Item with boldface emphasis will be voted on. Each mini-GSA in good standing is eligible to vote, as are elected officials to GSA.
Items with boldface emphasis will be voted on. Each mini-GSA in good standing is eligible to vote, as are elected officials to GSA.
Items with boldface emphasis will be voted on. Each mini-GSA in good standing is eligible to vote, as are elected officials to GSA.

Vice President - Darcie McCellan Descalzo

Offering new students $50K stipend bump with excellent test scores. Called provost scholarship. Any student who has received 6 quarters of PI funding, Grad Division will pay for a year of stipend. Only 13 faculty qualify for this.

11. Met with Dean,
   a. Offering new students $50K stipend bump with excellent test scores. Called provost scholarship. Any student who has received 6 quarters of PI funding, Grad Division will pay for a year of stipend. Only 13 faculty qualify for this.
   b. Worked with Grad/Prof issues director Paul Escobar to draft an announcement about temporary job designing professional development survey for our campaign and approved job description to be distributed to all UC grad students.
   c. Formulated budgetary ask for money for grad/prof campaign to be presented at UCSA board meeting 2/1/14.
   d. Reviewed applications for temporary job designing professional development survey and worked with committee to identify candidates to interview.
• Wrote and sent out agenda for Grad/Prof committee breakout at UCSA board meeting.
• Continue to have weekly calls with UCSA Grad/Prof director Paul Escobar to discuss system wide graduate issues.
• Attended weekly meetings with ASUCR external affairs office.
• Worked with CP Grad Chair Justin Chung to form UCSA Grad/Prof delegation and agenda for meeting with President Napolitano to discuss grad issues on February 12, 2014.
• Continue email contact with ASUCR elections reps for 2014 elections.
• Working on composing job descriptions for all GSA elected positions to begin soliciting for candidates at February council meeting.
• Volunteered for Student Lobby Conference steering committee.
• Attended reception with Ms. Lanier, a Civil Rights activist who was on campus 1/22/14.
• Worked with Paul Escobar to review debt surveys that have been sent out to students nationwide to see if we could formulate something similar for the UC.
• Working with ASUCR COD Aja Campbell to possibly present seminars in spring quarter to explain graduate school to senior undergraduates.
• Worked with COD Lewis Luartz to arrange travel for and ensure we were in agreement about stances to be taken at January UCSA board meeting because I could not attend (family emergency).
• Wrote a bylaw amendment that was approved by UCSA board prohibiting retroactive funding in response to a problem encountered at November board meeting.

Additional Information:
- Solicited for possible Provost Candidates, reviewed suggestions, and submitted qualified.
- Worked with Paul Escobar to draft an announcement about temporary job designing professional development survey for our campaign and approved job description to be distributed to all UC grad students.
- Formulated budgetary ask for money for grad/prof campaign to be presented at UCSA board meeting 2/1/14.
- Reviewed applications for temporary job designing professional development survey and worked with committee to identify candidates to interview.
- Wrote and sent out agenda for Grad/Prof committee breakout at UCSA board meeting.
- Continue to have weekly calls with UCSA Grad/Prof director Paul Escobar to discuss system wide graduate issues.
- Attended weekly meetings with ASUCR external affairs office.
- Worked with CP Grad Chair Justin Chung to form UCSA Grad/Prof delegation and agenda for meeting with President Napolitano to discuss grad issues on February 12, 2014.
- Continue email contact with ASUCR elections reps for 2014 elections.
- Working on composing job descriptions for all GSA elected positions to begin soliciting for candidates at February council meeting.
- Volunteered for Student Lobby Conference steering committee.
- Attended reception with Ms. Lanier, a Civil Rights activist who was on campus 1/22/14.
- Worked with Paul Escobar to review debt surveys that have been sent out to students nationwide to see if we could formulate something similar for the UC.
- Working with ASUCR COD Aja Campbell to possibly present seminars in spring quarter to explain graduate school to senior undergraduates.
- Worked with COD Lewis Luartz to arrange travel for and ensure we were in agreement about stances to be taken at January UCSA board meeting because I could not attend (family emergency).
- Wrote a bylaw amendment that was approved by UCSA board prohibiting retroactive funding in response to a problem encountered at November board meeting.
Items with boldface emphasis will be voted on. Each mini-GSA in good standing is eligible to vote, as are elected officials to GSA.

1. Conference Proposals
   a. No new proposals for 5 February 2014 meeting

2. Summary of Conference Funding for Current Academic Year
   a. Funded $8,170 in UCR graduate student conference support
      i. Two conferences have been completed
      ii. Conference successes may merit provost meeting to ask for an increase in UCR student conference funding through GSA

3. Met with Maggie Grover of GradSuccess
   a. Discussed events/workshops they hold and how GSA could help
      i. Winter Quarter is directed to industry work
      ii. CV/Resume Workshops (1/30/14)
      iii. Recent UCR graduates who work in industry are coming in to talk about life in industry after graduate school
      iv. Stress relief
      v. Many other events
   b. We could partner with GradSuccess and they could buy Tea/Coffee if we provide food

4. Mini-GSA(s)
   a. Activated Neuroscience (added 30 more students to active member list)
   b. Mechanical Engineering mini-GSA is being started for the first time
      i. Will begin attending meetings next week
      ii. Already part of committee
   c. AAO Meeting Budget
      i. $300 (or $450 based of college) for meetings
         1. Can use for food/drinks supplies
      ii. Various outreach initiatives by AAO commencing

Public Relations Officer – Michael Young

1. UCR-UCI Group Social
   a. Wine tasting in Temecula
      i. Event was fun, looking forward to a greater turn-out in future.
      ii. A repeat is being planned for the Spring quarter.
   b. A trip is also on for a group UCI-UCR-USC trip to Las Vegas.
      i. Event is from Feb. 21st (~7:30PM) to Feb. 23rd (~6PM).

2. Winter Gradbash
Items with **boldface emphasis** will be voted on. Each mini-GSA in good standing is eligible to vote, as are elected officials to GSA.

---

**Items with boldface emphasis** will be voted on. Each mini-GSA in good standing is eligible to vote, as are elected officials to GSA.

---

1. **SHAC meeting at Jan/09/14 and Jan/30/14**
   - **New bid to broker**
     i. Planning to bid out Dental and Vision Plans for next year to see if there would be savings.
     ii. Will negotiate new plan with broker in Feb.
   - **Survey**
     i. The survey will take one month long to collect data.
     ii. Creating a survey to review the new insurance plan.
     iii. Target all students in campus in order to collect data to evaluate entire health center
     iv. After collecting survey data, modify our insurance plan.
   - **Student Health Advisory Committee election**
     i. Ayanna Best elected chair
     ii. Jorgelina Marin elected vice chair
   - **Student Health Funding Model**
     i. According to finance issue, several sustainable funding options.

2. **Announcements**
   - If you have announcements for the graduate students, send them to Michael Young and he will send them out across the listserv.
   - If you would like any materials to be displayed at the Gradbash, please contact Michael Young to discuss having them made available.

---

**Finance Officer - Tushar Nangnure**

- Worked on SSFAC call letter for additional funding which was turned back due to a few corrections in it. It was turned back in with the required corrections with the help of Theresa Perez and Sandeep Dhall.
- Following is the list of reimbursements I approved in the month of January 2014. These amounts might change when they actually get reimbursed. I will update it when I get the financial transaction reports for the month of January 2014 and it will be reflected in the mini-GSA amount balance sheet I will put up next month. This sheet will consist of all mini-GSAs consolidated reimbursements and remaining balance.
Items with boldface emphasis will be voted on. Each mini-GSA in good standing is eligible to vote, as are elected officials to GSA.
Items with **boldface emphasis** will be voted on. Each mini-GSA in good standing is eligible to vote, as are elected officials to GSA.

1. **Total:** 51
   - Addressed GSA CTG appeals
   - Processed all outstanding December Travel
   - Further planning for "GSA CTG Workshops"
     - Dates will be released at January council meeting
   - Highlander Lobby Corp
     - Meetings held on Wednesdays
       - Lobby Visits begin week 4
     - Visit Assemblymen/women, Riverside Mayor, UCR Chancellor, Congressmen, and Senator
       - Need ideas for lobbying on behalf of the UCR Graduate population
   - Assembly Bill
     - IGNITE: AB420 (awaiting Gov. signature)
     - AB 609
     - AB 233
   - Campaigns
     - IGNITE
     - Fossil Free UC
     - CMED-now fund the UC
   - SLC April 4-7th
     - Want to work with Graduate Students
2. Attended UC Student Regents meeting with Cinthia Flores and Sadia Saifuddin
3. UC Student Association Executive Retreat at UC Santa Cruz
   - Date: January 10, 2014
     - This meeting consisted of several teambuilding activities and reviewing the UCSA campaigns currently running.
     - No changes regarding to the Grad/Prof Committee campaign were discussed since this conversation would be brought up at the Board Meeting.
4. UC Student Association Board Meeting at UC Santa Cruz
   - Date: January 11-12, 2014
   - Campus Organizing Director - Lewis Luartz

*Items with boldface emphasis will be voted on. Each mini-GSA in good standing is eligible to vote, as are elected officials to GSA.*
Items with **boldface emphasis** will be voted on. Each mini-GSA in good standing is eligible to vote, as are elected officials to GSA.

---

**i.** I served as the UC Riverside representative for this Board meeting, which consisted of several important issues for UCSA.

**ii.** At the organization level, the updated budget passed, as did the change of Bank UCSA uses.

**iii.** There was a resolution from UCLA for the Student of Color conference to be avoided as well.

**iv.** In the case of graduate and professional students, the Grad/Prof Committee's Jobs! Campaign is moving forward with seeking out a student to conduct our survey as an alternative to the companies from which we have received offers.

**v.** The minutes from the Board Meeting are currently available on the UCSA website for those interested in reading about the resolutions passed.

---

**9. EVOLVE California Higher Education Conference at HUB-LA in Los Angeles**

**i.** Date: January 17, 2014

**ii.** I participated as a panelist in the EVOLVE conference in Los Angeles to speak on the topic of online education.

**iii.** Among the other panelists included students representing the Student Senate for California Community Colleges, the California State Student Association, several student representatives, and the UC Regent Cinthia Flores.

**iv.** Representing the UC Student Association, the UCR Graduate Student Association, and graduate and professional students in general, I had the opportunity to speak in regards to my own online education experience and the future of online education moving forward for the UC system and California in general.

**v.** The entire conference was streamed and tweeted live, and is available on the 20 Million Minds website, [http://evolve.20mm.org](http://evolve.20mm.org).
9 Items with boldface emphasis will be voted on. Each mini-GSA in good standing is eligible to vote, as are elected officials to GSA.
Thank you to the CNAS mini-GSA reps who were able to attend our meeting. If you are a mini-GSA member and do not receive emails regarding this meeting please email lhale003@ucr.edu.

1. In my opinion which is supported by those who I talk, UC may experience some issues with safety, but mainly we are doing better than most other campuses throughout California.

2. Tuition is high and I agree. I think we can bring this issue to the council and see if there are some suggestions and fees that can be looked for. Specially for MBA students who pay $40,000 per year.

College Of Humanities, Arts, And Social Sciences- Danae Gmuer-Johnson

1. CHASS rep coffee social (formerly called meet & greets)
   a. Plan to hold bi-monthly CHASS coffee socials, although I would like to have them monthly
      i. Emailed Lisa Walke in the HUB about reserving a room for socials.
      ii. The goal is to reserve HUB 203 in the morning

2. Planning on CHASS rep spring barbecue!

3. Undergraduate Research Assistant Website
   a. Met with Lauren Hale and Kelly Tran about undergraduate website
   b. Reviewed options with student and made suggestions
      i. Plan on attending meeting between school officials about building the website on Wednesday January 29th, 2014.

4. UC Policy on Sexual Harassment
   a. Emailed all CHASS reps asking for their opinion, questions/concerns about the proposed policy updates, waiting for responses.

