, coercion, exploitation, favoritism, or unfair treatment of others. Even romantic relationships that begin as consensual may evolve into situations that lead to charges of sexual harassment that violate University policy. In addition, conflicts of interest created by consensual relationships in employment or education may lead to charges of sexual harassment brought by third parties who believe the consensual relationship creates a discriminatory work or educational environment.

This policy addresses potential conflict of interest situations applicable to all members of the University community: faculty and other academic personnel; students; senior managers, including Officers, Chancellors, Vice Chancellors, and Deans; staff employees; and contract employees. Faculty also are covered by additional requirements in the Faculty Code of Conduct, Academic Personnel Policy 015 (APM - 015). Other members of the University community, such as health care providers, may be covered by additional legal and/or licensure requirements with regard to their relationships with clients.

### **Policy**

Because of the potential for a conflict of interest, an individual covered by this policy who enters into a consensual relationship with someone over whom he or she has supervisory, decision-making, oversight, evaluative, or advisory responsibilities shall take effective steps to remove himself or herself from any professional decisions concerning that individual as soon as practicable. The individual in authority shall eliminate, or arrange with his or her supervisor to eliminate, any potential conflict of interest. Ways to eliminate conflicts of interest may include, but are not limited to, transfer of either individual to another position; transfer of supervisory,

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<sup>1</sup> Domestic partners and spouses also are covered by the University's policies on near relatives in Academic Personnel Policy 520 (APM - 520) Employment of Near Relatives, and Personnel Policies for Staff Members (PPSM) Policy 21G. Appointment of Near Relatives.

decision-making, oversight, evaluative, or advisory responsibilities to another employee or team of employees; or providing an additional layer of oversight to the supervisory role.

The University recognizes that a consensual relationship may exist prior to the time an individual is assigned to a supervisor. An individual shall not accept supervisory, decision-making, oversight, evaluative, or advisory responsibilities over someone with whom he or she has a consensual relationship unless effective steps can be taken to eliminate any potential conflict of interest in accordance with this policy.

This policy is intended to apply to all types of conflicts of interests created by consensual relationships within the University community where one individual has power or authority over the other. Relationships covered by this policy include, but are not limited to, relationships between supervisor and supervisee; faculty and staff; faculty and student (in situations not covered by APM - 015, the Faculty Code of Conduct); coach and student; student and student; and housestaff or postdoctoral scholar and other housestaff, other postdoctoral scholar, or other employee.

### **Responsibilities Toward Students**

The University has a special responsibility towards students as members of the University community. The academic success of students is central to the University's educational mission. The unequal institutional power inherent between students and particular members of the University community must be protected from influences or activities that can interfere with learning consistent with the goals and ideals of the University. Accordingly, consensual relationships of the following nature are strictly prohibited:

- A. Between a senior manager and any student, when the relationship arises in the context of that manager's responsibilities;
- B. Between a coach, professional counselor, teaching assistant, lecturer, or other individual not covered by APM - 015, the Faculty Code of Conduct, who is in a position of instructional, evaluative, or advisory authority over students, and any student for whom the coach, professional counselor, teaching assistant, lecturer, or other individual has direct instructional, evaluative, or advisory authority;
- C. Between a direct supervisor and a student employee, including a student volunteer.

Exceptions to the above prohibitions may be approved by the President or Chancellor in extraordinary circumstances.

Consensual relationships between faculty and students also are governed by APM - 015, the Faculty Code of Conduct, which states that it is unacceptable faculty conduct, subject to disciplinary action, for a faculty member to enter into a romantic or sexual relationship with any student for whom a faculty member has, or should reasonably expect to have in the future, academic responsibility (instructional, evaluative, or supervisory) or to exercise academic responsibility (instructional, evaluative, or supervisory) for any student with whom a faculty member has a romantic or sexual relationship.

### **Failure to Comply with this Policy**

Failure to comply with the above requirements shall be considered a violation of University policy. Locations should designate procedures and resources for responding to allegations of conflicts of interest created by consensual relationships. Locations may designate the Title IX Compliance Coordinator as a resource for resolution of complaints under this policy. Violations of this policy may be addressed through existing applicable academic, student, or staff complaint resolution, grievance, and/or disciplinary procedures.

### **Coordination with the Policy on Sexual Harassment**

Incidents involving unwelcome conduct of a sexual nature that might be a violation of the University's *Policy on Sexual Harassment* can be addressed through the University's *Procedures for Responding to Reports of Sexual Harassment* or any other applicable complaint resolution or grievance procedure.

### **Education of the Campus Community**

All campuses, Laboratories, Medical Centers, the Office of the President, and Agriculture and Natural Resources shall provide educational opportunities for faculty and other academic personnel, students, and staff employees to promote an understanding of and compliance with this policy. The education may be offered as a component of the sexual harassment education program.

