



# Sexual Violence and Sexual Harassment

[Para la traducción en Español, oprima aquí](#)

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Academic Officer:	Vice Provost – Academic Personnel and Programs
Academic Office:	APP – Academic Personnel and Programs
Student Officer:	VP – Student Affairs
Student Office:	SA – Student Affairs
Staff Officer:	VP – Human Resources
Staff Office:	HR – Human Resources
Issuance Date:	
Effective Date:	
Last Review Date	
Scope:	This Policy applies to all University employees, students and University campuses, the Lawrence Berkeley National Laboratory, Medical Centers, the Office of the President, Agriculture and Natural Resources, and all University programs and activities

**For assistance with incidents of dating violence, domestic violence, sexual assault, sexual violence, sexual harassment, and stalking, please contact your local CARE Advisor or Title IX Officer, at <http://sexualviolence.universityofcalifornia.edu/get-help/index.html>**

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## I. POLICY SUMMARY

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This *Policy* addresses the University of California’s responsibilities and procedures related to sexual violence and sexual harassment in order to ensure an equitable and inclusive education and employment environment free of sexual violence and sexual harassment. The *Policy* defines conduct prohibited by the University of California and explains the administrative procedures the University uses to resolve reports of sexual violence and sexual harassment.

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## II. DEFINITIONS

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### A. Consent

Consent is *affirmative, conscious, voluntary, and revocable*. Consent to sexual activity requires of both persons an affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that he or she has the affirmative consent of the other or others to engage in the sexual activity. Lack of protest, lack of resistance, or silence, alone, does not constitute consent. Affirmative consent must be ongoing throughout sexual activity and can be revoked at any time. The existence of a dating relationship or past sexual relations between the persons involved should never by itself be assumed to be an indicator of consent. Similarly, the existence of a subsequent dating relationship or subsequent sexual relations should not be assumed to be an indicator of consent to prior conduct.

The Respondent's belief that the Complainant consented shall not provide a valid excuse where:

1. The Respondent's belief arose from the Respondent's own intoxication or recklessness;

2. The Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the Complainant affirmatively consented;
3. The Respondent knew or reasonably should have known that the Complainant was unable to consent because the Complainant was:
  - a. asleep or unconscious;
  - b. incapacitated due to the influence of drugs, alcohol, or medication, so that the Complainant could not understand the fact, nature, or extent of the sexual activity; or
  - c. unable to communicate due to a mental or physical condition.

*Incapacitation:* The physical and/or mental inability to make informed and rational judgments. States of incapacitation include, but are not limited to being semi-conscious, unconsciousness, or asleep. 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 affect 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.

## **B. Prohibited Conduct**

### **1. Sexual Violence:**

- a. **Sexual Assault:** Sexual contact or penetration, as defined below, that occurs without the consent of the other person, or when the other person is unable to consent to the activity.
  - i. **Sexual Contact:** is defined as touching an intimate body part (genitals, anus, groin, breasts or buttocks), (i) unclothed or (ii) clothed. Note: This definition encompasses a broad spectrum of conduct, not all of which constitutes sexual violence. When reports alleging sexual contact are received, the Title IX Officer will determine whether the allegation should be treated as sexual violence or sexual harassment. (See FAQ for more information)
  - ii. **Sexual Penetration:** is defined as the penetration no matter how slight, of the vagina, anus, or mouth by a penis; or the vagina or anus by any body part or object.

**Note:** Actual or attempted sexual assault is aggravated (more serious) when it includes, but is not limited to, the following:

- Overcoming the will of Complainant by:
  - *force* (the use of physical force or inducing reasonable fear of immediate bodily injury);
  - *violence* (the use of physical force to cause harm or injury);
  - *menace* (a threat, statement, or act showing intent to injure);
  - *duress* (a direct or implied threat of force, violence, danger, hardship, or retribution that is enough to cause a reasonable

person of ordinary sensitivity, taking into account all circumstances including age and relationship, to do or submit to something that he or she would not otherwise do).

- deliberately causing a person to be incapacitated (through drugs or alcohol);
- taking advantage of the other person's incapacitation (including voluntary intoxication)
- Recording, photographing, transmitting, viewing or distributing intimate or sexual images without the knowledge and consent of all parties involved.

**b. Relationship Violence:**

- i. **Dating Violence:** Intentionally, or recklessly, causing, attempting, or threatening to cause bodily injury to the Complainant or another by a person who is or has been in a romantic or intimate relationship with the complainant as determined by the length, type, frequency of interaction between them. Dating violence also includes placing the Complainant in reasonable fear of serious bodily.
- ii. **Domestic Violence:** Intentionally, or recklessly, causing, attempting, or threatening to cause bodily injury to the Complainant or another by a person who is:
  - a current or former spouse or intimate partner of the Complainant; or
  - a person with whom the Complainant shares a child in common.

