

# ***Procedures for Reporting and Responding to Reports of Sexual Violence and Sexual Harassment***

## **I. Procedures Purpose**

- A. On January 1, 2016, the [University of California Sexual Violence and Sexual Harassment Policy](#) (hereinafter *UC Policy*) went into effect. The *UC Policy*, applicable to all University of California campuses, incorporated new requirements from recent changes in federal and state laws and regulations. As such, the new policy is in conflict with the existing *UC Santa Cruz Policy on Sexual Harassment and Policy on Sexual Assault, Dating Violence, Domestic Violence, and Stalking (Interim March 2014)*, creating a need for change.
- B. In order to promote legal compliance and the clarification of rights and responsibilities, the UC Santa Cruz Harassment and Discrimination Prevention and Investigation Unit / Title IX Office hereby adopts as its local policy the current *UC Policy*. Therefore, the *UC Santa Cruz Policy on Sexual Harassment and Policy on Sexual Assault, Dating Violence, Domestic Violence, and Stalking (Interim March 2014)* has been effectively replaced and is no longer enforceable.
- C. Should the *UC Policy* be updated and/or replaced by another policy, the new policy shall be adopted as UC Santa Cruz's policy for cases of sexual harassment, sexual assault, domestic violence, dating violence, and stalking, unless and until UC Santa Cruz's Harassment and Discrimination Prevention and Investigation Unit/Title IX Office creates a local policy that addresses these matters.
- D. The *UC Policy* requires that each campus establish and implement local procedures. The procedures outlined in this document shall serve as UC Santa Cruz's local procedures establishing and implementing the *UC Policy*.

## **II. Definitions**

- A. **Complainant:** Any person who files a report of sexual violence or sexual harassment or other prohibited behavior or retaliation or any person who has been the alleged subject such [prohibited conduct](#) or retaliation.
- B. **Respondent:** A person alleged to have engaged in [prohibited conduct](#) and about whom a report of sexual violence, sexual harassment, or other prohibited behavior, or retaliation is made.
- C. **Advisor:** An Advisor is any individual accompanying a Complainant, Respondent, or Witness in the Title IX Process that advises the participant on university policy and

procedures. That person may be present, but may not serve as a witness, and may not speak on behalf of the Complainant, Respondent, or Witness or otherwise interrupt proceedings at any point.

**D. Support Person:** A Support Person is any individual accompanying a Complainant, Respondent, or Witness in the Title IX process for personal and emotional support. That person may be present, but may not serve as a witness, and may not speak on behalf of the Complainant, Respondent, or Witness or otherwise interrupt the proceedings at any point.

**E. Responsible Employee:** Any university employee who is not a Confidential Resource and who receives, in the course of employment, information that a student (undergraduate, graduate, or professional) has experienced sexual violence, sexual harassment or other prohibited behavior. Responsible Employees must promptly notify the Title IX Office or designee. Responsible Employees include but are not limited to: Research Assistants, Graduate Teaching Assistants, and all other student employees, when disclosures are made to any of them in their capacities as employees. In addition, the following who, in the course of employment, receive a report of *prohibited conduct*, as defined in the *UC Policy*, from any other person affiliated with the university shall notify the Title IX Office or designee:

- a. Campus Police
- b. Human Resource Administrators, Academic Personnel and Title IX Professionals
- c. Managers and Supervisors including Deans, Department Chairs, and Directors of Organized Research Units (ORU)
- d. Faculty Members

**F. Confidential Resources:**

- a. CARE confidential advocates ([care@ucsc.edu](mailto:care@ucsc.edu), 831-502-2273)
- b. Counseling and Psychological Services (CAPS) (students only, 831-459-2628) and Employee Assistance Program (EAP) (staff and faculty only, 866-808-6205) licensed professionals
- c. Any persons with a professional license requiring confidentiality (including health center employees but excluding campus legal counsel), or someone who is supervised by such a person.

**G. Respondent Support Services:** The respondent support services coordinator is a trained individual who can assist respondents with understanding their rights, explain the investigation and adjudication processes, and refer respondents to appropriate campus and community resources. (Lucy Rojas, Assistant Dean of Students, [larojas@ucsc.edu](mailto:larojas@ucsc.edu), 831-459-1676)

**H. Preponderance of Evidence:** A standard of proof that requires that a fact be found when its occurrence, based on evidence, is more likely than not.