DRAFT

## **UNIVERSITY OF CALIFORNIA POLICY ON SEXUAL HARASSMENT AND PROCEDURES FOR RESPONDING TO REPORTS OF SEXUAL HARASSMENT**

### **I. POLICY ON SEXUAL HARASSMENT**

#### **A. Policy Statement**

The University of California is committed to creating and maintaining a community in which 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 is strongly opposed to sexual harassment, and such behavior is prohibited both by law and by University policy. The University will respond promptly and effectively to reports of sexual harassment, and will take appropriate action to prevent, correct, and if necessary, discipline behavior that violates this policy. This policy applies to all University of California campuses, the three DOE Laboratories, the Medical Centers, and the Office of the President, including Agriculture and Natural Resources (the locations).

#### **B. Definition of Sexual Harassment**

Sexual harassment is unwelcome sexual advances, requests for sexual favors, and verbal physical, or other 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. In the interest of preventing sexual harassment, the University may respond to reports of any conduct that meets the definition above. In order to be grounds for discipline, the harassing conduct must be sufficiently severe and pervasive that it alters the conditions of employment or limits the opportunity to participate in or benefit from educational programs.

Sexual harassment may include incidents between any members of the University community, including faculty and other academic appointees, staff, coaches, medical residents, students, 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.

While this policy covers unwelcome conduct of a sexual nature, consensual romantic relationships between members of the University community are subject to other University policies governing conflicts of interest<sup>1</sup> and faculty-student relationships.<sup>2</sup> In addition, romantic relationships between members of the University community which begin as consensual may evolve into situations that lead to charges of sexual harassment that violates this policy.

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

Harassment that is not sexual in nature but is based on gender, sex-stereotyping, or sexual orientation also is prohibited by the University's nondiscrimination policies if it is sufficiently serious to deny or limit 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, a determination of whether a hostile environment due to sexual harassment exists may take into account acts of discrimination based on gender, sex-stereotyping, or sexual orientation.

### **C. Dissemination of the Policy, Educational Programs, and Employee Training**

As part of the University's commitment to providing a harassment-free working and learning environment, 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 provide training to designated University employees responsible for reporting or responding to reports of sexual harassment. 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.

### **D. Reports of Sexual Harassment**

Any member of the University community may report conduct that may constitute sexual harassment under this policy. In addition, supervisors, managers, and other designated employees are responsible for taking whatever action is necessary to prevent sexual harassment, correct it when it occurs, and report it promptly to the Title IX Compliance Coordinator. The locations shall develop procedures providing for a prompt and effective response to reports of sexual harassment in accordance with the procedures set forth below. A prompt and effective response may include early resolution, formal investigation, and/or targeted training or educational programs. Individuals also may file complaints or grievances alleging sexual harassment under the applicable University complaint resolution or collective bargaining agreement grievance procedure (Appendix I).

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<sup>1</sup> University of California Policy on Conflicts of Interest Created by Consensual Relationships

<sup>2</sup> Academic Personnel Policy 015 (APM - 015) The Faculty Code of Conduct

## **E. Disciplinary Action in Response to Sexual Harassment**

Any member of the University community who is found to have engaged in sexual harassment is subject to disciplinary action up to and including dismissal in accordance with the applicable University disciplinary procedure (Appendix II) or other University policy. Any manager, supervisor, or designated employee responsible for reporting or responding to sexual harassment who knew about the harassment and took no action to stop it or failed to report the prohibited harassment also may be subject to disciplinary action. Conduct that is sexual harassment or retaliation in violation of this policy is considered to be outside the normal course and scope of employment and not a direct consequence of the discharge of an individual's duties.

## **F. Intentionally False Reports**

Because sexual harassment frequently involves interactions between persons that are not witnessed by others, reports of sexual harassment cannot always be substantiated by additional evidence. Lack of corroborating evidence or "proof" should not discourage individuals from reporting sexual harassment under this policy; however, individuals who make reports that are later found to be intentionally false or made maliciously without regard for truth, may be subject to disciplinary action under the applicable University disciplinary procedure (Appendix II). 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.

## **G. 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 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 course content and teaching methods of an individual faculty member. Freedom of speech and academic freedom, however, are not limitless and do not protect speech or expressive conduct that violates federal or state anti-discrimination laws.

## **H. 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 in employment. The U.S. Department of Education Office for Civil Rights (OCR) investigates complaints of unlawful harassment 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.

## **II. PROCEDURES FOR RESPONDING TO REPORTS OF SEXUAL HARASSMENT**

All campuses, Laboratories, Medical Centers, the Office of the President, and Agriculture and Natural Resources (the locations) shall implement procedures for responding to reports of sexual harassment in accordance with the principles set forth in this policy. The primary purpose of the procedures is to provide all members of the University community with a process for reporting sexual harassment so that the University can take prompt and appropriate action to end any harassment and prevent recurrence of the harassment. These procedures also cover reports of retaliation related to reports of sexual harassment.