Domestic violence also includes placing the Complainant in reasonable fear of serious bodily.

- c. **Stalking:** repeated conduct directed at a Complainant (e.g., following, monitoring, observing, surveilling, threatening, communicating or interfering with property), of a sexual or romantic nature or motivation, that would cause a reasonable person to fear for his or her safety, or the safety of others, or to suffer substantial emotional distress.

Stalking of a non-sexual nature is addressed by other University including but not limited to the [Student Code of Conduct, Section 102.10](#).

- d. **Sexual Intercourse with a Minor** is sexual intercourse with a person under the age of 18.

**2. Sexual Harassment:**

**a. General Situations**

For all incidents other than those between students outside of an employment context (see below), sexual harassment is unwelcome sexual advances, unwelcome requests for sexual favors, and other unwelcome verbal or physical conduct of a sexual nature when:

- i. *Quid Pro Quo*: a person's submission to such conduct is implicitly or explicitly made the basis for employment decisions, academic evaluation, grades or advancement; or other decisions affecting participation in a University program or activity; or
- ii. *Hostile Environment*: such conduct is sufficiently severe or pervasive as to create a hostile environment that denies or adversely limits a person's participation in or benefit from the education, employment or other programs and services of the University; or it creates an environment that affects or interferes with a person's employment, work, education, and/or educational performance, and which a reasonable person would find to be intimidating, hostile or offensive.

Sexual harassment may include incidents between any members of the University community, including faculty and other academic appointees, staff, student employees, students, coaches, residents, interns, and non-student or non-employee participants in University programs (e.g., vendors, contractors, visitors, and patients).

**b. Sexual Harassment between students outside of an employment**

**context:** The University of California Policies Applying to Campus Activities, Organizations, and Students, [Policy 100.00 on Student Conduct and Discipline](#), Section 102.09, define sexual harassment of one student by another student as unwelcome conduct of a sexual nature that is so severe and/or pervasive, and objectively offensive, and that so substantially impairs a person's access to University programs or activities that the person is effectively denied equal access to the University's resources and opportunities. This definition does not apply to sexual violence, as defined in this Policy.

- c. Sexual harassment may occur in hierarchical relationships, between peers, or between individuals of any gender or gender identity. To determine whether the reported conduct constitutes sexual harassment, consideration shall be given to the totality of the circumstances, including the context in which the conduct occurred.

**Note On Sex Discrimination:** In addition to sexual harassment, discrimination based on sex, gender, gender identity, gender expression, sex- or gender-stereotyping, and sexual orientation violates law and other University policies. Such discrimination may also contribute to the creation of a hostile work or academic environment based on sex and thus constitute or contribute to sexual harassment.

**3. Retaliation**

Retaliation includes threats, intimidation, reprisals, and/or adverse employment or education actions against a person based on their report of or participation in the report, investigation, remedial, and/or disciplinary processes provided for in this Policy.

### **C. Other Definitions**

#### **1. Confidential Resources:**

Employees who can provide confidential consultation in their professional capacity include the:

- a. CARE advocates,
- b. Ombuds,
- c. Licensed counselors in employee assistance programs,
- d. Licensed counselors in student counseling centers,
- e. Any persons with a professional license requiring confidentiality (excluding campus legal counsel), or someone who is supervised by such a person, and
- f. Any health sciences center employees with a professional license requiring confidentiality, or someone who is supervised by such a person.

Designation as a “Confidential Resource” for purposes of this *Policy* only exempts these individuals from reporting to the Title IX office. Individuals with other mandatory reporting obligations must still comply with the UC CANRA (Child Abuse and Neglect Reporting Act) Policy, reporting obligations as a Campus Security Authority (CSA) under the Clery Act, and other policies or laws that require reporting to campus or local law enforcement, or Child Protective Services.

2. **Complainant:** Any person who files a report of sexual harassment or sexual violence or any person who has been the alleged subject of sexual violence, sexual harassment or retaliation.
3. **Location:** “Location” is all University of California campuses, the Lawrence Berkeley National Laboratory, Medical Centers, the Office of the President, and Agriculture and Natural Resources.
4. **Preponderance of Evidence:** A standard of proof that requires that a fact be found when its occurrence, based on evidence, is more likely than not.
5. **Respondent:** A person alleged to have engaged in a Prohibited Conduct and about whom a report of sexual violence, sexual harassment or retaliation is made.
6. **Responsible Employee:** Any University employee who is not a confidential resource and who receives information about possible sexual violence or sexual harassment involving an ***undergraduate student*** must promptly notify the Title IX Officer or designee. This includes Resident Assistants, Graduate Teaching Assistants, and all other student employees, when disclosures are made to any of them in their capacities as employees.

