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Issuing Office: Office of Sexual Harassment Prevention and Policy

PROCEDURES FOR SEXUAL HARASSMENT COMPLAINT RESOLUTION

I. REFERENCES

A. University of California

[University of California Policy on Sexual Harassment](#)

[University of California Procedures for Responding to Reports of Sexual Harassment](#)

University of California Academic Personnel Manual (APM)

[015](#) Faculty Code of Conduct

B. UCSD Policy and Procedure Manual

[200-11](#) Conflicts of Interest Arising Out of Consensual Relationships

C. [Sexual Harassment Complaint Resolution Procedures Chart](#)

D. [California Public Records Act](#)

II. UNIVERSITY POLICY

The [University of California Policy on Sexual Harassment](#) covers all members of the University community, including faculty and other academic personnel, staff employees, students, and non-student or non-employee participants in University programs. The Policy includes a definition of sexual harassment, clarification of the University's obligation to respond promptly and effectively to reports of sexual harassment, provisions for training employees and educating the University community regarding sexual harassment, and a statement that the policy shall be implemented in a manner that recognizes principles of free speech and academic freedom.

III. UCSD PROCEDURES FOR SEXUAL HARASSMENT COMPLAINT RESOLUTION

UCSD has established the following Procedures in order (1) to offer sexual harassment training and education to all members of the University community and to provide, consistent with California Government Code 12950.1, sexual harassment training and education to each supervisory employee; (2) to provide all members of the University community with a process for reporting sexual harassment in accordance with the policy; and (3) to 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 and violations of [Conflicts of Interest Arising Out of Consensual Relationships](#), and may be used to respond to reports of violations of [APM 015, Part II.A.6 & 7, Faculty Code of Conduct](#).

A. Sexual Harassment Resources

1. Title IX Compliance Coordinator (Sexual Harassment Officer)

UCSD has designated the Director of the Office of Sexual Harassment Prevention and Policy as the Title IX Compliance Coordinator (Sexual Harassment Officer or "SHO") whose responsibilities include, but are not limited to, the duties listed below. The name and contact information for the SHO, along with the University's Policy on Sexual Harassment, may be found online at the website for the Office of Sexual Harassment Prevention and Policy, <http://oshpp.ucsd.edu> and may also be found on Blink. [7/1/2005]

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- a. Plan and manage the local sexual harassment education and training programs. The programs include wide dissemination of this policy to the UCSD community; providing educational materials to promote compliance with the policy and familiarity with local reporting procedures; and training UCSD 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 in accordance with this policy.
- c. Maintain records of reports of sexual harassment and actions taken in response to reports, including records of investigations, voluntary resolutions, and disciplinary action, as appropriate.
- d. Prepare and submit an annual report to the Office of the President, for submission to The Regents, on sexual harassment complaint activity during the preceding calendar year.

The SHO may assign responsibility for the completion of these duties as needed.

2. Other Resources

Other members of the UCSD community may also serve as resources. These include administrators at UCSD, including the Chancellor, Vice Chancellors, Chief Executive Officers, Chief Financial Officers, Associate Directors, Deans, Directors, Department Chairs, and administrative department heads, who are responsible for understanding and implementing the UCSD sexual harassment policy and procedures and for ensuring that the environment in their units is free of sexual harassment.

Information regarding resources available may also be obtained at the Community Centers (the Cross Cultural Center, the Women's Center, and the Lesbian, Gay, Bisexual, Transgender Resource Center); the Employee Support Services Team (Employee Relations, Equal Opportunity / Staff Affirmative Action, Quality of Work/Life, Academic Employee Relations, Faculty Staff Assistance Program, Employee Benefits, Employee Rehabilitation, Risk Management); the Office of the Ombuds; Staff Education; Psychological and Counseling Services; Student Legal Services; Student Safety Awareness and Sexual Assault Resource Center; Healthcare Human Resources; Graduate Medical Education; and other similar offices.

B. Procedures for Reporting and Responding to Reports of Sexual Harassment

1. Making Reports of Sexual Harassment

All members of the UCSD community are encouraged to contact the SHO if they observe or encounter conduct that may be subject to the University's Policy on Sexual Harassment. Reports of sexual harassment may be brought to the SHO, to a human resources coordinator, to the Dean of Students or Student Conduct Coordinator when students are involved, 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 are required to notify the SHO or other appropriate official designated to review and investigate sexual harassment complaints when a report is received.

