



Sexual Harassment and Sexual Violence

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

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

I. POLICY SUMMARY

The University of California is committed to creating and maintaining a community where all individuals who participate in University programs and activities can work and learn together in an atmosphere free of harassment, exploitation, or intimidation. 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* applies to all University of California employees and students at its campuses, the Lawrence Berkeley National Laboratory, the Medical Centers, the Office of the President (“locations”), Agriculture and Natural Resources, and its University programs and activities. This *Policy* furthers the University’s commitment to compliance with the law and to the highest standards of ethical conduct as outlined in the University’s Statement of Ethical Values and Standards of Ethical Conduct.

It is the policy of the University not to engage in discrimination against or harassment of any person associated with the University of California.

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II. DEFINITIONS

Sexual Harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual harassment is conduct that explicitly or implicitly affects a person's employment or education or interferes with a person's work or educational performance or creates an environment such that a reasonable person would find the conduct intimidating, hostile, or offensive. Sexual harassment includes sexual violence (see definition below). The University will respond to reports of any such conduct in accordance with the *Policy*.

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). Sexual harassment may occur in hierarchical relationships, between peers, or between individuals of the same sex or opposite sex. To determine whether the reported conduct constitutes sexual harassment, consideration shall be given to the record of the conduct as a whole and to the totality of the circumstances, including the context in which the conduct occurred.

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

Sexual Violence is defined as physical sexual acts engaged without the consent of the other person or when the other person is unable to consent to the activity. Sexual violence includes sexual assault, rape, battery, and sexual coercion; domestic violence; dating violence; and stalking.

Abuse: means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to himself or herself, or another.

Domestic Violence is defined as abuse committed against an adult or a minor who is a spouse or former spouse, cohabitant or former cohabitant, or someone with whom the abuser has a child, has an existing dating or engagement relationship, or has had a former dating or engagement relationship.

Dating Violence is defined as abuse committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

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

Consent is *informed*. Consent is an affirmative, unambiguous, and conscious decision by each participant to engage in mutually agreed-upon sexual activity.

Consent is *voluntary*. It must be given without coercion, force, threats, or intimidation. Consent means positive cooperation in the act or expression of intent to engage in the act pursuant to an exercise of free will.

Consent is *revocable*. Consent to some form of sexual activity does not imply consent to other forms of sexual activity. Consent to sexual activity on one occasion is not consent to engage in sexual activity on another occasion. A current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Even in the context of a relationship, there must be mutual consent to engage in sexual activity. Consent must be ongoing throughout a sexual encounter and can be revoked at any time. 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 coercion. A person cannot consent if his/her understanding of the act is affected by a physical or mental impairment.

For purposes of this *Policy*, the age of consent is consistent with California Penal Code Section 261.5.

Incapacitation is defined as the physical and/or mental inability to make informed, rational judgments. States of incapacitation include, but are not limited to, unconsciousness, sleep, and blackouts. Where alcohol, drugs or other medication are involved, incapacitation is defined with respect to how the alcohol or other drugs consumed affects a person's decision-making capacity, awareness of consequences, ability to make fully informed judgments, and inability to communicate. Being intoxicated by drugs, alcohol or other medication does not absolve one's responsibility to obtain consent. The factors to be considered when determining whether consent was given include whether the accused knew, or whether a reasonable person should have known, that the complainant was incapacitated.

Stalking is behavior in which a person repeatedly engages in conduct directed at a specific person that places that person in reasonable fear of his or her safety or the safety of others.

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

III. POLICY STATEMENT

A. General

The University prohibits sexual harassment and sexual violence. 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*.

B. Prohibited Acts

This *Policy* prohibits sexual harassment and sexual violence as defined in Section II. Conduct by an employee that is sexual harassment or sexual violence in violation of this *Policy* is considered to be outside the course and scope of employment.

C. Consensual Relationships

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

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

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

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

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

E. Retaliation

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

F. Student Amnesty

Complainants and witnesses, who are students, and who participate in an investigation of sexual violence will not be subject to disciplinary sanctions for a violation of the University's student conduct policy at or near the time of the incident, unless the institution determines that the violation was egregious, including, but not limited to, an action that places the health or safety of any other person at risk or involves plagiarism, cheating, or academic dishonesty.