Any of the following individuals who receive a report of sexual violence or sexual harassment from any other person affiliated with the University are responsible for promptly forwarding such reports to the Title IX Officer:

- Campus Police
- Human Resources staff, Academic Personnel Office staff, and Title IX Professionals

- Managers and Supervisors, including Deans, Department Chairs, and Directors of an Organized Research Unit (ORU)

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### III. POLICY STATEMENT

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#### A. General

The University of California is committed to creating and maintaining a community free of sexual violence and sexual harassment for every individual. Sexual violence and sexual harassment violate both law and University policy. Any member of the University community may report conduct that may constitute sexual violence or sexual harassment. The University will respond promptly and equitably to such reports, and will take appropriate action to stop, prevent, and remedy the sexual violence and sexual harassment, and when necessary, to discipline the Respondent.

To determine if there has been sexual violence or sexual harassment, the University may take into account *any* acts of harassment based on sex, gender, gender identity, gender expression, sex- or gender-stereotyping, or sexual orientation. 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.<sup>1</sup>

#### B. Prohibited Conduct

This Sexual Violence and Sexual Harassment Policy (hereafter referred to as *Policy*) prohibits sexual violence, sexual harassment, and retaliation as defined in Section II.

#### C. Consensual Relationships

While romantic and sexual relationships between members of the University community may begin as consensual, instances of sexual violence and sexual harassment may occur within such relationships. Accordingly, a report of sexual violence or sexual harassment that occurs within the context of a consensual relationship will be treated as any other report.

Because consensual romantic and sexual relationships between members of the University community may give rise to conflicts of interest, such relationships between a student and faculty member or other employees or between employees are also subject to other University policies, such as [The Faculty Code of Conduct](#), APM-015.II.A.6 & 7 and local policies.

#### C. Protection for Complainants, Respondents, and Witnesses

1. Immunity: To encourage reporting, neither a Complainant nor witness in an investigation of sexual violence will be subject to disciplinary sanctions for a violation of the relevant university conduct policy at or near the time of the

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<sup>1</sup> [University of California Nondiscrimination and Affirmative Action Policy Regarding Academic and Staff](#); [Nondiscrimination and Affirmative Action Policy Statement for University of California](#); [Academic Personnel Manual \(APM\) Section 035, Affirmative Action and Nondiscrimination in Employment](#); [Personnel Policies for Staff Members 12, Nondiscrimination in Employment](#); [University of California Policies Applying to Campus Activities, Organizations, and Students](#); and [Nondiscrimination Policy Statement for University of California Publications Regarding Student-Related Matters](#).

incident, unless the violation placed the health or safety of another at risk, involves plagiarism, cheating, or academic dishonesty, or was otherwise egregious.

2. **Retaliation:** Retaliation against someone for reporting or participating in an investigation and related processes is prohibited. See Prohibited Conduct in this *Policy*.
3. **Privacy:** The University will protect the privacy of individuals involved in a report of sexual violence or sexual harassment to the extent permitted by law and by University policy. However, it should be recognized that an investigation may involve interviews with a number of persons to inquire if they have relevant evidence, and extremely sensitive information may be gathered. While such information is considered confidential, University policy may also require the disclosure of certain information during or following an investigation. Efforts will be made to redact written reports and to protect the privacy of individuals, to the extent possible.

#### **D. 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. (See APM-010 and 015.)

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.

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## **IV. COMPLIANCE / RESPONSIBILITIES**

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### **A. Implementation of the Policy**

Executive Officers (the University President, Chancellor, Lawrence Berkeley National Laboratory Director, or Vice President of Agriculture and Natural Resources) or their designees, have the authority to develop procedures and supplementary information to support the implementation of this *Policy*. Responsible Officers (Vice Provost-Academic Personnel and Programs, the Vice President of Student Affairs and Vice President of Human Resources) will apply appropriate and consistent interpretations of this *Policy* that do not result in substantive changes to the *Policy*.

The Executive Officer, or their designee, at each location, must establish and implement local procedures consistent with this *Policy*. Exceptions to local procedures required by the *Policy* must be approved by the Executive Officer or designee.

