

UC Davis Policy and Procedure Manual

Chapter 400, Campus Climate

Section 20, Sexual Violence and Sexual Harassment

Date: 4/1/16, rev. 3/17/17

Supersedes: reinstates policy deleted on 1/4/16

Responsible Department: Office of the Provost and Executive Vice Chancellor

Source Document: UC Policy on Sexual Violence and Sexual Harassment

I. Purpose

- A. This section provides guidance to those who believe they have been subject to sexual violence or sexual harassment, or have been accused of sexual violence or sexual harassment, as defined by the [UC Policy on Sexual Violence and Sexual Harassment](#), and describes the University's actions to address those complaints through administrative channels.
- B. This policy supplements the UC Policy on Sexual Violence and Sexual Harassment. To the extent this policy is inconsistent with the UC Policy on Sexual Violence and Sexual Harassment, the UC policy controls.

II. Policy

- A. The University 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 sexual violence and sexual harassment.
- B. When allegations of sexual violence or sexual harassment are brought to the University's attention, those allegations are promptly reviewed and addressed under the UC Policy on Sexual Violence and Sexual Harassment.
- C. This policy applies to allegations that occur:
 1. on University properties;
 2. in connection with University programs; or
 3. off-campus or outside of University programs when the alleged conduct affects the complainant's employment or access to University educational programs, or that would violate other policies had it occurred on campus.
- D. Violations of this policy will be handled following the appropriate adjudication and disciplinary procedures (see VIII.A, below).
- E. Employees who are in or enter into a consensual relationship with another employee where they have supervisory, decision-making, oversight, evaluative, or advisory responsibilities, must follow the reporting guidelines set forth in [Section 380-13](#).
- F. No provision of this policy is interpreted to prohibit conduct that is legitimately related to:
 1. course content, teaching methods, scholarship, or public commentary of an individual faculty member; or
 2. the educational, political, artistic, or literary expression of students in classrooms or public forums.
- G. 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.

III. Prohibited Conduct

- A. The following conduct is prohibited by this policy:
1. Sexual harassment
 2. Sexual violence
 - a. Sexual assault, including penetration and other sexual contact
 - b. Relationship violence, including domestic violence and dating violence
 - c. Stalking
 3. Invasion of sexual privacy
 - a. Viewing, allowing others to view, recording or photographing nudity or sexual acts without consent where the individual(s) viewed, recorded or photographed has a reasonable expectation of privacy
 - b. Extorting something of value from a person by using recordings or photographs of that person's nudity or sexual activity
 4. Exposing one's genitals in a public place for the purpose of sexual gratification
 5. Sexual intercourse with a person under the age of 18
 6. Failure to comply with a no-contact order, a suspension of any length, or any order of exclusion issued under the UC Policy on Sexual Violence and Sexual Harassment.
 7. Retaliation
- B. Specific definitions of prohibited activities are provided in the [UC Policy on Sexual Violence and Sexual Harassment](#).

IV. Consent and Incapacitation

- A. An affirmative, conscious, voluntary agreement by each participant to engage in sexual activity is required in order to gain consent.
- B. Consent is revocable and can be withdrawn at any time during the activity.
1. Affirmative consent must be ongoing throughout the sexual activity.
 2. The existence of a dating relationship or past sexual relations between the parties alone is not an indicator of consent.
 3. A subsequent dating relationship or sexual relations alone is not an indicator of consent for prior conduct.
- C. Consent is not possible when the complainant is incapacitated.
- D. The respondent's belief that the complainant consented is not a valid excuse where:
1. the respondent's belief arose from the respondent's own intoxication or recklessness,
 2. the respondent did not take reasonable steps to ascertain whether the complainant affirmatively consented, or
 3. the respondent knew or should have known the complainant was incapacitated.
- E. Additional information regarding the definitions of consent and incapacitation is available in the [UC Policy on Sexual Violence and Sexual Harassment](#).

V. Options for Consultations and Reporting

A. Confidential consultations

1. Individuals seeking confidential assistance or support related to prohibited activities may consult with the following departments:
 - a. Center for Advocacy Resources and Education (CARE) (530-752-3299); <http://care.ucdavis.edu>.
 - b. Academic and Staff Assistance Program (ASAP) (530-752-2727; 916-734-2727).
 - c. Student Health and Counseling Services (SHCS) (530-752-0871).
 - d. Lesbian, Gay, Bisexual, Transgender, Queer, Intersex, Asexual Resource Center (LGBTQIARC) (530-752-2452).
 - e. Ombuds Office (530-219-6750).
 - f. Women's Resources and Research Center (WRRC) (530-752-3372).
2. Disclosures to these departments will not automatically lead to an investigation or other University response unless the individual chooses to make an official report as described below.

