Sexual Harassment and Sexual Violence

For assistance with incidents of dating violence, domestic violence, sexual assault, sexual harassment, sexual violence, and stalking, please contact your local CARE Advisor, at http://sexualviolence.universityofcalifornia.edu

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For questions about this policy, please contact:

<table>
<thead>
<tr>
<th>Academic</th>
<th>Student</th>
<th>Staff</th>
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</thead>
<tbody>
<tr>
<td><strong>Contact:</strong></td>
<td>Janet Lockwood</td>
<td>Eric Heng</td>
</tr>
<tr>
<td><strong>Email:</strong></td>
<td><a href="mailto:janet.lockwood@ucop.edu">janet.lockwood@ucop.edu</a></td>
<td><a href="mailto:eric.heng@ucop.edu">eric.heng@ucop.edu</a></td>
</tr>
<tr>
<td><strong>Phone:</strong></td>
<td>(510) 987-9499</td>
<td>(510) 987-0239</td>
</tr>
</tbody>
</table>

I. **POLICY SUMMARY**

The University of California is committed to creating and maintaining an atmosphere free of harassment, exploitation, and/or intimidation for every individual in our community. Every member of the 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* complies with the law and with the University’s commitment to the highest standards of ethical conduct, which are outlined in the University’s [Statement of Ethical Values and Standards of Ethical Conduct](#).

II. **DEFINITIONS**

A. **Sexual Harassment**: Includes

- unwelcome sexual advances,
- requests for sexual favors,
- conduct of a sexual nature, including verbal, nonverbal, or physical conduct that creates an environment in which a reasonable person finds the behavior intimidating, hostile, or offensive, and
- conduct of a sexual nature, including verbal, nonverbal, or physical conduct – behavior that affects or interferes with a person’s employment, work, education, and/or educational performance.

   Sexual harassment may include incidents between any members of the University community, including:

   - faculty and other academic appointees
   - staff
   - student employees
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- students
- coaches
- residents
- interns
- non-student or non-employee participants in University programs (e.g., vendors, contractors, visitors, and patients).

Sexual harassment can occur in all types of relationships: hierarchical, between peers, or between individuals of the same sex or opposite sex. The University will respond to reports of any such conduct between any such members of the University community, according to the Policy.

To determine whether any reported conduct constitutes sexual harassment, the University will consider the record of the conduct as a whole including the circumstances and context in which the conduct occurred.

Harassment of one student by another student is defined as unwelcome conduct of a sexual nature that effectively denies equal access to the University’s resources and opportunities because such conduct is severe and/or pervasive, objectively offensive, and substantially impairs a person’s access to University programs or activities. (See the University of California Policies Applying to Campus Activities, Organizations, and Students, Policy 100.00 on Student Conduct and Discipline, Section 102.09)

B. Sexual Violence: Physical, sexual acts, engaged in without the consent of the other person, or when the other person is unable to consent. Sexual violence includes any of the following:

- sexual assault
- rape
- sexual battery
- domestic violence
- dating violence
- stalking

1. Sexual Assault: Occurs when physical, sexual activity is engaged without the consent of the other person, or when the other person is unable to consent to the activity. The activity or conduct may include the following:

- physical force
- violence
- threat
- intimidation
- ignoring the objections of the other person
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- causing the other person’s intoxication or incapacitation (through the use of drugs or alcohol)
- taking advantage of the other person’s incapacitation (including voluntary intoxication)

2. **Dating Violence**: Abuse committed by a person who is, or has been, in a romantic and/or intimate relationship with the victim.

3. **Domestic Violence**: Abuse committed against:
   - an adult or a minor who is a
     - spouse or former spouse
     - cohabitant or former cohabitant
   - someone with whom the abuser has
     - a child
     - an existing dating or engagement relationship
     - a former dating or engagement relationship

4. **Stalking**: Behavior in which someone repeatedly engages in conduct directed at a specific person. This conduct places the targeted person in reasonable fear of his or her safety or the safety of others or causes the targeted person to suffer substantial emotional distress. This policy intends to address stalking that could be reasonably construed as sexual or gender based in nature. Other forms of stalking of a non-sexual nature may be addressed by other University policies.

C. **Abuse**: In the context of dating and domestic violence, abuse is defined as any act of violence, whether it’s a single act or an ongoing pattern of behavior, and/or any threatened act of violence, against:

- one’s self
- one’s sexual or romantic partner, spouse or former spouse
- the family and/or friends of one’s sexual or romantic partner, spouse or former spouse
- one’s cohabitant or former cohabitant
- someone with whom the abuser has a child,
- someone with whom the abuser has an existing dating or engagement relationship
- someone with whom the abuser has had a former dating or engagement relationship

“Abuse” includes but is not limited to conduct that a reasonable person in similar circumstances and with similar identities would find intimidating, frightening, terrorizing, or threatening, including:

- physical violence
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- sexual violence
- emotional abuse
- economic abuse
- threats
- assault
- property damage

D. **Awareness Programs:** Any community-wide programming, initiatives, and/or strategies that increase awareness, and share information and resources to prevent sexual violence, promote safety, and reduce acts of abuse.