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Reports of sexual harassment should be brought as soon as possible after the alleged conduct occurs, optimally within one year. Prompt reporting will enable the University to investigate the facts, determine the issues, and provide an appropriate remedy or disciplinary action. Reports of sexual harassment brought after one year will be responded to to the greatest extent possible, taking into account the amount of time that has passed since the alleged conduct occurred. Unreasonable delay in reporting by a complainant may impede the University's ability to conduct an investigation and/or effect appropriate remedial action, as well as the parties' legal rights.

2. Options for Resolution

Individuals making reports of sexual harassment will be informed about options for resolving potential violations of the Policy on Sexual Harassment. These options include procedures for Early Resolution, procedures for Formal Investigation, and filing complaints or grievances under applicable UCSD complaint resolution or grievance procedures. Individuals making reports also will be informed about policies applying to confidentiality of reports under this policy (see F below). To the greatest extent possible, reports of sexual harassment brought anonymously or brought by third parties not directly involved in the harassment will be responded to. 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 will also be informed about the range of possible outcomes of the report, including interim protections, remedies for the individual harmed by the harassment, 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 in good faith, who assisted someone with a report of sexual harassment, or who participated in any manner in an investigation or resolution of a report of sexual harassment, may make a report of retaliation under these procedures. The report of retaliation will be treated as a report of sexual harassment and will be subject to these procedures.

3. Procedures for Early Resolution

The goal of Early Resolution is to resolve concerns at the earliest stage possible. Parties are encouraged to utilize Early Resolution options 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 are intended to be flexible and encompass a full range of possible appropriate outcomes. Early Resolution may include 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 harassment. Early Resolution also may include 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. [7/1/2005]

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While the University encourages early resolution of a complaint, UCSD does not require that parties participate in Early Resolution. Some reports of sexual harassment may not be appropriate for Early Resolution, but may require a formal investigation at the discretion of the SHO or other appropriate official designated to review and investigate sexual harassment complaints.

Where Early Resolution has been sought with the assistance of a UCSD official other than the SHO (such as those mentioned in section A.2. above), such officials are strongly encouraged to confer with and/or refer the complaint to the SHO. If the complaint is not referred to the SHO, the administrator shall make an inquiry into the incident, if appropriate, and attempt a resolution. All outcomes (successful or unsuccessful resolutions) must be reported to the SHO within a reasonable period of time of the resolution, typically thirty (30) calendar days.

4. Procedures for Formal Investigation

In response to reports of sexual harassment in cases where Early Resolution is inappropriate (such as when the facts are in dispute, in reports of serious misconduct, or when reports involve individuals with a pattern of inappropriate behavior or allege criminal acts such as stalking, sexual assault or physical assault) or in cases where Early Resolution is unsuccessful, the SHO, or his/her designee, 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. In cases where there is no written request, the SHO or other appropriate official designated to review and investigate sexual harassment complaints, in consultation with an appropriate UCSD administrator, may initiate a Formal Investigation after making a preliminary inquiry into the facts.

Formal Investigation of reports of sexual harassment includes the following:

- a. The individual(s) accused of conduct violating the Policy on Sexual Harassment are 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 on Sexual Harassment and these Procedures within a reasonable period of time following the initiation of the formal investigation, typically within seven (7) working days.
- b. The individual(s) conducting the investigation shall be familiar with the Policy on Sexual Harassment and have training or experience in conducting investigations.
- c. The investigation generally includes 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 is limited to what is reasonably necessary to conduct a fair and thorough investigation. Participants in an investigation are advised that maintaining confidentiality is essential to protect the integrity of the investigation and the privacy of those involved in the investigation.
- d. Upon request, the complainant and the accused may each have a representative present when he or she is interviewed. Other witnesses may have a representative present at the discretion of the investigator or as required by applicable University policy or collective bargaining agreement.

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- e. At any time during the investigation, the investigator may recommend that interim protections or remedies for the complainant or witnesses be provided by appropriate UCSD 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 the Policy on Sexual Harassment.
- f. The investigation shall be completed as promptly as possible and in most cases within sixty (60) working days of the date the request for formal investigation was filed. This deadline may be extended on approval by the relevant Vice Chancellor. The Chair of the Academic Senate's Committee on Privilege and Tenure and the Senior Vice Chancellor-Academic Affairs shall be consulted before a decision is made on requests for extensions involving faculty covered by [Academic Senate Bylaw 230](#).
- g. Generally, an investigation results in a written report that 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 University policy has been violated. The report will be submitted to the appropriate UCSD official(s) with authority to implement the actions necessary to resolve the complaint. The report may be used as evidence in other related proceedings, such as subsequent complaints, grievances and/or disciplinary actions.
- h. The complainant and the accused will be informed promptly in writing when the investigation is completed. The complainant will 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 will not be informed of the details of the recommended disciplinary action without the consent of the accused.
- i. The complainant and the accused may request a copy of the investigative report pursuant to University policy governing privacy and access to personal information (see UC Business & Finance Manual, [RMP-8](#)). However, the report will 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.
- j. Within fifteen (15) working days of taking corrective or disciplinary action against the accused, or a decision not to take any action, the appropriate UCSD official(s) shall provide written notification to the SHO of what action, if any, has been taken, including the results of any appeals.