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

As part of the University's commitment to providing a working and learning environment free from sexual harassment and sexual violence, this *Policy* shall be disseminated widely to the University community through publications, websites, new employee orientations, student orientations, and other appropriate channels of communication. The locations shall make preventive educational materials and prevention training available to all members of the University community to promote compliance with this *Policy* and familiarity with local procedures. The locations shall designate University employees responsible for reporting sexual harassment and sexual violence and make available prevention training to designated employees. In addition, the University will provide annual training to investigators and hearing officers. Each location shall post a copy of this *Policy* in a prominent place on its website (See Section V. Procedures).

H. Reporting Sexual Harassment or Sexual Violence

Any member of the University community may report conduct that may constitute sexual harassment or sexual violence to any supervisor, manager, or Title IX Officer (Sexual Harassment Officer). Supervisors, managers, and other designated employees are responsible for promptly forwarding such reports to the Title IX Officer (Sexual Harassment Officer) or other local official designated to review and investigate sexual harassment and sexual violence complaints. Any manager, supervisor, or designated employee responsible for reporting or responding to sexual harassment or sexual violence who knew about the incident and took no action to stop it or failed to report the prohibited act may be subject to disciplinary action.

Each location shall identify confidential resources, including but not limited to the CARE Advocate and Campus Ombuds, with whom members of the University community can consult for advice and information regarding making a report of sexual harassment or sexual violence. Requests regarding the confidentiality of reports of sexual harassment or sexual violence will be considered in determining an appropriate response; however, such requests will be considered in the dual contexts of the University's obligation to ensure a working and learning environment free from sexual harassment and sexual

violence and the due process rights of the accused to be informed of the allegations and their source. See Section V.E and F for more information regarding confidentiality and privacy. Also, an individual may file a complaint or grievance alleging sexual harassment or sexual violence under the applicable University complaint resolution or grievance procedure (*Section V. Procedures; Appendix I: University Complaint Resolution and Grievance Procedures*).

I. Response to Reports of Sexual Harassment or Sexual Violence

The locations shall provide prompt and effective 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 the individual has been a victim of domestic violence, dating violence, sexual assault, or stalking, s/he shall be provided with a written explanation of the individual's rights and options whether the offense occurred on- or off-campus or on any University location.

Upon a finding of sexual harassment or sexual violence, the University may offer remedies to the individual or individuals harmed by the harassment and/or violence consistent with applicable complaint resolution and grievance procedures (*Appendix I: University Complaint Resolution and Grievance Procedures*). Such remedies may include counseling, an opportunity to repeat course work without penalty, changes to student housing assignments, or other appropriate interventions, such as changes in academic, living, transportation, or working situations.

Any member of the University community who is found to have 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*) or other University policy. Generally, disciplinary action will be recommended when the conduct is sufficiently severe, persistent, or pervasive that it alters the conditions of employment or limits the opportunity to participate in or benefit from educational programs.

J. Free Speech and Academic Freedom

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

commentary of an individual faculty member or the educational, political, artistic, or literary expression of students in classrooms and public forums. However, freedom of speech and academic freedom are not limitless and do not protect speech or expressive conduct that violates federal or state anti-discrimination laws.

K. 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 determine responsibilities and authorities at secondary administrative levels to establish 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 location 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, and the 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 in accordance with local procedures.

D. Compliance with the Policy

The Executive Officer at each location will designate the local management office 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 in accordance with the [Policy on Student Conduct and Discipline](#), Personnel Policies for Staff Members 61, 62, 63, 64, 65, and 67 pertaining to disciplinary and separation matters, and in accordance with 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

The locations shall:

1. Establish an independent, confidential Advocacy Office for sexual misconduct (sexual violence, dating violence, domestic violence, stalking, and sexual assault) called CARE: Advocacy Office for Sexual and Gender-Based Violence and Misconduct;
2. Provide mandatory sexual harassment prevention training and education to the University community. Additionally consistent with California Government Code 12950.1, provide sexual harassment and abusive conduct prevention training and education to each supervisory employee;
3. Provide mandatory prevention education programs to all incoming students and new employees, and ongoing prevention and awareness campaigns to the University community, to promote awareness of rape and acquaintance rape, domestic violence, dating violence, sexual assault, and stalking, including the

definition of consent, options for bystander intervention, and risk reduction awareness information;

