



## **GUIDELINES FOR REPORTING AND RESPONDING TO REPORTS OF SEX OFFENSES**

**UNIVERSITY OF CALIFORNIA, IRVINE**  
**ADMINISTRATIVE POLICIES AND PROCEDURES, Sec. 700-17**  
*Revised 4/2018*

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*Committed to Inclusive Excellence*

The Office of Equal Opportunity and Diversity (OEOD) is a neutral office charged with coordinating the University's compliance with federal and state laws and University policies and procedures related to discrimination, harassment, and sexual offenses. Part of that responsibility includes responding to both formal and informal complaints of discrimination based on **race, color, national origin, religion, sex, gender, gender expression, gender identity, gender transition status, pregnancy, physical or mental disability, medical condition (cancer-related or genetic characteristics), genetic information (including family medical history), ancestry, marital status, age, sexual orientation, citizenship, or service in the uniformed services**, including sexual harassment, sexual offense, and retaliation related to complaints of discrimination, harassment, and sexual offense.

I encourage you to read through the information contained in this packet to learn more about your rights and responsibilities, as well as the University's commitment to creating and maintaining an environment in which all persons who participate in University programs and activities can work and learn together in an atmosphere free of all forms of discrimination, harassment, exploitation, or intimidation.

The Guidelines contained in this packet, as well as additional information about our policies, processes and services are also available on the OEOD website, [www.oeod.uci.edu](http://www.oeod.uci.edu).

If you have any questions, please feel free to contact the Office of Equal Opportunity & Diversity at (949) 824-5594 or [oeod@uci.edu](mailto:oeod@uci.edu).

Sincerely,

Kirsten K. Quanbeck  
Associate Chancellor – Equity, Diversity, and Inclusion  
Director, Office of Equal Opportunity & Diversity  
Title IX / Sexual Harassment Officer

# UC IRVINE ADMINISTRATIVE POLICIES AND PROCEDURES

## Business and Financial Affairs

### General Administration

#### Sec. 700-17: Guidelines for Reporting and Responding to Reports of Sex Offenses

**Responsible Office:** Office of Equal Opportunity and Diversity (OEOD)

**Revised:** December 2017

#### References / Resources

- University of California
  - Policy on Sexual Violence and Sexual Harassment
- Academic Personnel Manual
  - APM-15 Faculty Code of Conduct
- UCI Implementation of UC Policies Applying to Campus Activities, Organizations, and Students (PACAOS)
  - Code of Student Conduct 102.08
  - UCI Student Adjudication Process for Sex Offense and Sexual Harassment
- UCI Administrative Policies & Procedures
  - Section 700-16 Policy on Conflicts of Interest Created By Consensual Relationships
  - Section 700-18 Guidelines for Reporting and Responding to Reports of Discrimination and Harassment
- UCI Resources
  - UCI Sexual Harassment and Sex Offense Investigation and Adjudication Framework for Staff, Non-Faculty Academic Personnel, Senate Faculty and Non-Senate Faculty
  - Sexual Violence Prevention and Response

**Contact:** Office of Equal Opportunity and Diversity (OEOD) at 949-824-5594 or [oeod@uci.edu](mailto:oeod@uci.edu)

*For an electronic copy of the policy with full access to all resources in this document please visit:*  
<http://www.oeod.uci.edu/policies/index.php>

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## A. University Policy

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The University is committed to creating and maintaining a community dedicated to the advancement, application and transmission of knowledge and creative endeavors through academic excellence, where all individuals who participate in University programs and activities can work and learn together in an atmosphere free of harassment, exploitation, or intimidation. Every member of the community should be aware that the University prohibits sexual violence and sexual harassment, retaliation, and other prohibited behavior (“Prohibited Conduct”) that violates law and/or University policy. The University will respond promptly and effectively to reports of Prohibited Conduct and will take appropriate action to prevent, to correct, and when necessary, to discipline behavior that violates the University’s policy.

## B. Purpose and Scope

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The University of California has a Sexual Violence and Sexual Harassment policy (the Policy) that applies to all employees and students. These Guidelines:

1. Detail how the Policy is implemented at UCI.
2. Address sex offenses as they affect UCI students and employees, both those who report being the subject of a sex offense and those accused of committing such an offense.
3. Define the sex offenses prohibited by UCI, provide guidance about what individuals should do if they believe they have been the subject of a sex offense or have been accused of a sex offense, and describe what the University will do if a sex offense is reported. Individuals found responsible for violating these Guidelines may be sanctioned under the applicable University procedure and may also be separately prosecuted under California criminal statutes. The determination whether a matter will be criminally prosecuted is made by the applicable prosecutor’s office, not by officials at UCI. Any criminal process is entirely separate from administrative proceedings at the University. Whether or not the criminal justice authorities choose to prosecute, the University may commence investigatory and disciplinary proceedings with a student or employee alleged to have violated these Guidelines.
4. Apply to sex offenses as defined below. Reports of sexual harassment are addressed in Section 700-18, Guidelines for Reporting and Responding to Reports of Discrimination or Harassment. Some types of conduct may be addressed under either or both Guidelines. Consensual romantic relationships between members of the University community may be subject to other University policies; for example, those governing faculty-student relationships are detailed in the Faculty Code of Conduct and those governing relationships between employees are found in the Section 700-16, Policy on Conflicts of Interest Created By Consensual Relationships.