**I. Witness:** Any person deemed to have relevant information by the Title IX Officer or investigator.

### III. Procedure Applicability

The university has jurisdiction over alleged violations of the *UC Policy* by students, staff and other academic appointees that occur on university grounds and facilities such as offices and residence halls, or that occur in connection with university activities, programs, or events. In addition, the university has discretion under the *UC Policy* to exercise jurisdiction over conduct that occurs off-campus but affects the learning or working environment. For incidents involving student Respondents, the university may exercise jurisdiction over off-campus conduct that would violate other university policies if it occurred on campus.

### IV. Procedures

#### A. UC Santa Cruz Campus Responsibilities to Report and Respond to Sexual Harassment and Sexual Violence

##### 1. Title IX Officer

The Title IX Officer is authorized by the Chancellor to receive and resolve reports of **sexual harassment, sexual assault, dating violence, domestic violence, and stalking**. As soon as practicable after a receiving a report, the Title IX Officer will make an initial assessment of the report to determine whether (i) the report, on its face, alleges act of *prohibited conduct*; and (ii) such conduct has a sufficient nexus with the university for it to intervene. The Title IX Officer may consult with appropriate academic officers for faculty and other academic appointees' complaints, with Student Affairs Offices for student complaints, and with Human Resources, or Employee and Labor Relations Offices for staff complaints.

Tracey Tsugawa, Title IX Officer  
105 Kerr Hall  
831-459-2462  
[ttsugawa@ucsc.edu](mailto:ttsugawa@ucsc.edu)

The Title IX Officer, in coordination with the Case Management Team, shall make an immediate assessment concerning the health and safety of the individual and the campus community, implement temporary remedies immediately necessary (including no contact directives), ensure the Complainant has received a written explanation of rights and reporting options (including the right to make reports to the police), and available campus and community resources.

##### 2. Campus Community

All members of the University community are encouraged to contact the Title IX Officer if they observe or encounter conduct by students, staff, faculty and third parties associated with UC Santa Cruz that may be subject to the *UC Policy*. All managers, supervisors, and responsible employees that receive reports of sexual harassment and/or sexual violence must:

- report the names of individuals involved and details of the incident to the Title IX Officer as soon as possible; and,

- provide the UC Santa Cruz [Reporting Options: Sexual Assault, Dating Violence, Domestic Violence, Stalking](#) handout to students or employees that report they are a victim of domestic violence, dating violence, sexual assault, or stalking, regardless of whether the offense occurred in connection with any university program;

## **B. Options for Resolution of Reports of Sexual Harassment and Sexual Violence**

### **1. Alternative Resolution**

The goal of alternative resolution is to resolve concerns at the earliest stage possible with the cooperation of all parties involved. The Title IX Office will utilize alternative resolution options when the parties desire to resolve the situation cooperatively and/or when a formal investigation is not likely to lead to a satisfactory outcome. Participation in the alternative resolution process is voluntary. Either party may end the informal process at any time and requesting a formal investigation process. Alternative resolutions may include an inquiry into the facts, but typically do not include a formal investigation. Means for an alternative resolution shall be flexible and encompass a full range of possible appropriate outcomes; however, some reports of sexual harassment and sexual violence may not be appropriate for an alternative resolution.

Alternative resolutions may include, but are not limited to:

- mediation (except in cases of sexual violence);
- separating the parties;
- providing for safety;
- referring the parties to counseling;
- referrals for disciplinary action;
- a settlement agreement;
- conducting targeted prevention education and training programs;
- and conducting a follow-up review to ensure that the resolution has been implemented effectively.

### **2. Formal Investigation**

In cases where an alternative resolution is not appropriate or unsuccessful, and in cases where the Complainant requests formal action, the Title IX Office may conduct a formal investigation. If a formal investigation has been requested, but determined to be unnecessary, the Title IX Officer must notify the Complainant in writing and explain the rationale for the determination.