E. **Complainant:** Any person who files a report of sexual harassment or sexual violence.

F. **Consent:** Consent is a *decision*; an unambiguous, affirmative, and conscious decision by each person, to engage in mutually agreed-upon sexual activity. (For the purposes of this *Policy*, the age of consent is consistent with California Penal Code Section 261.5.)

Consent is *voluntary*. Consent means a willing and positive cooperation in an act, or expressing a desire to engage in an act. A person can only give his/her true consent if there is no force, threats, or intimidation. Ultimately, consent is an exercise of free will. Silence does not mean consent.

Consent is *revocable*. At any point, in any context, consent can be denied and be taken back. More specifically:

- Consent to sexual activity, on one occasion, does not mean consent has been given to *any* form of sexual activity, on *any* occasion.
- A past dating experience or sexual relationship, by itself, is not enough to assume consent. Even in the context of a relationship, there always has to be mutual consent to engage in any sexual activity at any time.
- Consent is ongoing; meaning at any point during a sexual encounter consent has to be given, and can be withdrawn. Once consent is withdrawn, the sexual activity must stop immediately.

Consent cannot be given when a person is *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 intimidation.

A person cannot consent if s/he cannot understand the act because of a physical or mental impairment.
G. **Designated Employee**: Any employee, who must report incidents of sexual harassment or sexual violence to the Title IX coordinator or other appropriate University designees. Generally, this includes all employees, including academic appointees unless s/he has been identified as an employee who can provide confidential consultations for the University community pursuant to Section V.F. of this Policy. Designated employees must be informed of their own reporting responsibilities.

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

I. **Incapacitation**: The physical and/or mental inability to make informed and rational judgments. States of incapacitation include, but are not limited to:

- unconsciousness
- sleep
- blackouts

Alcohol, drugs, or other medication can also be a factor. Incapacitation is defined with respect to how the alcohol or other drugs that were consumed affects a person’s:

- decision-making capacity,
- awareness of consequences,
- ability to make fully informed judgments, and
- ability to communicate.

Being intoxicated by drugs, alcohol, or other medication does not give another party permission to ignore whether consent was given.

The factors to be considered when determining whether consent was given include whether the respondent knew, or whether a reasonable person should have known, that the complainant was incapacitated.

J. **Ongoing Prevention and Awareness Campaigns**: Programming, initiatives, and strategies that aim to increase understanding and awareness of sexual violence among a variety of audiences. These campaigns further aim to develop skills that address such issues and occurrences. The campaigns will cover topics relevant to dating violence, domestic violence, sexual assault, and stalking.

K. **Primary Prevention Programs**: Programming, initiatives, and strategies that have been created based on research, and/or assessed for their value, effectiveness, and/or outcome. These programs focus on preventing dating violence, domestic violence, sexual assault, and stalking. Therefore, these programs promote behaviors that foster healthy and respectful relationships, while also encouraging a safe
environment for bystanders to intervene in a potential case of dating violence, domestic violence, sexual assault, and stalking.

L. **Proceeding:** All activities involved when an institutional complaint is made requiring a non-criminal resolution. These activities include, but are not limited to:

- fact-finding investigations, and
- formal and informal meetings and hearings.

“Proceeding” does not include communications and meetings between officials and complainants when it concerns a complainant’s accommodations/protective measures.

M. **Respondent:** A person against whom a report of sexual harassment or sexual violence is filed.

N. **Risk Reduction:** Strategies designed to decrease perpetration and bystander inaction, and create an environment where bystanders step in when abuse occurs, rather than remaining silent. These options would ultimately increase victim empowerment by reaching out to individuals and communities to:

- promote safety,
- extend help, and
- address conditions that facilitate violence.

O. **Trauma-Informed:** Methods designed to acknowledge the impact of violence and trauma on people’s lives and the importance of addressing trauma in education. Services are influenced by an understanding of the impact of interpersonal violence and victimization on an individual’s life and development. To provide trauma-informed services, all staff of an organization must understand how violence impacts the lives of the people being served, so that every interaction is consistent with the recovery process and reduces the possibility of re-traumatization.

### III. POLICY STATEMENT

A. **General Overview/Prohibited Behavior**

The University prohibits sexual harassment and sexual violence. This behavior violates both the law and University policy. The University will respond as quickly as possible to any reports of sexual harassment and/or sexual violence. The University will take any and all appropriate action to prevent, correct, and when necessary, discipline behavior that violates this *Policy*. Any staff, student or academic employee in violation of this *Policy* may be subject to disciplinary action, up to and including dismissal.
Harassment that may not be sexual, but still contributes to a hostile work or academic environment, also could violate the University’s non-discrimination policies. To determine if there has been sexual harassment or sexual violence, the University may take into account any acts of discrimination based on gender, gender identity, gender expression, sex- or gender-stereotyping, or sexual orientation.