*Items with boldface emphasis will be voted on. Each mini-GSA in good standing is eligible to vote, as are elected officials to GSA.*
Resolution In Support of Promoting Awareness and Education on Mental Health Services

By Morgan Nixon, Monika Vermani, and Kareem Aref

**Whereas** one in four adults experiences a diagnosable mental health disorder each year.¹ and

**Whereas** twenty-seven percent of young adults (18-24) experience mental health conditions, of which anxiety disorders and depression are the two most common disorders.² and

**Whereas**: The University of California Riverside serves primarily persons between the ages of 18 and 24 and

**Whereas** with psychological treatment most mental illnesses can be controlled like depression which is very treatable: more than 80% get better with treatment.³ and

**Whereas** university faculty is often unaware of available services and unable to direct students to the proper resources as in a recent case in which a student on the east coast who, upon reaching out to a professor, could not be properly directed to campus counseling services and when the student was finally able to locate help on his own, he was diagnosed with Post Traumatic Stress Disorder, a clinical mental illness that requires professional treatment and

**Whereas** issues of mental health cause unnecessary deaths each year one of the most recent being that of Maliq Nixon a Berkeley student, who because of the lack of psychiatric help was unable to maintain his treatment for his mental disorder and ended his life late 2013 and

**Whereas** the Syllabus Initiative Committee was created in 2012 for the purpose of placing mental health service information on syllabi across campus departments and

**Whereas** it is the duty of ASUCR to support students, especially in cases of efforts that they have taken the initiative to push for outside of institutional support and

**Whereas** The Associated Students of The University of California Riverside have a duty to their constituents to represent and advocate on their behalf and

**Whereas** action must be taken now to ensure that students seeking help are properly directed, treated and no more unnecessary deaths occur therefore

---

Let it be resolved that The associated students officially endorse more funding and availability of Mental health services on campus and commend the Syllabus Initiative Committee on their hard work and dedication to this project and

Let it further be resolved that the ASUCR Senate in collaboration with the Syllabus Initiative Committee under Active Minds will advocate to their respective deans, in meetings to occur before the end of winter 2014, to mandate that the counseling center and student affairs case manager information be placed on all syllabi so as to provide more accessibility to students as well as to educate faculty on these services and

Let it further be resolved that The ASUCR Senate and Syllabus Initiative Committee under Active Minds will help support, promote awareness, and educate faculty and students on the current mental health services available at the University of California Riverside and

Let it Finally be resolved that The associated students executive cabinet will meet with the appropriate administration before the end of winter 2014 to discuss the addition of another psychologist/psychiatrist for the mental health center and the increase of allotted visits to be increased from 8 a year to at least 8 a quarter so as to better support our students and
Dear Colleague:

Education has long been recognized as the great equalizer in America. The U.S. Department of Education and its Office for Civil Rights (OCR) believe that providing all students with an educational environment free from discrimination is extremely important. The sexual harassment of students, including sexual violence, interferes with students' right to receive an education free from discrimination and, in the case of sexual violence, is a crime.

Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §§ 1681 et seq., and its implementing regulations, 34 C.F.R. Part 106, prohibit discrimination on the basis of sex in education programs or activities operated by recipients of Federal financial assistance. Sexual harassment of students, which includes acts of sexual violence, is a form of sex discrimination prohibited by Title IX. In order to assist recipients, which include school districts, colleges, and universities (hereinafter “schools” or “recipients”) in meeting these obligations, this letter explains that the requirements of Title IX pertaining to sexual harassment also cover sexual violence, and lays out the specific Title IX requirements applicable to sexual violence.

OCR issues this and other policy guidance to provide recipients with information to assist them in meeting their obligations, and to provide members of the public with information about their rights, under the civil rights laws and implementing regulations that we enforce. OCR’s legal authority is based on those laws and regulations. This letter does not add requirements to applicable law, but provides information and examples to inform recipients about how OCR evaluates whether covered entities are complying with their legal obligations. If you are interested in commenting on this guidance, please send an e-mail with your comments to OCR@ed.gov, or write to us at the following address: Office for Civil Rights, U.S. Department of Education, 400 Maryland Avenue, SW, Washington, DC 20202.

Use of the term “sexual harassment” throughout this document includes sexual violence unless otherwise noted. Sexual harassment also may violate Title IV of the Civil Rights Act of 1964 (42 U.S.C. § 2000c), which prohibits public school districts and colleges from discriminating against students on the basis of sex, among other bases. The U.S. Department of Justice enforces Title IV.


2 Use of the term “sexual harassment” throughout this document includes sexual violence unless otherwise noted. The U.S. Department of Education’s mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.
sexual assault, sexual battery, and sexual coercion. All such acts of sexual violence are forms of
sexual harassment covered under Title IX.

The statistics on sexual violence are both deeply troubling and a call to action for the nation. A
report prepared for the National Institute of Justice found that about 1 in 5 women are victims
of completed or attempted sexual assault while in college. The report also found that
approximately 6.1 percent of males were victims of completed or attempted sexual assault
during college. According to data collected under the Jeanne Clery Disclosure of Campus
campuses reported nearly 3,300 forcible sex offenses as defined by the Clery Act. This problem
is not limited to college. During the 2007-2008 school year, there were 800 reported incidents
of rape and attempted rape and 3,800 reported incidents of other sexual batteries at public
high schools. Additionally, the likelihood that a woman with intellectual disabilities will be
sexually assaulted is estimated to be significantly higher than the general population. The
Department is deeply concerned about this problem and is committed to ensuring that all
students feel safe in their school, so that they have the opportunity to benefit fully from the
school’s programs and activities.

This letter begins with a discussion of Title IX’s requirements related to student-on-student
sexual harassment, including sexual violence, and explains schools’ responsibility to take
immediate and effective steps to end sexual harassment and sexual violence. These
requirements are discussed in detail in OCR’s Revised Sexual Harassment Guidance issued in
2001 (2001 Guidance). This letter supplements the 2001 Guidance by providing additional
guidance and practical examples regarding the Title IX requirements as they relate to sexual
violence. This letter concludes by discussing the proactive efforts schools can take to prevent
sexual harassment and violence, and by providing examples of remedies that schools and OCR
may use to end such conduct, prevent its recurrence, and address its effects. Although some
examples contained in this letter are applicable only in the postsecondary context, sexual

---

3 CHRISTOPHER P. KREBS ET AL., THE CAMPUS SEXUAL ASSAULT STUDY: FINAL REPORT xiii (Nat’l Criminal Justice Reference Serv.,
Oct. 2007), available at http://www.ncjrs.gov/pdffiles1/nij/grants/221153.pdf. This study also found that the
majority of campus sexual assaults occur when women are incapacitated, primarily by alcohol. Id. at xviii.
4 Id. at 5-5.
5 U.S. Department of Education, Office of Postsecondary Education, Summary Crime Statistics (data compiled from
defined as any sexual act directed against another person, forcibly and/or against that person’s will, or not forcibly
or against the person’s will where the victim is incapable of giving consent. Forcible sex offenses include forcible
rape, forcible sodomy, sexual assault with an object, and forcible fondling. 34 C.F.R. Part 668, Subpt. D, App. A.
6 SIMONE ROBERS ET AL., INDICATORS OF SCHOOL CRIME AND SAFETY: 2010 at 104 (U.S. Dep’t of Educ. & U.S. Dep’t of Justice,
7 ERIKA HARRELL & MICHAEL R. RAND, CRIME AGAINST PEOPLE WITH DISABILITIES, 2008 (Bureau of Justice Statistics, U.S. Dep’t
8 The 2001 Guidance is available on the Department's Web site at http://www2.ed.gov/about/offices/list/ocr/docs/shguide.pdf. This letter focuses on peer sexual harassment and
violence. Schools’ obligations and the appropriate response to sexual harassment and violence committed by
employees may be different from those described in this letter. Recipients should refer to the 2001 Guidance for
further information about employee harassment of students.
harassment and violence also are concerns for school districts. The Title IX obligations discussed in this letter apply equally to school districts unless otherwise noted.

**Title IX Requirements Related to Sexual Harassment and Sexual Violence**

**Schools’ Obligations to Respond to Sexual Harassment and Sexual Violence**

Sexual harassment is unwelcome conduct of a sexual nature. It includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual violence is a form of sexual harassment prohibited by Title IX.9

As explained in OCR’s *2001 Guidance*, when a student sexually harasses another student, the harassing conduct creates a hostile environment if the conduct is sufficiently serious that it interferes with or limits a student’s ability to participate in or benefit from the school’s program. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment, particularly if the harassment is physical. Indeed, a single or isolated incident of sexual harassment may create a hostile environment if the incident is sufficiently severe. For instance, a single instance of rape is sufficiently severe to create a hostile environment.10

Title IX protects students from sexual harassment in a school’s education programs and activities. This means that Title IX protects students in connection with all the academic, educational, extracurricular, athletic, and other programs of the school, whether those programs take place in a school’s facilities, on a school bus, at a class or training program

---

9 Title IX also prohibits gender-based harassment, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping, even if those acts do not involve conduct of a sexual nature. The Title IX obligations discussed in this letter also apply to gender-based harassment. Gender-based harassment is discussed in more detail in the *2001 Guidance*, and in the 2010 Dear Colleague letter on Harassment and Bullying, which is available at [http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf](http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf).

10 See, e.g., Jennings v. Univ. of N.C., 444 F.3d 255, 268, 274 n.12 (4th Cir. 2006) (acknowledging that while not an issue in this case, a single incident of sexual assault or rape could be sufficient to raise a jury question about whether a hostile environment exists, and noting that courts look to Title VII cases for guidance in analyzing Title IX sexual harassment claims); Vance v. Spencer Cnty. Pub. Sch. Dist., 231 F.3d 253, 259 n.4 (6th Cir. 2000) (“[w]ithin the context of Title IX, a student’s claim of hostile environment can arise from a single incident” (quoting Doe v. Sch. Admin. Dist. No. 19, 66 F. Supp. 2d 57, 62 (D. Me. 1999))); Soper v. Hoben, 195 F.3d 845, 855 (6th Cir. 1999) (explaining that rape and sexual abuse “obviously qualif[y] as…severe, pervasive, and objectively offensive sexual harassment”); see also Berry v. Chi. Transit Auth., 618 F.3d 688, 692 (7th Cir. 2010) (in the Title VII context, “a single act can create a hostile environment if it is severe enough, and instances of uninvited physical contact with intimate parts of the body are among the most severe types of sexual harassment”); Turner v. Saloon, Ltd., 595 F.3d 679, 686 (7th Cir. 2010) (noting that “[o]ne instance of conduct that is sufficiently severe may be enough,” which is “especially true when the touching is of an intimate body part” (quoting Jackson v. Cnty. of Racine, 474 F.3d 493, 499 (7th Cir. 2007))); McKinnis v. Crescent Guardian, Inc., 189 F. App’x 307, 310 (5th Cir. 2006) (holding that “the deliberate and unwanted touching of [a plaintiff’s] intimate body parts can constitute severe sexual harassment”’ in Title VII cases (quoting Harvill v. Westward Commc’ns, L.L.C., 433 F.3d 428, 436 (5th Cir. 2005))).
sponsored by the school at another location, or elsewhere. For example, Title IX protects a student who is sexually assaulted by a fellow student during a school-sponsored field trip.11

If a school knows or reasonably should know about student-on-student harassment that creates a hostile environment, Title IX requires the school to take immediate action to eliminate the harassment, prevent its recurrence, and address its effects.12 Schools also are required to publish a notice of nondiscrimination and to adopt and publish grievance procedures. Because of these requirements, which are discussed in greater detail in the following section, schools need to ensure that their employees are trained so that they know to report harassment to appropriate school officials, and so that employees with the authority to address harassment know how to respond properly. Training for employees should include practical information about how to identify and report sexual harassment and violence. OCR recommends that this training be provided to any employees likely to witness or receive reports of sexual harassment and violence, including teachers, school law enforcement unit employees, school administrators, school counselors, general counsels, health personnel, and resident advisors.

Schools may have an obligation to respond to student-on-student sexual harassment that initially occurred off school grounds, outside a school’s education program or activity. If a student files a complaint with the school, regardless of where the conduct occurred, the school must process the complaint in accordance with its established procedures. Because students often experience the continuing effects of off-campus sexual harassment in the educational setting, schools should consider the effects of the off-campus conduct when evaluating whether there is a hostile environment on campus. For example, if a student alleges that he or she was sexually assaulted by another student off school grounds, and that upon returning to school he or she was taunted and harassed by other students who are the alleged perpetrator’s friends, the school should take the earlier sexual assault into account in determining whether there is a sexually hostile environment. The school also should take steps to protect a student who was assaulted off campus from further sexual harassment or retaliation from the perpetrator and his or her associates.