## C. Prohibited Conduct

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It is a violation of these Guidelines to commit any sex offense act defined or addressed below:

1. **Sexual Violence**
  - a. **Sexual Assault–Penetration:** Without the consent of the Complainant, penetration, no matter how slight, of the vagina, anus, or mouth by a penis; or the vagina or anus by any body part or object.

- b. **Sexual Assault–Contact:** Without the consent of the Complainant, touching an intimate body part (genitals, anus, groin, breast, or buttocks) (i) unclothed or (ii) clothed.

Note: As this definition encompasses a broad spectrum of conduct, not all of which constitutes sexual violence. The Title IX Officer will determine whether the allegation should be treated as sexual violence or sexual harassment.

Note: Sexual Assault–Penetration or Sexual Assault–Contact is aggravated when it includes the following:

- Overcoming the will of Complainant by:
  - force (the use of physical force or inducing reasonable fear of immediate or future bodily injury);
  - violence (the use of physical force to cause harm or injury);
  - menace (a threat, statement, or act showing intent to injure);
  - duress (a direct or implied threat of force, violence, danger, hardship, or retribution that is enough to cause a reasonable person of ordinary sensitivity, taking into account all circumstances including age and relationship, to do or submit to something that they would not otherwise do); and/or
  - deliberately causing a person to be incapacitated (through drugs or alcohol).
- Intentionally taking advantage of the other person’s incapacitation (including voluntary intoxication).
- Recording, photographing, transmitting, or distributing intimate or sexual images without the prior knowledge and consent of the parties involved.

- c. **Relationship Violence:**

- i. **Dating Violence:** Conduct by a person who is or has been in a romantic or intimate relationship with the Complainant that intentionally, or recklessly, causes bodily injury to the Complainant or places the Complainant in reasonable fear of serious bodily injury. The nature of the relationship between the Complainant and Respondent is determined by the length, type, and frequency of interaction between them.
- ii. **Domestic Violence:** Conduct by a current or former spouse or intimate partner of the Complainant; or a person with whom the Complainant shares a child in common, that intentionally, or recklessly, causes bodily injury to the Complainant or another, or places the Complainant or another in reasonable fear of serious bodily injury.

- d. **Stalking:** Repeated conduct directed at a Complainant (e.g., following, monitoring, observing, surveilling, threatening, communicating or interfering with property), of a sexual or romantic nature or motivation, that would cause a reasonable person to fear for their safety, or the safety of others, or to suffer substantial emotional distress. Stalking of a non-sexual nature may be addressed by other University policies.

## 2. Other Prohibited Behavior

- a. Invasions of Sexual Privacy

- . Without a person’s consent, watching or enabling others to watch that person’s nudity or sexual acts in a place where that person has a reasonable expectation of privacy;
  - i. Without a person’s consent, making photographs (including videos) or audio recordings, or posting, transmitting or distributing such recorded material depicting that person’s nudity or sexual acts in a place where that person has a reasonable expectation of privacy; or
  - ii. Using depictions of nudity or sexual activity to extort something of value from a person.
- b. Sexual intercourse with a person under the age of 18.
- c. Exposing one’s genitals in a public place for the purpose of sexual gratification.
- d. Failing to comply with the terms of a no-contact order, a suspension of any length, or any order of exclusion issued under these Guidelines.
- e. **Retaliation** includes threats, intimidation, reprisals, and/or adverse employment or educational actions against a person based on their report of Prohibited Conduct or participation in the investigation, report, remedial, or disciplinary processes provided for in these Guidelines.

## D. Definitions

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1. **Consent and Incapacitation:** Consent is affirmative, conscious, voluntary, and revocable. Consent to sexual activity requires of both persons an affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person to ensure they have the affirmative consent of the other to engage in the sexual activity. Lack of protest, lack of resistance, or silence, do not alone constitute consent. Affirmative consent must be ongoing and can be revoked at any time during sexual activity. The existence of a dating relationship or past sexual relations between the persons involved should never by itself be assumed to be an indicator of consent (nor will subsequent sexual relations or dating relationship alone suffice as evidence of consent to prior conduct).