B. Consensual Relationships
While romantic relationships between members of the University community may begin as consensual, they are not immune to instances of sexual harassment and/or sexual violence. Consensual romantic relationships between members of the University community also are subject to other University policies. For example, policies that concern faculty-student relationships are found in The Faculty Code of Conduct. The various locations may have local policies about consensual relationships.

C. Reporting Sexual Harassment or Sexual Violence
Each location will notify the campus community about where reports of sexual harassment and/or sexual violence can be made. Any member of the University community can report acts of sexual harassment or sexual violence to these designated employees, supervisors, managers, or Title IX Officer (Sexual Harassment Officer).

All designated employees must immediately forward the reports to the Title IX Officer (Sexual Harassment Officer). The reports will be reviewed and appropriate action will be taken in accordance with this Policy. Any manager, supervisor, or other designated employee who must report or respond to sexual harassment or sexual violence, who knew about an incident, and who took no action to stop or report it may be subject to disciplinary action.

Each location will identify staff who can provide confidential consultations to members of the University community seeking resources, information, and/or advice about making a sexual harassment and/or sexual violence report. While the University understands the desire for confidentiality and will consider such a request, the University also has a legal responsibility to the respondent. Depending on the situation, there are cases in which the University needs to inform the respondent of the source of the allegation. (Information regarding confidentiality can be found in Section V.E and F.)

An individual may file a complaint or grievance alleging sexual harassment or sexual violence under the University complaint resolution or grievance procedure (Section V. Procedures; Appendix I: University Complaint Resolution and Grievance Procedures).

D. Response to Reports of Sexual Harassment or Sexual Violence
All locations will provide a prompt, fair, and neutral response to reports of sexual harassment or sexual violence, which may include Early Resolution, Formal Investigation, and/or targeted prevention training or educational programs. (See Section V, Procedures for more information.)

If an individual reports to the University that s/he has been a victim of domestic violence, dating violence, sexual assault, or stalking, s/he will be provided with a written explanation of his/her rights, as well as options, regardless of whether the offense occurred on- or off-campus, or on any University location.

If the University confirms an occurrence/occurrences of sexual harassment or sexual violence, the University may offer remedies to the individual or individuals harmed by the harassment and/or violence. These remedies will be consistent with “applicable complaint resolution” and “grievance procedures” (Appendix I: University Complaint Resolution and Grievance Procedures). Such remedies may include:

- counseling,
- repeating course work without penalty,
- changing student housing assignments, and
- other appropriate interventions, such as changes in academic, living, transportation, or working situations.

Any member of the University community who engaged in sexual harassment or sexual violence is subject to disciplinary action including dismissal, in accordance with the applicable University disciplinary procedure. (Appendix II: University Disciplinary Procedures).

Generally, disciplinary action will be taken when the conduct is sufficiently severe, persistent, or pervasive that it alters the conditions of employment or limits the complainant’s opportunity to participate in or benefit from educational programs.

E. Protection for Complainants and Witnesses
To encourage reporting of sexual violence incidents, complainants and witnesses who participate in an investigation of sexual violence will not be subject to disciplinary sanctions or corrective actions for policy violations at or near the time of the incident, unless the University determines that the violation was egregious, including, but not limited, to an action that places the health or safety of any person at risk.

F. Retaliation
This Policy prohibits retaliation against a person who reports sexual harassment or sexual violence. This protection also extends to anyone who assists someone with a report and anyone involved in an investigation or resolution of a sexual harassment or sexual violence report. Retaliation includes, but is not limited to:
• threats,
• intimidation,
• reprisals, and/or
• harmful (adverse) actions related to employment or education.

Any member of the University community who participates in retaliation may be subject to disciplinary action, including dismissal, according to the University disciplinary procedures (Appendix II: University Disciplinary Procedures).

G. Provision of Educational Programs/Employee Training and Dissemination of the Policy
To promote compliance with this Policy and familiarity with the procedures, each location must provide training and make preventive educational materials available to all members of the University community. In addition, the University will provide annual training to investigators and hearing officers. Each location must post a copy of this Policy in a prominent place on its website (See Section V. Procedures).

As part of the University’s commitment to provide a working and learning environment free from sexual harassment and sexual violence, this Policy must be distributed to the entire University community through:

• publications,
• websites,
• new employee orientations,
• student orientations, and
• other appropriate channels of communication.

H. Free Speech and Academic Freedom
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.
I. Additional Enforcement Information
The federal Equal Employment Opportunity Commission (EEOC) and the California Department of Fair Employment and Housing (DFEH) 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.

IV. COMPLIANCE / RESPONSIBILITIES

A. Implementation of the Policy
Responsible Officers have the authority 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 Policy.

The Executive Officer at each location is authorized to establish and is responsible for local procedures to implement the Policy. Local procedures must be consistent with the Policy. Exceptions to procedures required by the Policy must be approved by the Executive Officer.

Executive Officers and Responsible Officers are authorized to delegate responsibility for establishing local procedures necessary to implement the Policy.