Regardless of whether a harassed student, his or her parent, or a third party files a complaint under the school’s grievance procedures or otherwise requests action on the student’s behalf, a school that knows, or reasonably should know, about possible harassment must promptly investigate to determine what occurred and then take appropriate steps to resolve the situation. As discussed later in this letter, the school’s Title IX investigation is different from any law enforcement investigation, and a law enforcement investigation does not relieve the school of its independent Title IX obligation to investigate the conduct. The specific steps in a school’s

---

11 Title IX also protects third parties from sexual harassment or violence in a school’s education programs and activities. For example, Title IX protects a high school student participating in a college’s recruitment program, a visiting student athlete, and a visitor in a school’s on-campus residence hall. Title IX also protects employees of a recipient from sexual harassment. For further information about harassment of employees, see 2001 Guidance at n.1.

12 This is the standard for administrative enforcement of Title IX and in court cases where plaintiffs are seeking injunctive relief. See 2001 Guidance at ii-v, 12-13. The standard in private lawsuits for monetary damages is actual knowledge and deliberate indifference. See Davis v. Monroe Cnty. Bd. of Ed., 526 U.S. 629, 643, 648 (1999).
investigation will vary depending upon the nature of the allegations, the age of the student or students involved (particularly in elementary and secondary schools), the size and administrative structure of the school, and other factors. Yet as discussed in more detail below, the school’s inquiry must in all cases be prompt, thorough, and impartial. In cases involving potential criminal conduct, school personnel must determine, consistent with State and local law, whether appropriate law enforcement or other authorities should be notified.  

Schools also should inform and obtain consent from the complainant (or the complainant’s parents if the complainant is under 18 and does not attend a postsecondary institution) before beginning an investigation. If the complainant requests confidentiality or asks that the complaint not be pursued, the school should take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation. If a complainant insists that his or her name or other identifiable information not be disclosed to the alleged perpetrator, the school should inform the complainant that its ability to respond may be limited. The school also should tell the complainant that Title IX prohibits retaliation, and that school officials will not only take steps to prevent retaliation but also take strong responsive action if it occurs.

As discussed in the 2001 Guidance, if the complainant continues to ask that his or her name or other identifiable information not be revealed, the school should evaluate that request in the context of its responsibility to provide a safe and nondiscriminatory environment for all students. Thus, the school may weigh the request for confidentiality against the following factors: the seriousness of the alleged harassment; the complainant’s age; whether there have been other harassment complaints about the same individual; and the alleged harasser’s rights to receive information about the allegations if the information is maintained by the school as an “education record” under the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g; 34 C.F.R. Part 99. The school should inform the complainant if it cannot ensure confidentiality. Even if the school cannot take disciplinary action against the alleged harasser because the complainant insists on confidentiality, it should pursue other steps to limit the effects of the alleged harassment and prevent its recurrence. Examples of such steps are discussed later in this letter.

Compliance with Title IX, such as publishing a notice of nondiscrimination, designating an employee to coordinate Title IX compliance, and adopting and publishing grievance procedures, can serve as preventive measures against harassment. Combined with education and training programs, these measures can help ensure that all students and employees recognize the

---

13 In states with mandatory reporting laws, schools may be required to report certain incidents to local law enforcement or child protection agencies.
14 Schools should refer to the 2001 Guidance for additional information on confidentiality and the alleged perpetrator’s due process rights.
15 For example, the alleged harasser may have a right under FERPA to inspect and review portions of the complaint that directly relate to him or her. In that case, the school must redact the complainant’s name and other identifying information before allowing the alleged harasser to inspect and review the sections of the complaint that relate to him or her. In some cases, such as those where the school is required to report the incident to local law enforcement or other officials, the school may not be able to maintain the complainant’s confidentiality.
nature of sexual harassment and violence, and understand that the school will not tolerate such conduct. Indeed, these measures may bring potentially problematic conduct to the school’s attention before it becomes serious enough to create a hostile environment. Training for administrators, teachers, staff, and students also can help ensure that they understand what types of conduct constitute sexual harassment or violence, can identify warning signals that may need attention, and know how to respond. More detailed information and examples of education and other preventive measures are provided later in this letter.

**Procedural Requirements Pertaining to Sexual Harassment and Sexual Violence**

Recipients of Federal financial assistance must comply with the procedural requirements outlined in the Title IX implementing regulations. Specifically, a recipient must:

(A) Disseminate a notice of nondiscrimination;\(^\text{16}\)

(B) Designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under Title IX;\(^\text{17}\) and

(C) Adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee sex discrimination complaints.\(^\text{18}\)

These requirements apply to all forms of sexual harassment, including sexual violence, and are important for preventing and effectively responding to sex discrimination. They are discussed in greater detail below. OCR advises recipients to examine their current policies and procedures on sexual harassment and sexual violence to determine whether those policies comply with the requirements articulated in this letter and the *2001 Guidance*. Recipients should then implement changes as needed.

(A) **Notice of Nondiscrimination**

The Title IX regulations require that each recipient publish a notice of nondiscrimination stating that the recipient does not discriminate on the basis of sex in its education programs and activities, and that Title IX requires it not to discriminate in such a manner.\(^\text{19}\) The notice must state that inquiries concerning the application of Title IX may be referred to the recipient’s Title IX coordinator or to OCR. It should include the name or title, office address, telephone number, and e-mail address for the recipient’s designated Title IX coordinator.

The notice must be widely distributed to all students, parents of elementary and secondary students, employees, applicants for admission and employment, and other relevant persons. OCR recommends that the notice be prominently posted on school Web sites and at various

\(^\text{16}\) 34 C.F.R. § 106.9.
\(^\text{17}\) Id. § 106.8(a).
\(^\text{18}\) Id. § 106.8(b).
\(^\text{19}\) Id. § 106.9(a).
locations throughout the school or campus and published in electronic and printed publications of general distribution that provide information to students and employees about the school’s services and policies. The notice should be available and easily accessible on an ongoing basis.

Title IX does not require a recipient to adopt a policy specifically prohibiting sexual harassment or sexual violence. As noted in the 2001 Guidance, however, a recipient’s general policy prohibiting sex discrimination will not be considered effective and would violate Title IX if, because of the lack of a specific policy, students are unaware of what kind of conduct constitutes sexual harassment, including sexual violence, or that such conduct is prohibited sex discrimination. OCR therefore recommends that a recipient’s nondiscrimination policy state that prohibited sex discrimination covers sexual harassment, including sexual violence, and that the policy include examples of the types of conduct that it covers.

(B) Title IX Coordinator

The Title IX regulations require a recipient to notify all students and employees of the name or title and contact information of the person designated to coordinate the recipient’s compliance with Title IX.\(^{20}\) The coordinator’s responsibilities include overseeing all Title IX complaints and identifying and addressing any patterns or systemic problems that arise during the review of such complaints. The Title IX coordinator or designee should be available to meet with students as needed. If a recipient designates more than one Title IX coordinator, the notice should describe each coordinator’s responsibilities (e.g., who will handle complaints by students, faculty, and other employees). The recipient should designate one coordinator as having ultimate oversight responsibility, and the other coordinators should have titles clearly showing that they are in a deputy or supporting role to the senior coordinator. The Title IX coordinators should not have other job responsibilities that may create a conflict of interest. For example, serving as the Title IX coordinator and a disciplinary hearing board member or general counsel may create a conflict of interest.

Recipients must ensure that employees designated to serve as Title IX coordinators have adequate training on what constitutes sexual harassment, including sexual violence, and that they understand how the recipient’s grievance procedures operate. Because sexual violence complaints often are filed with the school’s law enforcement unit, all school law enforcement unit employees should receive training on the school’s Title IX grievance procedures and any other procedures used for investigating reports of sexual violence. In addition, these employees should receive copies of the school’s Title IX policies. Schools should instruct law enforcement unit employees both to notify complainants of their right to file a Title IX sex discrimination complaint with the school in addition to filing a criminal complaint, and to report incidents of sexual violence to the Title IX coordinator if the complainant consents. The school’s Title IX coordinator or designee should be available to provide assistance to school law enforcement unit employees regarding how to respond appropriately to reports of sexual violence. The Title IX coordinator also should be given access to school law enforcement unit investigation notes.

\(^{20}\) Id. § 106.8(a).
and findings as necessary for the Title IX investigation, so long as it does not compromise the criminal investigation.

(C) Grievance Procedures

The Title IX regulations require all recipients to adopt and publish grievance procedures providing for the prompt and equitable resolution of sex discrimination complaints. The grievance procedures must apply to sex discrimination complaints filed by students against school employees, other students, or third parties.

Title IX does not require a recipient to provide separate grievance procedures for sexual harassment and sexual violence complaints. Therefore, a recipient may use student disciplinary procedures or other separate procedures to resolve such complaints. Any procedures used to adjudicate complaints of sexual harassment or sexual violence, including disciplinary procedures, however, must meet the Title IX requirement of affording a complainant a prompt and equitable resolution. These requirements are discussed in greater detail below. If the recipient relies on disciplinary procedures for Title IX compliance, the Title IX coordinator should review the recipient’s disciplinary procedures to ensure that the procedures comply with the prompt and equitable requirements of Title IX.

Grievance procedures generally may include voluntary informal mechanisms (e.g., mediation) for resolving some types of sexual harassment complaints. OCR has frequently advised recipients, however, that it is improper for a student who complains of harassment to be required to work out the problem directly with the alleged perpetrator, and certainly not without appropriate involvement by the school (e.g., participation by a trained counselor, a trained mediator, or, if appropriate, a teacher or administrator). In addition, as stated in the 2001 Guidance, the complainant must be notified of the right to end the informal process at any time and begin the formal stage of the complaint process. Moreover, in cases involving allegations of sexual assault, mediation is not appropriate even on a voluntary basis. OCR recommends that recipients clarify in their grievance procedures that mediation will not be used to resolve sexual assault complaints.

21 Id. § 106.8(b). Title IX also requires recipients to adopt and publish grievance procedures for employee complaints of sex discrimination.

22 These procedures must apply to all students, including athletes. If a complaint of sexual violence involves a student athlete, the school must follow its standard procedures for resolving sexual violence complaints. Such complaints must not be addressed solely by athletics department procedures. Additionally, if an alleged perpetrator is an elementary or secondary student with a disability, schools must follow the procedural safeguards in the Individuals with Disabilities Education Act (at 20 U.S.C. § 1415 and 34 C.F.R. §§ 300.500-300.519, 300.530-300.537) as well as the requirements of Section 504 of the Rehabilitation Act of 1973 (at 34 C.F.R. §§ 104.35-104.36) when conducting the investigation and hearing.

23 A school may not absolve itself of its Title IX obligations to investigate and resolve complaints of sexual harassment or violence by delegating, whether through express contractual agreement or other less formal arrangement, the responsibility to administer school discipline to school resource officers or “contract” law enforcement officers. See 34 C.F.R. § 106.4.
Promt and Equitable Requirements

As stated in the 2001 Guidance, OCR has identified a number of elements in evaluating whether a school’s grievance procedures provide for prompt and equitable resolution of sexual harassment complaints. These elements also apply to sexual violence complaints because, as explained above, sexual violence is a form of sexual harassment. OCR will review all aspects of a school’s grievance procedures, including the following elements that are critical to achieve compliance with Title IX:

- Notice to students, parents of elementary and secondary students, and employees of the grievance procedures, including where complaints may be filed;
- Application of the procedures to complaints alleging harassment carried out by employees, other students, or third parties;
- Adequate, reliable, and impartial investigation of complaints, including the opportunity for both parties to present witnesses and other evidence;
- Designated and reasonably prompt time frames for the major stages of the complaint process;
- Notice to parties of the outcome of the complaint; and
- An assurance that the school will take steps to prevent recurrence of any harassment and to correct its discriminatory effects on the complainant and others, if appropriate.

As noted in the 2001 Guidance, procedures adopted by schools will vary in detail, specificity, and components, reflecting differences in the age of students, school sizes and administrative structures, State or local legal requirements, and past experiences. Although OCR examines whether all applicable elements are addressed when investigating sexual harassment complaints, this letter focuses on those elements where our work indicates that more clarification and explanation are needed, including:

(A) Notice of the grievance procedures

The procedures for resolving complaints of sex discrimination, including sexual harassment, should be written in language appropriate to the age of the school’s students, easily understood, easily located, and widely distributed. OCR recommends that the grievance procedures be prominently posted on school Web sites; sent electronically to all members of the school community; available at various locations throughout the school or campus; and summarized in or attached to major publications issued by the school, such as handbooks, codes of conduct, and catalogs for students, parents of elementary and secondary students, faculty, and staff.