The procedures below provide both required and recommended components for local procedures for responding to reports of sexual harassment, with the recognition that specific elements may vary according to each location's organizational needs.

### **A. Local Sexual Harassment Resources**

#### *1. Title IX Compliance Coordinator*

Local procedures shall designate a Title IX Compliance Coordinator, whose responsibilities should include the duties listed below. Additional duties may be designated by local procedures.

- 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. Implement the local procedures that provide for a prompt and effective response to reports of sexual harassment in accordance with this policy.
- 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.

#### *2. Trained Sexual Harassment Advisors*

Local procedures may designate trained individuals to serve as additional resources for members of the University community who have questions or concerns regarding behavior that may be sexual harassment. Local procedures shall define the duties of these individuals.

## **B. Response to Reports of Sexual Harassment**

### *1. Making Reports of Sexual Harassment*

Local procedures shall encourage all members of the University community to contact the Title IX Compliance Coordinator if they observe or encounter conduct that may be subject to the University's *Policy on Sexual Harassment*. Local procedures shall designate that reports of sexual harassment may be brought to the Title IX Compliance Coordinator (or designee) or any manager, supervisor, or designated employee responsible for responding to reports of sexual harassment. These managers, supervisors, and designated employees shall be required to notify the Title IX Compliance Coordinator of all reports received. The name, location, and contact information for the Title IX Compliance Coordinator shall be readily accessible to the campus community.

Local procedures shall encourage reports of sexual harassment to be brought as soon as possible after the alleged conduct occurs, optimally no later than one year after the alleged conduct. Prompt reporting will enable the University to investigate the facts, determine the issues, and provide an appropriate remedy or disciplinary action. The one-year time frame may be extended in individual cases at the discretion of the Title IX Compliance Coordinator.

### *2. Options for Resolution*

Local procedures shall require that individuals making reports of sexual harassment be informed about options for resolving potential violations of the *Policy on Sexual Harassment*. These options include procedures for early resolution, procedures for formal investigation, and filing complaints or grievances under applicable University complaint resolution or collective bargaining agreement grievance procedures. Local procedures also shall inform individuals about policies applying to confidentiality of reports under this policy.

Local procedures may provide for informing individuals bringing reports of sexual harassment about the range of possible disciplinary action that might be taken against the accused as a result of the report and the procedures required in connection with such outcomes.

Local procedures shall indicate that 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 under these policies.

### *3. Procedures for Early Resolution*

Local procedures shall encourage early resolution of reports of sexual harassment in appropriate cases. The goal of early resolution is to resolve concerns at the earliest stage possible, with the cooperation of all parties involved. Early resolution may include an inquiry into the facts, but typically does not include a formal investigation. Means for early resolution should be flexible and encompass a full range of possible appropriate outcomes. Early resolution may include options such as mediating an agreement between the parties, separating the parties, referring the parties to counseling programs, negotiating an agreement for disciplinary action, or conducting

targeted education and training programs. Procedures for early resolution may include discussions with the parties, making recommendations for resolution, and conducting follow-up after a period of time to assure that the resolution has been implemented effectively. Steps taken to encourage early resolution and agreements reached through early resolution efforts should be documented.

While local procedures shall encourage early resolution, procedures shall not require that parties participate in early resolution as a pre-condition for initiating 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. Examples include reports of serious misconduct where the facts are in dispute, and reports of conduct involving individuals with a pattern of inappropriate behavior or criminal acts such as stalking, sexual assault, or physical assault.

#### 4. *Procedures for Formal Investigation*

Local procedures shall provide for formal investigation of reports of sexual harassment in cases where early resolution is inappropriate or unsuccessful. 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 other cases, the Title IX Compliance Coordinator, in consultation with the administration, may initiate a formal investigation after making a preliminary inquiry without a written request.

Local procedures for 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.
- 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 may include interviews with the parties and other witnesses if available, and a review of relevant documents as appropriate. Disclosure of facts to parties and witnesses should be limited to what is reasonably necessary to conduct a fair and thorough investigation. Participants in an investigation should be advised that maintaining confidentiality about the investigation is essential to protect the integrity of the investigation.
- d. Upon request, the complainant and the accused may have a representative present when he or she is interviewed. Other witnesses may request a representative be present at the discretion of the investigator or as required by the 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 the appropriate University officials. These may include separating the parties, placing limitations on contact, or making alternative working or housing arrangements. Failure to comply with the terms of interim protections may be considered an independent violation of the *Policy on Sexual Harassment*.
- f. The investigation should be completed as promptly as possible and in most cases within 60 working days of the date of the filing of the request for formal investigation. This deadline may be extended with the approval of a designated University official.
- g. Generally, an investigation should result in a written report that includes, at a minimum, 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 relied upon 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 may be informed 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 be notified generally 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. The complainant and the accused shall be informed in writing that action was taken or that no action was taken in response to the complaint.
- 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.<sup>3</sup> 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.