If the Complainant requests that no investigation occur, the Title IX Officer shall determine whether the allegations nonetheless require an investigation to mitigate a potential risk to the campus community. When no investigation ensues, the Title IX Officer shall inform the Complainant that the ability to provide remedies may be limited, but the Title IX Officer shall nonetheless afford

such remedies that are consistent with maintaining confidentiality and the absence of an administrative finding.

The Title IX Officer may choose to proceed with an investigation without the participation of a Complainant. Under these circumstances, the Title IX Officer may withhold the identity of the Complainant. If confidentiality of the Complainant's identity cannot be maintained, the Title IX Officer will inform the Complainant before their identity is released.

At any time during the Title IX investigation process, a Complainant may place a hold on the formal investigation process and may instead request an alternative resolution. In most circumstances, the Title IX Office will defer to the wishes of the Complainant. However, the Title IX Office reserves the right to move forward with an investigation even after the Complainant requests an alternative resolution. In the event that the requested alternative resolution process fails, the Complainant and/or Title IX Office may resume the formal investigation.

UC Santa Cruz Formal Investigation procedures include but are not limited to:

- **Investigation Notification.** The Title IX Office and Student Conduct shall send a joint written notice of charges to the Complainant and Respondent within five (5) working days of receiving a request from the Complainant for a Title IX Investigation or within five (5) working days of the initiation of a Title IX investigation by the Title IX Officer. The joint written notice shall include: (i) a summary of the allegations and potential policy violations; (ii) the purpose of the investigation; (iii) a statement that the investigative report, when issued, will make factual findings and determine whether there has been a violation of University policy; (iv) a statement that the findings and determination will be based on a preponderance of evidence standard; (v) a summary of the process, including the expected timeline; (vi) a summary of the rights and resources for the Complainant and Respondent; and, (vii) copy of or link to applicable policies.
- **Participation.** Neither the Complainant nor the Respondent is required to participate in the investigation process. The University will not draw any adverse inferences from a Complainant or Respondent's decision not to participate or to remain silent during the process. An investigator, decision-maker, or appeal body will reach findings and conclusions based on the information available. An investigator, decision-maker, or appeal body may draw adverse inferences when a participant selectively participates in the process, such as choosing to answer some but not all questions posed.
- **Interviews.** The investigation generally shall include interviews with each available party, interviews with other witnesses as needed, and a review of relevant documents as appropriate. During the investigation, the Complainant and Respondent will be provided an equal opportunity to meet with the investigator, submit information, and identify witnesses who may have relevant information. The investigator may determine the relevance of any witness or other evidence to the findings and may exclude

certain types of evidence or information that is irrelevant or immaterial. The investigator may follow up with the Complainant and Respondent as needed to clarify any inconsistencies or new information gathered during the course of the investigation. 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.

- **Immunity.** To encourage reporting, neither a Complainant nor witnesses who participate in an investigation of sexual violence will be subject to disciplinary sanctions for a violation of the relevant university conduct policy during or near the time of the incident, unless the violation placed the health or safety of another at risk; involved plagiarism, cheating, or academic dishonesty; or was otherwise egregious.
- **Prior and Subsequent Conduct.** Prior or subsequent conduct of the Respondent may be considered in determining pattern, knowledge, intent, motive, or absence of mistake. For example, evidence of a pattern of [\*prohibited conduct\*](#) by the Respondent, either before or after the incident in question, regardless of whether there has been a prior finding of a Policy violation, may be deemed relevant to the determination of responsibility for the [\*prohibited conduct\*](#) under investigation. The determination of relevance of pattern evidence will be based on an assessment of whether the previous or subsequent conduct was substantially similar to the conduct under investigation or indicates a pattern of similar [\*prohibited conduct\*](#). Such prior or subsequent conduct may also constitute a violation of the UC Policy and/or additional UC and UCSC policies, in which case it may subject the Respondent to additional sanctions. The investigator will determine the relevance of this information and both parties will be informed if evidence of prior or subsequent conduct is deemed relevant.
- **Investigation Tools.** During the course of an investigation the Title IX Officer or designee may (i) conduct a survey of any class taught by a faculty member or instructor about whom a sexual harassment complaint has been made; (ii) request attendance of a department chair and/or dean at any meeting with a faculty member or instructor to discuss a sexual harassment complaint filed against that person; and, (iii) designate university officials to assist in resolving sexual harassment complaints in consultation and cooperation with the Title IX Officer.
- **Recording Investigative Meetings.** Investigative meetings will be closed to the public. No recording device (audio and/or video) of any kind is permitted for use by the Respondent, Complainant, Witnesses, Support Persons, or Advisors.
- **Concurrent Criminal Investigation.** If the alleged conduct is also the

