I. Purpose

A. This section provides the primary procedures for students, faculty, staff, or others to report allegations of sexual harassment and sexual violence, and procedures for responding to such reports. While there are other complaint resolution and grievance procedures through which such complaints may be made, this section takes precedence over any other available procedures.

B. This policy defines acts of sexual violence prohibited by UC Davis, provides guidance to those who believe they have been subject to sexual violence or have been accused of sexual violence and describes what the University will do if sexual violence is reported through administrative channels.

II. Policy

A. The University of California is committed to creating and maintaining a community where all individuals who participate in University programs and activities can work and learn together in an atmosphere free of harassment, exploitation, or intimidation.

B. The University maintains a list of medical, counseling, support and response resources for victims of sexual violence (see http://sahelp.ucdavis.edu).

C. The University will respond promptly and effectively to all reports of sexual harassment and sexual violence and take appropriate action to prevent, correct, and if necessary, impose discipline for behavior that violates this policy.

D. This policy applies to allegations of sexual harassment and sexual violence that occurs on University property and in connection with University programs. The University also exercises jurisdiction over allegations of sexual harassment and sexual violence that occurs off-campus and outside of University programs if the alleged conduct affects the complainant’s employment or access to the University’s educational programs.

E. The University recognizes that, 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 University community from sexual harassment and sexual violence, not to regulate protected speech. No provision of this policy shall be interpreted to prohibit conduct that is legitimately related to the following:

1. course content, teaching methods, scholarship, or public commentary of individual faculty; or

2. the educational, political, artistic, or literary expression of students in classrooms and public forums.

III. Conduct Constituting Sexual Harassment or Sexual Violence
A. Sexual harassment is defined as 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 affects a person’s employment or education, unreasonably interferes with a person’s work or educational performance, or creates an intimidating, hostile, or offensive working or learning environment. Sexual harassment includes sexual violence.

1. Sexual harassment may include incidents between any members of the UC community, including academic personnel, staff, student employees, coaches, residents, interns, students, or non-student or non-employee participants in UC programs such as vendors, contractors, visitors, or patients.

2. Sexual harassment may occur in hierarchical relationships or between peers.

3. Sexual harassment may occur between persons of the same sex or different sex.

4. Relationships that begin as consensual may evolve into situations that lead to charges of sexual harassment that are subject to this policy.

5. Behavior that creates a hostile or intimidating environment for individuals who are not the direct target of the behavior may also be sexual harassment.

6. Harassment that is not sexual in nature but is based on gender, gender identity, gender expression, sex- or gender-stereotyping, or sexual orientation is subject to the University’s nondiscrimination policies and procedures (e.g., Section 380-15, APM 035, PPSM 12). However, in determining whether a hostile environment due to sexual harassment exists, the University may consider acts of discrimination based on these protected characteristics.

7. In determining whether conduct constitutes sexual harassment, consideration shall be given to the record of the conduct as a whole and the totality of circumstances, including the context in which the conduct occurred.

B. Sexual violence includes sexual assault, domestic violence, dating violence and stalking.

C. 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.

1. Consent to sexual activity is:

   a. Informed
      
      Each participant must make an affirmative, unambiguous and conscious decision to engage in mutually agreed-upon sexual activity.

   b. Voluntary
      
      1) There must be positive cooperation in the act or expression of intent to engage in the act pursuant to an exercise of free will.
      2) There must be no coercion, force, violence, threats or intimidation.

   c. Revocable
      
      1) Consent to some form of sexual activity does not imply consent to other forms of sexual activity, nor does consent on one occasion imply consent for other occasions.
      2) A current or previous dating relationship is not sufficient to constitute consent.
      3) Consent must be ongoing throughout a sexual encounter and can be revoked at any time.
d. Not possible where a person is incapacitated

1) Incapacitation is the physical and/or mental inability to make informed, rational judgments. States of incapacitation include but are not limited to unconsciousness, sleep and blackouts.

   (i) 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.

   (ii) Being intoxicated by alcohol or drugs does not diminish one’s responsibility to obtain consent for sexual activity.

2) A person cannot consent if his/her understanding of the act is affected by a physical or mental impairment.

3) The factors to be considered include whether the respondent knew, or a reasonable person should have known, that the complainant was incapacitated.

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

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

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

IV. Prohibited Acts

A. This policy prohibits sexual harassment, sexual assault, domestic violence, dating violence and stalking as defined in III, above.