4. Provide mandatory comprehensive annual training on issues related to responding to sexual violence as defined in this *Policy*, including [trauma-informed approaches](#), for individuals conducting formal investigations of reports or conducting hearings;
 5. Provide all members of the University community with a process for reporting sexual harassment or sexual violence in accordance with the *Policy*;
 6. Identify internal and external resources for reporting sexual harassment or sexual violence, including law enforcement, medical, and victim support services;
 7. 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 in accordance with the *Policy*;
 8. Provide written notification as outlined in Section V.B.1 of the *Policy*; and
 9. Designate trained individuals, including, or other than, the Title IX Officer (Sexual Harassment Officer) 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.
10. Proceedings will incorporate these additional elements:
- a. Timely notice of meetings at which the accused or complainant, or both, may be present.
 - b. Timely access to the complainant, the accused, and appropriate officials to any information that will be used after the fact-finding investigation but during informal and formal disciplinary meetings and hearings.
 - c. Is conducted by officials who do not have a conflict of interest or bias for or against the complainant or the accused.

Title IX Officer (Sexual Harassment Officer)

Each location shall designate a single Title IX Officer (Sexual Harassment Officer). The names and contact information for the Title IX Officer (Sexual Harassment Officer) and any designated trained sexual harassment or sexual violence advisors shall be posted with the *Policy* and local procedures on the location's website and 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:

- (a) 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*;
- (b) Disseminate the *Policy* widely to the University community;
- (c) Provide educational materials to promote compliance with the *Policy* and familiarity with local reporting procedures;
- (d) Train University employees responsible for reporting or responding to reports of sexual harassment;
- (e) Provide prompt and effective response to reports of sexual harassment or sexual violence in accordance with the *Policy*;
- (f) Maintain records of reports of sexual harassment and sexual violence at the location and actions taken in response to reports, including records of investigations, voluntary resolutions, and disciplinary action, as appropriate; and
- (g) Identify and address any patterns or systemic problems that arise during the review of sexual harassment and sexual violence complaints.

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 be subject to 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), or to any manager, supervisor, or other designated employee responsible for responding to reports of sexual harassment or sexual violence. If the person to whom harassment normally would be reported is the individual accused of harassment, reports may be made to another manager, supervisor, or designated employee. Managers, supervisors, and designated employees are required to notify the Title IX Officer (Sexual Harassment Officer) or other appropriate official designated to review and investigate sexual harassment complaints when a report is received.

Reports of sexual harassment or sexual violence should be brought forward as soon as possible after the alleged conduct occurs. While there is no stated timeframe for reporting, prompt reporting will better enable the University to 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 impede the University's ability to conduct an investigation and/or to take appropriate remedial actions.

1. Required Notifications For Reports of Sexual Violence

The University will provide a written explanation of available rights and options, including procedures to follow, when the University receives a report that the student or employee has been a victim of domestic violence, dating violence, sexual assault, or stalking, regardless of whether the offense occurred in connection with any University program. The written information shall include:

- (a) How and to whom the alleged offense should be reported;
- (b) options for reporting to law enforcement and University authorities, including the option to notify local or University law enforcement authorities; the right to be assisted by University 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 and the University's responsibilities regarding such orders;
- (d) the importance of preserving evidence as may be necessary to prove criminal domestic violence, dating violence, sexual assault, or stalking, or to obtain a protection order;
- (e) existing 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 requested by the complainant and if reasonably available, regardless of whether the victim chooses to report the crime to University police or local law enforcement;
- (g) Any applicable procedures for institutional disciplinary action.

2. Options for Resolution

Individuals reporting sexual harassment or sexual violence shall be informed about options for resolving potential violations of the *Policy*. These options shall include procedures for Early Resolution, procedures for Formal Investigation, and filing complaints or grievances under applicable University complaint resolution or grievance procedures. Individuals making reports also shall be informed about policies applying to confidentiality of reports under this *Policy* (see Section V.G below). Locations shall respond to the greatest extent possible to reports of sexual harassment and sexual violence brought anonymously or brought by third parties not directly involved in the asserted offenses. However, the response to such reports may be limited if information contained in the report cannot be verified by independent facts.