Each location is responsible for describing each type of disciplinary proceeding used by the location. This includes the steps, anticipated timelines, and decision-making process for each type of disciplinary proceedings. The procedures must also describe how the campus determines which type of proceeding to use based on the circumstances of an allegation.

B. Revisions to the Policy
The President approves the Policy and has the authority to approve 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, Standing Orders, and Policies of The Regents.

The UC Provost and Executive Vice President of Academic Affairs, and the UC Executive Vice President – Chief Operating Officer have the authority to ensure that the Policy is reviewed regularly and updated in a manner that is consistent with other University policies.
C. Approval of Actions
Actions within the Policy must be approved according to local procedures.

D. Compliance with the Policy
The Executive Officer at each location will designate the local management office that is responsible for monitoring, enforcing, and reporting Policy compliance.

The Senior Vice President – Chief Compliance and Audit Officer will periodically audit and monitor compliance with the Policy.

E. Noncompliance with the Policy
Noncompliance with the Policy is managed according to the Policy on Student Conduct and Discipline, Personnel Policies for Staff Members 61, 62, 63, 64, 65, and http://policy.ucop.edu/doc/401041667 pertaining to disciplinary and separation matters, and according to other 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. REQUIRED PROCEDURES

A. Location Responsibilities
Each location must do the following:

1. Establish an independent, confidential Advocacy Office for sexual violence, dating violence, domestic violence, stalking, and sexual assault called CARE: Advocacy Office for Sexual and Gender-Based Violence and Misconduct.

2. Establish a consistent response team model consisting of two teams:
   a. A Case Management Team (CMT) which maintains consistent coordination of reported sexual violence cases, ensures all cases are addressed efficiently and effectively, and ensures the response is trauma-informed; and
   b. A Coordinated Community Review Team (CCRT) responsible for a campus collaborative approach to preventing and addressing sexual misconduct. The CCRT serves in an advisory capacity to campus leadership and community members about best practices in policies, education, prevention and response to sexual misconduct.

3. Provide mandatory training and education about sexual harassment and sexual violence prevention to all students, faculty, other academic staff, and staff.
4. Offer primary prevention programs and awareness campaigns to the University community, to promote ongoing awareness of:

- rape and acquaintance rape
- domestic violence
- dating violence
- sexual assault
- stalking

These campaigns will include, but are not limited to, education about:

- the definition of consent,
- consensual relationships,
- options for bystander intervention, and
- risk reduction awareness information.

5. Offer comprehensive, annual training, for individuals conducting formal investigations of reports or conducting hearings on responding to sexual violence, including trauma-informed approaches as defined in this Policy.

6. Provide all members of the University community with a process for reporting sexual harassment or sexual violence according to the Policy.

7. Identify on- and off-campus resources for reporting sexual harassment or sexual violence, including law enforcement, medical, and victim support services.

8. Provide prompt and effective response to reports of sexual harassment, sexual violence, or reports of retaliation related to reports of sexual harassment or sexual violence, according to the Policy.

9. Provide written notification as outlined in Section V.B.1 of the Policy.

10. Designate trained individuals to serve as resources for members of the University community who have questions or concerns regarding behavior that may be sexual harassment or sexual violence.

11. Conduct proceedings that incorporate these additional elements:

- Timely notice of meetings, at which the respondent or complainant, or both, may be present.
- Timely access to any information that will be used after the fact-finding investigation, but during informal and formal disciplinary meetings and hearings, to the complainant, the respondent, and appropriate officials.
- Timely proceedings conducted by officials who do not have a conflict of interest, or bias for or against the complainant or the respondent.
12. Establish and designate a Title IX Officer (Sexual Harassment Officer). The names and contact information for the Title IX Officer (Sexual Harassment Officer) as well as any designated, trained, sexual harassment or sexual violence advisors, will be posted with the Policy and local procedures on the location’s website and will be readily accessible to the University community. The responsibilities of the Title IX Officer (Sexual Harassment Officer) include, but may not be limited to, the duties listed below:

- Coordinate with other responsible units to ensure that local sexual harassment and sexual violence prevention education and training programs are offered and provided, as required by the Policy.
- Disseminate the Policy to the University community.
- Provide educational materials to promote compliance with the Policy and familiarity with local reporting procedures.
- Train University employees who are responsible for reporting or responding to reports of sexual harassment.
- Provide prompt and effective response to reports of sexual harassment or sexual violence according to the Policy.
- Maintain records of reports of sexual harassment and sexual violence at the location, as well as any actions taken in response to reports, including records of investigations, voluntary resolutions, and disciplinary action, as appropriate.
- Identify and address any patterns or systemic problems that arise during the review of sexual harassment and sexual violence complaints.

13. Distribute and post this Policy. Each location is required to distribute this policy to students, faculty, other academic staff and staff. Examples include, websites, student information boards, student handbook, faculty handbook and staff websites and information boards and during training and student orientation.

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

All members of the University community are encouraged to contact the Title IX Officer (Sexual Harassment Officer) if they observe or encounter conduct that may violate the Policy. This includes conduct by employees, students, or third parties.

