

Campus Policy Number: 650-73
Sexual Harassment and Sexual Violence Complaint Resolution
Responsible Office: Title IX/Sexual Harassment Office
Effective: March 7, 2014
Supersedes: January 2005

UNIVERSITY OF CALIFORNIA, RIVERSIDE

Policies and Procedures for Responding to Reports of Sexual Harassment and Sexual Violence

Reference / Resources

[California Government Code 12950.1](#)
[United States Equal Employment Opportunity Commission \(EEOC\)](#)
[California Department of Fair Employment and Housing \(FEHA\)](#)
[United States Department of Education Office for Civil Rights \(OCR\)](#)
[Title VII of the Civil Rights Act of 1964](#)

University of California

[Policy on Sexual Harassment and Sexual Violence](#)
[Procedures for Responding to Reports of Sexual Harassment and Sexual Violence](#)
[Academic Personnel Manual APM-015, Faculty Code of Conduct](#)

UCR Policy and Procedures Manual

[Sexual Harassment and Sexual Violence Complaint Resolution Procedures Chart](#)

Contact: Title IX/Sexual Harassment Office at (951) 827-7070 or titleix@ucr.edu

I. UNIVERSITY POLICY

The University of California Policy on Sexual Harassment and Sexual Violence covers all members of the University community, including students, faculty and other academic personnel, staff employees, non-student or non-employee participants in University programs. The *Policy* includes a definition of sexual harassment, sexual violence, domestic violence, dating violence, sexual assault, consent, incapacitation, and stalking. In addition, the Policy provides clarification of the University's obligation to respond promptly and effectively to reports of sexual harassment, provisions for training employees and educating the University community regarding sexual harassment and sexual violence, and a statement that the policy will be implemented in a manner that recognized principles of free speech and academic freedom.

Students outside of the scope of employment are covered by *UC Policies Apply to Campus Activities Organizations and Students*, specifically, 102.09 Sexual, Racial and Other forms of Harassment. For purposes of these procedures, references to the *Policy of Sexual Harassment and Sexual Violence* include this policy.

II. UCR PROCEDURES – PURPOSE

UCR has established the following procedures in order to (1) offer preventing sexual harassment and sexual violence educational programs and training to all members of the University community, including to each supervisory employee; (2) to provide all members of the University community with a process for reporting sexual harassment and sexual violence in accordance with the *Policy*; and (3) to provide for prompt and effective response to reports of sexual harassment and sexual violence in accordance with the *Policy*.

These procedures also cover reports of retaliation related to reports of sexual harassment and violations of *Policy on Conflicts of Interest Created by Consensual Relationships*, and may be used to respond to reports of violations of *APM-015, Part II.A. 6 & &, Faculty Code of Conduct*.

III. POLICY TEXT

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 IV. Conduct by an employee that is sexual harassment or sexual violence in violation of this *Policy* is considered to be outside the normal 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.

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. 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 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. Resources and Procedures*).

G. 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 Director/Title IX Compliance Officer (Sexual Harassment Officer). Supervisors, managers, and other designated employees are responsible for promptly forwarding such reports to the Director/Title IX Compliance 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.

The University 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. 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.F and G* for more information regarding privacy and confidentiality. Also, an individual may file a complaint or grievance alleging sexual harassment or sexual violence under the applicable University complaint resolution or grievance procedure (see *Section V. Resources and Procedures; Appendix I: University Complaint Resolution and Grievance Procedures*).

H. Response to Reports of Sexual Harassment or Sexual Violence

The University 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. Resources and 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.

I. 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.

J. 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. 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 resource and opportunities.

Sexual Violence is defined as physical sexual acts engaged in 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.

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 or a romantic or relationship of an intimate nature with the victim.

Sexual Assault occurs when physical sexual activity is engaged in 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 or drugs 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, and ability to make fully informed judgments. Being intoxicated by drugs or alcohol does not diminish 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.

Campus Security Authorities (CSAs): is an official of an institution who has significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline, and campus judicial proceedings. For more information about the role of a CSA see section V. I. below.

V. UCR RESOURCES AND PROCEDURES

A. University's Responsibilities

UCR has established the following procedures in accordance with state and federal law; the University shall:

- 1) Offer sexual harassment prevention training and education to the University Community, and consistent with California Government Code 12950.1, provide sexual harassment prevention training and education to each supervisory employee;
- 2) Offer prevention education programs to incoming students and new employees 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;
- 3) Offer annual training on issues related to sexual violence, as defined in this *Policy*, for individuals conducting formal investigations of reports or conducting hearings;
- 4) Provide all members of the University community with a process for reporting sexual harassment or sexual violence in accordance with the *Policy*;

- 5) Identify on-and-off campus resources for reporting sexual harassment or sexual violence, including law enforcement, medical, and victim support services;
- 6) 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*;
- 7) Provide written notification as outlined in Section V.C. 1. of the *Policy*; and
- 8) 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.