The Respondent’s belief that the Complainant consented shall not provide a valid excuse where:

- a. The Respondent’s belief arose from the Respondent’s own intoxication or recklessness;
  - b. The Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the Complainant affirmatively consented; or
  - c. The Respondent knew or a reasonable person should have known that the Complainant was unable to consent because the Complainant was incapacitated, in that the Complainant was:
    - i. asleep or unconscious;
    - ii. due to the influence of drugs, alcohol, or medication, unable to understand the fact, nature, or extent of the sexual activity; or
    - iii. unable to communicate due to a mental or physical condition.
2. **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 of such Prohibited Conduct or retaliation.

3. **Respondent:** A person alleged to have engaged in Prohibited Conduct and about whom a report of sexual violence, sexual harassment, other prohibited behavior, or retaliation is made.
4. **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.
5. **Confidential Resources:** Confidential resources are available to anyone considering making a report. These resources provide a place where information can be obtained in a safe place, where concerns can be discussed and individuals can learn about procedures and potential outcomes while remaining anonymous. When consulting with confidential resources, individuals will be advised that their discussions in these settings are not considered reports and that, without their additional action, the University will not take any action to resolve their concerns.

Designation as a “Confidential Resource” for purposes of these Guidelines exempts a person from reporting sex offenses to the Title IX office. Confidential Resources are not exempted from other mandatory reporting obligations under UC CANRA (Child Abuse and Neglect Reporting Act) Policy, the Clery Act as a Campus Security Authority (CSA), and other policies or laws that require reporting to campus or local law enforcement, or Child Protective Services. The following employees who receive reports in their confidential capacity include:

- a. Campus Assault Resource & Education (CARE),
  - b. Office of the Ombudsman,
  - c. Counseling Center,
  - d. Employee Assistance Program (EAP),
  - e. 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.
6. **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 suffered sexual violence, sexual harassment or other prohibited behavior shall promptly notify the Title IX Officer or designee. This includes Resident 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 from any other person affiliated with the University shall notify the Title IX Officer or designee:

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

## **E. Protection of Complainants, Respondents, and Witnesses**

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1. **Immunity:** To encourage reporting, neither a Complainant nor witness in an investigation of sexual violence will be subject to disciplinary sanctions for a violation of the relevant University conduct policy at 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.  
Because alcohol, drugs, and other intoxicants are often involved, Complainants may be afraid to report Prohibited Conduct where they have also engaged in an activity that violated University policy or State law, such as a person under age 21 drinking alcohol. UC encourages the reporting of Prohibited Conduct and therefore generally does not hold Complainants and/or witnesses accountable for alcohol or drug-related student violations that may have occurred at the time of the Prohibited Conduct.
2. **Retaliation:** Retaliation against someone for reporting or participating in an investigation and related processes is prohibited.
3. **Privacy:** The University will protect the privacy of individuals involved in a report of Prohibited Conduct to the extent permitted by law and by University policy and procedures. However, it should be recognized that an investigation may involve interviews with a number of persons to inquire if they have relevant evidence, and extremely sensitive information may be gathered. While such information is considered confidential, University policy may also require the disclosure of certain information during or following an investigation.

## **F. Immediate Assistance**

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1. **Seek immediate support services.** See Resources.
2. **Request a Sexual Assault Forensic Exam** (with or without an Administrative Investigation or Police Report) by contacting Community Services Programs (CSP).  
A sexual assault Complainant has the option to have a Sexual Assault Forensic Exam (commonly referred to as a “rape kit” or “rape exam”) conducted. No police report is required. The exam is conducted at only one facility in Orange County: Anaheim Regional Medical Center. This option is available for up to 96 hours after the sexual assault occurred by contacting local police or CSP.  
The Sexual Assault Nurse Examiner interviews the Complainant, collects any physical evidence from the sexual assault, and stores evidence in a secure location using a case number without the Complainant’s name or contact information. Physical evidence will be held for a period of 18 months, and then it will be destroyed.  
This will not trigger an investigation; therefore, no action will be taken against the Respondent as the result of this report. If the Complainant changes their mind and wants to make an investigative report to law enforcement, the Complainant will sign a release allowing for the release evidence to the police. CSP staff is available to assist individuals with this process.
3. **Seek medical attention.** Health providers can examine and treat physical injuries and provide pregnancy tests and testing for sexually transmitted diseases. The Student Health Center provides



medical care for all registered students. Employees may obtain medical attention through their medical provider.

It is important to note that any health center or physician treating the Complainant of a violent crime is obligated by law to report the crime to the police. Student Health Center and UC Irvine Medical Center do not conduct Sexual Assault Forensic Exams. University will protect the privacy of individuals involved in a Report to the extent possible under law and University policy.

## **G. Reporting Options**

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The University encourages the timely reporting of all sex offenses. The University's first responsibility in responding to such reports is attending to the needs of the individuals involved (for example, the Complainant, the Respondent, and potential witnesses). The University is also committed to ensuring that both individuals alleging a violation of these Guidelines and accused of violating these Guidelines are treated fairly by the University. All reports of sex offenses are taken with the utmost seriousness; individuals will be provided a fair process and referred to appropriate services for assistance.