**B. Revisions to the Policy**

The President approves the *Policy* and any revisions. The Responsible Officers have the authority to recommend 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. Additional Enforcement Information**

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

**F. Noncompliance with the Policy**

Engaging in Prohibited Conduct, defined in this *Policy*, is governed by this *Policy* and the [Policy on Student Conduct and Discipline](#), Personnel Policies for Staff Members [61](#), [62](#), [63](#), [64](#), [65](#), and [67](#) pertaining to disciplinary and separation matters, [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 \(APM-150\)](#), and as applicable, collective bargaining agreements, and other policies. See Section VI and Appendices I and II. Non-compliance with this Policy, other than violations of Prohibited Conduct, may result in employment or educational consequences up to and including informal counseling, education, adverse performance evaluations, corrective actions, and termination.

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## V. REQUIRED PROCEDURES

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### A. *Procedures for Reporting and Responding to Reports of Sexual Harassment Or Sexual Violence*

#### 1. **Reporting**

Reports, including reports by Complainants and reports by a third party including anonymous reports, of Prohibited Conduct may be brought to the Title IX Officer or to a Responsible Employee who shall forward the report to the Title IX Officer. If the person to whom harassment normally would be reported is the individual accused of harassment, reports may be made to another Responsible Employee.

#### **Note: Timelines for Making Reports**

Reports of sexual violence or sexual harassment should be brought forward as soon as possible. While all incidents should be reported even if significant time has elapsed, prompt reporting will better enable the University to respond, investigate, provide an appropriate remedy, and impose discipline if appropriate.

#### 2. **Initial Assessment of a Report**

As soon as practicable after receiving a report, the Title IX Officer will make an initial assessment of the report to determine whether the report, on its face, alleges a violation set forth in Prohibited Conduct defined in Section II; and such conduct has a sufficient nexus with the University for it to intervene.

- a. **Immediate Health and Safety** When a report of sexual violence has been made, the Title IX Officer, in coordination with the Case Management Team (see Section V below), shall make an immediate assessment concerning the health and safety of the individual and the campus community, implement remedies immediately necessary (including stay away orders), and inform the Complainant of campus and community resources, rights and reporting options (including the right to make reports to the police), and a written explanation of available rights and options. (See Appendix IV and Location Responsibilities in Section V).

Failure to comply with the terms of such Health, Safety and Educational Responses may be considered a separate violation of this *Policy*.

- b. **Jurisdiction over Reports of Sexual Violence or Sexual Harassment**

The University has jurisdiction over alleged violations of this *Policy* by students, staff and other academic appointees that occur on University grounds and facilities such as offices and residence halls, or that occur in connection with University activities, programs, or events. In addition, the University has discretion under this *Policy* to exercise jurisdiction over conduct that occurs off-campus but affects the learning or working environment. For incidents involving student Respondents, the University may exercise jurisdiction over off-campus conduct that would violate other University Policies if it occurred on campus. Please refer to Section IV of the [Student Conduct Code](#) for further information about the University's exercise of off-campus jurisdiction in such cases.

#### 3. **Notifications**

Individuals making reports shall be informed about:

- Policies applying to confidentiality of reports under this *Policy*.
- The range of possible outcomes of the report, including Health and Safety measures, remedies, disciplinary actions that might be taken against the Respondent, and information about the procedures leading to such outcomes.

#### 4. Overview of Resolution Processes

The University has several resolution processes for addressing reports of sexual violence and sexual harassment. These include procedures for Alternative Resolution, procedures for Formal Investigation, and filing reports or grievances under applicable University complaint resolution or grievance procedures.

##### a. Alternative Resolution

After a preliminary inquiry into the facts which does not involve a Formal Investigation and Report, the Title IX Officer may initiate an Alternative Resolution which permits a variety of options, including:

- mediation (except in cases of sexual violence);
- separating the parties;
- providing for safety;
- referring the parties to counseling;
- taking disciplinary action;
- conducting targeted preventive educational and training programs;
- conducting a follow-up review to ensure that the resolution has been implemented effectively.

Alternative Resolution may be especially useful when a Report is made by a third party or anonymously; when a Formal Investigation is not likely to lead to a satisfactory outcome; when both parties prefer an informal process; or in cases involving less serious violations. The Complainant and Respondent have the right to request a Formal Investigation at any time and may be accompanied by a support person throughout the process.

##### b. Formal Investigation

In cases where Alternative Resolution is inappropriate or unsuccessful, the location may conduct a Formal Investigation. Where an individual has requested an investigation, that request will be considered, but is not determinative.

However, if the Complainant requests that no investigation occur, the Title IX Officer shall determine whether the allegations nonetheless require an investigation to mitigate an apparent risk to the campus community. If determining not to proceed with an investigation, the Title IX Officer shall inform the Complainant that the ability to provide remedies may be limited, but the Title IX Officer shall nonetheless afford such remedies as are consistent with maintaining confidentiality and the absence of an administrative finding.