B. Education and Prevention Programs

The University engages in comprehensive educational programming to prevent sexual harassment and sexual violence, including domestic violence, dating violence, sexual assault and stalking. Educational programming consists of primary prevention and awareness programs for all incoming students and new employees and ongoing awareness and prevention campaigns for students, faculty and employees that:

- a) Identifies sexual harassment, sexual assault, domestic violence, dating violence, and stalking as prohibited conduct;
- b) Defines what behavior constitutes sexual harassment, sexual assault, domestic violence, dating violence, and stalking;
- c) Defines what behavior and actions constitute consent to sexual activity in the State of California;
- d) Provides safe and positive options for bystander intervention that may be carried out by an individual to prevent harm or intervene when there is a risk of sexual assault, domestic violence, dating violence, or stalking against a person other than the bystander; Provides information on risk reduction so that students, faculty and employees may recognize warning signs of abusive behavior and how to avoid potential attacks.
- e) Provides an overview of information contained in the Annual Security Report in compliance with the Clery Act.

The University has developed an annual educational awareness campaign (training, workshops, seminars, posters, etc.) that include distribution of educational materials to new students; participating in and presenting information and materials during new employee orientation; offering or presenting programs throughout the year on at least a quarterly basis, including sessions such as: skits, clothes line projects, a residence hall speaker series, an annual poster series, web-based supervisory (faculty and managers) prevention and awareness sexual harassment training, and a web-based UC Systemwide Violence Against Women Act (VAWA) eLearning/PowerPoint.

C. Sexual Harassment and Sexual Violence Resources

1. Title IX Compliance Officer (Sexual Harassment Officer)

UC Riverside has designated the Director of the Title IX/Sexual Harassment Office as the Title IX Compliance Officer (Sexual Harassment Officer) whose responsibilities includes, but is not 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.

The Director/Title IX Compliance Officer (Sexual Harassment Officer) may assign responsibility for the completion of these duties as needed.

2. Trained Sexual Harassment and Sexual Violence Advisors

Sexual Harassment Advisors (SHAs) and Sexual Violence Advisors (SVAs) are faculty and staff other than the Title IX Director/Compliance Officer who serve as additional resources for members of the University community with questions or concerns regarding behavior that may be sexual harassment or sexual violence. The SHSVAs are members of the campus community who are trained to assist students, faculty, and staff with concerns about sexual harassment and/or sexual violence. The SHAs and SVAs are knowledgeable about applicable laws, University policies and procedures, options available for resolution of complaints, and confidentiality requirements.

The SHAs and SVAs act as an information resource and will:

- Provide a copy of the UC Policy on Sexual Harassment and Sexual Violence and Title IX/Sexual Harassment contact information;
- Inform the complainant of the distinction between an informal and a formal complaint;
- Provide information about and discuss options, including mediation, which may be taken without filing a formal complaint;
- Discuss confidentiality and the “need to know”;
- Encourage reporting of criminal acts; and
- Inform/consult with the Sexual Harassment Officer.

The SHAs and SVAs report to the Director/Title IX Compliance Officer (SHO) and their names and contact information are posted on the Title IX/Sexual Harassment Office website at www.titleix.ucr.edu .

3. Other Resources On-Campus and Off-Campus

Other members of the UCR community may also serve as resources. These include administrators at UCR, including the Chancellor, Vice Chancellors, Associate Vice Chancellors, Deans, Department Chairs, Directors, and administrative department heads, who are responsible for understanding and implementing the *Policy* and *Guidelines* and for ensuring that the environment in their units is free of sexual harassment and sexual violence.

Members of the UCR community may also make a report or receive information regarding sexual harassment and sexual violence from any of the office listed below.

Campus Resources for Students

- UCR Police Department Emergency 911 or (951) 827-5222
- Title IX/Sexual Harassment Office (951) 827-7070
- Campus Health Center (951) 827-3001
- Student Counseling Center (951) 827-5531
- Office of the Ombudsman (951) 827-3213
- Associate Director of Residence Life, Judicial (951) 827-4252
- Student Conduct & Academic Integrity Programs (951) 827-6243
- Sexual Harassment/Sexual Assault Resource Services Specialist (951) 827-6225
- Dean of Students Case Manager (951) 827-9354
- Dean of Students Office (951) 827-6095
- Dean of Graduate Division (951) 827-4302
- Women's Resource Center (951) 827-3337
- Lesbian Gay Bisexual Transgender Resource Center (951) 827-2267