Persons who have been the subject of a sex offense may exercise any or all of the following options:

### **1. Report the Sex Offense to the UC Irvine Police Department.**

Although it is never too late to file a police report, it is highly recommended to report a sex offense as soon as possible in order to allow for the collection of evidence. When a report is made to the UCI Police Department, an investigating officer trained in sex offense cases will be dispatched to the scene and will explain the police procedures. If it is determined that a Sexual Assault Forensic Exam is advisable, the police will assist with transportation and contacting the Sexual Assault Nurse Examiner, who will conduct the exam. The officer will inform the Complainant that they have the right to have a support person present during the investigative interview. Detectives will assist with the investigation and proper evidence collection. CSP staff is available to accompany the individual.

At the conclusion of the police investigation, the case may be forwarded to the prosecutor's office for review. The prosecutor's office makes the final decision whether to criminally prosecute the Respondent. If the prosecutor does not move forward with the complaint, the Complainant may request that a representative from CSP accompany them to the prosecutor's office for a meeting to discuss the decision.

A Complainant may make a police report or participate as a witness in the court proceedings at their own discretion.

If a Complainant chooses to file a police report, the Victim/Witness Assistance Program, funded by the State of California, is available free of charge. Its services include counseling, court escort, advocacy and financial assistance.

If the sex offense occurred off-campus, the Complainant may file a report with the appropriate police department.

## 2. **Report the Sex Offense to the Office of Equal Opportunity and Diversity.**

The Complainant may request an administrative investigation from the UCI Office of Equal Opportunity and Diversity (OEOD <http://www.oeod.uci.edu>), whether or not a report has been filed with the police.

UCI encourages all persons who have experienced a sex offense to report the offense as soon as possible after its occurrence, in order for appropriate and timely action to be taken. All University Responsible Employees will refer reports of sex offenses to OEOD as soon as possible after receipt of the report or knowledge of the incident, unless rules regarding privacy or confidentiality prevent this disclosure.

OEOD will perform fact-finding and, when appropriate, complete a fact-finding report, including a finding of whether there is reasonable cause to believe that these Guidelines have been violated. The fact-finding report and finding will be submitted to a University official with the authority to implement the actions necessary to resolve the complaint, generally the Office of Student Conduct in the case of students and the appropriate supervisor in the case of employees. In addition, OEOD may propose interim remedies for both parties, such as adjustments to on-campus housing assignments or class schedules, or alternative work arrangements for employees.

## **H. Procedures for Reporting and Responding to Reports of Sex Offenses**

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This section provides an overview of the procedures UCI uses to respond to reports of Prohibited Conduct. While the Title IX Officer has general responsibility for oversight of the reporting process and investigation of a report, other offices will be involved and consulted as necessary.

### 1. **Reporting**

Any person may make a report, including anonymously, of Prohibited Conduct to the Title IX Officer, or to any Responsible Employee, or to another appropriate office such as the Academic Personnel Office, Student Affairs, Office of the Provost, or to the Human Resources Office. The report shall be sent forward to the Title IX Officer. If the person to whom a report normally would be made is the Respondent, reports may be made to another Responsible Employee.

#### **Timelines for Making Reports**

While there is no time limit for reporting, reports of Prohibited Conduct should be brought forward as soon as possible; all incidents should be reported even if significant time has elapsed but prompt reporting will better enable the University to respond, investigate, provide an appropriate remedy, and impose discipline if appropriate.

### 2. **Initial Assessment of a Report**

As soon as practicable after 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 an 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.

- a. **Immediate Health and Safety:** 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 orders), and provide to the Complainant a written explanation of rights and reporting options (including the right to make reports to the police), and available campus and community resources.

- b. **Jurisdiction over Reports of Prohibited Conduct**

The University has jurisdiction over alleged violations of these Guidelines that occur on University property (such as offices and residence halls) or in connection with University activities, programs, or events. In addition, the University may exercise jurisdiction over conduct that occurs off-campus (i) but affects the learning or working environment; or (ii) that would violate other University Policies had it occurred on campus, (see Section 101.00 of the Policy on Student Conduct and Discipline).

### 3. **Required Notifications**

- a. Individuals making reports shall be informed about:
  - confidentiality of reports, including when reports cannot be kept confidential.
  - the range of possible outcomes of the report, including Health and Safety measures, remedies, and disciplinary actions that may be taken against the Respondent, and information about the procedures leading to such outcomes.
- b. If the report results in a Formal Investigation after the conclusion of the investigation, the Complainant and Respondent will be simultaneously informed in writing of:
  - the outcome of the investigation and its rationale;
  - any available appeal rights and procedures; and
  - how to obtain a copy of the Investigation Report, which may be redacted as necessary to protect privacy rights. (See APM-160 and other University policies governing privacy.)
- c. If the matter results in a disciplinary proceeding, at the conclusion of that proceeding the Complainant and the Respondent will be simultaneously informed in writing of:
  - the outcome of the disciplinary proceeding, including the final determination with respect to the alleged offense, any sanction that is imposed, and the rationale for the results;
  - any available appeal rights and procedures; and
  - any subsequent change to the results and when results will become final.

