Agenda
State of Title IX
Sexual Violence and Sexual Harassment Policy
Sexual Assault - Penetration
Sexual Assault - Contact
Relationship Violence – Previous Definition
Relationship Violence – Current Definition
Relationship Violence – Current (con’t)
Relationship Violence – Current (con’t)
Retaliation – Previous Definition
Retaliation – Current Definition
Alternative Resolution -- Structure

- Respondent fails to comply, or
- terms ineffective in stopping or preventing conduct
University-Initiated Investigation
Administrative Closure
Other Inquiry
Alternative Resolution
What is Alternative Resolution?

- Alternative Resolution is a structured yet flexible, voluntary, binding, remedies-focused process for resolving complaints of Prohibited Conduct as an alternative to a Formal Investigation. Alternative Resolution seeks to stop potential Prohibited Conduct and prevent its recurrence, and meet the needs of the Complainant, without a determination of whether the Respondent violated the SVSH Policy.

- The Title IX Officer is responsible for overseeing the process, including determining whether it is appropriate in individual cases; determining the form it will take, in consultation with the parties; and coordinating a response, when appropriate, with other University offices.
Most Common Alternative Resolution Requests

- While the process is still relatively new, the most common requests have been:
  - No contact directives
  - Educational Discussions with Respondents

- Other requests:
  - Respondent on campus housing changes
  - Class planning/scheduling
  - Student organization planning
Other options?

- **Mediation**
  - Ombuds Offices still considering whether they can conduct mediations under the SVSH Alternative Resolution Process
  - Main concerns are the formality of the process and confidentiality

- **Restorative Justice**
  - Not every campus has the resources to facilitate a restorative justice option
  - Restorative Justice requires Respondent to accept responsibility (possibly at odds with the Alternative Resolution definition)

- Other ideas? Are there options that we have not considered or that people are requesting?

- Barriers or challenges that people have brought forward regarding alternative resolution?
Questions?

- Pre-survey?
  - What happens if alternative resolution is agreed upon and fails? What is the process for re-instituting the formal investigation process?
  - How are decisions made on what constitutes an acceptable resolution? What trainings will support the decision maker in this regard?
  - How much weight will the opinions of the complainant and respondent be given in determining what constitutes an acceptable resolution?
  - Will there be any types of cases that are deemed inappropriate for Alternative Resolution?
  - If the Complainant is a patient, what does Alternative Resolution look like?
Questions?

- Pre-survey?
  - Can you engage the Alternative Resolution process even if the underlying allegations do not rise to a level requiring formal investigation?
  - Can we offer Alternative Resolution in the employment context? Can we explicitly state that this is not an option in the employment context?

- Other questions?
Appendix E – Key Workgroup Issues
Confidential CARE Advocate and other Confidential Resources are available to provide information about on- and off-campus resources, reporting options, and rights.

Title IX oversees alternative resolution instead of investigation
END

Title IX receives report, conducts outreach and initial assessment, and decides how to proceed

Title IX decides not to initiate resolution process
END

Title IX investigates

Title IX preliminarily determines Respondent violated policy; Student Conduct proposes sanctions

Title IX preliminarily determines Respondent did not violate policy
Neither party contests (in suspension/dismissal case, Respondent waives presumption)

Parties have equal opportunity to contest preliminary determination and go to hearing (in suspension/dismissal cases, Respondent is presumed to contest unless they waive)

Either or both parties contest the preliminary policy determination (in suspension/dismissal case, Respondent does not waive presumption)

Preliminary determination becomes final; sanction is imposed
Prehearing meeting and other procedures to promote fair, productive, and orderly hearing, including defining disputed and relevant issues

Hearing

Hearing officer determines that Respondent violated policy; Student Conduct determines sanction

Hearing officer determines Respondent did not violate policy
# Appendix E Timeline

## PACAOS Appendix E Student Investigation and Adjudication Process

*Please see the PACAOS Appendix E for full procedural details*

### Investigation and Preliminary Determinations

<table>
<thead>
<tr>
<th>Action</th>
<th>Timeframe</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Issue notice of charges</td>
<td>30-60 days</td>
<td>Include opportunity for review and response from student</td>
</tr>
<tr>
<td>For faculty:</td>
<td></td>
<td>Preliminary determination at hearing</td>
</tr>
<tr>
<td>For student:</td>
<td></td>
<td>Preliminary determination reached under Investigation appeal process</td>
</tr>
<tr>
<td>For faculty:</td>
<td></td>
<td>Preliminary determination reached under Investigation appeal process</td>
</tr>
</tbody>
</table>