Campus Resources for Faculty and Staff

- UCR Police Department Emergency 911 or (951) 827-5222
- Title IX/Sexual Harassment Office (951) 827-7070
- Office of the Ombudsman (951) 827-3213
- Faculty and Staff Employee Assistance Program (951) 781-0510 or (800) 266-0510
- Human Resources (951) 827-5080
- Labor Relations (951) 827-3641
- Office of Faculty and Staff Affirmative Action (951) 827-5604
- Vice Provost for Academic Personnel (951) 827-2304
- Academic Personnel (951) 827-4847
- Vice Provost of Administrative Resolution (951) 827-3541
- Associate Vice Chancellor for Diversity, Excellence & Equity (951) 827-6223
- Sexual Harassment/Sexual Assault Resource Services Specialist (951) 827-6225

*There are off-campus agencies in the surrounding community that may serve as resources. Agencies names and contact information are posted on the Title IX/Sexual Harassment Office website at www.titleix.ucr.edu.

C. Procedures for Reporting and Responding to Reports of Sexual Harassment or Sexual Violence

All members of UCR community are encouraged to contact the Director/Title IX Compliance 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 Director/Title IX Compliance 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 Director/Title IX Compliance Officer (Sexual Harassment Officer) or other appropriate official designated to review and investigate sexual harassment complaints when a report is received. Once a designated employee receives a report about sexual harassment or sexual violence, it is considered an official notice to the University, which must be reported to the Director/Title IX Compliance Officer (Sexual Harassment Officer).

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 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, whether the offense occurred on- or off-campus or in connection with any University program. The written information shall include:

- a) to whom the alleged offense should be reported;
- b) options for reporting to law enforcement and campus authorities, including the option to notify local or on-campus law enforcement 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 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 campus and community services available for victims including counseling, health, mental health, victim advocacy, legal assistance, and other services;
- 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 campus 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). The University 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. C. 3 and Section V.C.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. Parties 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 Director/Title IX Compliance 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 Director/Title IX Compliance Officer (SHO) 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 Director/Title IX Compliance 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 Director/Title IX Compliance 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 Director/Title IX Compliance 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 Director/Title IX Compliance Officer (Sexual Harassment Officer) may have an obligation to investigate a complaint, such as when there is a risk to the campus community if the accused remains on campus. 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* and have training or experience in conducting investigations. 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 those accused and promotes accountability.
- b) If the alleged conduct is also the subject of a criminal investigation, the Director/Title IX Compliance Officer (Sexual Harassment Officer) may not wait for the conclusion of the criminal investigation to begin an investigation pursuant to this *Policy*. However, the Director/Title IX Compliance Officer (Sexual Harassment Officer) 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 Director/Title IX Compliance Officer (Sexual Harassment Officer) 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 the Executive Vice Chancellor or a designated University official.
- 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 and accused 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, that are directly related to the complainant, such as an order that the accused not contact the complainant. In accordance with University policies protecting individuals' privacy, the complainant may generally be notified that the matter has been referred for disciplinary action, but shall not be informed of the details of the recommended disciplinary action without the consent of the accused.
- 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. 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 arising from an allegation of domestic violence, dating violence, sexual assault or stalking, the complainant and the accused will be simultaneously informed in writing of:
- i. The outcome of any University disciplinary proceeding;
 - ii. The University's procedures for appealing the results of the proceeding;
 - iii. Any change to the results that occur prior to the time that such results become final; and
 - iv. When results become final.

D. 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 Director/Title IX Compliance 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 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 Director/Title IX Compliance 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.

A complainant or the accused may also file a grievance alleging that the actions taken in response (*i.e., the process or procedures used by the Director/Title IX Compliance Officer (Sexual Harassment Officer)*) 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, within fifteen (15) working days. 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.

E. 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 disciplinary procedures (see *Appendix II: University Disciplinary Procedures*). Procedures under this *Policy* shall be coordinated with applicable 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.

1.) If the accused is a member of the Academic Senate, the Director/Title IX Compliance Officer's (Sexual Harassment Officer) report will be referred to the Executive Vice Chancellor and Provost. The EVC/Provost may dismiss the complaint based upon a finding of no sexual harassment, negotiate a resolution with the accused, or, if an agreed-upon resolution cannot be reached, the matter may be referred to the Academic Senate to be processed pursuant to the policies and procedures relating to faculty discipline. (Academic Personnel Manual of the Riverside Division, Appendix III, "Policies on Faculty Conduct and the Administration of Discipline").