Individuals reporting sexual harassment and sexual violence shall be informed about the range of possible outcomes of the report, including interim protections, remedies for the individual harmed by the incident, and disciplinary actions that might be taken against the accused as a result of the report, including information about the procedures leading to such outcomes.

An individual who is subjected to retaliation (e.g., threats, intimidation, reprisals, or adverse employment or educational actions) for having made a report of sexual harassment or sexual violence in good faith, who assisted someone with a report of sexual harassment or sexual violence, or who participated in any manner in an investigation or resolution of a report of sexual harassment or sexual violence, may make a report of retaliation under these procedures. The report of retaliation shall be 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 at the earliest stage possible with the cooperation of all parties involved. Locations are encouraged to utilize Early Resolution options when the parties desire to resolve the situation cooperatively and/or when a Formal Investigation is not likely to lead to a satisfactory outcome. Participation in the Early Resolution process is voluntary. Early Resolution may include an inquiry into the facts, but typically does not include a formal investigation. Means for Early Resolution shall be flexible and encompass a full range of possible appropriate outcomes.

Early Resolution includes options such as mediating an agreement between the parties, separating the parties, referring the parties to counseling programs, negotiating an agreement for disciplinary action, conducting targeted preventive educational and training programs, or providing remedies for the individual harmed by the offense. Early Resolution also includes options such as discussions with the parties, making recommendations for resolution, and conducting a follow-up review after a period of time to assure that the resolution has been implemented effectively. Early Resolution may be appropriate for responding to anonymous reports and/or third party reports. Steps taken to encourage Early Resolution and agreements reached through Early Resolution efforts should be documented.

While the University encourages Early Resolution of a complaint, the University does not require that parties participate in Early Resolution prior to the University's decision to initiate a Formal Investigation. Some reports of sexual harassment or sexual violence may not be appropriate for mediation but may require a Formal Investigation at the discretion of the Title IX Officer (Sexual Harassment Officer) or other appropriate official designated to review and investigate sexual harassment complaints. The University will not compel a complainant to engage in mediation. Mediation, even if voluntary, may not be used in cases involving sexual violence.

4. *Procedures for Formal Investigation*

In cases where Early Resolution is inappropriate or in cases where Early Resolution is unsuccessful, the location may conduct a Formal Investigation. In such cases, the individual making the report may be encouraged to file a written request for Formal Investigation. The wishes of the individual making the request shall be considered, but are not determinative, in the decision to initiate a Formal Investigation of a report of sexual harassment or sexual violence. In cases where there is no written request, the Title IX Officer (Sexual Harassment Officer) or other appropriate official designated to review and investigate sexual harassment complaints, potentially in consultation with the administration, may initiate a Formal Investigation after making a preliminary inquiry into the facts.

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

- (a) In order to provide a prompt, fair, and impartial investigation and resolution, any Formal Investigation of reports of sexual harassment and/or sexual violence shall incorporate the following standards:
 - i. The individual(s) accused of conduct violating the *Policy* shall be provided a copy of the written request for Formal Investigation or otherwise given a full and complete written statement of the allegations, and a copy of the *Policy*; and
 - ii. The individual(s) conducting the investigation shall be familiar with the *Policy*, have training or experience in conducting investigations, and as relevant to the investigation, be familiar with policies and procedures specific to students, staff, faculty, academic appointees, and visitors. 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 location may not wait for the conclusion of the criminal investigation to begin an investigation pursuant to this *Policy*. However, the location 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 location must promptly resume and complete its fact-finding for the sexual harassment or sexual violence investigation.
- (c) The investigation generally shall include interviews with the parties if available, interviews with other witnesses as needed, and a review of relevant documents as appropriate. Disclosure of facts to parties and witnesses shall be limited to what is reasonably necessary to conduct a fair and thorough investigation. Participants in an investigation shall be advised that maintaining confidentiality is essential to protect the integrity of the investigation.
- (d) The investigator shall apply a preponderance of evidence standard to determine whether there has been a violation of this *Policy*.
- (e) Upon request, the complainant and the accused may each have a representative present when he or she is interviewed, and at any subsequent proceeding or related meeting. Other witnesses may have a representative present at the discretion of the investigator or as required by applicable University policy or collective bargaining agreement.
- (f) At any time during the investigation, the investigator may recommend that interim protections or remedies for the parties or witnesses be provided by appropriate University officials. These protections or remedies may include separating the parties, placing limitations on contact between the parties, or making alternative working or student housing arrangements. Failure to comply with the terms of interim protections may be considered a separate violation of this *Policy*.
- (g) The investigation shall be completed as promptly as possible and in most cases within 60 working days of the date the request for formal investigation was filed. This deadline may be extended on approval by a designated University official. Extensions of timeframes will only be made for good cause, with written notice to the complainant and the accused of the delay, and the reason for the delay.
- (h) Generally, an investigation results in a written report that at a minimum includes a statement of the allegations and issues, the positions of the parties, a summary of the evidence, findings of fact, and a determination by the investigator whether this *Policy* has been violated. The report also may contain a recommendation for actions to resolve the complaint, including preventive educational programs, remedies for the complainant, and a referral to disciplinary procedures as appropriate. The report is submitted to a designated University official with authority to implement the actions necessary to resolve the complaint. The