The Complainant will be sent a notice documenting any individual remedies offered to the Complainant, and other steps taken to eliminate the effects of the violation. The Respondent will be informed of no contact orders affecting them, but should not be notified of other individual remedies offered or provided to the Complainant.

### 4. **Overview of Resolution Processes**

Reports of Prohibited Conduct may be addressed through Alternative Resolution, Formal Investigation or, a separate employee grievance or complaint process.

a. **Alternative Resolution**

After a preliminary assessment of the facts, and, if useful, in consultation with other offices depending on whether the Complainant and Respondent are faculty, other academic appointees, staff, student employees, or students, the Title IX Officer may initiate an Alternative Resolution process, which may include:

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

Alternative Resolution may be especially useful when: a report is made by a third party or anonymously; a Formal Investigation is not likely to lead to a resolution; both parties prefer an informal process; or a case involves less serious violations. The Complainant has the right to request a Formal Investigation at any time, but the Title IX Officer has final authority for determining whether to initiate a Formal Investigation. Both the Complainant and Respondent may be accompanied by an advisor throughout the process.

b. **Formal Investigation**

If Alternative Resolution is inappropriate or unsuccessful, the Title IX Officer may initiate a Formal Investigation (“investigation”) in coordination with other offices, depending on whether the Complainant and Respondent are faculty, other academic appointees, staff, or students. A Complainant’s request for an investigation will be considered but is not determinative.

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. If proceeding with an investigation without the participation of a Complainant, the Title IX Officer shall attempt to maintain the identity of the Complainant confidential from the Respondent or inform the Complainant that such confidentiality cannot be maintained. If determining not to proceed with an investigation, 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 as are consistent with maintaining confidentiality and the absence of an administrative finding.

When the Title IX Officer determines to conduct a Formal Investigation, the Complainant and Respondent will be provided with a written summary of the allegations, the procedures that will be followed, resources available to them, and a copy of these Guidelines.

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 written notice to the Complainant and Respondent of the reason for the extension and the projected new timeline. If the alleged conduct is also the subject of a criminal investigation, the Title IX Office will coordinate its investigation with the police but must nonetheless act promptly without delaying its investigation until the conclusion of the criminal investigation.

The investigation generally includes interviews with the Complainant, the Respondent, and witnesses, if available, and a review of documents as appropriate. Disclosure of facts to persons interviewed shall be limited to what is reasonably necessary to conduct a fair and thorough investigation. Participants in an investigation may be advised to maintain confidentiality when essential to protect the integrity of the investigation.

The Complainant or Respondent may have an advisor present when personally interviewed and at any related meeting. Other support persons may be allowed under other policies. Other witnesses may have an advisor present at the discretion of the investigator or as required by University policy or collective bargaining agreement.

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.

**c. Grievance/Complaint Procedures for Employees**

Instead of, or in addition to, reporting to the Title IX Officer or other Responsible Employee, a University employee who believes they have been subjected to Prohibited Conduct may file a grievance or complaint. That grievance or complaint must meet all of the requirements, including time limits for filing, under the applicable complaint resolution or grievance procedure listed in Appendix I: Applicable Complaint Resolution and Grievance Procedures. Any such grievance or complaint will be forwarded to the Title IX Officer for processing under these Guidelines, and the grievance or complaint procedure will be held in abeyance pending resolution under these Guidelines. After completion of the process under these Guidelines, the grievance or complaint may be reactivated but only as a means of appeal.

**5. The Investigation Report**

In the event that a Formal Investigation is conducted, the investigator will prepare a written report that includes a statement of the allegations and issues, the positions of the Complainant and Respondent, a summary of the evidence, an explanation why any proffered evidence was not investigated, and findings of fact and an analysis of whether a violation has occurred. When both parties are students, the report will include a recommendation to the Student Conduct Officer regarding whether there are any policy violations. (See UCI Student Adjudication Process for Sex Offense and Sexual Harassment.) For all other matters the report will include an analysis and determination by the investigator of whether these Guidelines have been violated. The investigator will apply the preponderance of evidence standard.

## 6. Remedy

- a. If the Report finds Prohibited Conduct in violation of these Guidelines, UCI shall take prompt and effective steps reasonably calculated to stop the violation, prevent its recurrence, and, as appropriate, remedy its effects. For a list of available remedies, see Appendix III.
- b. To the extent that the remedy has not already been provided, the Title IX Officer, in consultation with appropriate administrators, will oversee the implementation of this remedy.