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<sup>3</sup> UC Business and Finance Bulletin RMP-8, Legal Requirements on Privacy of and Access to Information Education Rights and Code, Public Records Act

## **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 academic, student, or staff complaint resolution or collective bargaining agreement grievance procedure (Appendix I) either instead of or in addition to making a report of sexual harassment to the Title IX Compliance Coordinator under this policy. A complaint or grievance alleging sexual harassment must meet all the requirements under the applicable complaint resolution or collective bargaining agreement 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 under this policy, the complaint or grievance may be held in abeyance subject to the requirements of any applicable complaint resolution or collective bargaining agreement 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 may constitute the first step or steps of the applicable complaint resolution or collective bargaining agreement 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 on the 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 for filing begins to run 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.

## **D. Referral to Disciplinary Procedures**

Local procedures shall provide that findings of violations of the *Policy on Sexual Harassment* be referred to applicable local disciplinary procedures (Appendix II). Locations are encouraged to coordinate this policy with applicable local disciplinary procedures to avoid duplication of factfinding procedures whenever possible. Violations of the policy may include engaging in sexual harassment, retaliating for reporting sexual harassment, violating interim protections, and filing intentionally false charges of sexual harassment. Investigation reports pursuant to this policy may be relied upon as evidence in subsequent disciplinary proceedings as permitted by the applicable disciplinary procedures.

## **E. Privacy**

Local procedures shall provide for protecting the privacy of individuals involved in a report of sexual harassment to the extent allowed 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 regarding a report of sexual harassment. In such cases, every effort will 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 an 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 an accused that is not necessary to ensure compliance with the action or the safety of individuals shall not be disclosed to other parties without the consent of the accused.

#### **F. Confidentiality of Reports of Sexual Harassment**

Local procedures shall identify resources for advice and information regarding reports of sexual harassment in a confidential setting, in order to provide individuals who may be interested in bringing reports of sexual harassment with a safe place to discuss their concerns and learn about the procedures and potential outcomes in confidence. Examples of confidential resources may include campus ombudspersons and/or licensed counselors in employee assistance programs or student health services. Individuals who consult confidential resources must be advised that their discussions in these settings will not be considered reports of sexual harassment and will not, without additional action by the individual, result in any action by the University to resolve their concerns.

Local procedures shall notify individuals wishing to make reports of sexual harassment that certain University employees, such as the Title IX Compliance Coordinator, managers, supervisors, and other designated employees responsible for reporting or responding to reports of sexual harassment, have an obligation to respond to reports of sexual harassment, even if the individual making the report requests that no action be taken. The expressed wishes of individuals regarding the confidentiality of reports of sexual harassment will be considered in determining an appropriate response; however, such wishes will be considered in the context 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 requests for confidentiality will be maintained to the extent possible.

#### **G. Retention of Records Regarding Reports of Sexual Harassment**

Local procedures shall designate the office of the Title IX Compliance Coordinator as the office of record for records relating to sexual harassment reports, investigations, and resolutions. Records shall be maintained in accordance with University records disposition schedules, generally five years after the date the accused is no longer a student, employee, or otherwise affiliated with the University.

## APPENDIX I: University Complaint Resolution and Grievance Procedures

If a member of the University community elects to file a grievance containing allegations of sexual harassment, the following complaint resolution and grievance procedures may be applicable.

### Academic Personnel:

Members of the Academic Senate	Senate Bylaw 335
Non-Senate Academic Appointees	APM - 140
Exclusively Represented Academic Appointees	The 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	The applicable collective bargaining agreement
DOE Laboratory Employees	The applicable Laboratory policy

### All:

The *University of California Policy on Reporting and Investigating Allegations of Suspected Improper Governmental Activities (Whistleblower Policy)* governs the reporting and investigation of violations of state or federal laws or regulations and University policy, including sexual harassment.

## APPENDIX II: University Disciplinary Procedures

If a report of sexual harassment results in a recommendation for disciplinary action, the following disciplinary action procedures may be applicable.

- A. The *Faculty Code of Conduct* (APM - 015) and 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 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 and outlines sanctions and disciplinary procedures. 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*.
- B. Provisions of the *Academic Personnel Policies* (APM - 150) (applicable to non-exclusively represented academic appointees) and collective bargaining agreements (applicable to exclusively represented academic appointees) prohibit conduct which violates law and University policy with respect to sexual harassment and provide for disciplinary action for violation of University policy.
- C. *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 law and University policy with respect to sexual harassment and provide for disciplinary action for violation of University policy.