

## Offices of the Chancellor and Provost

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## **Policy and Procedure Manual**

### **Chapter 380, Personnel--General Section 12, Sexual Harassment**

**Approved:** 7/26/05

**Supersedes:** 6/5/01

**Responsible Department:** Human Resources

**Source Document:** University of California Policy on Sexual Harassment and Procedures for Responding to Reports of Sexual Harassment

#### **I. Policy and Scope**

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

1. The University of California is committed to creating and maintaining a community where all persons who participate in University programs and activities can work and learn together in an atmosphere free of all forms of harassment, exploitation, or intimidation.
2. Every member of the University community should be aware that the University is strongly opposed to sexual harassment, and that such behavior is prohibited both by law and by University policy.
3. The University will respond promptly and effectively to reports of sexual harassment, and will take appropriate action to prevent, to correct, and if necessary, to discipline behavior that violates this policy.

##### **B. Scope**

1. All persons who participate in UCD programs and activities are covered by this policy and are strongly urged to use the options and resources listed below to seek help and resolve complaints. Every effort will be made to maintain the privacy of all parties involved in the process.
2. This policy summarizes and implements the provisions of the UC Policy on Sexual Harassment and its associated procedures.

#### **II. Definition of Sexual Harassment**

- A. Sexual harassment--unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when submission to or rejection of this conduct explicitly or implicitly:**
1. Affects a person's employment or education;

2. Unreasonably interferes with a person's work or educational performance; or
  3. Creates an intimidating, hostile or offensive working or learning environment.
- B. Persons affected--Sexual harassment may include incidents between any members of the UC community, including academic personnel, staff, coaches, housestaff, students, and non-student or non-employee participants in UC programs, such as vendors, contractors, visitors, and patients. Sexual harassment may occur in hierarchical relationships or between peers, or between persons of the same sex or opposite sex.
- C. Context--In determining whether the reported conduct constitutes sexual harassment, consideration shall be given to the record of the conduct as a whole and to the totality of the circumstances, including the context in which the conduct occurred.
- D. Voluntary relationships--This policy covers unwelcome conduct of a sexual nature. Consensual romantic relationships between members of the UC community are subject to other UC policies (for example, the Faculty Code of Conduct provisions on faculty-student relationships, contained in [Academic Personnel Manual Section 015](#)). While romantic relationships between members of the UC community may begin as consensual, they may evolve into situations that lead to charges of sexual harassment, subject to this policy.
- E. Gender discrimination--Harassment that is not sexual but is based on gender, sex-stereotyping, or sexual orientation is also prohibited by UC nondiscrimination policy. UC may take into account acts of discrimination based on gender, sex-stereotyping, or sexual orientation when enforcing the sexual harassment policy.

### **III. Retaliation**

This policy prohibits retaliation against a person who reports sexual harassment, helps someone with a report of sexual harassment, or takes any part in an investigation or resolution of a sexual harassment report. Retaliation includes threats, intimidation, reprisals, or adverse actions that are related to employment or education. A report of retaliation shall be treated as a report of sexual harassment and shall be subject to the same procedures.

### **IV. Responsibility**

The following UCD officials have special duties with respect to sexual harassment. The duties are summarized here and described in full in the UC Procedures for Responding to Reports of Sexual Harassment.

- A. Title IX Compliance Coordinator
1. Develop and implement UCD procedures for prompt and effective response to reports of sexual harassment.
  2. Designate Sexual Harassment Officers.
  3. Submit an annual report to UC on sexual harassment complaint activity.

## B. Sexual Harassment Officers

1. Plan and manage the campus and UCDHS sexual harassment education programs.
2. Disseminate this policy widely to the UCD community.
3. Provide educational materials to promote compliance with this policy and familiarity with UCD reporting procedures.
4. Coordinate the training of the designated officials.
5. Post the names and contact information of the Sexual Harassment Officers and Sexual Harassment Advisors on the Web. Post a copy of the UC and UCD sexual harassment policies on the Web.
6. Receive reports of sexual harassment directly and from designated officials, and arrange for review and investigation if appropriate.
7. Keep records of reports of sexual harassment and actions taken in response to them.

## C. Designated officials

1. Supervisors, managers, directors, deans, vice chancellors, department chairs, student advisors, graduate advisors, residence hall staff, coaches, police officers, student judicial affairs staff, counselors (except those listed in [XI.B](#)), health center staff, and sexual harassment advisors are designated officials. Their duties are described in [VI.A](#) below.
2. All designated officials shall be trained on the duties described in [VI.A](#) below. Those who are supervisors must also receive the training required by law, as described in [Directive 04-124](#).

## V. How to Make a Report of Sexual Harassment

### A. Sexual Harassment Policy

Any member of the UC community may report sexual harassment. The report may be made to any of the designated officials, or to the campus or UCDHS Sexual Harassment Officer. The report shall be made as soon as possible after the alleged conduct occurs, optimally within one year.