Reports of sexual harassment or sexual violence may be brought to the Title IX Officer (Sexual Harassment Officer). They may also be brought to any manager, supervisor, or other designated employee who is responsible for responding to reports of sexual harassment or sexual violence.
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If the person to whom harassment normally would be reported is actually the individual being accused of harassment, reports may be made to another manager, supervisor, or other designated employee.

When a report is received, managers, supervisors, and all designated employees are required to notify the Title IX Officer (Sexual Harassment Officer) or another appropriate official designated by the location, who will then review the sexual harassment and sexual violence complaints and take appropriate action in accordance with this Policy.

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 make it easier for the University to respond to the report, 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, delaying a report may make it difficult for the University to conduct an investigation and/or to take appropriate remedial actions.

1. Required Notifications For Reports of Sexual Violence

When the University receives a report that a student or employee has been a victim of sexual violence, the University will provide a written explanation of rights and available options to the complainant, including procedures to follow. This will be provided regardless of whether the offense occurred on campus or in connection with any University program. The written information shall include:

- How and to whom the alleged offense should be reported.
- Options for reporting to and/or notifying law enforcement and campus authorities; the right to be assisted by campus authorities in notifying law enforcement authorities, if the complainant so chooses; and the right to decline to notify such authorities.
- The rights of complainants regarding orders of protection, no contact orders, restraining orders, or similar lawful orders issued by criminal or civil courts, as well as the University’s responsibilities regarding such orders.
- The importance of preserving evidence that may assist in proving that the alleged criminal offense occurred or may be helpful in obtaining a protection order.
- Existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, and other services available both within the institution and the community.
- Options for, and available assistance to, change academic, living, transportation, and working situations, if the complainant requests, and if such options are reasonably available—regardless of whether the victim chooses to report the crime to campus police or local law enforcement;
- Any applicable procedures for institutional disciplinary action.
2. **Options for Resolution**

Individuals reporting sexual harassment or sexual violence must be informed about their options. These options include but are not limited to:

- Early Resolution,
- Formal Investigation, and
- Filing complaints or grievances under the applicable University complaint resolution or grievance procedures.

Individuals making reports must also be informed about the confidentiality of reporting under this *Policy* (see Section V.G below).

Locations must respond promptly and effectively to reports of sexual harassment and sexual violence regardless of whether the reports are brought forth anonymously or by third parties who are not directly involved in the asserted offenses. However, the response to such reports may be limited if the information in the report cannot be verified by independent facts.

Individuals reporting sexual harassment and sexual violence must be informed about the range of possible outcomes of the report including:

- temporary protections,
- remedies for the individual harmed by the incident,
- disciplinary actions that might be taken as a result of the report, and
- information about the procedures leading to such outcomes.

An individual who experiences retaliation (e.g., threats, intimidation, reprisals, or adverse employment or educational actions) may report it. Retaliation could be experienced by those who:

- reported sexual harassment or sexual violence, in good faith;
- assisted someone with a report of sexual harassment or sexual violence; or
- participated in any manner in an investigation or resolution of a report of sexual harassment or sexual violence

(The report of retaliation shall be subject to the procedures in Section V.B.3 and Section V.B.4 below.)

3. **Procedures for Early Resolution**

The goal of Early Resolution is to resolve concerns with the cooperation of all parties involved, at the earliest stage possible. Locations are encouraged to use Early Resolution options only when the people involved desire to do so, or when a Formal Investigation is not likely to lead to a satisfactory outcome. Participation in the Early
Resolution process is voluntary. Therefore, the University does not require that parties attempt to participate in Early Resolution before a Formal Investigation. Mediation, even if voluntary, may not be used in cases involving sexual violence. Some reports of sexual harassment may not be appropriate for mediation, and may first and foremost require a Formal Investigation. The University will not compel a complainant to engage in mediation.

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 include a full range of possible and appropriate outcomes.

Early Resolution includes, but is not limited to, the following options:

- mediating an agreement between the parties (not for incidents of sexual violence),
- separating the parties,
- referring the parties to counseling programs,
- negotiating an agreement for disciplinary action,
- conducting targeted preventive educational and training programs,
- providing remedies for the individual harmed by the offense,
- 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 might be appropriate for responding to anonymous reports and/or third party reports. All of the steps taken to encourage Early Resolution, and any agreements reached through Early Resolution, should be documented.

4. Procedures for Formal Investigation

In cases where Early Resolution is inappropriate or unsuccessful, a location may conduct a Formal Investigation.

In such cases, the individual making the report may be asked to file a written request for Formal Investigation. The wishes of the individual making the request will be considered, but will not solely determine whether a Formal Investigation into the report of sexual harassment or sexual violence is conducted.

In cases where there is no written request, the Title IX Officer (Sexual Harassment Officer) or other appropriate, designated officials, will make a preliminary inquiry into the facts. Such officials could then initiate a Formal Investigation.