subject of a criminal investigation, the Title IX Office may not wait for the conclusion of the criminal investigation to begin an investigation. However, the Title IX Office may need to coordinate its fact-finding efforts with the police investigation. At the request of law enforcement, the investigation may be delayed as needed to meet any specific needs of the criminal investigation. Once notified that the police department has completed its gathering of evidence (not the ultimate outcome of the investigation or the filing of any criminal charges), the Title IX Office will promptly resume and complete its fact-finding for the sexual harassment or sexual violence investigation. Such a delay may be cause for extending the timelines to complete the process and delay will be communicated and documented.

- **Advisors and Support Person.** Upon request, the Complainant and Respondent may each have a Support Person and an Advisor of their choosing present at all stages of the process including when he or she is interviewed, and at any subsequent proceeding or related meetings. Other witnesses may have Support Persons and Advisors of their choosing present at the discretion of the investigator or as required by applicable university policy or collective bargaining agreement. Witnesses in the investigation are prohibited from serving as an Advisors and/or Support Persons. Advisors and Support Persons cannot speak on behalf of the Complainant, Respondent, or Witness. Individuals electing to be accompanied by an Advisor must notify the investigator at least two (2) business days prior to the meeting. The Complainant, Respondent, and/or Witnesses, when appropriate, must sign a FERPA release form allowing his/her/their support person or advisor to have access to information discussed during the Title IX process.
- **Interim Actions.** 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 to ensure the safety, well-being, and equal access to university programs and activities of its students. These protections or remedies may include separating the parties, housing assistance, academic support and accommodations, counseling, 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 *UC Policy*. The University may also place the Respondent on an interim suspension as appropriate and consistent with the applicable provisions of the [\*UC Santa Cruz Code of Student Conduct\*](#).
- **Investigation Report.** Generally, an investigation results in a written report that at a minimum includes a statement of the allegations and issues, the positions of the parties, a summary of the evidence, findings of fact, and an analysis of whether a violation has occurred. If the Complainant and Respondent offered witnesses or other evidence that

was not considered by the investigator, the investigation report will include an explanation why it was not considered. When both parties are students, the report will include a recommendation to the Student Conduct Officer regarding whether there are any policy violations. When a Respondent is a staff or faculty member, the Title IX Officer shall forward the Investigation Report (with attachments and any necessary redactions) to the appropriate administrator responsible for discipline. The report may be used as evidence in other related procedures, such as subsequent complaints, grievances and/or disciplinary actions. The Complainant and the Respondent will receive a copy of the report at the conclusion of the investigation. However, in accordance with University policy, the report shall be redacted to protect the privacy of personal and confidential information regarding all individuals other than the individual requesting the report.

- **Standard of Proof.** The standard of proof at all stages of the process is preponderance of evidence.
- **Timeline.** The investigation shall be completed promptly, typically within 60 business days of its initiation, unless extended by the Title IX Officer for good cause followed by a written notice to the Complainant and Respondent of the reason for the extension and the projected new timeline.
- **Academic Merit and/or Freedom.** In cases where the investigation contemplates issues of academic merit or academic freedom, the investigator shall consult with the appropriate academic officer for relevant academic judgment.
- **Authority to Refer.** Even if the Title IX Office does not make a recommendation that the conduct of the Respondent constituted a violation of the *UC Policy*, but the Title IX Officer believes the behavior complained of may constitute other misconduct, the Title IX Officer may refer the matter to the appropriate disciplinary forum/adjudicating body/appropriate forum.
- **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 procedures. This provision does not apply to reports made in good faith, even if facts alleged in the report cannot be substantiated by an investigation.
- **Cross-complaints.** Any cross complaint that is filed in bad faith or is frivolous will be considered retaliation against the Complainant who filed the original complaint, and will become a separate violation of the *UC Policy* and will subject the Respondent to potential sanctions.