(B) Adequate, Reliable, and Impartial Investigation of Complaints

OCR’s work indicates that a number of issues related to an adequate, reliable, and impartial investigation arise in sexual harassment and violence complaints. In some cases, the conduct

24 “Outcome” does not refer to information about disciplinary sanctions unless otherwise noted. Notice of the outcome is discussed in greater detail in Section D below.
may constitute both sexual harassment under Title IX and criminal activity. Police investigations may be useful for fact-gathering; but because the standards for criminal investigations are different, police investigations or reports are not determinative of whether sexual harassment or violence violates Title IX. Conduct may constitute unlawful sexual harassment under Title IX even if the police do not have sufficient evidence of a criminal violation. In addition, a criminal investigation into allegations of sexual violence does not relieve the school of its duty under Title IX to resolve complaints promptly and equitably.

A school should notify a complainant of the right to file a criminal complaint, and should not dissuade a victim from doing so either during or after the school’s internal Title IX investigation. For instance, if a complainant wants to file a police report, the school should not tell the complainant that it is working toward a solution and instruct, or ask, the complainant to wait to file the report.

Schools should not wait for the conclusion of a criminal investigation or criminal proceeding to begin their own Title IX investigation and, if needed, must take immediate steps to protect the student in the educational setting. For example, a school should not delay conducting its own investigation or taking steps to protect the complainant because it wants to see whether the alleged perpetrator will be found guilty of a crime. Any agreement or Memorandum of Understanding (MOU) with a local police department must allow the school to meet its Title IX obligation to resolve complaints promptly and equitably. Although a school may need to delay temporarily the fact-finding portion of a Title IX investigation while the police are gathering evidence, once notified that the police department has completed its gathering of evidence (not the ultimate outcome of the investigation or the filing of any charges), the school must promptly resume and complete its fact-finding for the Title IX investigation. Moreover, nothing in an MOU or the criminal investigation itself should prevent a school from notifying complainants of their Title IX rights and the school’s grievance procedures, or from taking interim steps to ensure the safety and well-being of the complainant and the school community while the law enforcement agency’s fact-gathering is in progress. OCR also recommends that a school’s MOU include clear policies on when a school will refer a matter to local law enforcement.

As noted above, the Title IX regulation requires schools to provide equitable grievance procedures. As part of these procedures, schools generally conduct investigations and hearings to determine whether sexual harassment or violence occurred. In addressing complaints filed with OCR under Title IX, OCR reviews a school’s procedures to determine whether the school is using a preponderance of the evidence standard to evaluate complaints. The Supreme Court has applied a preponderance of the evidence standard in civil litigation involving discrimination under Title VII of the Civil Rights Act of 1964 (Title VII), 42 U.S.C. §§ 2000e et seq. Like Title IX,

25 In one recent OCR sexual violence case, the prosecutor’s office informed OCR that the police department’s evidence gathering stage typically takes three to ten calendar days, although the delay in the school’s investigation may be longer in certain instances.
Title VII prohibits discrimination on the basis of sex. OCR also uses a preponderance of the evidence standard when it resolves complaints against recipients. For instance, OCR's Case Processing Manual requires that a noncompliance determination be supported by the preponderance of the evidence when resolving allegations of discrimination under all the statutes enforced by OCR, including Title IX. OCR also uses a preponderance of the evidence standard in its fund termination administrative hearings. Thus, in order for a school’s grievance procedures to be consistent with Title IX standards, the school must use a preponderance of the evidence standard (i.e., it is more likely than not that sexual harassment or violence occurred). The “clear and convincing” standard (i.e., it is highly probable or reasonably certain that the sexual harassment or violence occurred), currently used by some schools, is a higher standard of proof. Grievance procedures that use this higher standard are inconsistent with the standard of proof established for violations of the civil rights laws, and are thus not equitable under Title IX. Therefore, preponderance of the evidence is the appropriate standard for investigating allegations of sexual harassment or violence.

Throughout a school’s Title IX investigation, including at any hearing, the parties must have an equal opportunity to present relevant witnesses and other evidence. The complainant and the alleged perpetrator must be afforded similar and timely access to any information that will be used at the hearing. For example, a school should not conduct a pre-hearing meeting during which only the alleged perpetrator is present and given an opportunity to present his or her side of the story, unless a similar meeting takes place with the complainant; a hearing officer or disciplinary board should not allow only the alleged perpetrator to present character witnesses at a hearing; and a school should not allow the alleged perpetrator to review the complainant’s prior disciplinary records to support a tougher disciplinary penalty.

26 See, e.g., Desert Palace, Inc. v. Costa, 539 U.S. 90, 99 (2003) (noting that under the “conventional rule of civil litigation,” the preponderance of the evidence standard generally applies in cases under Title VII); Price Waterhouse v. Hopkins, 490 U.S. 228, 252-55 (1989) (approving preponderance standard in Title VII sex discrimination case) (plurality opinion); id. at 260 (White, J., concurring in the judgment); id. at 261 (O’Connor, J., concurring in the judgment). The 2001 Guidance noted (on page vi) that “[w]hile Gebser and Davis made clear that Title VII agency principles do not apply in determining liability for money damages under Title IX, the Davis Court also indicated, through its specific references to Title VII caselaw, that Title VII remains relevant in determining what constitutes hostile environment sexual harassment under Title IX.” See also Jennings v. Univ. of N.C., 482 F.3d 686, 695 (4th Cir. 2007) (“We look to case law interpreting Title VII of the Civil Rights Act of 1964 for guidance in evaluating a claim brought under Title IX.”).

27 The Title IX regulations adopt the procedural provisions applicable to Title VI of the Civil Rights Act of 1964. See 34 C.F.R. § 106.71 (“The procedural provisions applicable to Title VI of the Civil Rights Act of 1964 are hereby adopted and incorporated herein by reference.”). The Title VI regulations apply the Administrative Procedure Act to administrative hearings required prior to termination of Federal financial assistance and require that termination decisions be “supported by and in accordance with the reliable, probative and substantial evidence.” 5 U.S.C. § 556(d). The Supreme Court has interpreted “reliable, probative and substantial evidence” as a direction to use the preponderance standard. See Steadman v. SEC, 450 U.S. 91, 98-102 (1981).

28 Access to this information must be provided consistent with FERPA. For example, if a school introduces an alleged perpetrator’s prior disciplinary records to support a tougher disciplinary penalty, the complainant would not be allowed access to those records. Additionally, access should not be given to privileged or confidential information. For example, the alleged perpetrator should not be given access to communications between the complainant and a counselor or information regarding the complainant’s sexual history.
statement without also allowing the complainant to review the alleged perpetrator’s statement.

While OCR does not require schools to permit parties to have lawyers at any stage of the proceedings, if a school chooses to allow the parties to have their lawyers participate in the proceedings, it must do so equally for both parties. Additionally, any school-imposed restrictions on the ability of lawyers to speak or otherwise participate in the proceedings should apply equally. OCR strongly discourages schools from allowing the parties personally to question or cross-examine each other during the hearing. Allowing an alleged perpetrator to question an alleged victim directly may be traumatic or intimidating, thereby possibly escalating or perpetuating a hostile environment. OCR also recommends that schools provide an appeals process. If a school provides for appeal of the findings or remedy, it must do so for both parties. Schools must maintain documentation of all proceedings, which may include written findings of facts, transcripts, or audio recordings.

All persons involved in implementing a recipient’s grievance procedures (e.g., Title IX coordinators, investigators, and adjudicators) must have training or experience in handling complaints of sexual harassment and sexual violence, and in the recipient’s grievance procedures. The training also should include applicable confidentiality requirements. In sexual violence cases, the fact-finder and decision-maker also should have adequate training or knowledge regarding sexual violence.30 Additionally, a school’s investigation and hearing processes cannot be equitable unless they are impartial. Therefore, any real or perceived conflicts of interest between the fact-finder or decision-maker and the parties should be disclosed.

Public and state-supported schools must provide due process to the alleged perpetrator. However, schools should ensure that steps taken to accord due process rights to the alleged perpetrator do not restrict or unnecessarily delay the Title IX protections for the complainant.

(C) Designated and Reasonably Prompt Time Frames

OCR will evaluate whether a school’s grievance procedures specify the time frames for all major stages of the procedures, as well as the process for extending timelines. Grievance procedures should specify the time frame within which: (1) the school will conduct a full investigation of the complaint; (2) both parties receive a response regarding the outcome of the complaint; and (3) the parties may file an appeal, if applicable. Both parties should be given periodic status updates. Based on OCR experience, a typical investigation takes approximately 60 calendar days following receipt of the complaint. Whether OCR considers complaint resolutions to be timely, however, will vary depending on the complexity of the investigation and the severity and extent of the harassment. For example, the resolution of a complaint involving multiple incidents with multiple complainants likely would take longer than one involving a single incident that

30 For instance, if an investigation or hearing involves forensic evidence, that evidence should be reviewed by a trained forensic examiner.
occurred in a classroom during school hours with a single complainant.

(D) Notice of Outcome

Both parties must be notified, in writing, about the outcome of both the complaint and any appeal,\textsuperscript{31} \textit{i.e.}, whether harassment was found to have occurred. OCR recommends that schools provide the written determination of the final outcome to the complainant and the alleged perpetrator concurrently. Title IX does not require the school to notify the alleged perpetrator of the outcome before it notifies the complainant.

Due to the intersection of Title IX and FERPA requirements, OCR recognizes that there may be confusion regarding what information a school may disclose to the complainant.\textsuperscript{32} FERPA generally prohibits the nonconsensual disclosure of personally identifiable information from a student’s “education record.” However, as stated in the 2001 Guidance, FERPA permits a school to disclose to the harassed student information about the sanction imposed upon a student who was found to have engaged in harassment when the sanction directly relates to the harassed student. This includes an order that the harasser stay away from the harassed student, or that the harasser is prohibited from attending school for a period of time, or transferred to other classes or another residence hall.\textsuperscript{33} Disclosure of other information in the student’s “education record,” including information about sanctions that do not relate to the harassed student, may result in a violation of FERPA.

Further, when the conduct involves a crime of violence or a non-forcible sex offense,\textsuperscript{34} FERPA permits a postsecondary institution to disclose to the alleged victim the final results of a

\begin{itemize}
  \item \textsuperscript{31} As noted previously, “outcome” does not refer to information about disciplinary sanctions unless otherwise noted.
  \item \textsuperscript{32} In 1994, Congress amended the General Education Provisions Act (GEPA), of which FERPA is a part, to state that nothing in GEPA “shall be construed to affect the applicability of title VI of the Civil Rights Act of 1964, title IX of Education Amendments of 1972, title V of the Rehabilitation Act of 1973, the Age Discrimination Act, or other statutes prohibiting discrimination, to any applicable program.” 20 U.S.C. § 1221(d). The Department interprets this provision to mean that FERPA continues to apply in the context of Title IX enforcement, but if there is a direct conflict between the requirements of FERPA and the requirements of Title IX, such that enforcement of FERPA would interfere with the primary purpose of Title IX to eliminate sex-based discrimination in schools, the requirements of Title IX override any conflicting FERPA provisions. See 2001 Guidance at vii.
  \item \textsuperscript{33} This information directly relates to the complainant and is particularly important in sexual harassment cases because it affects whether a hostile environment has been eliminated. Because seeing the perpetrator may be traumatic, a complainant in a sexual harassment case may continue to be subject to a hostile environment if he or she does not know when the perpetrator will return to school or whether he or she will continue to share classes or a residence hall with the perpetrator. This information also directly affects a complainant’s decision regarding how to work with the school to eliminate the hostile environment and prevent its recurrence. For instance, if a complainant knows that the perpetrator will not be at school or will be transferred to other classes or another residence hall for the rest of the year, the complainant may be less likely to want to transfer to another school or change classes, but if the perpetrator will be returning to school after a few days or weeks, or remaining in the complainant’s classes or residence hall, the complainant may want to transfer schools or change classes to avoid contact. Thus, the complainant cannot make an informed decision about how best to respond without this information.
  \item \textsuperscript{34} Under the FERPA regulations, crimes of violence include arson; assault offenses (aggravated assault, simple assault, intimidation); burglary; criminal homicide (manslaughter by negligence); criminal homicide (murder and
disciplinary proceeding against the alleged perpetrator, regardless of whether the institution concluded that a violation was committed.\textsuperscript{35} Additionally, a postsecondary institution may disclose to anyone—not just the alleged victim—the final results of a disciplinary proceeding if it determines that the student is an alleged perpetrator of a crime of violence or a non-forcible sex offense, and, with respect to the allegation made, the student has committed a violation of the institution’s rules or policies.\textsuperscript{36}

Postsecondary institutions also are subject to additional rules under the Clery Act. This law, which applies to postsecondary institutions that participate in Federal student financial aid programs, requires that “both the accuser and the accused must be informed of the outcome\textsuperscript{37} of any institutional disciplinary proceeding brought alleging a sex offense."\textsuperscript{38} Compliance with this requirement does not constitute a violation of FERPA. Furthermore, the FERPA limitations on redisclosure of information do not apply to information that postsecondary institutions are required to disclose under the Clery Act.\textsuperscript{39} Accordingly, postsecondary institutions may not require a complainant to abide by a nondisclosure agreement, in writing or otherwise, that would prevent the redisclosure of this information.