### Opportunity to Contact

<table>
<thead>
<tr>
<th>Action</th>
<th>Timeframe</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Notified</td>
<td>Up to 7 days</td>
<td>By phone or email</td>
</tr>
</tbody>
</table>

### Hearing

<table>
<thead>
<tr>
<th>Action</th>
<th>Timeframe</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hearing readiness meeting</td>
<td>2 weeks</td>
<td>Include notice of hearing date and time</td>
</tr>
<tr>
<td>Hearing</td>
<td>2 days</td>
<td>Include notice of hearing date and time</td>
</tr>
<tr>
<td>Hearing</td>
<td>5 days</td>
<td>Include notice of hearing date and time</td>
</tr>
<tr>
<td>Hearing conclusion</td>
<td>5 days</td>
<td>Include notice of hearing date and time</td>
</tr>
</tbody>
</table>

### Appeal

<table>
<thead>
<tr>
<th>Action</th>
<th>Timeframe</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appeal</td>
<td>2 weeks</td>
<td>Include notice of hearing date and time</td>
</tr>
</tbody>
</table>

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If re-hearing, parties may appeal to the next step of the investigation determination.
Appendix E Timeline
Stage 2 - Investigation and Proposed Sanction
Appendix E Timeline
Stage 3 - Opportunity to Contest
Appendix E Timeline
Stage 4 - Hearing
Appendix E Timeline
Stage 4 - Pre-Hearing and Hearing
Appendix E Timeline

Stage 5 - Appeal
Appendix E – Stage 3
<table>
<thead>
<tr>
<th>Case</th>
<th>Preliminary Determination/ Proposed Sanction</th>
<th>Complainant Response</th>
<th>Respondent Response</th>
<th>Next Steps</th>
</tr>
</thead>
<tbody>
<tr>
<td>Case 1</td>
<td>Respondent violated policy/Suspension</td>
<td>No response/ No contest</td>
<td>No response/ No contest</td>
<td></td>
</tr>
<tr>
<td>Case 2</td>
<td>Respondent did not violate policy/No sanction</td>
<td>No response/ No contest</td>
<td>No response/ No contest</td>
<td></td>
</tr>
<tr>
<td>Case 3</td>
<td>Respondent violated policy/Suspension</td>
<td>Contest; believes R should be dismissed</td>
<td>Contest</td>
<td>R presumed to contest; hearing; sanction addressed in appeal (if any)</td>
</tr>
<tr>
<td>Case 4</td>
<td>Respondent violated policy/probation</td>
<td>No response/ No contest</td>
<td>No response/ No contest</td>
<td>PD Final; parties may appeal sanction only</td>
</tr>
</tbody>
</table>
## Appendix E – Stage 3

<table>
<thead>
<tr>
<th>Case</th>
<th>Preliminary Determination/Proposed Sanction</th>
<th>Complainant Response</th>
<th>Respondent Response</th>
<th>Next Steps</th>
</tr>
</thead>
<tbody>
<tr>
<td>Case 5</td>
<td>Respondent violated policy/Suspension</td>
<td>No response/No contest</td>
<td>No response/No contest; does not participate in pre-hearing mtg.</td>
<td></td>
</tr>
<tr>
<td>Case 6</td>
<td>Respondent did not violate policy/No sanction</td>
<td>Contest; does not participate in pre-hearing mtg.</td>
<td>No response/No contest</td>
<td></td>
</tr>
<tr>
<td>Case 7</td>
<td>Respondent violated policy/Suspension</td>
<td>No response/No contest</td>
<td>No contest/Waives hearing</td>
<td>No hearing; parties may appeal sanction only</td>
</tr>
<tr>
<td>Case 8</td>
<td>Respondent violated policy/dismissal</td>
<td>No response/No contest; does not participate in pre-hearing mtg.</td>
<td>No response/No contest</td>
<td>R presumed to contest; hearing</td>
</tr>
</tbody>
</table>
Appendix E – Stage 4
Appendix E
Pre-Hearing Scenario Exercise
See Handout
Appendix E – Stage 4
Appendix E
Hearing Scenario Exercise
Appendix E – Stage 5
LGBTQIA+ communities and sexual violence / harassment at the UC
Overview

Concepts and definitions
Terms and pride banners
The law and nonbinary people
Lived names and pronouns
Sex education, the power of words

Power and control
Barriers to Access/Breaking Barriers
Implications for your work and area
Resources
Discussion
Gender and Sexuality

Sexual Orientation

Who are you physically and emotionally attracted to? Who have you had intimate relationships with? How do you identify your sexuality?