### **3. Grievance Procedures for Employees**

Instead of, or in addition to, reporting to the Title IX Officer or other Responsible Employee, a university employee who believes he/she/they have been subjected



to *prohibited conduct* may file a grievance or complaint under the applicable policies and procedures. That grievance must meet all of the requirements, including time limits for filing, under the applicable grievance or complaint procedure. Any such grievance or complaint will be forwarded to the Title IX Officer for processing under the *UC Policy*, and the grievance or complaint procedure will be held in abeyance pending resolution under the *UC Policy*. After completion of the process under the *UC Policy*, the grievance or complaint may be reactivated but *only* as a means of appeal.

#### 4. **Adjudication Process**

##### a. **Students**

Upon completion of an investigation, the investigation report and any recommendations shall be forwarded to the appropriate student conduct officer. Thereafter, the Title IX Office and Student Conduct Office shall send a joint written notification to the Complainant and the Respondent which will include: (i) a copy of the investigation report; (ii) written notice of the investigation findings and the investigator's recommended determinations, including whether policies have been violated; (iii) an admonishment against intimidation or retaliation; (iv) an explanation of interim measures that will remain in place; (v) any rights and information regarding an appeal of the decision; (vi) a statement that the Student Conduct Office will determine whether the charges have been substantiated and policies have been violated; and, (vii) a statement that the Complainant and/or Respondent may schedule a meeting with the Student Conduct Office and/or submit a statement in writing to be heard on the question of the findings of any policy violations and the discipline prior to the decision and imposition of sanctions. This meeting is not to present new evidence; all available evidence must have been submitted to the Title IX investigator prior to the conclusion of the investigation. Within ten (10) business days of receipt and review of the investigation report and recommendations from the Title IX investigator, as well as any response from the Complainant and/or Respondent, the Student Conduct Office will inform the Complainant and Respondent of the final determination regarding any policy violations as well as any attendant sanctions.

##### b. **Academic Senate Members**

If the Respondent is a member of the Academic Senate and the Title IX investigation finds that a violation of the *UC Policy* has occurred, the case will be referred to the Campus Provost/Executive Vice Chancellor, as this may also constitute a violation of the Faculty Code of Conduct. Formal disciplinary action taken against the Respondent shall be in accordance with the *University Policy on Faculty Conduct and the Administration of Discipline* ([CAPM 002.015](#)). Per *UC Policy*, at the conclusion of any disciplinary proceedings, including any settlement agreement resolution, the deciding authority shall inform the Title IX Officer of the final outcome of any disciplinary proceedings, including the final determination with respect to the alleged offense, any sanction that is imposed, and the rationale for the results.

**c. Non-Senate Academic Appointees**

If the Respondent is a non-Senate academic appointee and the Title IX investigation finds that a violation of the *UC Policy* has occurred, the Title IX Officer will refer the case to the Campus Provost/Executive Vice Chancellor, who will refer the case to the appropriate academic administrator. Formal corrective or disciplinary action taken against the Respondent shall be in accordance with *Corrective Action and Dismissal of Non-Senate Academic Appointees* ([CAPM 003.150](#)) or as provided in the relevant collective bargaining agreement. Per *UC Policy*, at the conclusion of any disciplinary proceedings, including any settlement agreement resolution, the adjudicating body shall inform the Title IX Officer of the final outcome of any disciplinary proceedings, including the final determination with respect to the alleged offense, any sanction that is imposed, and the rationale for the results.

**d. Staff Members**

If the Respondent is a staff member and the Title IX investigation finds that a violation of the *UC Policy* has occurred, the Title IX Officer shall forward the final report to the appropriate administrator responsible for discipline, who will either take action or will refer the report to the appropriate supervisor for action. Formal corrective or disciplinary action taken against the Respondent shall be in accordance with applicable university policy as stated in the applicable [Personnel Policies for Staff Members](#) or as provided for in relevant collective bargaining agreements. The Respondent shall be notified of her/his right to file a grievance regarding such corrective or disciplinary action. Per *UC Policy*, at the conclusion of any disciplinary proceedings, including any settlement agreement negotiation, the adjudicating body will inform the Title IX Officer of the final outcome of any disciplinary proceedings, including the final determination with respect to the alleged offense, any sanction that is imposed, and the rationale for the results.