C. Complaints or Grievances Involving Allegations of Sexual Harassment

An individual who believes that he or she has been subjected to sexual harassment 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 SHO. A complaint or grievance alleging sexual harassment must meet all the requirements under the applicable complaint resolution or grievance procedure, including time limits for filing.

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If a complaint or grievance alleging sexual harassment is filed in addition to a report made to the SHO, 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 also may file a complaint or grievance alleging that the actions taken in response to the report of sexual harassment 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 under this procedure must be filed in a timely manner, as provided in the applicable complaint resolution or grievance procedure listed in [Appendix I: University Complaint Resolution and Grievance Procedures](#). The time period for filing begins on the date the individual was notified of the outcome of the sexual harassment 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, whichever is later.

D. Remedies and Referral to Disciplinary Procedures

Findings of violations of the Policy on Sexual Harassment may be considered in determining remedies for individuals harmed by the sexual harassment and will be referred to applicable disciplinary procedures ([Appendix II](#)). Procedures under this policy will be coordinated with applicable complaint resolution, grievance, and disciplinary procedures to avoid duplication in the fact-finding process whenever possible.

1. The San Diego Division of the Academic Senate has formally agreed to allow the formal investigation provided in this policy to stand in lieu of the appointment of an Administrative Officer to conduct the preliminary investigation called for in Academic Senate Bylaw 230.
2. In matters involving accused students, the formal investigation provided in this Policy stands in lieu of the investigation by the Student Conduct Coordinator or cognizant College Dean.
3. In matters involving accused medical students, the formal investigation provided in this Policy stands in lieu of any investigation called for in the disciplinary proceedings applicable to medical students.
4. In matters involving accused pharmacy students, the formal investigation provided in this Policy stands in lieu of any investigation called for in the disciplinary proceedings applicable to pharmacy students.

Violations of the policy may include engaging in sexual harassment, retaliating against a complainant reporting sexual harassment, violating interim protections, and filing intentionally false charges of sexual harassment. 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.

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E. Privacy

UCSD protects the privacy of individuals involved in a report of sexual harassment to the extent required by law and University policy. A report of sexual harassment 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. In such cases, every effort will be made to redact the records in order to protect the privacy of individuals. An individual who has made a report of sexual harassment may be informed of sanctions imposed against the accused when the individual needs to be aware of the sanction in order for it to be fully effective (such as restrictions on communication or contact with the individual who made the report). However, information regarding disciplinary action taken against the accused will not be disclosed without the accused's consent, unless it is necessary to ensure compliance with the action or the safety of individuals.

F. Confidentiality of Reports of Sexual Harassment

University employees, such as the SHO, managers, supervisors, and other designated employees have an obligation to respond to reports of sexual harassment, 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 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 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.

Members of the UCSD community can consult with the confidential resources listed below for advice and information regarding making a report of sexual harassment. These resources provide individuals who may be interested in bringing a report of sexual harassment with a safe place to discuss their concerns and learn about the procedures and potential outcomes involved. Individuals who consult with confidential resources are advised that their discussions in these settings are not considered reports of sexual harassment and that without additional action by the individual, the discussions will not result in any action by the University to resolve their concerns.

Confidential Resources at UCSD include:

- Office of the Ombuds
- Faculty Staff Assistance Program
- Psychological and Counseling Services
- Student Health Center
- Student Legal Services Office

Contact information for these resources may be found online at the website for the Office of Sexual Harassment Prevention and Policy, <http://oshpp.ucsd.edu> and may also be found on Blink. [7/1/2005]

G. Retention of Records Regarding Reports of Sexual Harassment

The SHO is responsible for maintaining records relating to sexual harassment 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 SHO in cases where the parties have a continuing affiliation with the University or for other legitimate reasons. All records pertaining to pending litigation or a request for records shall be maintained in accordance with instructions from legal counsel.