**Steps to Prevent Sexual Harassment and Sexual Violence and Correct its Discriminatory Effects on the Complainant and Others**

**Education and Prevention**

In addition to ensuring full compliance with Title IX, schools should take proactive measures to prevent sexual harassment and violence. OCR recommends that all schools implement preventive education programs and make victim resources, including comprehensive victim services, available. Schools may want to include these education programs in their (1) orientation programs for new students, faculty, staff, and employees; (2) training for students who serve as advisors in residence halls; (3) training for student athletes and coaches; and (4) school assemblies and “back to school nights.” These programs should include a

\textsuperscript{35} 34 C.F.R. § 99.31(a)(13). For purposes of 34 C.F.R. §§ 99.31(a)(13)-(14), disclosure of “final results” is limited to the name of the alleged perpetrator, any violation found to have been committed, and any sanction imposed against the perpetrator by the school. 34 C.F.R. § 99.39.
\textsuperscript{36} 34 C.F.R. § 99.31(a)(14).
\textsuperscript{37} For purposes of the Clery Act, “outcome” means the institution’s final determination with respect to the alleged sex offense and any sanctions imposed against the accused. 34 C.F.R. § 668.46(b)(11)(vi)(B).
\textsuperscript{38} 34 C.F.R. § 668.46(b)(11)(vi)(B). Under the Clery Act, forcible sex offenses are defined as any sexual act directed against another person forcibly or against that person’s will, or not forcibly or against the person’s will where the person is incapable of giving consent. Forcible sex offenses include forcible rape, forcible sodomy, sexual assault with an object, and forcible fondling. Non-forcible sex offenses include incest and statutory rape. 34 C.F.R. Part 668, Subpt. D, App. A.
\textsuperscript{39} 34 C.F.R. § 99.33(c).
discussion of what constitutes sexual harassment and sexual violence, the school’s policies and disciplinary procedures, and the consequences of violating these policies.

The education programs also should include information aimed at encouraging students to report incidents of sexual violence to the appropriate school and law enforcement authorities. Schools should be aware that victims or third parties may be deterred from reporting incidents if alcohol, drugs, or other violations of school or campus rules were involved. As a result, schools should consider whether their disciplinary policies have a chilling effect on victims’ or other students’ reporting of sexual violence offenses. For example, OCR recommends that schools inform students that the schools’ primary concern is student safety, that any other rules violations will be addressed separately from the sexual violence allegation, and that use of alcohol or drugs never makes the victim at fault for sexual violence.

OCR also recommends that schools develop specific sexual violence materials that include the schools’ policies, rules, and resources for students, faculty, coaches, and administrators. Schools also should include such information in their employee handbook and any handbooks that student athletes and members of student activity groups receive. These materials should include where and to whom students should go if they are victims of sexual violence. These materials also should tell students and school employees what to do if they learn of an incident of sexual violence. Schools also should assess student activities regularly to ensure that the practices and behavior of students do not violate the schools’ policies against sexual harassment and sexual violence.

**Remedies and Enforcement**

As discussed above, if a school determines that sexual harassment that creates a hostile environment has occurred, it must take immediate action to eliminate the hostile environment, prevent its recurrence, and address its effects. In addition to counseling or taking disciplinary action against the harasser, effective corrective action may require remedies for the complainant, as well as changes to the school’s overall services or policies. Examples of these actions are discussed in greater detail below.

Title IX requires a school to take steps to protect the complainant as necessary, including taking interim steps before the final outcome of the investigation. The school should undertake these steps promptly once it has notice of a sexual harassment or violence allegation. The school should notify the complainant of his or her options to avoid contact with the alleged perpetrator and allow students to change academic or living situations as appropriate. For instance, the school may prohibit the alleged perpetrator from having any contact with the complainant pending the results of the school’s investigation. When taking steps to separate the complainant and alleged perpetrator, a school should minimize the burden on the

---

40 The Department’s Higher Education Center for Alcohol, Drug Abuse, and Violence Prevention (HEC) helps campuses and communities address problems of alcohol, other drugs, and violence by identifying effective strategies and programs based upon the best prevention science. Information on HEC resources and technical assistance can be found at [www.higheredcenter.org](http://www.higheredcenter.org).
complainant, and thus should not, as a matter of course, remove complainants from classes or housing while allowing alleged perpetrators to remain. In addition, schools should ensure that complainants are aware of their Title IX rights and any available resources, such as counseling, health, and mental health services, and their right to file a complaint with local law enforcement. 41

Schools should be aware that complaints of sexual harassment or violence may be followed by retaliation by the alleged perpetrator or his or her associates. For instance, friends of the alleged perpetrator may subject the complainant to name-calling and taunting. As part of their Title IX obligations, schools must have policies and procedures in place to protect against retaliatory harassment. At a minimum, schools must ensure that complainants and their parents, if appropriate, know how to report any subsequent problems, and should follow-up with complainants to determine whether any retaliation or new incidents of harassment have occurred.

When OCR finds that a school has not taken prompt and effective steps to respond to sexual harassment or violence, OCR will seek appropriate remedies for both the complainant and the broader student population. When conducting Title IX enforcement activities, OCR seeks to obtain voluntary compliance from recipients. When a recipient does not come into compliance voluntarily, OCR may initiate proceedings to withdraw Federal funding by the Department or refer the case to the U.S. Department of Justice for litigation.

Schools should proactively consider the following remedies when determining how to respond to sexual harassment or violence. These are the same types of remedies that OCR would seek in its cases.

Depending on the specific nature of the problem, remedies for the complainant might include, but are not limited to: 42

- providing an escort to ensure that the complainant can move safely between classes and activities;
- ensuring that the complainant and alleged perpetrator do not attend the same classes;
- moving the complainant or alleged perpetrator to a different residence hall or, in the case of an elementary or secondary school student, to another school within the district;
- providing counseling services;
- providing medical services;
- providing academic support services, such as tutoring;

41 The Clery Act requires postsecondary institutions to develop and distribute a statement of policy that informs students of their options to notify proper law enforcement authorities, including campus and local police, and the option to be assisted by campus personnel in notifying such authorities. The policy also must notify students of existing counseling, mental health, or other student services for victims of sexual assault, both on campus and in the community. 20 U.S.C. §§ 1092(f)(8)(B)(v)-(vi).
42 Some of these remedies also can be used as interim measures before the school’s investigation is complete.
• arranging for the complainant to re-take a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the complainant’s academic record; and
• reviewing any disciplinary actions taken against the complainant to see if there is a causal connection between the harassment and the misconduct that may have resulted in the complainant being disciplined.43

Remedies for the broader student population might include, but are not limited to:

Counseling and Training
• offering counseling, health, mental health, or other holistic and comprehensive victim services to all students affected by sexual harassment or sexual violence, and notifying students of campus and community counseling, health, mental health, and other student services;
• designating an individual from the school’s counseling center to be “on call” to assist victims of sexual harassment or violence whenever needed;
• training the Title IX coordinator and any other employees who are involved in processing, investigating, or resolving complaints of sexual harassment or sexual violence, including providing training on:
  o the school’s Title IX responsibilities to address allegations of sexual harassment or violence
  o how to conduct Title IX investigations
  o information on the link between alcohol and drug abuse and sexual harassment or violence and best practices to address that link;
• training all school law enforcement unit personnel on the school’s Title IX responsibilities and handling of sexual harassment or violence complaints;
• training all employees who interact with students regularly on recognizing and appropriately addressing allegations of sexual harassment or violence under Title IX; and
• informing students of their options to notify proper law enforcement authorities, including school and local police, and the option to be assisted by school employees in notifying those authorities.

Development of Materials and Implementation of Policies and Procedures
• developing materials on sexual harassment and violence, which should be distributed to students during orientation and upon receipt of complaints, as well as widely posted throughout school buildings and residence halls, and which should include:
  o what constitutes sexual harassment or violence
  o what to do if a student has been the victim of sexual harassment or violence
  o contact information for counseling and victim services on and off school grounds
  o how to file a complaint with the school
  o how to contact the school’s Title IX coordinator

43 For example, if the complainant was disciplined for skipping a class in which the harasser was enrolled, the school should review the incident to determine if the complainant skipped the class to avoid contact with the harasser.
what the school will do to respond to allegations of sexual harassment or violence, including the interim measures that can be taken

• requiring the Title IX coordinator to communicate regularly with the school’s law enforcement unit investigating cases and to provide information to law enforcement unit personnel regarding Title IX requirements;\(^{44}\)

• requiring the Title IX coordinator to review all evidence in a sexual harassment or sexual violence case brought before the school’s disciplinary committee to determine whether the complainant is entitled to a remedy under Title IX that was not available through the disciplinary committee;\(^{45}\)

• requiring the school to create a committee of students and school officials to identify strategies for ensuring that students:
  o know the school’s prohibition against sex discrimination, including sexual harassment and violence
  o recognize sex discrimination, sexual harassment, and sexual violence when they occur
  o understand how and to whom to report any incidents
  o know the connection between alcohol and drug abuse and sexual harassment or violence
  o feel comfortable that school officials will respond promptly and equitably to reports of sexual harassment or violence;

• issuing new policy statements or other steps that clearly communicate that the school does not tolerate sexual harassment and violence and will respond to any incidents and to any student who reports such incidents; and

• revising grievance procedures used to handle sexual harassment and violence complaints to ensure that they are prompt and equitable, as required by Title IX.

**School Investigations and Reports to OCR**

• conducting periodic assessments of student activities to ensure that the practices and behavior of students do not violate the school’s policies against sexual harassment and violence;

• investigating whether any other students also may have been subjected to sexual harassment or violence;

• investigating whether school employees with knowledge of allegations of sexual harassment or violence failed to carry out their duties in responding to those allegations;

• conducting, in conjunction with student leaders, a school or campus “climate check” to assess the effectiveness of efforts to ensure that the school is free from sexual harassment and violence, and using the resulting information to inform future proactive steps that will be taken by the school; and

\(^{44}\) Any personally identifiable information from a student’s education record that the Title IX coordinator provides to the school’s law enforcement unit is subject to FERPA’s nondisclosure requirements.

\(^{45}\) For example, the disciplinary committee may lack the power to implement changes to the complainant’s class schedule or living situation so that he or she does not come in contact with the alleged perpetrator.
submitting to OCR copies of all grievances filed by students alleging sexual harassment or violence, and providing OCR with documentation related to the investigation of each complaint, such as witness interviews, investigator notes, evidence submitted by the parties, investigative reports and summaries, any final disposition letters, disciplinary records, and documentation regarding any appeals.

**Conclusion**

The Department is committed to ensuring that all students feel safe and have the opportunity to benefit fully from their schools’ education programs and activities. As part of this commitment, OCR provides technical assistance to assist recipients in achieving voluntary compliance with Title IX.

If you need additional information about Title IX, have questions regarding OCR’s policies, or seek technical assistance, please contact the OCR enforcement office that serves your state or territory. The list of offices is available at [http://wdcrobcolp01.ed.gov/CFAPPS/OCR/contactus.cfm](http://wdcrobcolp01.ed.gov/CFAPPS/OCR/contactus.cfm). Additional information about addressing sexual violence, including victim resources and information for schools, is available from the U.S. Department of Justice’s Office on Violence Against Women (OVW) at [http://www.ovw.usdoj.gov/](http://www.ovw.usdoj.gov/).

Thank you for your prompt attention to this matter. I look forward to continuing our work together to ensure that all students have an equal opportunity to learn in a safe and respectful school climate.