When the Title IX Officer determines to conduct an investigation, the Complainant and Respondent will be provided with a written summary of the allegations, the procedures that will be followed, resources available to them and a copy of the *Policy*. If proceeding with an investigation, the Title IX Officer shall attempt to maintain the identity of the Complainant confidential from the

Respondent or inform the Complainant that such confidentiality cannot be maintained.

The investigation shall be completed promptly, typically within 60 working days of its initiation, unless extended by the Title IX Officer for good cause, with written notice to the Complainant and Respondent of the reason for the extension and the projected new timeline. If the alleged conduct is also the subject of a criminal investigation, the Title IX Office will coordinate its investigation with the police but must act promptly without delaying its investigation until the conclusion of the criminal investigation.

The investigation generally includes interviews with the Complainant and Respondent, if available, and witnesses and a review of documents as appropriate. Disclosure of facts to persons interviewed shall be limited to what is reasonably necessary to conduct a fair and thorough investigation. Participants in an investigation may be advised to maintain confidentiality when essential to protect the integrity of the investigation.

The Complainant or Respondent may have a representative present when personally interviewed and at any related meeting. Other witnesses may have a representative present at the discretion of the investigator or as required by University policy or collective bargaining agreement.

**c. Grievance Procedures for Employees**

Instead of, or in addition to, reporting under this *Policy* to the Title IX Officer or other Responsible Employee, an individual who believes they have been subjected to Prohibited Conduct (See Section II.B) can file a grievance. That grievance must meet all of the requirements, including time limits for filing, under the applicable complaint resolution or grievance procedure, listed in *Appendix I: University Complaint Resolution and Grievance Procedures*. Any report filed under an alternative report or grievance procedure will be forwarded to the Title IX Officer for consideration and will be held in abeyance pending resolution under this *Policy*. If a Formal Investigation is conducted under this *Policy*, this investigation will substitute for fact-finding provided under any other report or grievance process. If a Complainant utilizes an alternative University report process, such as a grievance under APM-140, a charge under the Faculty Code of Conduct, or a Whistleblower Report (or Whistleblower Retaliation Complaint), the University officer receiving that report shall forward the report to the Title IX Officer for processing under this *Policy*. After completion of the process under this *Policy*, the report that had been filed via the alternative report process may be reactivated but *only* as a means of appeal by the Complainant.

**5. The Investigation Report**

The investigator will prepare a written report that includes a statement of the allegations and issues, the positions of the Complainant and Respondent, a summary of the evidence, an explanation why any proffered evidence was not investigated, findings of fact, an analysis and determination by the investigator, made by a preponderance of the evidence standard, whether this *Policy* has been violated.

The Complainant and Respondent will be simultaneously informed in writing of:

- the outcome of the investigation and its rationale;
- any rights and procedures for the Complainant and Respondent to appeal;
- any change to the results that occur prior to the time that such results become final; and when results become final;
- how to obtain a copy of the Investigation Report, which shall be redacted to protect the privacy of any personal and confidential information other than information regarding the person who is provided with the report. See APM-160 and other policies governing privacy.

The Report may be used as evidence in related disciplinary and grievance proceedings.

Any conclusion in a Report finding sexual violence, sexual harassment, or retaliation that involves an assessment of academic merit (either individual or programmatic) or academic freedom may only be made following a referral of that assessment to and an opportunity within 10 working days for a response from the Chief Academic Officer or delegee.

## **6. Remedy**

- a. If the Report finds a violation of Prohibited Conduct, the University shall take prompt and effective steps reasonably calculated to stop the violation, prevent its recurrence, and, as appropriate, remedy its effects in order to eliminate a hostile environment. For a list of available remedies, see Appendix IV.
- b. To the extent that the remedy has not already been provided in the normal course of the University's educational processes, the Title IX Officer, in consultation with appropriate administrators will oversee the implementation of this Remedy.
- c. The Complainant will be sent a notice documenting any individual remedies offered or provided to the Complainant, and other steps taken to eliminate the hostile environment. The Respondent will be informed of stay away orders, but should not be notified of other individual remedies offered or provided to the Complainant.