In cases where a complainant states that he or she does not want to pursue a Formal Investigation, the Title IX Officer (Sexual Harassment Officer) should inform the complainant that the ability to investigate may be limited. When determining
whether to go forward with a Formal Investigation, the Title IX Officer (Sexual Harassment Officer) may consider:

- the seriousness of the allegation,
- the age of the student in the case of a student complainant,
- if there have been other complaints or reports against the respondent,
- if there will be formal proceedings with sanctions, and
- if the accused individual has the right to receive information about the complainant and/or the allegations.

Even if a complainant does not want to pursue an investigation, under some circumstances, the Title IX Officer (Sexual Harassment Officer) may have to investigate a complaint. For example, there could be a risk to the campus community if the respondent remains on campus. The complainant should be made aware that there could be this independent obligation to investigate the complaint.

(a) To provide a prompt, fair, and impartial investigation and resolution, any Formal Investigation of reports of sexual harassment and/or sexual violence must incorporate the following standards:

The individual(s) accused of conduct violating the Policy must be provided with 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; and

The individual(s) conducting the investigation must:

i) Be familiar with the Policy;

ii) Have training or experience in conducting investigations;

iii) Be familiar with the relevant policies and procedures specific to students, staff, faculty, academic appointees, and visitors; and,

iv) 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 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 end of the criminal investigation to begin an investigation under this Policy. However, a campus may need to coordinate its fact-finding efforts with the police investigation. 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
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resume and complete its fact-finding for the sexual harassment or sexual violence investigation.

(c) To conduct a fair and thorough investigation, disclosing facts to parties and witnesses should be limited to what is reasonably necessary. Participants in an investigation may be advised to maintain the confidentiality of an investigation if it is essential to protect the investigation’s integrity. The investigation generally should include:

- interviews with the parties, if available;
- interviews with other witnesses as needed; and
- a review of relevant documents as appropriate.

(d) The investigator shall apply a preponderance of the evidence standard to determine whether there has been a violation of this Policy.

(e) The complainant and the respondent may each request to have a representative present when he or she is interviewed, and at any other proceeding or related meeting. Other witnesses may also have a representative present if approved by the investigator, or if required by University policy or a collective bargaining agreement.

(f) At any time during the investigation, the investigator can recommend that certain temporary protections or solutions be provided by appropriate University officials for the parties or witnesses. These protections or remedies may include:

- separating the parties,
- placing limitations on the contact between the parties, or
- making alternative working or student housing arrangements.

Failure to comply with the terms of temporary protections may be considered a separate violation of this Policy.

(g) The investigation should be completed as quickly as possible and in most cases within 60 working days from the date that the formal investigation started. This deadline can be extended if the designated University official approves. Timeframe extensions will only be made for good cause, with written notifications to the complainant and the respondent, including the reason for the delay.

(h) Generally, an investigation results in a written report. The report is submitted to a designated University official with the authority to implement the necessary actions that aim to resolve the complaint. The report can be used as evidence in other related procedures, for example: future complaints, grievances and/or disciplinary actions.
(i) According to University policy that governs privacy and access to personal information, 1) the complainant and the respondent may request a copy of the investigative report, and 2) the report must be redacted to protect the privacy of any personal and confidential information regarding all individuals other than the individual requesting the report.

(j) At the conclusion of any proceeding, the complainant and the respondent will simultaneously be informed of the following in writing:

i. The outcome of any University proceeding, including
   1. the final determination with respect to the alleged offense;
   2. any sanction that is imposed against the respondent; and
   3. the rationale for the result and the sanction;

ii. The right and the procedures for both the complainant and respondent to appeal the outcome of any University disciplinary proceeding;

iii. Any change to the results that occurs prior to the time that such results become final; and

iv. When results become final.

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

Instead of, or in addition to, reporting to a Title IX Officer (Sexual Harassment Officer) or other appropriate designated officials, an individual who believes he or she has been subjected to sexual harassment or sexual violence can file a complaint or grievance. A complaint or grievance alleging sexual harassment or sexual violence must meet all of the requirements under the applicable complaint resolution or grievance procedure, including time limits for filing, listed in Appendix I: University Complaint Resolution and Grievance Procedures.

If a complaint or grievance is filed in addition to a report made to the Title IX Officer (Sexual Harassment Officer), the complaint or grievance must be put on temporary hold, subject to the requirements of any applicable complaint resolution or grievance procedure. It will remain suspended until there is an outcome reached from the Early Resolution or Formal Investigation procedures. If the individual wishes to proceed with the complaint or grievance, the Early Resolution or Formal Investigation will then become the first step or steps of the applicable complaint resolution or grievance procedure.
A complainant or respondent can also file a complaint or grievance stating that the actions taken in response to the report of sexual harassment or sexual violence did not follow Policy. Such a complaint or grievance cannot be used to address the disciplinary sanction, if any, that was imposed upon the respondent. Any complaint or grievance regarding the resolution of a report of sexual harassment or sexual violence must be filed in a timely manner. The time period for filing begins on the latest of the dates on which the individual was notified of:

- the outcome of the investigation,
- any other resolution process according to this Policy, and/or
- the actions that the administration took in response to the report of sexual harassment or sexual violence.