Sincerely,

/s/

Russlynn Ali
Assistant Secretary for Civil Rights

---

46 OVW also administers the Grants to Reduce Domestic Violence, Dating Violence, Sexual Assault, and Stalking on Campus Program. This Federal funding is designed to encourage institutions of higher education to adopt comprehensive, coordinated responses to domestic violence, dating violence, sexual assault, and stalking. Under this competitive grant program, campuses, in partnership with community-based nonprofit victim advocacy organizations and local criminal justice or civil legal agencies, must adopt protocols and policies to treat these crimes as serious offenses and develop victim service programs and campus policies that ensure victim safety, offender accountability, and the prevention of such crimes. OVW recently released the first solicitation for the Services, Training, Education, and Policies to Reduce Domestic Violence, Dating Violence, Sexual Assault and Stalking in Secondary Schools Grant Program. This innovative grant program will support a broad range of activities, including training for school administrators, faculty, and staff; development of policies and procedures for responding to these crimes; holistic and appropriate victim services; development of effective prevention strategies; and collaborations with mentoring organizations to support middle and high school student victims.
CHANCELLORS

Dear Colleagues:

Earlier this year, President Obama signed into law the Violence Against Women Reauthorization Act ("VAWA"), which imposes new obligations on the University of California, from both a systemwide and campus perspective. We must comply with these new requirements by March 7, 2014.

I recognize the magnitude of this law and the impact this will have throughout the system. I also acknowledge the challenges that this aggressive timeline presents, specifically to your respective Human Resources, Student Affairs, and Academic Planning areas, and I ask for your support and focus in ensuring compliance with the requirements. I have asked Provost Aimée Dorr and Executive Vice President Nathan Brostrom to serve as sponsors of this initiative.

Given the breadth and short timeline of this effort, they have asked Kobie Crowder and Jeannie Malanowski in the Office of the President's Strategic Resources Group to provide central coordination among all campuses and systemwide efforts in policy revisions and the development of new training. To make overall management and the documenting of collected feedback more efficient, I ask each location to identify a single contact to act as a Campus Coordinator for this very important policy update. The Campus Coordinator will be primarily responsible for achieving full compliance with VAWA by March 7, 2014 at his/her respective campus location. Mr. Crowder and Ms. Malanowski will partner with these Coordinators to develop and/or finalize work plans, report on status, and work with Coordinators throughout the project to ensure the overall implementation of new policies, procedures, and training.

I value everyone's contributions and collaboration on such an important issue, and I appreciate your efforts and assistance in this matter.

Please email both Mr. Crowder and Ms. Malanowski directly at Kobie.Crowder@ucop.edu and Jeannie.Malanowski@ucop.edu with the name of your
Campus Coordinator by October 29 and please share the attached document with your designee.

Very truly yours,

[Signature]

Janet Napolitano
President

Attachment

cc: Provost Dorr
   Executive Vice President Brostrom
   Senior Vice President Vacca
   Vice President Sakaki
   Vice President Duckett
   General Counsel Robinson
   Chair, Academic Council
   Vice Chair, Academic Council
   Executive Vice Chancellors
   Vice Chancellors for Student Affairs
   Chief Human Resources Officers
   Director Crowder
   Principal Analyst Malanowski
TO: DWAIN DUCKETT, Vice President – Human Resources
    JUDY SAKAKI, Vice President - Student Affairs
    SUSAN CARLSON, Vice Provost - Academic Personnel

FROM: AIMÉE DORR, Provost and Executive Vice President
       NATHAN BROSTROM, Executive Vice President – Business Operations

SUBJECT: Compliance with the Violence Against Women Reauthorization Act ("VAWA") – Coordination of Changes to UC Training Programs, Policies, and Procedures

BACKGROUND

Earlier this year, on March 7, 2013, President Obama signed into law the Violence Against Women Reauthorization Act of 2013 ("VAWA"), which imposes new obligations on the University of California. Accordingly, we must work together to comply with the following requirements by March 7, 2014:

1) **Compile Statistics** - Compile statistics of incidents of sexual assault, domestic violence, dating violence, and stalking, beyond the existing crime categories in the Clery Act;

2) **Modify Disciplinary Procedures** - Adopt certain student discipline procedures, such as notifying complainants and accused parties of their rights;

3) **Modify Policy Statements** - Adopt certain institutional policies to address and prevent campus sexual violence;

4) **Education & Training** - Provide training to new students and new employees, as well as ongoing education programs, to promote awareness of rape, acquaintance rape, domestic violence, dating violence, sexual assault, and stalking. Provide annual training to individuals who investigate and conduct hearings regarding these allegations.

This memo provides a brief overview of these new requirements, as well as an overview of the steps necessary for implementing the proposed changes in your respective areas. A more detailed discussion of changes to the content of training programs, policies, and procedures, is provided in Appendix A.
NEW REQUIREMENTS

New Clery Act Requirements

VAWA expands the categories of Clery Crimes to be reported and statistically tracked by our campuses. With the passage of VAWA, the hate crime categories of prejudice (criminal offense committed against a person or property which is motivated, in whole or in part, by the offender’s bias) are expanded to now also include national origin and gender identity. Hate crimes are also expanded to include domestic violence, dating violence, and stalking incidents that were reported to Campus Security Authorities or local police agencies. Therefore, the campuses will be required to compile statistics of incidents of sexual assault, domestic violence, dating violence, and stalking that occur within Clery geography and which are reported to campus security authorities.

New Policy Statement and Procedural Requirements

VAWA also prescribes new requirements for developing and distributing a statement of policy in the Annual Security Reports with regard to the University’s programs to prevent domestic violence, dating violence, sexual assault, and stalking. The policy must also describe the procedures that the institution will follow once an incident of domestic violence, dating violence, sexual assault, or stalking has been reported, including the standard of evidence that will be used during any institutional conduct proceedings arising from the report.

Currently, such complaints are addressed pursuant to the *University of California Policy on Sexual Harassment*, and the *University of California Procedures for Responding to Reports of Sexual Harassment*, as well as through local implementing procedures as applicable to students, staff, and faculty. This function is overseen by the Title IX Compliance Coordinator on each campus. We recommend adding an express statement in the Policy on Sexual Harassment that the University prohibits domestic violence, dating violence, sexual assault and stalking. Additional recommended changes to the Policy on Sexual Harassment and the Procedures for Responding to Complaints of Sexual Harassment are found in Appendix A. Local implementing policies and procedures will also need to be updated.

Significantly, VAWA prescribes standards for the investigation of allegations of specified conduct and for the conduct of disciplinary proceedings. These new standards will require us to change our disciplinary procedures as they pertain to students, employees and faculty in the context of discipline arising from allegations of domestic violence, dating violence, sexual assault or stalking. The disciplinary proceedings will need to be conducted by officials who receive *annual training* on the issues related to these categories of crimes. In addition, the procedures will need to set forth the particular burden of proof required in the proceedings and provide for a clear statement of the institution’s procedures for the accused and the complainant to appeal the results of the proceeding standard.

Finally, VAWA prescribes certain written notifications be given to a complainant. Recommendations for the content of those written notifications can also be found in Appendix A.
New Training and Education Requirements

VAWA adds “domestic violence, dating violence, sexual assault, and stalking” to the existing education programs promoting awareness of rape and acquaintance rape. To the extent the University already has such programs in place, these additional topics should be addressed during those programs.

In addition, VAWA prescribes certain topics for inclusion in those “primary prevention and awareness programs” for all incoming students and new employees. The specific topics that should be addressed in the training programs are set forth in Appendix A.

OVERVIEW OF REVISIONS TO POLICIES AND TRAININGS

A separate memorandum from the Office of General Counsel summarizing the changes to existing Clery Act reporting procedures will be forthcoming. With regard to the policy revisions and new training requirements, work within your respective areas will need to be done to accomplish to the following.

1) Changes to University of California Policy on Sexual Harassment and Procedures for Responding to Reports of Sexual Harassment

- To date, proposed changes to Policy and Procedures have been provided by the Office of General Counsel to stakeholders in UCOP Human Resources, Academic Personnel, and Student Affairs.

- Next steps should include further discussion with Stakeholders and identification of additional committee members to assist and facilitate communications and policy revision process. Stakeholders identified thus far include:
  - HR
  - Academic Senate
  - Academic Personnel
  - Title IX Officers
  - Vice Chancellors of Student Affairs / Judicial Affairs Officers
  - Chiefs of Police
  - Campus Ethics and Compliance Officers
  - Systemwide Policy Director

- Additional next steps:
  - UCOP HR/policy Office, Academic Personnel, and Student Affairs to map process for revisions and obtaining feedback from stakeholders.
  - Send notice of policy to Employees, Unions, Academic Personnel, and Academic Senate for comment.
  - Policy Steering Committee approval.
  - President approval and policy dissemination.
• Final implementation of system wide policy (allowing enough time for campuses to implement local policies and procedures).

  • Not later than March 7, 2014: UCOP and campuses implement local policies and procedures consistent with systemwide policy and procedures

2) Update Education and Training Programs

  • Suggested next steps and proposed stakeholders: Compliance, HR, Academic Affairs, and Student Affairs – Survey existing programs (Chief Human Resources Officers/Educational Affairs/Title IX Office) to determine current practices.

  • Work with UCOP Systemwide Training to incorporate required elements into Systemwide Sexual Harassment Prevention Training.

  • Incorporate changes required by VAWA, by March 7, 2014 for incoming students and new employees.

  • Implement required annual training for officials who conduct proceedings and investigations on issues related to domestic violence, dating violence, sexual assault, and stalking, and how to conduct an investigation and hearing process that protects the safety of the complainants and promotes accountability.
APPENDIX A

Overview of Changes to Training Programs, University of California Policies and University of California Procedures

A. Recommended Changes to Existing Education Programs

Primary prevention and awareness** programs for incoming students and new employees should include:

1) A statement that the institution prohibits domestic violence, dating violence, sexual assault, and stalking;
2) The definition of the above terms in the applicable jurisdiction (under California law.)
3) The definition of “consent” in the applicable jurisdiction (under California law.)
4) 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 domestic violence, dating violence, sexual assault, or stalking against a person other than such individual.
5) Information on risk reduction to recognize warning signs of abusive behavior and how to avoid potential attacks; and

**Prevention and awareness campaigns should be provided on an ongoing basis for all students, employees, and faculty on all of the above.

B. Recommended Changes to the University of California Policy on Sexual Harassment

The policy statement should be amended to include all of the above, and should also outline the procedures that victims should follow if a sex offense, domestic violence, dating violence, sexual assault, or stalking occurs, including information to the victim in writing about the following:

1) The importance of preserving evidence for proof of criminal domestic violence, dating violence, sexual assault or stalking;

2) To whom the offense should be reported;

3) Options regarding reporting, including law enforcement and campus authorities options to:
   a. Notify victim of the option to notify campus police and local police;
   b. Campus authorities assisting the victim, if the victim so chooses, with notifying law enforcement;
   c. Give the victim the option to decline to notify such authorities.

4) Rights of victims and institutional responsibilities on protective orders, no contact orders, restraining orders, or similar lawful orders issued by criminal or civil courts.
C. **Recommended changes to the University of California Procedures for Responding to Complaints of Sexual Harassment:**

The systemwide and campus procedures (including HR policies, Student Conduct Code, and Academic Policy Manual) should be amended to include the following elements:

1) Possible sanctions and protective measures that the University may impose following a final determination of the disciplinary procedure regarding rape, acquaintance rape, domestic violence, dating violence, sexual assault, or stalking.

2) A statement of the standard of evidence used during any conduct proceeding. This would either be a "preponderance of the evidence" or "clear and convincing evidence" standard.\(^1\)

3) Proceedings will provide:
   a. a prompt, fair, and impartial investigation and resolution, and
   b. be conducted by officials who receive *annual training* on issues related to domestic violence, dating violence, sexual assault, and stalking, and how to conduct an investigation and hearing process that protects the safety of the complainants and promotes accountability.

4) The accuser and the accused are entitled to the same opportunities to have a support person/advisor of their choice at any proceeding or related meeting.

5) The accuser and the accused must be simultaneously informed in writing of:
   a. The outcome of any institutional disciplinary proceeding that arises from an allegation of domestic violence, dating violence, sexual assault, or stalking.
   b. The institution's procedures for appealing the results of the proceeding
   c. Any change to the results that occur prior to the time that such results become final.
   d. When results become final.

6) Information about how the confidentiality of the complainant will be protected, including how publicly-available recordkeeping will be accomplished without including identifying information about the victim, to the extent possible by law.

---

\(^1\) Early versions of VAWA prescribed the evidentiary standard. The Office of Civil Rights April 4, 2011 "Dear Colleague Letter" recommended using a "preponderance of the evidence" standard. Current policy for student and employee complaints does not prescribe use of a particular standard. The Faculty Code of Conduct uses the "clear and convincing" standard for disciplinary matters.
D. Recommendations for Issuing Written Notifications to Complainants

Local procedures should be amended to include:

1) *Written* notification of students and employees about existing counseling, health, mental health, victim advocacy, legal assistance, and other services available for victims both on-campus and in the community.