B. Official reporting to the University

1. Individuals who wish to report behavior that may be considered prohibited conduct under this Policy, including third-party or anonymous reports, may report the behavior to the following:
 - a. The Sexual Harassment Officer (SHO) (Davis campus, 530-752-9255; UCDHS, 916-734-8104).
 - b. The Title IX Officer (530-752-9466).
 - c. Any responsible employee (identified in VI.C, below).
2. Responsible employees who are made aware of any behavior that may be considered prohibited conduct must report the behavior to the SHO, the Title IX Officer, or their offices.
3. Reporting prohibited conduct to the University will not automatically lead to a criminal report or criminal investigation; individuals who wish to pursue a criminal investigation into sexual assault, dating violence, domestic violence, or stalking must report the incident to the appropriate police department.
4. Additional information regarding reporting and University response to complaints is available at <http://sexualviolence.ucdavis.edu>.

VI. Roles and Responsibilities

A. Title IX Officer

1. Develops and implements procedures for prompt and effective responses to reports of sexual violence and sexual harassment.
2. Oversees a prompt and equitable response to reports of prohibited conduct.
3. Initiates formal investigations into prohibited conduct.
4. With the SHOs, identifies and addresses any patterns or systemic problems that arise during the review of complaints of prohibited conduct.

5. Ensures the University offers prevention education and awareness programs to all incoming students and new employees, and ongoing training to the University community.
6. Ensures all individuals conducting formal investigations or hearings on sexual violence issues receive annual training related to sexual violence.

B. SHOs

1. Plan and manage sexual violence and sexual harassment prevention education and training programs to ensure:
 - a. Wide dissemination of this policy to the University community.
 - b. Educational and training materials to promote compliance with the policy and familiarity with campus reporting procedures.
 - c. Coordination of training required by state law and University policy.
2. Receive reports of prohibited conduct and ensure that timelines, procedures, rights, and remedies are met.
3. Coordinate and implement the alternative resolution process.
4. Ensure that individuals making reports receive notifications as required by V.A.3 of the [UC Policy on Sexual Violence and Sexual Harassment](#).
5. In accordance with University records retention policies, maintain records of reports of prohibited activities and actions taken in response to reports, including records of investigations, alternative resolutions, and disciplinary action as appropriate.
6. Maintain accurate contact information for the SHOs and Sexual Harassment Advisors on the website.

C. Responsible Employees

1. Individuals are identified as Responsible Employees as follows:
 - a. With regard to student complaints of prohibited conduct, all University employees (including student employees) who are not confidential resources as identified in section V.A. and who in the course of employment receive information that a student has been subjected to prohibited conduct are Responsible Employees.
 - b. With regard to all other reports of prohibited conduct, the following are identified as Responsible Employees:
 - 1) Campus Police
 - 2) Human Resource Administrators, Academic Personnel and Title IX Professionals
 - 3) Managers and supervisors including Deans, Department Chairs, Directors of Organized Research Units and other academic appointees with managerial responsibilities.
 - 4) Faculty members.
2. Responsible Employees are responsible for all of the following:
 - a. Supporting and contributing to a work or educational environment free from all forms of harassment or discrimination

- b. Immediately consulting with the SHO or Title IX Officer following notice of prohibited conduct.
 - c. In consultation with the SHO or Title IX Officer, implementing appropriate interim actions.
 - d. Participating in training as required by University policy and state law.
3. Responsible employees who fail to forward reports of prohibited conduct may be subject to corrective action, including potential disciplinary action.
- D. Title IX Investigators
1. Act as neutral fact-finders in conducting a full, fair, and thorough investigation into prohibited conduct as charged by the Title IX Compliance Officer.
 2. Complete investigations in a timely manner.
 3. Request extension when needed for good cause, in order to complete a full, fair, and thorough investigation.
 4. Participate in annual training on sexual violence.
- E. CARE
1. Provides support services to complainants, including but not limited to:
 - a. Confidential crisis intervention.
 - b. Accompanying the complainant to forensic medical examinations.
 - c. Accompanying the complainant to investigation interviews and hearings.
 - d. Assisting the complainant with securing no-contact orders or restraining orders.
 - e. Providing referrals to other campus and community services.
 2. Coordinates with Harassment Discrimination Assistance Prevention Program to provide training and prevention programs.
- F. Respondent Service Coordinator
1. Facilitates fair and equitable services for the respondent.
 2. Provides information regarding the University's administrative processes to the respondent.
 3. Makes referrals to appropriate campus and community resources.
- G. Sexual Harassment Advisors
1. Serve as additional resources to the campus for advising on matters of sexual harassment.
 2. Respond to questions about this policy.
 3. Provide copies of the policy on request.
 4. Provide information about complaint resolution options.
 5. Notify the SHO of reports of prohibited conduct.
- H. Case Management Teams
1. Sexual Violence Case Management Team (SVCMT)