D. Remedies and Referral to Disciplinary Procedures
If the Policy was violated, and a report of sexual harassment or sexual violence results in a recommendation for disciplinary action, there are applicable, disciplinary action procedures that should be followed (Appendix II). In addition, these procedures should guide any remedies for the complainant.

Procedures under this Policy will be coordinated with all local complaint resolution, grievance, and disciplinary procedures, to avoid any 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 who reports sexual harassment or sexual violence, and
- violating interim protections.

Investigative reports made according to this Policy can be used as evidence in any future complaint resolution, grievance, and disciplinary proceedings as permitted by the applicable procedures.

E. Privacy
The University will protect the privacy of individuals involved in a report of sexual harassment or sexual violence to the extent permitted by law and by University Policy. A report of sexual harassment or sexual violence can result in gathering extremely sensitive information about individuals in the University community.

While such information is considered confidential, University policy may also require the disclosure of certain information during an investigation. In such cases, every effort will be made to redact the records to protect the privacy of individuals.

The complainant will be informed of the results of a disciplinary proceeding against the respondent, in accordance with Section V.B.4.j., including information regarding disciplinary action taken against the respondent.
F. Resources, Confidentiality of Consultation and Reporting Sexual Harassment and/or Sexual Violence

For any member of the University community seeking resources, information, and/or advice about making a sexual harassment and/or sexual violence report, each location will offer confidential consultations with designated personnel. These resources

- provide such individuals with a safe place to discuss their concerns and learn about the procedures and potential outcomes involved, and
- will be posted on each location’s website.

Such confidential resources include:

- a survivor advocacy office,
- licensed counselors in employee assistance programs, and
- licensed counselors in student counseling centers.

Individuals who consult with confidential resources will be advised that their discussions in these settings are <em>not</em> considered actual reports of sexual harassment or sexual violence. Without additional action by the individual, these discussions will not result in any formal action by the University to resolve their concerns.

The locations will notify the University community that certain University employees, such as the Title IX Officer (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.

While the University understands the desire for confidentiality, and will do its best to fulfill these requests when determining an appropriate response, the University also has a legal responsibility to the respondent. Depending on the situation, there are cases in which the University will need to inform the respondent of the source of the allegation. This level of disclosure may be necessary to ensure a complete and fair investigation.

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

The office of the Title IX Officer (Sexual Harassment Officer) is responsible for maintaining records relating to sexual harassment and sexual violence reports, investigations, and resolutions. Records will be maintained according to University records policies. Records that fall under the scope of the Clery Act will be retained for 7 years, according to federal law. All records pertaining to pending litigation, or a request for records, will be maintained according to instructions from legal counsel.
VI. RELATED INFORMATION

A. Violence Against Women Reauthorization Act (VAWA) of 2013
B. University of California Statement of Ethical Values
C. Standards of Ethical Conduct
D. Academic Personnel Manual (APM) Section 015, The Faculty Code of Conduct (referenced in Section III.D, footnote 1)
E. Academic Personnel Manual (APM) Section 016, University Policy on Faculty Conduct and the Administration of Discipline (referenced in Section III.D, footnote 1)
F. Academic Personnel Manual (APM) Section 035, Affirmative Action and Nondiscrimination in Employment (referenced in Section III.D, footnote 2)
G. Academic Personnel Manual (APM) Section 150, Non-Senate Academic Appointees/Corrective Action and Dismissal
I. Nondiscrimination Policy Statement for University of California Publications Regarding Student-Related Matters (referenced in Section III.D, footnote 2)
J. Personnel Policies for Staff Members 12 (Nondiscrimination in Employment) (referenced in Section III.D, footnote 2)
K. Policy on Student Conduct and Discipline
L. Student-Related Policy Applying to Nondiscrimination on the Basis of Sex
M. University of California Nondiscrimination and Affirmative Action Policy Regarding Academic and Staff Employment (referenced in Section III.D, footnote 2)
N. UC Business and Finance Bulletin RMP-8, Legal Requirements on Privacy of and Access to Information
O. University of California Policies Applying to Campus Activities, Organizations, and Students (referenced in Section III.D, footnote 2)
Q. University of California Non-Discrimination Policy
R. Guidelines on Sexual Harassment and Sexual Violence Outcome Reporting
T. Government Code 12950.1
VII. FREQUENTLY ASKED QUESTIONS

1. **Who can be considered a Representative as described in Section V (B)(4)(e)?**
   A representative includes any individual who provides the complainant or respondent support, guidance, or advice (including attorneys). The institution cannot limit the choice of an advisor, but may establish certain restrictions regarding the extent to which the advisor can participate in the proceedings as long as the restrictions apply equally to both parties.²

2. **What is a “result” or “outcome” of a disciplinary proceeding?**
   A result or outcome includes any initial, temporary, and final decision made by any official or authorized person, that aims to resolve a disciplinary matter within the institution. The result must include any sanctions imposed by the institution. The result must also include the rationale for the result and the sanctions. For more information, please see the “Guidelines on Sexual Harassment and Sexual Violence outcome reporting”.