2) *Written* notification to victims about options for, and available assistance in, changing 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.

3) If a student or employee reports to the University that the student or employee has been a victim of domestic violence, dating violence, sexual assault, or stalking, whether the offence occurred on or off campus, shall be provided with a *written explanation* of the student or employee’s rights and options, as described in Sections B and C, above.
MEMBERS OF THE UNIVERSITY OF CALIFORNIA COMMUNITY

Dear Colleagues:

The Violence Against Women Reauthorization Act (VAWA 2013), which President Obama signed into law on March 7, 2013, includes several provisions to improve and expand how institutions address domestic and sexual violence. VAWA was first enacted in 1994, as part of the Violent Crime Control and Law Enforcement Act of 1994, and it was reauthorized in 2000 and 2005. VAWA 2013 reauthorized and improved upon services for all victims of domestic violence, sexual assault, dating violence, and stalking, including university and college students, Native women, LGBT victims, and immigrants.

VAWA 2013 incorporates provisions of an earlier bill, titled “Campus Sexual Violence, Domestic Violence, Dating Violence, and Stalking Education and Prevention” or the Campus SaVE Act, and codifies parts of an April 2011 Dear Colleague letter issued by the Office of Civil Rights (OCR) at the U.S. Department of Education (DOE). The SaVE Act, found in Section 304 of VAWA 2013, made significant revisions to the Clery Act provisions of the Higher Education Act of 1965 regarding how institutions report campus crime. Some of the changes applicable to the University of California include:

- Reporting campus crime statistics beyond the crime categories the Clery Act already mandates, to include incidents of domestic violence, dating violence, and stalking, as well as crimes motivated by national origin and gender identity, two categories that were absent from previous versions of VAWA,
- Providing training to new students and to new employees, in addition to ongoing education programs to promote awareness of rape, acquaintance rape, domestic violence, dating violence, sexual assault, and stalking,
- Conducting annual training for personnel investigating and reviewing asserted offenses, and
- Adopting policy to address and prevent campus sexual violence.

Specifically, the policy must identify procedures for (1) reporting an incident, (2) investigating an incident, (3) possible sanctions or protective measures that the University may impose following a final determination of a disciplinary proceeding, (4) how the University will protect the confidentiality of the victim, (5) written notification to the victim of support resources and of
options for accommodations in academic or working situations, and (6) notice that the institution’s officers or employees must not retaliate against any individual for exercising rights or responsibilities under VAWA 2013.

The University must update policies and procedures to include these new requirements by March 7, 2014. It is unclear when the DOE will issue implementation guidelines. However, UC and all institutions need to plan to implement the new VAWA 2013 requirements even in the absence of DOE guidance. The OCR characterizes sexual violence as a type of sexual harassment. Thus, UC has elected to revise its systemwide Policy on Sexual Harassment (Policy) to address VAWA 2013 requirements. A working group at the UC Office of the President, comprised of representatives from Human Resources, Student Affairs, Academic Personnel, and the Office of General Counsel, in consultation with campus Title IX Officer volunteers, have drafted the required revisions to the Policy, which are enclosed for review and comment. Proposed revisions are intended to satisfy the VAWA 2013 requirements and to maintain current Policy and Procedure language where possible.

Each of us has enclosed a second letter addressed to colleagues in our specific community in Human Resources, Student Affairs, or Academic Personnel. Please send comments on the proposed revisions to Policy as directed in that letter. However, this letter and enclosures anticipate that the revised Policy will be issued effective March 7, 2014.

Sincerely,

Dwaine B. Duckett
Vice President
Human Resources

Judy Sakaki
Vice President
Student Affairs

Susan Carlson
Vice Provost
Academic Personnel

Enclosures: Proposed Revised Draft UC Policy on Sexual Harassment
Specific community-directed letter

cc: President Napolitano
Provost and Executive Vice President Dorr
Executive Vice President Brostrom
Senior Vice President Vacca
General Counsel Robinson
Senior Counsel Hamill
Labor and Employment Counsel Chin
Executive Director Griffin-Desta
Executive Director Tanaka
Executive Director Winnacker
Director Crowder
Director Skarakis
Manager Lockwood
Policy Specialist Whalen
Policy and Program Analyst Heng
I. POLICY SUMMARY

The University of California is committed to creating and maintaining a community where all persons who participate in University programs and activities can work and learn together in an atmosphere free of all forms of harassment, exploitation, or intimidation. Every member of the University community should be aware that the University prohibits, sexual harassment and sexual violence, and that 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 on Sexual Harassment and Sexual Violence (hereafter referred to as Policy).
II. DEFINITIONS

**Consent** as referenced in this Policy means:

1. **Consent is informed.** Consent consists of an affirmative, conscious decision by each participant to engage in mutually agreed-upon sexual activity. Consent to some form of sexual activity does not imply consent to other forms of sexual activity.

2. **Consent is voluntary.** It is given without coercion, force, threats, or intimidation; it is a positive cooperation in the act or expression of intent to engage in the act pursuant to an exercise of free will.

3. **Consent is given when the person is not impaired or 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, or has a mental disorder, developmental disability, or physical disability that would impair his/her understanding of the act. 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. Where alcohol or drugs are involved, incapacitation is distinct from drunkenness or intoxication, and is defined with respect to how the alcohol or other drugs consumed impacts a person’s decision-making capacity, awareness of consequences, and ability to make fully informed judgments.

The factors to be considered include whether the accused knew, or a reasonable person in the position of the accused should have known, that the complainant was impaired or incapacitated.

**Executive Officer:** The University President, Chancellor, Lawrence Berkeley National Laboratory Director, or Vice President of Agricultural and Natural Resources.

**Sexual Harassment** is unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature, when submission to or rejection of this conduct explicitly or implicitly 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. In the interest of preventing sexual harassment and sexual violence, the University will respond to reports of any such conduct.
Sexual harassment may include incidents between any members of the University community, including faculty and other academic appointees, staff, coaches, residents and interns, students, student employees (when acting within the course and scope of employment), and non-student or non-employee participants in University programs, such as vendors, contractors, visitors, and patients. Sexual harassment may occur in hierarchical relationships or between peers, or between persons of the same sex or opposite sex. In determining whether the reported conduct constitutes sexual harassment, consideration shall be given to the record of the conduct as a whole and to the totality of the circumstances, including the context in which the conduct occurred.

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 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 resources and opportunities.

Sexual Violence is defined as physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent. This includes: sexual assault, rape, battery, and sexual coercion; domestic violence; dating violence; and stalking.

1. Domestic Violence 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 had a child or is having or has had a dating or engagement relationship.

2. Dating Violence defined as, abuse committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

3. Sexual Assault occurs when physical sexual activity is intentionally engaged in without the consent of the other person. The conduct may include physical force, violence, threat, or intimidation; ignoring the objections of the other person; causing the other person’s intoxication or impairment through the use of drugs or alcohol; taking advantage of the other person’s incapacitation (including voluntary intoxication), state of intimidation, or other inability to consent.

4. Stalking is behavior in which a person repeatedly engages in a course of conduct directed at another specific person, that places that person in reasonable fear of his or her safety or the safety of a third person or persons.
III. POLICY TEXT

A. General

The University of California is committed to creating and maintaining a community where all persons who participate in University programs and activities can work and learn together in an atmosphere free of all forms of harassment, exploitation, or intimidation. Every member of the University community should be aware that the University prohibits sexual harassment and sexual violence, and that 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.

This Policy applies to the University of California campuses, the Lawrence Berkeley National Laboratory, the Medical Centers, and the Office of the President, including Agriculture and Natural Resources, and all auxiliary University offices.

B. Prohibited Acts

This Policy prohibits sexual harassment and sexual violence as defined in Section II of this Policy.

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. 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, subject to this Policy.

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-stereotyping, or sexual orientation also is prohibited by the University’s nondiscrimination policies 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

1 The Faculty Code of Conduct may be found in the Academic Personnel Manual (APM) Section 015.
sexual harassment exists, the University may take into account acts of discrimination based on gender, gender identity, gender expression, sex-stereotyping, or sexual orientation.

**E. Retaliation**

This Policy also 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 protected 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 educational materials available to all members of the University community to promote compliance with this Policy and familiarity with local reporting procedures. In addition, the locations shall designate University employees responsible for reporting sexual harassment and sexual violence and provide training to those designated employees. Generally, such persons include supervisors, managers, academic administrators, deans, department chairs, student advisors, graduate advisors, residence hall staff, coaches, law enforcement officers, student judicial affairs staff, counselors, and health center staff. Each location shall post a copy of this Policy in a prominent place on its website. (See Section V. Procedures)

**G. Reporting of Sexual Harassment or Sexual Violence**

Any member of the University community may report conduct that may constitute sexual harassment or sexual violence under this Policy to any supervisor, manager, or Title IX Officer. In addition, supervisors, managers, and other designated employees are responsible for taking whatever action is necessary to prevent and address sexual harassment or sexual violence and to report it promptly to the Title IX Compliance Coordinator (Sexual Harassment Officer) or other appropriate official designated to review and investigate sexual harassment and sexual violence complaints. An individual also may file a complaint or grievance alleging sexual harassment or sexual violence under the applicable University complaint resolution or grievance procedure (Section V. Procedures, Appendix I: University Complaint Resolution and Grievance Procedures).

(See Section V. Procedures)
Complainants should be advised of reporting procedures, including written information about:

1. to whom the alleged offense should be reported;
2. options regarding reporting to law enforcement (both on-campus and local police), and to be assisted by campus authorities in notifying law enforcement authorities if the complainant so chooses, or to decline to notify law enforcement authorities;
3. their rights and the University’s responsibilities regarding orders of protection, no contact orders, restraining orders, or similar lawful orders issued by criminal or civil courts; and
4. the importance of preserving evidence as may be necessary to the proof of criminal domestic violence, dating violence, sexual assault, or stalking, or in obtaining a protection order;

Locations shall identify and publish in their campus implementing procedures of this Policy, on and off campus resources for reporting sexual harassment or sexual violence, including law enforcement, medical, and victim support services (Section V. Procedures).

**H. Response to Reports of Sexual Harassment or Sexual Violence**

The locations shall provide a prompt and effective response to reports of sexual harassment or sexual violence in accordance with Section V. Procedures. A prompt and effective response may include Early Resolution, Formal investigation, and/or targeted training or educational programs.

Upon findings 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. Any member of the University community who is found to have engaged in sexual harassment or sexual violence is subject to disciplinary action up to and 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. 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 also may be subject to disciplinary action. Conduct by an employee that is sexual harassment or sexual violence or retaliation in violation of this Policy is considered to be outside the normal course and scope of employment.

**J. Intentionally False Reports**

Individuals who make reports that are later found to have been intentionally false or made maliciously without regard for truth, may be subject to disciplinary action under the applicable University disciplinary procedure (Appendix II: University Disciplinary Procedures).
Procedures). This provision does not apply to reports made in good faith, even if the facts alleged in the report cannot be substantiated by an investigation.

**K. 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.

**L. Additional Enforcement Information**

The federal Equal Employment Opportunity Commission (EEOC) and the California Department of Fair Employment and Housing (DFEH) also 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 listed in the telephone directory.

**IV. COMPLIANCE / RESPONSIBILITIES**

**A. Implementation of the Policy**

The Vice Provost – Academic Personnel, the Vice President – Student Affairs, and the Vice President – Human Resources are the Responsible Officers for this policy and have the authority to implement the policy and to develop procedures or other supplementary information to support the interpretation of this policy. Responsible Officers may apply appropriate and consistent interpretations to clarify the policy provided that the interpretations do not result in substantive changes to the underlying policy.

The Executive Officer at each location is authorized to establish and is responsible for local procedures necessary to implement the policy.

**B. Revisions to the Policy**

The President is the Policy Approver and has the authority to approve policy revisions upon recommendation by the Responsible Officers.
The Responsible Officers have the authority to initiate revisions to the policy, consistent with approval authorities and applicable Bylaws and Standing Orders of The Regents.

The Executive Vice President – Business Operations has the authority to ensure that policies are regularly reviewed, updated, and consistent with other governance policies.

C. Approval of Actions
Actions within this policy must be approved in accordance with local procedures. Executive Officers and Responsible Officers are authorized to determine responsibilities and authorities at secondary administrative levels in order to establish local procedures necessary to implement this policy.