report may be used as evidence in other related procedures, such as subsequent complaints, grievances and/or disciplinary actions.

- (i) The complainant shall be informed if there were findings made that the *Policy* was or was not violated and of actions taken to resolve the complaint, if any. At the conclusion of any University disciplinary proceeding, the complainant and the accused will be informed of the outcome of that proceeding, including the final determination with respect to the alleged offense, any sanction that is imposed against the accused, and the rationale for the result and sanctions, consistent with Section V.E.
- (j) The complainant and the accused may request a copy of the investigative report pursuant to University policy governing privacy and access to personal information.³ However, in accordance with University policy, the report shall be redacted to protect the privacy of personal and confidential information regarding all individuals other than the individual requesting the report.
- (k) At the conclusion of any disciplinary proceeding the complainant and the accused will be simultaneously informed in writing of:
 - i. The outcome of any University disciplinary proceeding, including the final determination with respect to the alleged offense, any sanction that is imposed against the accused, and the rationale for the result and the sanction, consistent with Section V.E.;
 - ii. Any right and any procedures for both the complainant and accused to appeal the outcome of any University disciplinary proceeding;
 - iii. Any change to the results that occur 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

An individual who believes he or she has been subjected to sexual harassment or sexual violence may file a complaint or grievance pursuant to the applicable complaint resolution or grievance procedure listed in *Appendix I: University Complaint Resolution and Grievance Procedures*. Such complaint or grievance may be filed either instead of or in addition to making a report of sexual harassment to the Title IX Officer (Sexual Harassment Officer) or other appropriate official designated to review and investigate sexual harassment and sexual violence complaints under this *Policy*. A complaint or

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

grievance alleging sexual harassment or sexual violence must meet all the requirements under the applicable complaint resolution or grievance procedure, including time limits for filing.

If a complaint or grievance alleging sexual harassment or sexual violence is filed in addition to a report made to the Title IX Officer (Sexual Harassment Officer) or other appropriate official designated to review and investigate sexual harassment complaints under this *Policy*, the complaint or grievance shall be held in abeyance subject to the requirements of any applicable complaint resolution or grievance procedure, pending the outcome of the Early Resolution or Formal Investigation procedures. If the individual wishes to proceed with the complaint or grievance, the Early Resolution or Formal Investigation shall constitute the first step or steps of the applicable complaint resolution or grievance procedure.

An individual who has made a report of sexual harassment or sexual violence also may file a complaint or grievance alleging that the actions taken in response to the report of sexual harassment or sexual violence did not follow *Policy*. Such a complaint or grievance may not be filed to address a disciplinary sanction imposed upon the accused. Any complaint or grievance regarding the resolution of a report of sexual harassment or sexual violence must be filed in a timely manner. The time period for filing begins on the date the individual was notified of the outcome of the sexual harassment or sexual violence investigation or other resolution process pursuant to this *Policy*, and/or of the actions taken by the administration in response to the report of sexual harassment or sexual violence, whichever is later.