## 7. Discipline

- a. The Title IX Officer shall forward the Investigation Report (with attachments and any necessary redactions) to the appropriate administrator responsible for discipline. The specific procedures for imposing discipline depend upon the nature of the Respondent's relationship to the University (student, faculty, other academic appointee, staff, or third party). If there is a question about the Respondent's relationship to the University, the Title IX Officer should indicate which role predominated when the Respondent engaged in the Prohibited Conduct. When a Respondent is both a student and an employee (such as a Teaching Assistant or Graduate Student Researcher), the Respondent may be subject to both the sanctions applicable to students and to employees.
- b. Any member of the University community who is found to have engaged in Prohibited Conduct may be subject to disciplinary action, up to and including dismissal in accordance with the applicable University disciplinary procedure (Appendix II: University Disciplinary Procedures) or other policy.

## I. Lack of Evidence

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Because reports of sex offenses may involve interactions between persons that are not witnessed by others, reports of sex offenses cannot always be substantiated by additional evidence other than the accounts by the persons involved. It is important that Complainants preserve any potential evidence for administrative or criminal investigations; however, lack of corroborating evidence or "proof" should not discourage individuals from reporting sex offenses.

## J. Intentionally False Reports

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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 the facts alleged in the report cannot be substantiated by an investigation.

## K. Free Speech and Academic Freedom

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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. These Guidelines are intended to protect members of the University community from discrimination, not to regulate protected speech, and 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 these Guidelines 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 (See APM-010 and 015.)

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. Resources**

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There are many options, resources, and information available both on-campus and in the Orange County community to provide response, medical services, counseling, and support services to sex offense Complainants. These on-campus and off-campus resources are for persons who have experienced a sex offense, persons who have been accused of a sex offense, witnesses, and support persons.

UC Irvine Police provides a timely response for staff, students, faculty, and members of the community experiencing a sex offense on campus. (For sex offenses off campus, local police should be contacted.) In addition, the police can arrange for medical evidentiary examinations in order to provide admissible evidence when the person reporting the sex offense desires prosecution through the criminal justice system. The UCI Police Department encourages the University community, including students, to immediately contact them by dialing 911 or (949) 824-5223 to report a sex offense. The preservation of evidence is essential to the successful prosecution of a sex offense. UCI Police Department personnel have been specially trained in the proper handling, identification, collection and preservation of such evidence. The UCI Police Department is available 24 hours a day, seven days a week. Address: 410 E. Peltason Dr. Irvine, CA 92697 Phone: (949) 824-5223 or 911.

Office of Equal Opportunity and Diversity (OEOD) is responsible for receiving and conducting the administrative investigation of all reports of sex offenses filed at UCI and is available to discuss options, provide assistance, explain University policies and procedures, and provide education on relevant issues including sexual harassment and sexual violence prevention. The OEOD investigation is not a criminal procedure. The OEOD is available during normal business hours. Address: 103 MSTB, Irvine, CA 92697 Phone: (949) 824-5594.

Student Health Center can provide on-campus medical attention to students experiencing a sex offense. It is important to note that any health center or physician treating the victim of a violent crime is obligated by law to report the crime to the police. The Student Health Center is available during normal business hours. Address: 501 Student Health Irvine, California 92697 Phone: (949) 824-5301.

Office of Student Conduct provides leadership for UCI's campus-wide non-academic student conduct process and manages the formal hearing process for sex offense cases. The Office of Student Conduct also provides assistance, information, and referrals for students involved in sex offense cases. The Office of Student Conduct is available during normal business hours. Address: G308 Student Center, Irvine, CA 92697 Phone: (949)-824-5590.

## **Confidential Resources**

Campus Assault Resource & Education (CARE) is a primary source for information, crisis intervention and follow-up support regarding sexual assault, dating violence and stalking for students on the UCI campus. CARE, in collaboration with an in-office CSP Victim Advocate, coordinates accompaniment services for student Complainants to the policy, evidentiary exams and the court system. In addition, individual and group counseling is also available to students who are Complainants of sex offenses. CARE is available during normal business hours. Address: G320 Student Center, Irvine, CA 92697 Phone: (949) 824-5594.

Counseling Center offers free and confidential short-term and crisis counseling by licensed mental health providers to all UCI students on an urgent basis, or by appointment. The Counseling Center also offers certain free and confidential psychiatric services. Referrals to off-campus psychotherapeutic and psychiatric providers are also available through the Counseling Center. The Counseling Center is available during normal business hours. Address: 203 Student Services 1, Irvine, CA, 92697 Phone: (949) 824-6457.