B. Any manager, supervisor, or designated employee responsible for reporting or responding to sexual harassment and sexual violence who knew about the incident and took no action to stop it or failed to report it may be subject to disciplinary action.

C. This policy also prohibits retaliation against persons making a report about sexual harassment or sexual violence, assisting someone with such a report, or participating 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.

V. Reporting Sexual Harassment and Sexual Violence to the University

A. Reporting sexual harassment

1. Individuals who experience or observe behavior that may be sexual harassment may report the harassment to any of the following designated officials:

   a. The Sexual Harassment Officer (SHO)


      2) At UCDHS, (916)734-8104, http://www.ucdmc.ucdavis.edu/hr/hrdepts/DiscResources/SHresources/

   b. The Title IX Officer; (530) 752-9466

   c. The Deputy Title IX Officer at UCDHS, (916) 734-8104
d. Any department chair, manager, supervisor, faculty member, or academic supervisor.

e. Any Sexual Harassment Advisor (see http://hdapp.ucdavis.edu/advisors.htm).

f. Any non-student employee holding one of the following positions:
   1) Coach for sports teams (non-volunteer).
   2) Leadership Coordinator, Academic Coordinator or Conduct Coordinator in the
      residence halls.

B. Reporting sexual violence

1. Individuals who experience or observe behavior that may be sexual violence may report it to
any of the following designated officials:
   a. The Sexual Harassment Officer (SHO)
      2) At UCDHS, (916)734-8104, http://www.ucdmc.ucdavis.edu/hr/hrdepts/DiscResources/SHresources/
   b. The Title IX Officer; (530) 752-9466
   c. The Deputy Title IX Officer at UCDHS, (916) 734-8104
   d. Any department chair, manager, supervisor, faculty member, or academic supervisor.
   e. Any non-student employee holding one of the following positions:
      1) Coach for sports teams (non-volunteer).
      2) Leadership Coordinator, Academic Coordinator or Conduct Coordinator in the
         residence halls.
   f. The UC Davis Police Department, (530) 752-1727 or 752-1230 (emergency),
      http://police.ucdavis.edu/.

2. Complainants should preserve any potential evidence for administrative or criminal
investigations.

3. A lack of corroborating evidence should not discourage complainants from reporting sexual
violence and will not affect the University’s obligation to respond to such reports.

C. Use of the Sexual Harassment Complaint Form (Exhibit A) is encouraged, but not mandatory.

D. Reports should provide as much information as possible. If insufficient information is provided to
the University (e.g., certain anonymous reports or reports that do not identify the respondent), the
University may not be able to respond other than by general outreach and education.

E. Reports should be made as soon as possible after the alleged conduct occurs.
   1. The University will respond to all reports to the greatest extent possible.
   2. A delay in reporting an incident may impede the University's ability to conduct an
      investigation and/or take appropriate remedial action.

F. Allegations of sexual harassment or sexual violence made under other complaint resolution or
   grievance procedures
   1. 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 (see Appendix I of the UC Sexual Harassment and Sexual Violence Policy, http://policy.ucop.edu/doc/4000385/SHSV).

2. Such complaint or grievance may be filed either instead of or in addition to making a report to one of the individuals identified in IV.A.1 or IV.B.2, above.

3. 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.

4. If a complaint or grievance alleging sexual harassment or sexual violence is filed under a complaint resolution or grievance procedure other than this section, the complaint or grievance will be held in abeyance pending the outcome of the early resolution or formal investigation procedures described in VI, below.

G. Complaint that University response failed to follow policy

1. A complainant may file a complaint or grievance under the applicable complaint resolution or grievance procedure (see Appendix I of the UC Sexual Harassment and Sexual Violence Policy, http://policy.ucop.edu/doc/4000385/SHSV) alleging that actions taken by the University in response to the report did not follow appropriate procedures.

2. A complaint or grievance alleging that the University has failed to follow this policy shall be filed in a timely manner.
   a. The time period for filing begins on the date the individual was notified of the outcome of the investigation or other resolution process, or of the actions taken by the administration in response to the report, whichever is later.
   b. The time period for filing a complaint differs based on the applicable complaint resolution or grievance procedure.

3. A complaint or grievance may not be filed to challenge or seek modification of a disciplinary sanction imposed on the respondent.

H. Reporting retaliation

1. An individual who believes that s/he has been subjected to retaliation for reporting sexual harassment or sexual violence in good faith, assisting someone with such a report, or participating in any manner in an investigation or resolution of a report of sexual harassment or sexual violence, may make a report of retaliation under the procedures described in V.A, above.