- a. The SVCMT meets at least biweekly to coordinate timely responses to allegations of sexual violence and student-student sexual harassment, and to monitor such allegations through the resolution process.
 - b. Members of the SVCMT include the Title IX Officer, the SHO from the Davis campus, and representatives from, CARE, the Office of Student Support and Judicial Affairs, the UC Davis Police Department and Campus Counsel.
2. Sexual Harassment Case Management Team (SHCMT)
- a. The SHCMT meets regularly to coordinate timely responses to allegations of sexual harassment and to monitor such allegations through the resolution process.
 - b. Members of the SHCMT include the Title IX Officer; the SHOs; and representatives from Human Resources, Academic Affairs, the Office of Student Support and Judicial Affairs, and other members as required.
- I. Campus Community Review Team (CCRT)
1. The CCRT meets at least quarterly and serves in an advisory capacity to campus leadership and community members about best practices in policies, education, prevention and response to sexual violence.
 2. The CCRT is composed of campus and community stakeholders involved in sexual violence response and prevention efforts.

VII. Further Information

- A. The Harassment & Discrimination Assistance and Prevention Program provides information and assistance to the Davis campus (530-752-9255; <http://hdapp.ucdavis.edu>); the Office of Equal Opportunity, Sexual Harassment, Mediation and Support Services provides information and assistance to UCDHS (916-734-5335; <http://www.ucdmc.ucdavis.edu/hr/hrdepts/DiscResources/SHresources>).
- B. CARE is a confidential resource that provides information and assistance regarding sexual violence and sexual harassment to students, staff, faculty, and other University affiliates (530-752-3299; <http://care.ucdavis.edu>).
- C. 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 on the agencies' websites.
 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.

VIII. References and Related Resources

- A. Disciplinary procedures:
 1. Policies Applying to Campus Activities, Organizations, and Students, Section 100.00, Policy on Student Conduct and Discipline.
 2. UC Davis Administration of Student Discipline (<http://sja.ucdavis.edu/files/asd.pdf>).

3. Academic Personnel Manual (<http://manuals.ucdavis.edu/APM/apm-toc.htm>):
 - a. Section 016, University Policy on Faculty Conduct and the Administration of Discipline and UCD 016, Procedures for Faculty Discipline.
 - b. Section 150, Non-Senate Academic Appointees, Corrective Action and Dismissal.
4. Personnel Policies for Staff Members, Policy and UCD Procedure 62, Corrective Action (<http://manuals.ucdavis.edu/spp/spp-toc.htm>).
5. UC Collective Bargaining Agreements (http://atyourservice.ucop.edu/employees/policies_employee_labor_relations/collective_bargaining_agreements.html).
- B. Office of the President (<http://policy.ucop.edu/>):
 1. University of California Policy on Sexual Violence and Sexual Harassment.
 2. Policies Applying to Campus Activities, Organizations, and Students, Section 110.00, Policy on Student Grievance Procedures.
- C. Title VII of the Civil Rights Act of 1964, 42 US Code 2000e et seq (<http://www.eeoc.gov/laws/statutes/titlevii.cfm>).
- D. EEOC Guidelines on Discrimination Because of Sex, 29 CFR 1604.11 (<http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR>).
- E. Title IX, Educational Amendments of 1972, 20 US Code 1681 and 1687 (<http://uscode.house.gov/search/criteria.shtml>).
- F. Title IX Regulations, 34 CFR Part 106 (<http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR>).
- G. California Fair Employment and Housing Act, Government Code 12900 et seq (<http://www.leginfo.ca.gov/calaw.html>).
- H. UC Davis Policy and Procedure Manual (<http://manuals.ucdavis.edu/PPM/about.htm>):
 1. Section 280-05, Procedures for Student Complaints of Prohibited Discrimination or Arbitrary Treatment.
 2. Section 320-20, Privacy of and Access to Information.
 3. Section 380-13, Near Relatives and Consensual Relationships.
 4. Section 380-15, Staff Complaints of Discrimination.
 5. Section 380-17, Improper Governmental Activities/Whistleblower Protection.
 6. Section 400-10, Freedom of Expression.
- I. Academic Personnel Manual (<http://manuals.ucdavis.edu/APM/apm-toc.htm>):
 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.
 4. Section 140 and UCD-140, Non-Senate Academic Appointees/Grievances.

- J. Academic Senate Bylaw 335 and Davis Division Bylaw 87 (http://academicsenate.ucdavis.edu/bylaws_and_regulations/index.html).
- K. Personnel Policies for Staff Members (<http://manuals.ucdavis.edu/spp/spp-toc.htm>):
 - 1. Policy and UCD Procedure 12, Nondiscrimination.
 - 2. Policy and UCD Procedure 70, Complaint Resolution.
- L. Resident Medical Staff Personnel Policy and Procedure:
 - 1. Policy 200, Nondiscrimination.
 - 2. Policy 440, Grievances.
- M. UC Davis Principles of Community (<http://occr.ucdavis.edu/poc/>).