1. Campus Sexual Harassment Officer: (530) 752-9255
2. UCDHS Sexual Harassment Officer: (916) 734-2259
3. Anonymous reports may be made to: A-CALL or (530) 752-2255,  
or
- 4-CALL or (916) 734-2255

### B. Employee Policies and Contracts

Complaints or grievances alleging sexual harassment may also be filed under applicable grievance personnel policies or union contracts. See Section VII below.

### C. Student Policies

A student may also file a complaint under the Student Grievance Procedure. Offices which receive such complaints shall report them to the campus Sexual Harassment Officer. See [Section 280-05 and Policies Applying to Campus Activities, Organizations and Students, Section 110.00](#).

### D. Whistleblower Policy

Any person may file a complaint under the UC Policy on Reporting and Investigating Allegations of Suspected Improper Governmental Activities. The whistleblower policy covers the reporting and investigation of violations of state or federal laws or regulations and UC policy, including sexual harassment. See [Section 380-17](#) for more information.

## VI. UCD Response to Sexual Harassment

A. The designated officials shall provide a prompt and effective response to reports of sexual harassment. They shall:

1. Receive reports of sexual harassment from any member of the UCD community.
2. Notify the campus or UCDHS Sexual Harassment Officer when they receive a report.
3. Take whatever action is necessary to prevent sexual harassment and to correct it when it occurs.

The Sexual Harassment Officers shall also receive reports of sexual harassment directly from any member of the UCD community.

B. Options. A prompt and effective response may include early resolution, formal investigation, and/or targeted training or educational programs.

#### 1. Early Resolution

This is an option that may be used when the parties want to resolve the situation cooperatively or when formal investigation is unlikely to lead to a satisfactory outcome. It may be used for responding to anonymous or third-party reports. It may include an inquiry into the facts but does not include a formal investigation. Steps taken to encourage early resolution and agreements reached through early resolution efforts should be documented. For more information, contact the campus or UCDHS Sexual Harassment Officer.

#### 2. Formal Investigation

- a. The Sexual Harassment Officers may start a formal investigation in response to a request (preferably in writing) from an individual. They may also start a formal investigation without such a request after making a preliminary inquiry into the facts. The wishes of the requesting party shall be considered, but are not determinative.
- b. UC has set standards designed to ensure a full, fair, and

impartial investigation. All investigations under this policy shall comply with the standards in [UC Procedures for Responding to Reports of Sexual Harassment, Section B.4](#).

- c. Whenever possible, investigations under this policy shall be coordinated with applicable complaint resolution, grievance, and disciplinary proceedings to avoid duplication in the fact finding process. Reports made pursuant to this policy may be used as evidence if permitted by the rules of the applicable complaint resolution, grievance, and disciplinary proceedings.
- C. Remedies. Upon a finding of the violation of the sexual harassment policy, UC may offer remedies to those harmed by the harassment consistent with applicable UC policies. Remedies may include counseling, a chance to repeat course work without penalty, changes to housing assignments, or other interventions.
- D. Discipline. Any member of the UC community who is found to have engaged in sexual harassment is subject to disciplinary action up to and including dismissal. The UC disciplinary policies and contracts are listed in [XIV below](#). Generally, disciplinary action will be recommended when the harassing 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.
- E. Failure to Report or Act. Any manager, supervisor, or other designated official responsible for reporting or responding to sexual harassment who knew about the harassment and took no action to stop it or failed to report the prohibited harassment may be subject to disciplinary action.
- F. No Indemnification. Conduct by an employee that is sexual harassment or retaliation in violation of this policy is considered to be outside the normal course and scope of employment.

## **VII. Complaints or Grievances Alleging Sexual Harassment**

An employee may also file a complaint or grievance alleging sexual harassment under the applicable policy or union contract. These procedures are described in the documents listed below. The time limit is usually 30 days from when the alleged conduct occurred. See also the [UC Procedures for Responding to Reports of Sexual Harassment, Section C](#). Offices which receive such complaints shall report them to the campus or UCDHS Sexual Harassment Officer.

### **A. Academic Personnel**

1. Members of the Academic Senate--[Senate Bylaw 335](#) or [APM 015](#).
2. Non-Senate Academic Appointees--[Academic Personnel Manual 140](#).
3. Represented Employees--[Applicable union contract](#).

### **B. Staff Personnel**

1. Senior Managers--[Personnel Policies for Staff Members II-70](#).
2. Managers and Senior Professionals--[Personnel Policies for Staff](#)

Members 71 (Grades VIII and IX) or 70 (all others).

3. Professional and Support Staff--[Personnel Policies for Staff Members 70](#).

4. Represented Employees--[Union contract "Grievance"; article](#).

C. Resident Medical Staff

Resident Medical Staff Policy 440.