## **7. Discipline**

- a. The Title IX Officer shall forward the Investigation Report (with any necessary redactions) to the appropriate administrator responsible for discipline.
- b. Any member of the University community who is found to have engaged in sexual violence or sexual harassment may be subject to disciplinary action depending on the seriousness of the violation, up to and including dismissal in accordance with the applicable University disciplinary procedure (Appendix II: University Disciplinary Procedures) or other University policy.
- c. At the conclusion of any disciplinary proceeding, the administrator of the disciplinary process shall simultaneously inform the Complainant and the Respondent in writing of:

- i. the outcome of the disciplinary proceeding, including the final determination with respect to the alleged offense, any sanction that is imposed, and the rationale for the results;
- ii. any right and procedures, if available, to appeal the outcome;
- iii. any subsequent change to the results and when results will become final.

### **B. Location Responsibilities**

Each location must do the following:

1. Designate and provide adequate resources to a Title IX Officer. The responsibilities of the Title IX Officer include, but may not be limited to, the duties listed below:
  - a. Coordinate with other responsible units to ensure that local sexual violence and sexual harassment prevention education and training programs are offered and provided, as required by the *Policy*.
  - b. Provide educational materials to promote compliance with the *Policy* and familiarity with local reporting procedures.
  - c. Provide training for University employees who are responsible for reporting or responding to reports of sexual harassment.
  - d. Provide prompt and equitable response to reports of sexual violence or sexual harassment according to the *Policy*.
  - e. Maintain records of reports of sexual violence and sexual harassment at the location, as well as any actions taken in response to reports, including records of investigations, resolutions, and disciplinary action, as appropriate.
  - f. Identify and address any patterns or systemic problems that arise during the review of sexual violence and sexual harassment reports.
  - g. Post on the Title IX website the names and contact information for the Title IX Officer as well as any additional designated, trained, sexual harassment or sexual violence advisors.
2. Designate persons who can offer consultations without reporting them to the Title IX Officer, to any member of the University community seeking information, or advice about making a report of sexual violence and/or sexual harassment. Each location will post information about how and where to contact confidential resources on its web site.

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

3. 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*.

4. Provide a “Respondent Services Coordinator” that facilitates fair and equitable services for the Respondent.
5. 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 promptly and equitably, 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 violence. The CCRT serves in an advisory capacity to campus leadership and community members about best practices in policies, education, prevention and response to sexual violence.

Note: The requirements of #3, 4, and 5 above are for locations with students only. However, ANR, UCOP, and LBNL should coordinate delivery of these requirements with associated campuses or affiliated organizations.

6. Provide mandatory annual training and education about sexual violence and sexual harassment prevention to all students, faculty, other academic appointees, and staff.

Offer primary prevention programs and awareness campaigns to the University community, to promote ongoing awareness of sexual violence including preventing dating violence, domestic violence, sexual assault, and stalking. These campaigns will include, but are not limited to, education about the definition of consent, consensual relationships, options for bystander intervention, trauma-informed approaches, and risk reduction awareness information. These programs are to 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.

7. Follow University established and approved processes for adjudication, investigation, and sanctioning.
8. Offer comprehensive, annual training, for individuals conducting Formal Investigations of reports or conducting hearings on responding to sexual violence, including trauma-informed approaches.
9. Publicize a location-specific process for reporting sexual violence or sexual harassment.
10. Provide written explanation of rights and available options as outlined in this *Policy* including:
  - a. How and to whom to report alleged violations.
  - b. 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.

- c. 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 to comply with such orders.
  - d. The importance of preserving evidence that may assist in proving that a criminal offense occurred or in obtaining a protection order.
  - e. Counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, and other services available both within the institution and the community.
  - f. 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 Complainant chooses to report the crime to campus police or local law enforcement.
  - g. Applicable procedures for institutional disciplinary action.
11. Distribute and post this *Policy*. Each location is required to distribute this *Policy* to students, faculty, other academic appointees and staff, by such means as websites, student information boards, student handbook, faculty handbook and staff websites and information boards and during training and student orientation.
12. The Title IX Officer is responsible for maintaining records relating to sexual violence and sexual harassment reports, investigations, and resolutions. Records will be maintained according to University records policies. Records within 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.

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## VI. RELATED INFORMATION

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- A. [University of California Standards of Ethical Conduct](#)
- B. [University of California Statement of Ethical Values](#)

### Academic Personnel Manual

- A. [Academic Personnel Manual \(APM\) Section 015](#), The Faculty Code of Conduct (referenced in Section III.D, footnote 1)
- B. [Academic Personnel Manual \(APM\) Section 016, University Policy on Faculty Conduct and the Administration of Discipline](#) (referenced in Section III.D, footnote 1)
- C. [Academic Personnel Manual \(APM\) Section 035, Affirmative Action and Nondiscrimination in Employment](#) (referenced in Section III.D, footnote 2)
- D. [Academic Personnel Manual \(APM\) Section 150](#), Non-Senate Academic Appointees/Corrective Action and Dismissal