2. A report of retaliation will be subject to these same procedures.

VI. University Response to Reports of Sexual Harassment or Sexual Violence

A. The University will inform individuals making reports of sexual harassment and sexual violence of resolution processes (e.g., early resolution, formal investigation, complaint resolution or grievance procedures), confidentiality policies, and the range of possible outcomes (including interim protections, remedies for the individual harmed by the harassment and disciplinary action that may be taken against the respondent).

B. Early Resolution

1. Early resolution may be used when parties want to resolve the situation cooperatively and/or when a formal investigation is unlikely to lead to a satisfactory outcome.
2. Early resolution may include but is not limited to the following:
   a. No-fault conversation with written confirmation.
   b. Mediating agreement between the parties.
   c. Separating the parties.
   d. Administrative review or preliminary inquiry, including fact-finding.
   e. Negotiating agreement for disciplinary action.
   f. Conducting targeted educational and training programs.
   g. Referring parties to a counseling program.
   h. Providing remedies and/or referral to support services for the individual harmed by the harassment.

3. The early resolution process shall be coordinated by the SHO and steps taken to encourage early resolution and agreements reached shall be documented.

4. While the University encourages early resolution of a complaint, the University does not require parties to participate in early resolution prior to the University’s decision to initiate a formal investigation.
   a. Some reports of sexual harassment or sexual violence may not be appropriate for early resolution but may require a formal investigation at the discretion of the Title IX Officer.
   b. Mediation will not be used to resolve a complaint of sexual violence.

C. Formal investigation

1. An individual reporting sexual harassment or sexual violence may request a formal investigation and determination of whether University policy has been violated.

2. Generally, where early resolution is inappropriate (such as where the facts are in dispute in reports of serious misconduct, or when reports involve a pattern of inappropriate behavior or criminal acts such as sexual violence, or physical assault) or where early resolution was unsuccessful, the University will conduct a formal investigation.

3. The Title IX Officer will determine whether an investigation is necessary subject to this policy and the University of California policy on Sexual Harassment and Sexual Violence. The wishes of the individual reporting the sexual harassment or sexual violence shall be considered, but are not determinative in the University’s decision to initiate a formal investigation.

4. The Title IX Officer will initiate an investigation by:
   a. identifying a trained investigator familiar with this policy and procedure;
   b. providing the investigator with a charge letter describing the nature of the complaint, a definition of the standard of review and a date for the report to be completed; and
   c. notifying the individual who reported the sexual harassment or sexual violence and the respondent that an investigation has been initiated. The notification will include a statement of the allegations, the name of the investigator, a date for completion of the investigation, contact information for the SHO and a weblink to this policy.

5. The following procedures shall be used to ensure a full, fair, and impartial investigation.
a. The investigator will interview the parties, if available, as well as other witnesses as needed.
   1) On request, parties may each have a representative present when interviewed by the investigator.
   2) Other witnesses may be accompanied by a representative if required by applicable University policy or at the investigator’s discretion.
   3) A representative who impedes or interferes with the investigative process may be excluded from the proceedings.

b. The investigator will review relevant evidence, including documents.

c. When appropriate, parties and witnesses will be instructed that maintaining confidentiality is necessary to protect the integrity of the investigation. Disclosure of facts or allegations to parties and witnesses will be limited to what is reasonably necessary to conduct a full and fair investigation.

d. The investigator may recommend interim protections or remedies for the complainant or witnesses at any time during the investigation.
   1) Interim protections include but are not limited to separating the parties, placing limitations on contact between the parties, or making alternative academic, working, or housing arrangements.
   2) Failure to comply with the terms of any interim protections may be considered a separate violation of this policy.

e. The investigator will prepare and submit a written report to the Title IX Officer. The report shall include the following components:
   1) A statement of the allegations and issues.
   2) The positions of the parties.
   3) A summary of the evidence.
   4) Findings of fact based on a preponderance of the evidence standard.
   5) The investigator’s determination as to whether University policy has been violated.
   6) The report may also contain a recommendation for actions to resolve the complaint.

g. The Title IX Officer will submit the report to the appropriate University official with authority to implement the actions necessary to resolve the complaint. The report may be used as evidence in other procedures, such as subsequent complaints, grievances and/or disciplinary actions.