D. Remedies and Referral to Disciplinary Procedures

Findings of *Policy* violations may be considered to determine remedies for individuals harmed by the sexual harassment or sexual violence and shall be referred to applicable local disciplinary procedures (*Appendix II*). Procedures under this *Policy* shall be coordinated with applicable local complaint resolution, grievance, and disciplinary procedures to avoid duplication in the fact-finding process whenever possible. Violations of the *Policy* may include engaging in sexual harassment or sexual violence, retaliating against a complainant reporting sexual harassment or sexual violence, or violating interim protections. Investigative reports made pursuant to this *Policy* may be used as evidence in subsequent complaint resolution, grievance, and disciplinary proceedings as permitted by the applicable procedures.

E. Privacy

The University shall protect the privacy of individuals involved in a report of sexual harassment or sexual violence to the extent permitted by law and University policy. A report of sexual harassment or sexual violence may result in the gathering of extremely sensitive information about individuals in the University community. While such information is considered confidential, University policy regarding access to public records and disclosure of personal information may require disclosure of certain information concerning a report of sexual harassment or sexual violence. In such cases, every effort shall be made to redact the records in order to protect the privacy of

individuals. Absent exceptional circumstances, the complainant shall be informed of the final results of a disciplinary proceeding against the accused, including information regarding disciplinary action taken against the accused. Any exception to this disclosure requirement must be approved by the Executive Officer.

F. Confidentiality of Reports of Sexual Harassment and Sexual Violence

Each location shall identify confidential resources with whom members of the University community can consult for advice and information regarding making a report of sexual harassment or sexual violence. These resources provide individuals who may be interested in bringing a report of sexual harassment or sexual violence with a safe place to discuss their concerns and learn about the procedures and potential outcomes involved. These resources shall be posted on the location's website. Confidential resources could include campus ombuds, the CARE advocacy office and/or licensed counselors in employee assistance programs or student counseling centers. Individuals who consult with confidential resources shall be advised that their discussions in these settings are not considered reports of sexual harassment or sexual violence and that without additional action by the individual, the discussions will not result in any action by the University to resolve their concerns.

The locations shall notify the University community that certain University employees, such as the Title IX 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. An individual's requests regarding the confidentiality of reports of sexual harassment or sexual violence will be considered in determining an appropriate response; however, such requests will be considered in the dual contexts of the University's legal obligation to ensure a working and learning environment free from sexual harassment and sexual violence and the due process rights of the accused to be informed of the allegations and their source. Some level of disclosure may be necessary to ensure a complete and fair investigation, although the University will comply with requests for confidentiality to the extent possible.

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 shall be maintained in accordance with University records policies. Records that fall under the purview of the Clery Act will be retained for 7 years in accordance with federal law. All records pertaining to pending litigation or a request for records shall be maintained in accordance with instructions from legal counsel.

VI. RELATED INFORMATION

- [Violence Against Women Reauthorization Act \(VAWA\) of 2013](#)
- [University of California Statement of Ethical Values](#)
- [Standards of Ethical Conduct](#)
- [Academic Personnel Manual \(APM\) Section 015](#), The Faculty Code of Conduct (referenced in Section III.D, footnote 1)
- [Academic Personnel Manual \(APM\) Section 016, University Policy on Faculty Conduct and the Administration of Discipline](#) (referenced in Section III.D, footnote 1)
- [Academic Personnel Manual \(APM\) Section 035, Affirmative Action and Nondiscrimination in Employment](#) (referenced in Section III.D, footnote 2)
- Academic Personnel Manual (APM) Section 150, Non-Senate Academic Appointees/Corrective Action and Dismissal
- [Nondiscrimination and Affirmative Action Policy Statement for University of California Publications Regarding Employment Practices](#) (referenced in Section III.D, footnote 2)
- [Nondiscrimination Policy Statement for University of California Publications Regarding Student-Related Matters](#) (referenced in Section III.D, footnote 2)
- [Personnel Policies for Staff Members 12 \(Nondiscrimination in Employment\)](#) (referenced in Section III.D, footnote 2)
- [Policy on Student Conduct and Discipline](#)
- [Student-Related Policy Applying to Nondiscrimination on the Basis of Sex](#)
- [University of California Nondiscrimination and Affirmative Action Policy Regarding Academic and Staff Employment](#) (referenced in Section III.D, footnote 2)
- [UC Business and Finance Bulletin RMP-8, Legal Requirements on Privacy of and Access to Information](#) (referenced in Section V, footnote 4)
- [University of California Policies Applying to Campus Activities, Organizations, and Students](#) (referenced in Section III.D, footnote 2)
- [Business and Finance Bulletin RMP-2: Records Retention and Disposition: Principles, Processes, and Guidelines](#)
- [University of California Non-Discrimination Policy](#)
- [U.S. Department of Education Campus Safety and Security Resources \(Clery\)](#)
- [California Government Code 12950.1](#)