### Presidential Policies and Guidelines

- A. [Nondiscrimination Policy Statement for University of California Publications Regarding Student-Related Matters](#) (referenced in Section III.D, footnote 2)
- B. [Personnel Policies for Staff Members 12 \(Nondiscrimination in Employment\)](#) (referenced in Section III.D, footnote 2)
- C. [Business and Finance Bulletin RMP-2: Records Retention and Disposition: Principles, Processes, and Guidelines](#)
- D. Guidelines on Sexual Violence and Sexual Harassment Outcome Reporting
- E. [Policy on Student Conduct and Discipline](#)
- F. [Student-Related Policy Applying to Nondiscrimination on the Basis of Sex](#)
- G. [University of California Nondiscrimination and Affirmative Action Policy Regarding Academic and Staff Employment](#) (referenced in Section III.D, footnote 2)
- H. [UC Business and Finance Bulletin RMP-8. Legal Requirements on Privacy of and Access to Information](#)
- I. [University of California Policies Applying to Campus Activities, Organizations, and Students](#) (referenced in Section III.D, footnote 2)
- J. [University of California Non-Discrimination Policy](#)  
[Federal and State Regulations](#)
- A. [Government Code 12950.1 Nondiscrimination and Affirmative Action Policy Statement for University of California Publications Regarding Employment Practices](#) (referenced in Section III.D, footnote 2)
- B. [Violence Against Women Reauthorization Act \(VAWA\) of 2013](#)

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## VII. FREQUENTLY ASKED QUESTIONS

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1. **Who can be considered an advisor or representative as described in this Policy?**  
A representative includes any individual who provides the Complainant or Respondent with support, guidance, or advice (including attorneys). The institution cannot limit the choice of a representative, but may establish certain restrictions regarding the extent to which the representative can participate in the proceedings as long as the restrictions apply equally to both parties.
2. **What is a “result” or “outcome” of a disciplinary proceeding?**  
A result or outcome includes a written description of 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**.
3. **Does Dating or Domestic Violence include psychological or emotional abuse?**  
Although this type of conduct does not rise to the level of violence as these terms are defined by the Violence Against Women Reauthorization Act, the University offers prevention education on identifying abusive behavior and reducing the risk of such

behavior. The University also offers counseling and support services to members of the University community who have been subject to, or have been found to have engaged in, this type of conduct.

**4. Why might Sexual Contact constitute sexual violence in some cases but sexual harassment in others?**

Sexual contact encompasses a broad spectrum of conduct, some of which constitutes sexual assault, but some of which is better treated as sexual harassment. One example of sexual contact that could be considered as sexual assault under this Policy is when a Respondent is accused of groping the Complainant's breast under the Complainant's clothing and without any indication of consent. An example of sexual contact that could be considered as sexual harassment is an allegation that the Respondent patted the Complainant's buttocks over the Complainant's clothing. While the example of groping might be resolved through a Formal Investigation, the patting example would generally be handled through Alternative Resolution. The Title IX Officer will review all sexual contact allegations to determine the best procedure for resolving the report based on the totality of the circumstances.

**5. Does Sexual Assault also include “rape” and “sexual battery” as those terms are used in the criminal law context?**

Yes. The types of conduct prohibited by this Policy include “rape” and “sexual battery” as defined in the Penal Code. This Policy also prohibits additional types of nonconsensual sexual contact. For additional assistance with any questions about whether a specific type of conduct violates this Policy, or the law, please contact your local CARE Advocate, UC Police, or Title IX Officer.

**6. Once the outcome of an investigation or disciplinary proceeding under this Policy is disclosed to the Complainant, can the Complainant be asked to keep this information confidential?**

The Complainant can be advised of the confidential and sensitive nature of personnel and student disciplinary matters that arise under this Policy, and in appropriate circumstances, such as in connection with a settlement of a matter, may be asked not to further disclose it.

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## VIII. REVISION HISTORY

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07/01/2015 –

02/25/2004 - 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: Applicable Complaint Resolution and Grievance Policies**

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

[PPSM 70](#)

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 violence or sexual harassment.

Because the forms of unacceptable behavior listed in *The Faculty Code of Conduct* also apply to sexual violence or sexual harassment, a violation of the University's *Policy on Sexual Harassment and Sexual Violence* may constitute 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 violence or sexual harassment 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](#)
  - [PPSM II-64 \(Termination of Appointment\)](#)

# Sexual Violence and Sexual Harassment



## APPENDIX III: SAMPLE Policy Fact Sheet

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 will respond promptly and equitably to reports of sexual violence and sexual harassment, and will take appropriate action to prevent, to correct, and when necessary, to discipline behavior that violates the Sexual Violence and Sexual Harassment policy.