Gender Identity

What your internal sense tells you that your gender is? How would you tell someone what your gender is?

Gender Expression

How do you present yourself to society in clothing and mannerisms?

Gender

LEGAL GENDER: What is the legal gender on your documents, like drivers license/birth certificate?

ASSIGNED AT BIRTH: What is the gender you were assigned at birth?

Adapted from the National LGBT Health Education Center:
A Program of the Fenway Institute
www.lgbthealtheducation.org
Rainbow Banner
Rainbow Banner
Rainbow Banner

Lesbian
Gay
Bisexual, Pan, Fluid, Omni
T
Q
I
A
+
Rainbow Banner

Lesbian
Gay
Bisexual, Pan, Fluid, Omni
Trans, Nonbinary, Genderqueer, Gender non conforming, Trans women, Trans men, Bigender, Two spirit
Q I A +
Rainbow Banner

Lesbian
Gay
Bisexual, Pan, Fluid, Omni
Trans, Nonbinary, Genderqueer, etc.
Queer, questioning
I
A
+
Rainbow Banner

Lesbian
Gay
Bisexual, Pan, Fluid, Omni
Trans, Nonbinary, Genderqueer, etc.
Queer, questioning
Intersex
A
A+

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Rainbow Banner

Lesbian
Gay
Bisexual, Pan, Fluid, Omni
Trans, Nonbinary, Genderqueer, etc.
Queer, questioning
Intersex
Asexual, agender, aromantic
+

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Rainbow Banner

Lesbian

Gay

Bisexual, Pan, Fluid, Omni

Trans, Nonbinary, Genderqueer, etc.

Queer, questioning

Intersex

Asexual, agender, aromantic

+HIV+ and Other identities
Lesbian Banner
Bisexual Banner
Transgender Banner

Transgender, Trans Women, Trans Men
Gender Queer Banner

LGBTQI+ Trans, Gender Queer
Nonbinary Banner
Asexual Banner

LGBTQI

Asexual +
Demisexual Banner

LGBTQI

Asexual, Demisexual

+
Other Pride Banners

Open relationships, Queer relationships, non-monogamous relationships, triads, quads, thruples

Subculture of gay, bi and trans men, often perceived as bigger, hairy. Subcultures within include cubs, pandas, wolves etc.

Leather subculture denotes practices and styles of dress organized around activities that involve leather garments, such as leather jackets, vests, boots, etc. Often connected to BDSM
State laws and intersections with LGBTQIA+ people

SB 179
This law provides a third gender option that intersex people, and other nonbinary persons, can select on official documents. It also streamlines the process for Californians to apply to change their gender markers, and creates a nonbinary gender category on California birth certificates, driver licenses and identity cards (the letter “x”), and gender-change court orders.

SB 396
This law requires employers to train supervisors on how to identify and prevent harassment based on gender identity, gender expression and sexual orientation. It also requires that employers post information about the rights of transgender employees in the workplace, including use of restrooms, preferred names and pronouns, documentation, dress codes and interview questions.
Deeper Dive into Nonbinary Identity

Gender identity and expression may be thought of in binary terms: Male and female, men and women, masculine and feminine. Concept: cisgender

Some transgender people fall on this binary. Trans women are women, trans men are men

Some transgender people do not fall on this binary. They identify as nonbinary, agender, gender fluid, gender queer, gender non conforming, Two Spirit, etc.

Nonbinary people’s gender identity and expression may not conform to societal norms of masculinity or femininity

Nonbinary people may prefer the pronouns “they/them” in the singular, or their name
Lived Names

May previously been referred to as “Name in Use”; “True name”; “Chosen Name” or “Preferred Name”
  ○ A person who selects another name for use because people mispronounce their given / birth names may use “preferred name”

Importance of using lived name in interactions with students, particularly survivors and alleged perpetrators, even if this is different than what is on legal documents with the university.