2.) If the accused is a Non-Senate Academic, the Director/Title IX Compliance Officer's (Sexual Harassment Officer) report will be referred to the Executive Vice Chancellor and Provost. The matter will be handled according to Academic Personnel Manual, Section 150, Non-Senate Academic Appointees Corrective Action, or the appropriate Memo of Understanding: UC-AFT MOU for Unit 17 (Librarians), Article 23, Corrective Action, Dismissal, Release, or UC-AFT MOU for Unit 18 (Non-Senate Instructional), Article 31, Discipline and Dismissal.

3.) If the accused is a student, the Director/Title IX Compliance Officer's (Sexual Harassment Officer) report will be forwarded to the Vice Chancellor of Student Affairs for processing by the Student Conduct & Academic Integrity Programs. The matter will be processed according to the procedures set forth in the Policies Applying to Campus Activities, Organizations, and Students, sec. 103.00, Student Disciplinary Procedures.

4.) If the accused is a staff member, the Director/Title IX Compliance Officer's (Sexual Harassment Officer) report will be sent in confidence to the appropriate administrator for corrective action. A copy of the report will also be forwarded to the appropriate Vice Chancellor or Dean. The administrator shall consult with Human Resources to determine appropriate corrective action and will inform the Director/Title IX Compliance Officer (Sexual Harassment Officer), the Executive Vice Chancellor and Provost, and the appropriate Vice Chancellor or Dean of the intended action. Formal corrective or disciplinary action taken against the accused will be in accordance with applicable University Policy or collective bargaining agreements.

F. Privacy

UCR 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. An individual who has made a report of sexual harassment or sexual violence may be advised of sanctions imposed against the accused when the individual needs to be aware of the sanction in order for it to be fully effective (such as restrictions on communication or contact with the individual who made the report). In addition, when the offense involves a crime of violence or a non-forcible sex offense, the Family Educational Rights and Privacy Act

permits disclosure to the complainant the final results of a disciplinary proceeding against the alleged accused, regardless of whether the University concluded that a violation was committed. Information regarding disciplinary action taken against the accused shall not be disclosed without the accused's consent, unless permitted by law as noted above, or unless it is necessary to ensure compliance with the action or the safety of individuals.

G. Confidentiality of Reports of Sexual Harassment and Sexual Violence

University employees, such as the Director/Title IX Compliance Officer (Sexual Harassment Officer), managers, supervisors, and other designated employees 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. 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. Confidential resources at UCR include:

- Student Counseling Center (951) 827-5531
- Office of the Ombudsman (951) 827-3213
- Faculty and Staff Employee Assistance Program (951) 781-0510 or (800) 266-0510

Information regarding these confidential offices and other UCR Resources can be found on the Title IX/Sexual Harassment Office website at www.titleix.ucr.edu.

University employees, such as the Director/Title IX Compliance 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.

H. Annual Disclosure of Crime Statistics

The "Jeanne CLERY Disclosure of Campus Security Policy and Campus Crime Statistics Act of 1998," Commonly referred to as the "Clery Act," requires institutions of higher education receiving federal financial aid to report specified crime statistics on college campuses and to provide other safety and crime information to members of the campus community. The report is available on the UCR PD website at <http://police.ucr.edu/clery/clery.html>. A printout of the report is made available upon request by contacting a representative of the UCR Police Department at 3500 Canyon Crest Drive, Riverside, CA 92521 or by telephone at (951) 827-5222.

I. Campus Security Authorities (CSAs) Responsible for Reporting Criminal Activity

The University has designated certain administrators and staff as “Campus Security Authorities” in recognition that many students, faculty and staff may be hesitant about reporting crimes to UCR PD, and may be more inclined to report incidents to non-law enforcement administrators and staff instead. The law defines “Campus Security Authority” as: “An official of an institution who has significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline, and campus judicial proceedings.” An example would be a dean of students who oversees student housing, a student center, or student extra-curricular activities and has significant responsibility for student and campus activities. Similarly, a director of athletics, team coach, and faculty advisor to a student group also has significant responsibility for student and campus activities. A single teaching faculty member is unlikely to have significant responsibility for student and campus activities, except when serving as an advisor to a registered student group. Clerical staff, as well, is unlikely to have significant responsibility for student and campus activities. For more information about the Clery Act and the role of Campus Security Authorities go to <http://police.ucr.edu/clery/clery.html> and click “Clery Act Training” for a short power point presentation

Also, pursuant to the Clery Act, some employees, such as Resident Hall Assistants (RAs) should be instructed to share incident reports with their supervisors, without sharing any personally identifiable information about the report unless the complainant gives permission or there is cause for fear for the complainant’s safety or the safety of other.

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

The office of the Director/Title IX Compliance 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. All records pertaining to pending litigation or a request for records shall be maintained in accordance with instructions from legal counsel.

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.