Employee Assistance Program (EAP) is a free confidential service provided by Guidance Resources that can help UCI employees with any personal concerns including relationship concerns and issues related to sex offenses. Guidance Resources is available 24 hours a day, seven days a week to assist employees face to face, over the phone, and on-line. This service is available at 844.824.3273 or on their website Guidance Resources Online at [www.guidanceresources.com](http://www.guidanceresources.com) and enter UCI's ID: UCIEAP3

Office of the Ombudsman provides a safe and comfortable environment to discuss complaints, concerns or problems confidentially. The ombudsman acts as an independent, impartial resource. The Office of the Ombudsman does not serve as an office of notice or record for the University. The office does not conduct formal investigations nor does it maintain or keep records. If the ombudsman deems it proper, the ombudsman will refer visitors to the office most appropriate for their concern or complaint. The Office of the Ombudsman serves all students, faculty, staff and administrators of the UCI community – both on the main campus and at the medical center. The Office of the Ombudsman is available during normal business hours. Address: 205 MSTB, Irvine, CA 92697 Phone: (949) 824-7256.

Community Service Programs, Inc. (CSP) provide certified sexual assault counselors 24 hours a day, seven days a week via a rape crisis hotline, to police departments and hospitals, and through two rape crisis centers. Comprehensive and confidential services are provided to victims of rape and other sexual assaults, sexually abused children, and their family members. CSP programs are also available to help provide victims of partner violence apply for a temporary restraining order, explore options for safe housing, assist in accessing counseling services for themselves and their children, and to provide support during criminal justice system proceedings. Address: 1221 East Dyer Rd. Suite 120, Santa Ana, CA 92705 Phone: (949) 250-0488, (949) 752-1971. [www.cspinc.org](http://www.cspinc.org)

Human Options provides assistance to victims of domestic and dating violence and their families. Human Options provides emergency shelter and long term assistance for battered women and children who are in a dangerous situation due to an abusive relationship. Human Options provides emergency shelter and transitional living programs, including: safe housing, counseling, legal advocacy, case management and job readiness training for abused women and their children. Human Options provides long-term support to help rebuild lives through the Children and Families Counseling Center. They



additionally provide a domestic violence hotline at 1-877-854-3594. For more information go to <http://humanoptions.org/contact/>.

## **M. Noncompliance with Guidelines**

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Engaging in Prohibited Conduct, defined in these Guidelines, is governed by these Guidelines and the Policy on Student Conduct and Discipline; Personnel Policies for Staff Members 62, 63, 64, 65, & 67 pertaining to discipline and separation matters; 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); and as applicable, collective bargaining agreements, and other policies. See Appendices I & II. Non-compliance with these Guidelines, other than violations of Prohibited Conduct, may result in educational efforts or employment or educational consequences up to and including informal counseling, adverse performance evaluations, corrective actions, and termination.

## **Appendix I: Applicable Complaint Resolution and Grievance Procedures**

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### **Academic Personnel:**

Members of the Academic Senate	<u>UC Senate Bylaw 335</u>
Non-Senate Academic Appointees	<u>APM - 140</u>
Exclusively Represented Academic Appointees	Applicable collective bargaining agreement

### **Students:**

UCI Code of Student Conduct

### **Staff Personnel**

Senior Managers	<u>PPSM II-70</u>
Managers and Senior Professionals, Salary Grades VIII and IX	<u>PPSM 71</u>
Managers and Senior Professionals, Salary Grades I – VII	<u>UCI PPSM 70</u>
Professional and Support Staff	<u>UCI PPSM 70</u>
Exclusively Represented Staff Personnel	Applicable collective bargaining agreement

### **All members of the University community:**

The University of California Policy on Reporting and Investigating Allegations of Suspected Improper Governmental Activities (Whistleblower Policy) governs the reporting and investigation of violations of State or federal laws or regulations, including sexual harassment.

### **All University employees and applicants for employment:**

The University's Whistleblower Protection Policy provides a complaint resolution process for employees and applicants for employment who have been subjected to retaliation as a result of having made a protected disclosure under the Whistleblower Policy or refused to obey an illegal order. See UCI Sec. 700-06: Guidelines for Reporting Improper Activities and Guidelines for Filing Complaints of Retaliation for Reporting Improper Activities.

### **External Resources and Time Limits for Filing Complaints**

The federal Equal Employment Opportunity Commission (EEOC) and the California Department of Fair Employment and Housing (DFEH) investigate reports of unlawful discrimination, harassment and sex offense in employment. The U.S. Department of Education Office for Civil Rights (OCR) investigates reports of unlawful discrimination, harassment and sex offense by students in educational programs or activities. These agencies may serve as fact finders and attempt to facilitate the voluntary resolution of disputes. For more information, contact the nearest office of the EEOC, DFEH or OCR. Contact information for these agencies can also be found on the OEOD website.