Consider having a space for “Lived name” on all intake forms and processes
Pronouns

- May have previously been referred to as “preferred pronoun” or “preferred gender pronouns” or “PGP’s”
  - Note the colloquial change from “preferred” to just “pronoun” - these are not preferences, these are just people’s pronouns
- An opportunity to practice consent in everyday life is inviting campus community members to share pronouns, and also honoring the pronouns that others share with us
- Creating a culture of pronoun sharing on our campuses can relieve trans and nonbinary community members of having to “out” themselves or share pronouns out of necessity
Sex Education

Heteronormative, cisnormative: taught through families, schools, religious organizations, media (internet porn), etc.

People (often young) exploring what sex means given their gender identities and their sexual partner’s gender identity(ies)

Practices of

- Trans and nonbinary people and their sex lives with other men, women and nonbinary people
- Women who have sex with women (and men and trans and nonbinary people)
- Men who have sex with men (and women and trans and nonbinary people)
Words matter

Language matters for intimate or sexual activity for trans and nonbinary people (and women and men)

Inquiring with a sexual partner how they wish for parts of their body to be referenced and sharing your preferences is both respectful and can help form a stronger emotional or erotic connection

Because most people’s sexual or intimate desires, feelings about, or experiences in their bodies can change over time, this and other conversations about sex are important to have with new partners and to revisit with long-term sexual partners

Violations of the above practices may be a precursor to your interactions with our LGBTQIA+ community given your roles on campus
Barriers to Access

Assuming they will have to name, explain and inform people about the LGBTQIA+ community

Having to assume that a person will not understand how “we have sex”

Fear of making a community that is already marginalized and stigmatized for how and with whom we have sex “look bad”

Assuming that they will be thought of as the perpetrator if they are the “masculine” or “masculine presenting” person

Not seeing anything on a website, brochure or training material that is inclusive (words, symbols, etc.)
Breaking Barriers to Access

Assuming they will have to name, explain and inform people about the LGBTQIA+ community

Name, explain and inform people about the LGBTQIA+ community in clear, direct ways on websites, intake forms, visible materials and intake processes - do not assume heterosexuality, heteronormative behavior, and provide verbal and written examples every time that communicate inclusiveness. Do not assume all people are cisgender, and verbally include nonbinary and trans people in examples.
Breaking Barriers to Access

Having to assume that a person will not understand how “we have sex”

Dive deep into the sexual behaviors and practices of diverse people (trans women and their bodies and how they experience sex and pleasure, trans men and their bodies and how they experience sex and pleasure, intersex people and their bodies and how they experience sex and pleasure; women who have sex with women, men who have sex with men;) and be conversant in these behaviors and practices (i.e. be able to ask the right questions/follow up with typical scenarios)

Understand the physical processes, the tools, the toys and the products people often use or access across many diverse bodies and sexualities
Breaking Barriers to Access

Fear of making a community that is already marginalized and stigmatized for how and with whom we have sex “look bad”

Ensuring those from marginalized LGBTQIA+ communities who experience sexual violence/sexual harassment that the experiences of those who perpetrate violence are individual violences, and not reflective of a community ethos/way of being/reflective of how a community is perceived
Breaking Barriers to Access

Assuming that they will be thought of as the perpetrator if they are the “masculine” or “masculine presenting” person

Check biases and assumptions, especially in same sex cases, about how gender is performed, binary stereotypes, and how power and control is socially constructed, yet still can be subverted regardless of gender expression.
Breaking Barriers to Access

Not seeing anything on a website, brochure or training material that is inclusive (words, symbols, etc.)

Include words, symbols, and other visuals on websites, brochures and training materials
Implications for you and your area

What might this mean for those who advocate, investigate and adjudicate cases involving LGB people / people in same gender situations?

What might this mean for those who advocate investigate and adjudicate cases involving trans women, trans men and nonbinary people?

Title IX Officers? CARE Advocates? Hearing Officers? Investigators?
Resources to explore further

Your own UC LGBTQ Resource Center Director

Transgender Law Center


Your local resources for sexual assault/sexual violence, depending on their level of training

Your local DA office, and law enforcement partners
Questions and Discussion
Resources

here)
here)
here)
here)
here)
here)
here)
here)