VII. FREQUENTLY ASKED QUESTIONS

FAQ's are available at <http://sexualviolence.universityofcalifornia.edu/faq/index.html>

VIII. REVISION HISTORY

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.

June 17, 2015 – The policy was updated on an Interim basis effective until December 31, 2015. The interim issuance brings the policy into compliance with federal and state regulations, while the Policy undergoes full review and vetting. Once the review process is complete, the policy will be reissued at the start of 2016.

February 25, 2014 - This policy was reformatted into the standard University of California policy template effective.

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

Applicable complaint resolution and grievance procedures for members of the University community:

Academic Personnel:

Members of the Academic Senate

[Senate Bylaw 335](#)

Non-Senate Academic Appointees

[APM - 140](#)

Exclusively Represented Academic Appointees

Applicable collective bargaining agreement

Students:

[Policies Applying to Campus Activities, Organizations and Students, Section 110.00](#)

Staff Personnel:

Senior Managers

[PPSM II-70](#)

Managers and Senior Professionals,
Salary Grades VIII and IX

[PPSM 71](#)

Managers and Senior Professionals,
Salary Grades I – VII; and
Professional and Support Staff

[PPSM 70](#)

Exclusively Represented Staff Personnel

Applicable collective bargaining agreement

Lawrence Berkeley National Laboratory Employees

[Applicable Laboratory policy](#)

All:

The [University of California Policy on Reporting and Investigating Allegations of Suspected Improper Governmental Activities \(Whistleblower Policy\)](#) and the [University of California Policy for Protection of Whistleblowers from Retaliation and Guidelines for Reviewing Retaliation Complaints \(Whistleblower Protection Policy\)](#), which govern the reporting and investigation of violations of state or federal laws or regulations and University policy, including sexual harassment.

APPENDIX II: University Disciplinary Procedures

Applicable disciplinary action procedures if a report of sexual harassment or sexual violence results in a recommendation for disciplinary action:

- A. [The Faculty Code of Conduct \(APM - 015\)](#) as approved by the Assembly of the Academic Senate and by The Regents outlines ethical and professional standards which University faculty are expected to observe. It also identifies various forms of unacceptable behavior which are applicable in cases of sexual harassment or sexual violence. Because the forms of unacceptable behavior listed in *The Faculty Code of Conduct* are interpreted to apply to sexual harassment or sexual violence, a violation of the University's *Policy on Sexual Harassment and Sexual Violence* constitutes a violation of the *Faculty Code of Conduct*. The [University Policy on Faculty Conduct and the Administration of Discipline \(APM - 016\)](#), as approved by the Assembly of the Academic Senate and by The Regents, outlines sanctions and disciplinary procedures for faculty.
- B. Provisions of the policy on [Non-Senate Academic Appointees/Corrective Action and Dismissal \(APM - 150\)](#) (applicable to non-exclusively represented academic appointees) and collective bargaining agreements (applicable to exclusively represented academic appointees) provide for corrective action or dismissal for conduct which violates University policy.
- C. The [Policies Applying to Campus Activities, Organizations, and Students](#) sets forth in Section 100.00 the types of student misconduct that are subject to discipline and the types of disciplinary actions that may be imposed for violation of University policies or campus procedures.
- D. Provisions of the [Personnel Policies for Staff Members](#), and the Lawrence Berkeley National Laboratory personnel policies (applicable to non-exclusively represented staff employees), and collective bargaining agreements (applicable to exclusively represented staff employees) prohibit conduct which violates University policy with respect to sexual harassment or sexual violence and provide for disciplinary action for violation of University policy.