D. Compliance with the Policy
The following roles are designated at each location to implement compliance monitoring responsibility for this policy:

The Executive Officer at each location will designate the local management office to be responsible for the ongoing reporting of policy compliance.

The Executive Officer is accountable for monitoring and enforcing compliance mechanisms and ensuring that monitoring procedures and reporting capabilities are established. Local procedures must be consistent with this policy.

The Responsible Officers are accountable for reviewing the administration of this policy. The Senior Vice President – Chief Compliance and Audit Officer will periodically audit and monitor compliance to this policy.

E. Noncompliance with the Policy
Noncompliance with the policy is managed in accordance with the Policy on Student Conduct and Discipline, Personnel Policies for Staff Members 61, 62, 63, 64, 65, and 67 pertaining to disciplinary and separation matters, and in accordance with University policies, including but not limited to, The Faculty Code of Conduct (APM - 015) and University Policy on Faculty Conduct and the Administration of Discipline (APM - 016), Non-Senate Academic Appointees/Corrective Action and Dismissal (APM - 150) or, as applicable, collective bargaining agreements. Reference Section VI and Appendices I and II.

V. PROCEDURES
The Executive Officer at each location shall identify and publish in their local implementing procedures of this Policy, on- and off- University-locations resources for reporting sexual harassment or sexual violence, including law enforcement, medical, and victim support services.
A. Location Responsibilities

The locations shall, in accordance with state and federal law:

1. Offer sexual harassment and sexual violence training and education to all members of the University community. Consistent with California Government Code 12950.1 provide sexual harassment training and education to each supervisory employee.

3. Add to existing education programs promoting awareness of rape and acquaintance rape the topics of domestic violence, dating violence, sexual assault, and stalking include in education programs specifically for incoming students and new employees the definition of consent, options for bystander intervention, and risk reduction awareness information.

4. Offer annual training on issues related to sexual violence, as defined in this Policy, for individuals conducting formal investigations of reports.

5. Provide all members of the University community with a process for reporting sexual harassment or sexual violence in accordance with the Policy; and

6. Provide for prompt and effective response to reports of sexual harassment in accordance with the Policy.

These procedures also cover reports of retaliation related to reports of sexual harassment or sexual violence. Any exceptions to these procedures must be approved by the Executive Officer at each location.

B. Local Sexual Harassment and Sexual Violence Resources

1. Title IX Compliance Coordinator (Sexual Harassment Officer)

Each location shall designate a Title IX Compliance Coordinator (Sexual Harassment Officer) whose responsibilities include, but may not be limited to, the duties listed below.

a. Plan and manage the local sexual harassment and sexual violence education and training programs. The programs should include wide dissemination of this Policy to the University community; providing educational materials to promote compliance with the Policy and familiarity with local reporting procedures; and training University employees responsible for reporting or responding to reports of sexual harassment.

b. Develop and implement local procedures to provide for prompt and effective response to reports of sexual harassment or sexual violence in accordance with this Policy, and submit the local procedures to the applicable Responsible Officer for review and approval.
c. 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.

d. Identify and address any patterns or systemic problems that arise during the review of sexual harassment and sexual violence complaints.

e. Prepare and submit an annual report to the Vice President – Human Resources, for submission by the President to the Regents, on sexual harassment and sexual violence complaint activity during the preceding calendar year in a format specified by the Vice President – Human Resources.

2. Trained Sexual Harassment or Sexual Violence Advisors

Local procedures may designate trained individuals other than the Title IX Compliance Coordinator (Sexual Harassment Officer) to serve as additional resources for members of the University community who have questions or concerns regarding behavior that may be sexual harassment or sexual violence.

The names and contact information for the Title IX Compliance Coordinator (Sexual Harassment Officer) and any designated trained sexual harassment or sexual violence advisors shall be posted with the University’s Policy on the location’s website and be readily accessible to the University community.

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

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 investigate the acts, 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, delay in reporting may impede the University’s ability to conduct an investigation and/or effect appropriate remedial actions. The University will respond to reports of sexual harassment or sexual violence to the greatest extent possible, taking into account the amount of time that has passed since the alleged conduct occurred.

All members of the University community are encouraged to contact the Title IX Compliance Coordinator (Sexual Harassment Officer) if they observe or encounter conduct that may be subject to the University’s Policy. This includes conduct by employees, students, or third parties. Reports of sexual harassment may be brought to the Title IX Compliance Coordinator (Sexual Harassment Officer), to a human resources coordinator, or to any manager, supervisor, or other designated employee responsible for responding to reports of sexual harassment. If the person to whom harassment
normally would be reported is the individual accused of harassment, reports may be
made to another manager, supervisor, human resources coordinator, or designated
employee. Managers, supervisors, and designated employees shall be required to
notify the Title IX Compliance Coordinator (Sexual Harassment Officer) or other
appropriate official designated to review and investigate sexual harassment complaints
when a report is received.

1. Making Reports of Sexual Harassment or Sexual Violence

For reports of sexual violence, including domestic violence, dating violence, sexual
assault, or stalking, complainants should be advised of procedures to follow, including
information in writing about:

a. to whom the alleged offense should be reported;

b. options regarding law enforcement and campus authorities, including
notification of the complainant’s option to notify law enforcement authorities,
including on-campus and local police; be assisted by campus authorities in
notifying law enforcement authorities if the complainant so chooses; or to
decline to notify such authorities;

c. the rights of complainants and the University’s responsibilities regarding
orders of protection, no contact orders, restraining orders, or similar lawful
orders issued by criminal or civil courts;

d. the importance of preserving evidence as may be necessary to the proof of
criminal domestic violence, dating violence, sexual assault, or stalking, or in
obtaining a protection order.

e. Written notification to students or employees about existing counseling,
health, mental health, victim advocacy, legal assistance, and other services
available for victims both on-campus and in the community.

f. Written notification to victims about options for, and available assistance in,
changing 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.

If a student or employee reports to the University 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 any
University location, shall be provided with a written explanation of the student
or employee’s rights and options.
2. Options for Resolution

Individuals making reports of 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 G, below). Locations 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 bringing reports of 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 treated as a report of sexual harassment or sexual violence and will be subject to the same procedures.

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. Locations 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. 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 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 and sexual violence may not be appropriate for mediation (such as when the facts are in dispute in reports of serious misconduct, or when reports involve sexual violence or individuals with a pattern of inappropriate behavior or allege criminal acts such as stalking, sexual assault or physical assault), but may require a formal investigation at the discretion of the Title IX Compliance Coordinator (Sexual Harassment Officer) or other appropriate official designated to review and investigate sexual harassment complaints.

4. Procedures for Formal Investigation

In response to reports of sexual harassment or sexual violence in cases where Early Resolution is inappropriate or in cases where Early Resolution is unsuccessful, the location may conduct a Formal Investigation. In such cases, the individual making the report shall 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 Title IX Compliance Coordinator (Sexual Harassment Officer) or other appropriate official designated to review and investigate sexual harassment complaints, 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 Title IX Compliance Coordinator should inform the complainant that the ability to investigate may be limited. In determining whether to go forward with a Formal Investigation, the Title IX Compliance Coordinator 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. Even if a complainant does not want to pursue an investigation, under some circumstances the Title IX Compliance Coordinator may have an obligation to investigate, 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.

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 and hearing process that protects the safety of the complainants and promotes accountability.

b. If the alleged conduct is also the subject of a criminal investigation, the campus may not wait for the conclusion of the criminal investigation to begin an investigation pursuant to this Policy. However, a campus may need to delay temporarily the fact-finding portion of a sexual harassment investigation while the police are gathering evidence. 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 campus must promptly resume and complete its fact-finding for the sexual harassment 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 in determining whether or not there has been a violation of this University 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 a designated University official.

h. Generally, an investigation should result 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 as to whether this University Policy has been violated.
report also may contain a recommendation for actions to resolve the complaint, including educational programs, remedies for the complainant, and a referral to disciplinary procedures as appropriate. The report shall be 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 the accused will be simultaneously informed in writing of:
   i. The outcome of any University disciplinary proceeding that arises from an allegation of domestic violence, dating violence, sexual assault or stalking;
   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.

j. The complainant 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.

k. The complainant and the accused may request a copy of the investigative report pursuant to University policy governing privacy and access to personal information.3 However, the report shall be redacted to protect the privacy of personal and confidential information regarding all individuals other than the individual requesting the report in accordance with University policy.

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 Title IX Compliance Coordinator (Sexual Harassment Officer) or other appropriate official designated to review and investigate sexual harassment and sexual violence complaints under this

3 UC Business and Finance Bulletin RMP-8, Legal Requirements on Privacy of and Access to Information.
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 Title IX Compliance Coordinator (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.

An individual who has made a report of sexual harassment or sexual violence also may file a complaint or grievance alleging that the actions taken in response to the report of sexual harassment or sexual violence did not follow University 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 under this procedure must be filed in a timely manner. 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.

1. Once a complaint or grievance is filed, the following written notifications must be given to the complainant:

   a. Notification about existing counseling, health, mental health, victim advocacy, legal assistance, and other services available for victims both on-campus and in the community.

   b. Notification to complainants about options for, and available assistance in, changing academic, living, transportation, and working situations, if requested by the complainant and if reasonably available, regardless of whether the complainant chooses to report the crime to campus police or local law enforcement.

Comment [20]: Per VAWA 20 U.S.C. 1092(f), once a complaint is filed, these written notifications must be given to the complainant.

Comment [21]: FAQ will be added to provide examples.

10/28/2013 16 of 21
If the report to the University involves allegations of domestic violence, dating violence, sexual assault, or stalking, whether the offense occurred on or off campus or any University location, the complainant shall be provided with a written explanation of rights and options.

E. Remedies and Referral to Disciplinary Procedures

Findings of violations of the Policy may be considered in determining remedies for individuals harmed by the sexual harassment or sexual violence and shall be referred to applicable local disciplinary procedures (Appendix II). Procedures under this Policy shall be coordinated with applicable local 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, violating interim protections, and filing intentionally false charges of sexual harassment or sexual violence. 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.

F. Privacy

The University 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 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**

Each location 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. These resources shall be posted on the location’s website and prominently displayed in common areas. Confidential resources include campus ombudspersons and/or licensed counselors in employee assistance programs or student counseling centers. 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.

The locations shall notify the University community that certain University employees, such as the Title IX Compliance Coordinator (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. **Retention of Records Regarding Reports of Sexual Harassment and Sexual Violence**

The office of the Title IX Compliance Coordinator (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, generally five years after the date the complaint is resolved. Records may be maintained longer at the discretion of the Title IX Compliance Coordinator (Sexual Harassment Officer) in cases where the parties have a continuing affiliation with the University. All records pertaining to pending litigation or a request for records shall be maintained in accordance with instructions from legal counsel.
VI. RELATED INFORMATION

- Violence Against Women Reauthorization Act (VAWA) of 2013
- Academic Personnel Manual (APM) Section 015, The Faculty Code of Conduct
  (referenced in Section III.D, footnote 1)
- Academic Personnel Manual (APM) Section 016, University Policy on Faculty
  Conduct and the Administration of Discipline (referenced in Section III.D,
  footnote 1)
- Academic Personnel Manual (APM) Section 035, Affirmative Action and
  Nondiscrimination in Employment (referenced in Section III.D, footnote 2)
- Academic Personnel Manual (APM) Section 150, Non-Senate Academic
  Appointees/Corrective Action and Dismissal
- Nondiscrimination and Affirmative Action Policy Statement for University of
  California Publications Regarding Employment Practices (referenced in Section
  III.D, footnote 2)
- Nondiscrimination Policy Statement for University of California Publications
  Regarding Student-Related Matters (referenced in Section III.D, footnote 2)
- Personnel Policies for Staff Members 12 (Nondiscrimination in Employment)
  (referenced in Section III.D, footnote 2)
- Policy on Student Conduct and Discipline
- Student-Related Policy Applying to Nondiscrimination on the Basis of Sex
- University of California Nondiscrimination and Affirmative Action Policy
  Regarding Academic and Staff Employment (referenced in Section III.D, footnote
  2)
- UC Business and Finance Bulletin RMP-8, Legal Requirements on Privacy of
  and Access to Information
- University of California Policies Applying to Campus Activities, Organizations,
  and Students (referenced in Section III.D, footnote 2)

[NOTE: links to applicable State and Federal Law, as well as OCR “Dear Colleague”
letter will be included]

VII. FREQUENTLY ASKED QUESTIONS

[to be developed]

VIII. REVISION HISTORY

10/28/2013
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

**DOE 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 DOE Laboratories 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.