6. The investigation shall be conducted and completed as promptly as possible, usually within 60 working days of the date of initiation of the formal investigation. If a criminal investigation is occurring simultaneously, the University will not delay the administrative investigation to await the outcome of the criminal investigation, but may need to coordinate the collection of evidence with law enforcement authorities.

a. This deadline may be extended by the Title IX Officer.

b. Written notice of the extension shall be provided to the complainant and the respondent.
7. Within 30 days of receiving the final report, the Title IX Officer shall notify the complainant and the respondent in writing that the investigation has been completed. This notification will indicate:
   a. Whether or not there was a finding that University policy was violated.
   b. Consistent with law and policies regarding confidentiality, whether action was taken to resolve the complaint.
   c. How to obtain a copy of the final investigation report.

8. The complainant and respondent may request a copy of the final report from the Information Practices Analyst, who can be reached at PublicRecords@ucdavis.edu, 530-752-3189. The release of the report is subject to University policy regarding privacy and confidentiality and will generally be redacted to protect the privacy of personal and confidential information regarding all individuals other than the individual requesting the report (see VIII, below).

D. Discipline

1. Disciplinary action shall be considered following a finding of violation of the policy, including engaging in sexual harassment, sexual violence, retaliation, violating interim actions, or filing intentionally false charges of sexual harassment.
   a. Disciplinary actions will be pursued according to the procedures described in the appropriate policy (see Appendix II of the UC Sexual Harassment and Sexual Violence Policy, http://policy.ucop.edu/doc/4000385/SHSV).
   b. Investigative reports prepared for a formal investigation under this policy may be used as evidence in disciplinary actions.

VII. Roles and Responsibilities

A. The Title IX Officer

1. Develops and implements procedures for prompt and effective response to reports of sexual harassment and sexual violence.
2. Appoints Deputy Title IX Officers.
3. Initiates formal investigations under section VI.C. This responsibility may be delegated to Deputy Title IX Officers.
4. With the SHOs, identifies and addresses any patterns or systemic problems that arise during the review of sexual harassment and sexual violence complaints.
5. Ensures the University offers prevention education programs to all incoming students and new employees and ongoing prevention and awareness campaigns to the University community.
6. Ensures all individuals conducting formal investigations or hearings on sexual violence issues receive annual training related to sexual violence.
7. Identifies on and off campus resources for reporting sexual harassment and sexual violence, including law enforcement, medical and victim support services.

B. The SHOs

1. Maintain accurate contact information for SHOs and Sexual Harassment Advisors on the Web.
2. Plan and manage the local sexual harassment education and training programs and ensure the program:
   a. Widely disseminates this policy to the University community.
   b. Provides educational and training materials to promote compliance with the policy and familiarity with local reporting procedures.
   c. Coordinates training required by state law and University policy.
3. Receive reports of sexual harassment and sexual violence directly and from designated officials and ensure that the timelines, rights of the complainant, procedures, and remedies provided herein are met.
4. Coordinate the early resolution process.
5. Ensures victims who report sexual violence receive the written notifications required by V.B.1 of the University of California Policy on Sexual Harassment and Sexual Violence.
6. Maintain records of reports of sexual harassment and sexual violence and actions taken in response to reports, including records of investigations, voluntary resolutions, and disciplinary action as appropriate. Records shall be maintained in accordance with University record retention policies.

C. Designated Officials
   1. Maintain a work or educational environment free from all forms of harassment or discrimination.
   2. Immediately consult with the SHO following notice of alleged sexual harassment or sexual violence. Failure to report sexual harassment or sexual violence allegations to the SHO may be grounds for disciplinary action.
   3. In consultation with the SHO, implement appropriate interim actions.
   4. Participate in training as required by state law.

D. Sexual Harassment Case Management Team (SHCMT)
   1. The SHCMT includes the Title IX Officer, any designated Deputy Title IX Officer, the SHOs, and representatives from Human Resources, Academic Affairs, Student Judicial Affairs, and other members as required.
   2. The SHCMT meets regularly and on an as-needed basis to serve as a resource to the SHOs and the Title IX Officer.

E. Sexual Harassment Advisors
   1. Serve under the auspices of the SHO as additional resources to the campus for handling complaints of sexual harassment.
   2. Respond to questions regarding this policy.
   3. Provide copies of the policy and procedures upon request.
   4. Provide information about complaint resolution options.
   5. Notify the SHO of reports of alleged sexual harassment.
   6. Assist the SHO in early resolution efforts.
VIII. Privacy and Confidentiality

A. The University shall protect the privacy of individuals involved in a report of sexual harassment or sexual violence to the extent permitted or required by law and University policy.