Department of Fair Employment and Housing (DFEH)  
Los Angeles District Office  
611 West Sixth Street, Suite 1500  
Los Angeles, CA 90017  
Employment Discrimination: 800-884-1684  
Housing Discrimination: 800-233-3212  
[www.dfeh.ca.gov](http://www.dfeh.ca.gov)  
365 days from last incident

Equal Employment Opportunity Commission (EEOC)  
255 E. Temple Street, 4th Floor  
Los Angeles, CA 90012  
800-669-4000 213-894-1121  
[www.eeoc.gov](http://www.eeoc.gov)  
300 days (10 months) from last incident

U.S. Department of Education  
Office for Civil Rights, San Francisco Office  
Old Federal Building, 09-801050  
50 United Nations Plaza, Room 239  
San Francisco, CA 94102-4102  
415-556-4275

## Appendix II: University Disciplinary Procedures

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The following are the University's disciplinary procedures:

1. **Students:**

- A. UCI Student Adjudication Process for Sex Offense and Sexual Harassment sets forth UCI's procedures for resolving complaints of sexual violence where the parties are both students, including the discipline of students found in violation of these Guidelines. See also, the Policy on Student Conduct and Discipline.

2. **Employees:** UCI Sexual Harassment and Sex Offense Investigation and Adjudication Framework for Staff, Non-Faculty Academic Personnel, Senate Faculty and Non-Senate Faculty

- A. The Faculty Code of Conduct (APM - 015) (as approved by the Assembly of the Academic Senate and by The Regents) establishes the ethical and professional standards which University faculty are expected to observe.

Because the forms of unacceptable behavior listed in The Faculty Code of Conduct also apply to sex offenses, a violation of the University's Policy on Sexual Violence and Sexual Harassment may constitute a violation of the Faculty Code of Conduct. The University Policy on Faculty Conduct and the Administration of Discipline (APM- 16), 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) allow for corrective action or dismissal for conduct which violates University policy.
- C. Provisions of the Personnel Policies for Staff Members (applicable to non-exclusively represented staff employees) and collective bargaining agreements (applicable to exclusively represented staff employees) prohibit conduct that violates these Guidelines and provide for disciplinary action for violation of University policy.

- PPSM-62: Corrective Action
- PPSM-63: Investigatory Leave
- PPSM-64: Termination of Career Employees – Professional and Support Staff
- PPSM-65: Termination of Career Employees – Managers & Senior Professionals, Salary Grades I through VII
- PPSM-67: Termination of Career Employees – Managers & Senior Professionals, Salary Grades VIII and IX
- PPSM II-64: Termination of Appointment

## Appendix III: Interim Measures and Remedies

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Remedies include:

1. Campus Services Generally: academic support including tutoring, counseling, disability services, health and mental health services, family planning services, survivor advocacy, housing assistance, legal assistance, information about the right to report a crime to campus or local law enforcement, and written materials prepared by the OEOD pursuant to these Guidelines.
2. Campus Services Modified For Students:
  - If a campus service is not generally available or a fee is imposed, access may be arranged or fees waived when appropriate.
  - Comprehensive, holistic survivor services including additional medical, counseling and academic support services.
  - Any other accommodations or interim measures that are reasonably available once a Complainant has requested them.
3. Additional Educational Remedies for Students
  - Change advisors, class sections and similar schedule adjustments.
  - Arrange extra time to complete academic requirements of a class or program, to re-take a class or withdraw from a class and to do without an academic or financial penalty if the University delayed such accommodations after it reasonably should have known of the violation.
  - Review any disciplinary actions taken against the Complainant subsequent to the alleged violation to determine whether there is a causal connection between the violation and the Complainant's misconduct.
4. Remedies Available to Employees, Including Student Employees:
  - Change to a different workstation, schedule, work location, unit, department, or position for which the employee is qualified provided that, in the case of a Complainant the change is voluntary and equitable.
5. Training and Education of the Respondent:

The Respondent may be required to undergo training, including sexual harassment prevention training, anger management training, and periodic refresher classes.
6. No Contact Remedies
  - Complainant and Respondent Options:
    - a. The OEOD will ensure the Complainant and Respondent have been notified of options to avoid contact and assist the Complainant and Respondent to change academic and extracurricular activities or living, transportation, dining, and working situations as appropriate;

- b. Assist the Complainant and Respondent to apply for no contact orders; and
  - c. When appropriate, arrange for effective escort services to ensure that the Complainant and Respondent can move safely between classes and activities.
- Respondent's Restrictions (some of which may be recommended by the OEOD, all of which may be implemented by agreement, and the more serious of which may be imposed only pursuant to Discipline):
  - a. Allow the Complainant to take the regular sections of courses while arranging for the Respondent to take the same courses online or through independent study;
  - b. Moving the Respondent to a different residence hall;
  - c. Forbidding the Respondent to participate in specific athletic or extracurricular events or social clubs (including fraternities or sororities);
  - d. Requiring that the Respondent observe no contact orders from the Complainant for a period of time (up to the Complainant's graduation or other departure from the campus) via scheduling or class changes;
  - e. Prohibiting the Respondent from attending classes for a period of time, or transferring the Respondent to another campus; and
  - f. If a Respondent presents an ongoing safety risk, excluding the Respondent from campus.

7. Other Remedies devised by the OEOD or other Administrator.