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² Proposed regulation 34 C.F.R. 668.46(k)(2)(iii)-(iv) provides: (k) Procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking. As required by paragraph (b)(11)(vi) of this section, an institution must include in its annual security report a clear statement of policy that addresses the procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking and that - …(2) Provides that the proceedings will…. (iv) Not limit the choice of advisor or presence for either the accuser or the accused in any meeting or institutional disciplinary proceeding; however, the institution may establish restrictions regarding the extent to which the advisory any participate in the proceedings, as long as the restrictions apply equally to both parties.
VIII. REVISION HISTORY

XX/XX/2015 –

02/25/104 - This policy was reformatted into the standard University of California policy template effective.

Future revisions to this policy will be circulated under standard procedures for Presidential Policies; in the case of this policy, the review will include circulation under the standard Academic Personnel Manual (APM) process, with final authority resting with the President.

As a result of the issuance of this policy, the following documents are rescinded as of the effective date of this policy and are no longer applicable:

- University of California Policy on Sexual Harassment, dated February 10, 2006

- University of California Procedures for Responding to Reports of Sexual Harassment, dated December 14, 2004

  - University of California Policy on Sexual Harassment and Complaint Resolution Procedures, dated April 23, 1992

  - University of California Policy on Sexual Harassment and complaint Resolution Procedures, dated March 10, 1986
APPENDIX I: University Complaint Resolution and Grievance Procedures

The following are the 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

The following are the disciplinary procedures and policies 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 the ethical and professional standards which University faculty are expected to observe, and
- identifies various forms of unacceptable behavior which apply in cases of sexual harassment or sexual violence.

Because the forms of unacceptable behavior listed in *The Faculty Code of Conduct* also apply to sexual harassment or sexual violence, a violation of the University’s *Policy on Sexual Harassment and Sexual Violence* also 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)* (which are applicable to non-exclusively represented academic appointees) and collective bargaining agreements that are applicable to exclusively represented academic appointees allow 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 can be imposed for each of those violations 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 that violates University policy for sexual harassment or sexual violence and provide for disciplinary action for violating University policy.

- PPSM-62: Corrective Action
- PPSM-63: Investigatory Leave
- PPSM-64: Termination of Career Employees – Professional and Support Staff
- PPSM-65: Termination of Career Employees - Managers & Senior Professionals, Salary Grades I through VII
- PPSM-67: Termination of Career Employees – Managers & Senior Professionals, Salary Grades VIII and IX
The University of California is committed to creating and maintaining an atmosphere free of harassment, exploitation, and/or intimidation for every individual in our community. The University’s policy on Sexual Harassment and Sexual Violence establishes the University’s staunch position, as well as the various means of addressing any such instances of sexual harassment and/or sexual violence.

### For assistance with incidents of dating violence, domestic violence, sexual assault, sexual harassment, sexual violence, and stalking, please contact:

**On Campus Resources**

- **CARE Advocate**
  - Confidential 24 hour counselor available for crisis support and referral services
  - (510) 642-4444
  - CAREAdvisor@campus.edu

- **The UC Police Department**
  - (510) 643-7985 (24-hour line)
  - (510) 642-3333 (24-hour emergency line)

**Off Campus Resources**

- **A Safe Place**
  - Oakland hotline, shelter, crisis referral, advocacy, counseling, emergency food, clothing and transportation.
  - 24-hr. crisis line: (510) 536-SAFE (7233)

- **BAWAR**
  - 24-hr hotline staffed by trained counselors. Accompanies survivors to police dept, hospitals & courts. Offers short term counseling and support groups, and referrals for long-term counseling. Special outreach to Latina survivors.
  - 24-hr. crisis line: (510) 845-RAPE (7273)

### What do I do if I’ve been sexually assaulted?

- **Find a safe location away from your attacker.** If you cannot get somewhere safe, call 911 right away.
- **Get medical attention.** Do not shower, eat, drink go to the bathroom, brush your teeth or change your clothes before going to the hospital.
  - If you want to change your clothes, put them in a paper (not plastic) bag and bring them to the hospital.
  - Seeking medical attention right away will reduce your risk of pregnancy and STI's.
- **Seek support.** Sexual assault is a traumatic experience. If you feel comfortable, seek support from a CARE Advisor, friend or family member.

### How can I help someone who may have been sexually harassed or sexually assaulted??

- Remember that the victim’s wellbeing must be considered before all other matters.
- Immediately reporting a case to the police could be more traumatic for the victim than beneficial. Let them make the decision to report (or not report).
- Talk to the person and reinforce that they are not at fault. However, if the individual does not wish to talk to you, respect their decision.
- Contact resources below for information on how to best support a friend though his or her healing process.

See the [UC Sexual Harassment and Sexual Violence policy](#), for further information on:

- Prohibited conduct and Affirmative Consent
- Confidentiality of Reports of Sexual Harassment and Sexual Violence
- Procedures for Reporting and Responding to Reports of Sexual Harassment or Sexual Violence
- University Complaint Resolution and Grievance Procedures