1. A report of sexual violence may result in the gathering of extremely sensitive information about individuals in the campus community. Accordingly, the University protects the privacy of individuals involved in a report of sexual violence to the greatest extent permitted or required by law and University policy.

2. The University will comply with requests for confidentiality in all cases whenever possible, but may need to make disclosures to complete a fair investigation and ensure a working and learning environment free from sexual harassment and sexual violence.

3. If disclosure is required by law or University policy, the records shall be redacted to protect the privacy of all persons other than the person requesting the report (see PPM Section 320-20).

4. An individual who has made a report of sexual harassment or sexual violence may be advised of the specific sanctions imposed against the respondent when the individual needs to be aware of the sanction in order for it to be fully effective (e.g., restrictions on communication or contact).

5. Information on disciplinary actions taken against the respondent will not be disclosed without the respondent’s consent, unless it is necessary to ensure compliance with the action, the safety of individuals, or is required by law.

B. The University cannot guarantee anonymity. Requests that the complainant’s name remain anonymous or not be disclosed to the respondent will be considered in the context of the due process rights of the respondent, the need to ensure a complete and fair investigation, and factors such as the safety and protection of the complainant and campus community.

C. University employees designated in V.A.1.a-f and V.B.1.a-f, above, have an obligation to respond to reports of sexual harassment and sexual violence, even if the individual making the report requests that no action be taken and, therefore, cannot agree to keep such information confidential.

D. Confidential resources

1. Staff in the following units are identified as confidential resources who can be consulted for advice and information, and are not designated officials.
   a. Academic and Staff Assistance Program ((530)752-2727; (916)734-2727).
   b. Campus Violence Prevention Program ((530)752-3299).
   c. Counseling and Psychological Services ((530)752-3299).
   d. Lesbian, Gay, Bisexual, Transgender, Queer, Intersex, and Asexual Resource Center ((530)752-2452).
   e. Ombuds Office ((530) 219-6750).
   f. Women’s Resources and Research Center (752-3372).
   g. Legal, medical, or other advisors whose communication is protected by a statutory privilege.
2. Consultation with these resources will not lead to a report of sexual harassment or sexual violence unless additional action is taken by the individual seeking advice.

IX. Further Information

A. The following agencies may serve as neutral fact finders to facilitate the voluntary resolution of disputes between parties. Contact information for the nearest office is available in local telephone books or on the agencies’ Web sites.

1. The federal Equal Employment Opportunity Commission (EEOC) and the California Department of Fair Employment and Housing investigate complaints of discrimination, including unlawful sexual harassment in employment.

2. The U.S. Department of Education Office for Civil Rights investigates complaints of discrimination, including unlawful sexual harassment of students, in educational programs or activities.

B. UC Davis sexual harassment education programs provide information and assistance to all members of the campus community. Contact the Davis campus program at (530)752-9255 or the UCDHS program at (916)734-2259.

C. The UCD and UCDHS Campus Violence Prevention Program provides information and assistance regarding sexual assault, dating/domestic violence and stalking to students, staff, faculty and volunteers. Contact CVPP at (530) 752-3299.

X. References and Related Policies

A. Office of the President (http://policy.ucop.edu/):


2. Policies Applying to Campus Activities, Organizations, and Students:
   a. Section 100.00, Policy on Student Conduct and Discipline.
   b. Section 110.00, Policy on Student Grievance Procedures.


1. Section 280-05, Procedures for Student Complaints of Prohibited Discrimination or Arbitrary Treatment.

2. Section 320-20, Privacy of and Access to Information.

4. Section 380-17, Improper Governmental Activities/Whistleblower Protection.

   1. Section 010, Academic Freedom.
   2. Section 015, Faculty Code of Conduct and UCD-015, Procedures for Faculty Misconduct Allegations.
   3. Section 016, University Policy on Faculty Conduct and the Administration of Discipline and UCD-016, Procedures for Faculty Discipline.
   5. Section 140 and UCD-140, Non-Senate Academic Appointees/Grievances.
   6. Section 150, Non-Senate Academic Appointees, Corrective Action and Dismissal.

I. Academic Senate Bylaw 335 and Davis Division Bylaw 87 (http://academicsenate.ucdavis.edu/cerj/manual.htm).

   1. Policy and UCD Procedure 12, Nondiscrimination.
   3. Policy and UCD Procedure 70, Complaint Resolution.


L. Resident Medical Staff Personnel Policy and Procedure:
   1. Policy 200, Nondiscrimination.
   2. Policy 440, Grievances.


N. UCD Principles of Community (http://occr.ucdavis.edu/poc/).