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

On Campus Resources	
<p><b>CARE Advocate</b>                      Confidential 24 hour counselor available for crisis support and referral services</p> <p>(510) 642-4444  <a href="mailto:CAREAdvisor@campus.edu">CAREAdvisor@campus.edu</a></p>	<p><b>The UC Police Department</b>                      (510) 643-7985 (24-hour line)                      (510) 642-3333 (24-hour emergency line)</p>
Off Campus Resources	
<p><a href="#">A Safe Place</a>                      Oakland hotline, shelter, crisis referral, advocacy, counseling, emergency food, clothing and transportation.  <b>24-hr. crisis line: (510) 536-SAFE (7233)</b></p>	<p><a href="#">BAWAR</a>                      24-hr hotline staffed by trained counselors. Accompanies survivors to police dept, hospitals &amp; courts. Offers short term counseling and support groups, and referrals for long-term counseling. Special outreach to Latina survivors.  <b>24-hr. crisis line: (510) 845-RAPE (7273)</b></p>

### 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 above for information on how to best support a friend through his or her healing process.

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

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

## APPENDIX IV – Remedies

At any time during the investigation, the investigator may recommend that interim protections or remedies for the parties or witnesses be provided by appropriate University officials. These protections or remedies may include separating the parties, placing limitations on contact between the parties, or making alternative working or student housing arrangements. Failure to comply with the terms of interim protections may be considered a separate violation of this *Policy*.

Remedies include but are not limited to:

- i. *Campus Services Generally*: Inform the Complainant and Respondent about and refer to Campus services that are available to all students and in many cases to others: academic support including tutoring, counseling, disability services, health and mental health services, family planning services, survivor advocacy, housing assistance, legal assistance; information about the right to report a crime to campus or local law enforcement, and written materials prepared by the Title IX Officer pursuant to V.B below.
- ii. *Campus Services Modified For Students*:
  - If a campus service is not generally available or a fee is imposed, the Title IX Officer will arrange for access or the elimination of fees when appropriate.
  - Comprehensive, holistic survivor services including additional medical, counseling and academic support services.
  - Any other accommodations or protective measures that are reasonably available once a Complainant has requested them.
- iii. *Additional Educational Remedies For Students*<sup>2</sup>:
  - Change advisors, class sections and similar schedule adjustments.
  - Arrange extra time for the Complainant to complete academic requirements of a class or program, to re-take a class or withdraw from a class without an academic or financial penalty if the University delayed such accommodations after it reasonably should have known of the violation.
  - Review any disciplinary actions taken against the Complainant subsequent to the incident described in the Report to determine whether there is a causal connection between the violation and the Complainant's misconduct.
- iv. *Remedies Available To Employees, Including Student Employees*:
  - Transfer to a different supervisor, workstation, unit, department, or position for which the employee is qualified provided that, in the case of a Complainant's transfer, the change is voluntary and equitable.
- v. *Training And Education Of The Respondent*: The Title IX Coordinator may require that the Respondent undergo training, including sexual harassment training, anger management training, and periodic refresher classes.

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<sup>2</sup>April 29, 2014 A-6 providing safety

**vi. No Contact Remedies:**

- Complainant and Respondent Options:
  - a) The Title IX Officer will notify the Complainant and Respondent of options to avoid contact and assist the Complainant and Respondent to change academic and extracurricular activities or living, transportation, dining, and working situations as appropriate,
  - b) assist the Complainant and Respondent to apply for no contact orders; and,
  - c) when appropriate, arrange for effective escort services to ensure that the Complainant and Respondent can move safely between classes and activities.
  
- Respondent's Restrictions: *some of which may be imposed by Title IX Officer, all of which may be implemented by agreement, and the more serious of which may be imposed only pursuant to Discipline*
  - a) Allow the Complainant to take the regular sections of courses while arranging for the Respondent to take the same courses online or through independent study;
  - b) Moving the Respondent to a different residence hall;
  - c) Forbidding the Respondent to participate in specific athletic or extracurricular events or social clubs (including fraternities or sororities);
  - d) Requiring that the Respondent stay away from the Complainant for a period of time (up to the Complainant's graduation or other departure from the campus) via scheduling or class changes;
  - e) Prohibiting the Respondent from attending school for a period of time, or transferring the Respondent to another campus; and
  - f) If a Respondent presents an ongoing safety risk, excluding the Respondent from campus.

**vii. Other Remedies Devised By The Title IX Officer Or Other Administrator.**