### **VIII. Intentionally False Reports**

A person who makes a report that is later found to have been intentionally false or made maliciously without regard for truth, may be subject to disciplinary action under the applicable UC policy or contract. This provision does not apply to a report made in good faith, even if the facts alleged in the report cannot be substantiated by an investigation.

### **IX. Free Speech and Academic Freedom**

A. Free Speech

As participants in a public university, the faculty and other academic appointees, staff, and students 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 UC 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.

B. Academic Freedom

UC 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.

C. Freedom of speech and academic freedom are not limitless and do not protect speech or expressive conduct that violates federal or state laws.

### **X. Additional Enforcement**

The federal Equal Employment Opportunity Commission and the California Department of Fair Employment and Housing investigate complaints of unlawful harassment in employment. The U.S. Department of Education Office for Civil Rights investigates complaints of unlawful harassment of students in educational programs or activities. These agencies may serve as neutral fact finders and try to facilitate the voluntary resolution of disputes with the parties. For more information, contact the nearest office listed in the telephone book.

### **XI. Confidentiality**

A. General. UC shall protect the privacy of persons involved in a report

of sexual harassment to the extent possible under law and UC policy. UC will comply with requests for confidentiality if possible, but may need to make disclosures in order to carry out a complete and fair investigation and ensure a working and learning environment free from sexual harassment.

- B. Confidential Resources. Consulting with certain UCD resources is not considered to be a report of sexual harassment. Such discussions are not subject to the above disclosure requirement. No action will be taken to resolve the individual's concerns without additional action by the individual. These confidential resources include:
1. Academic and Staff Assistance Program.
  2. Counseling and Psychological Services.
  3. Women's Resources & Research Center.
  4. Lesbian, Gay, Bisexual, and Transgender Resource Center.
  5. Campus Violence Prevention Program.
- C. Written Records. If disclosure is required by law or UC policy, the records shall be redacted to protect the privacy of all persons other than the person asking for the report. See [Section 320-20](#).
- D. Discipline. A person who has made a report of sexual harassment may be told of actions taken against the accused (such as a restriction on contact) if needed for the action to be fully effective. But information on disciplinary action taken against the accused shall not be disclosed, except in the following cases.
1. With the consent of the accused.
  2. When needed to ensure compliance with the action or the safety of a person.
  3. When student discipline for a criminal sex offense is disclosed to the victim.

## **XII. Record Keeping**

The Sexual Harassment Officers shall keep records relating to sexual harassment reports, investigations, and resolutions. Records shall be kept in accordance with UC records policies. Records shall be kept for at least five years after closure. They may be kept longer, at the discretion of the Sexual Harassment Officers, if the parties have a continuing affiliation with UC.

## **XIII. Further Information**

The campus and UCDHS sexual harassment education programs provide information and assistance to all members of the campus community.

Campus: [Sexual Harassment Education Program](#) (530) 752-9255

UCDHS: [Equal Opportunity, Mediation, and Sexual Harassment Office](#) (916) 734-2259.

## **XIV. References and Related Policies**

- A. Office of the President: University of California Policy on Sexual Harassment and Procedures for Responding to Reports of Sexual Harassment.
- B. Title VII of the Civil Rights Act of 1964, 42 US Code 2000e et seq.
- C. EEOC Guidelines on Discrimination Because of Sex, 29 Code of Federal Regulations 1604.11.
- D. Title IX, Educational Amendments of 1972, 20 US Code 1681 and 1687.
- E. Title IX Regulations, 34 Code of Federal Regulations Part 106.
- F. Unruh Civil Rights Act, California Civil Code Section 51 and 51.9.
- G. California Fair Employment & Housing Act, Government Code 12900 et seq.
- H. UC Policies Applying to Campus Activities, Organizations, and Students, Section 100.00-106.00.
- I. UCD Administration of Student Discipline.
- J. UCD Policy & Procedure Manual:
  - 1. Section 280-05, Procedures for Student Complaints of Prohibited Discrimination or Arbitrary Treatment.
  - 2. Section 380-17, Improper Governmental Activities.
- K. Academic Personnel Manual:
  - 1. Section 010, Academic Freedom.
  - 2. Section 015, Faculty Code of Conduct and UCD-015, Procedures for Faculty Misconduct Allegations.
  - 3. Section 035, Affirmative Action and Nondiscrimination in Employment, reprints XIV.A above.
  - 4. Section 140, Non-Senate Academic Appointees/Grievances.
  - 5. Section 150, Non-Senate Academic Appointees, Corrective Action and Dismissal.
- L. Academic Senate Bylaw 335, and Davis Division Bylaw 87.
- M. Personnel Policies for Staff Members:
  - 1. Policy 12, Nondiscrimination.
  - 2. Policy 62, Corrective Action.
  - 3. Policy 70, Complaint Resolution.
- N. UC--union collective bargaining agreements.
- O. Resident Medical Staff Personnel Policy and Procedure:
  - 1. Policy 200, Nondiscrimination.

2. Policy 440, Grievances.

P. UCD Principles of Community

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