



*Robert Horwitz
Telephone: (510) 987-0887
Email: robert.horwitz@ucop.edu*

*Chair of the Assembly of the Academic Senate
Faculty Representative to the Regents
University of California
1111 Franklin Street, 12th Floor
Oakland, California 94607-5200*

November 23, 2021

**SUSAN CARLSON, VICE PROVOST
ACADEMIC PERSONNEL**

Re: Revised Presidential Policy on Sexual Violence and Sexual Harassment

Dear Susan:

As requested, I distributed for systemwide Senate review the revised Presidential Policy on Sexual Violence and Sexual Harassment (SVSH). All ten Academic Senate divisions and one systemwide committee (UCFW) submitted comments. These comments were discussed at Academic Council's November 22 meeting and are attached for your reference.

We understand that the policy revisions are intended to better account for prohibited conduct in the context of patient care in the clinical setting, and to comply with the provisions of a new state law, Senate Bill 493, which adds new protections, including the explicit addition of sexual exploitation as a form of prohibited conduct and new limitations on no-contact orders.

In general, the Senate supports the policy revisions. Faculty reviewers note that they address the University's concerns about the potentially adverse effects of the 2020 amendments to federal Title IX regulations, provide important new protections for potentially vulnerable populations in clinical settings, and increase accountability for those who engage in prohibited conduct.

In the attached letters, Senate reviewers also suggest clarifications as well as more substantive improvements that we encourage policy authors to consider as they refine and finalize the document. I will not list all of the editing suggestions here, but many relate to language newly used in specific areas of the policy to define and describe different forms of prohibited conduct and exploitation, as well as to other terms.

The first of the more substantive concerns relates to a provision giving Title IX offices the right to file a formal complaint on behalf of a victim who may not wish to do so. Some reviewers consider this to be an overreach that denies agency to the victim and may deter some from seeking help. They encourage a trauma-informed approach that offers victims the opportunity to engage fully in decision-making. A related concern is the gradual transfer of disciplinary mechanisms away from the Senate to the administration in the form of an increased consultative role of Title IX officers in determining personnel decisions and faculty discipline. Several reviewers note that this trend weakens shared governance.

Another concern is that the revised “no-contact” clause in the policy removes an existing restriction on a complainant’s ability to contact a respondent, while maintaining the prohibition on respondents contacting a complainant. Some reviewers believe the policy should continue to extend mutual no-contact orders as a matter of course. At the very least, Title IX offices should be cautious about applying the new no-contact policy and make determinations based on the safety and well-being of all parties.

Council agrees that the policy should clarify how it will apply to UC faculty and staff working in satellite facilities and UC-affiliated facilities. This is particularly important given the increasing attention and scrutiny on UC’s affiliations with external providers, non-UC hospitals in particular. Finally, the policy should clarify the roles and reporting responsibilities of UC-employed clergy members who are newly designated as Confidential Resources in the policy, including cases where a clergy might also have an appointment as a faculty member.

We appreciate the opportunity to comment. Please do not hesitate to contact me if you have additional questions.

Sincerely,

A handwritten signature in dark ink, appearing to read "Robert Horwitz", is positioned above the printed name.

Robert Horwitz, Chair
Academic Council

Cc: Title IX Coordinator Taylor
Academic Council
Campus Senate Directors
Executive Director Baxter

Encl.



320 STEPHENS HALL
UNIVERSITY OF CALIFORNIA

November 15, 2021

ROBERT HORWITZ
Chair, Academic Council

Subject: Systemwide Review of Proposed Revisions to Presidential Policy on Sexual Violence and Sexual Harassment

Dear Chair Horwitz:

On October 25, 2021, the Council of the Berkeley Division (DIVCO) discussed the proposed revisions to the *Presidential Policy on Sexual Violence and Sexual Harassment*, informed by written comments from the Committees on Faculty Welfare (FWEL); Privilege and Tenure (P&T); and Rules and Elections (R&E). DIVCO endorses the proposed revisions and the enclosed committee comments.

DIVCO shared the committees' concerns about the wording and clarity of the revisions, as there are several sections that we felt needed additional context. In the P&T letter, there are suggestions to amend Section B and Appendix V to provide clearer definitions and descriptions. The R&E letter also suggests some revised language and asks for more clarity about certain terms, such as the specific job classification of "post-MD resident" in section V.A. Please see the enclosed committee letters for more specificity.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ronald Cohen'.

Ronald C. Cohen
Professor of Chemistry
Professor of Earth and Planetary Science
Chair, Berkeley Division of the Academic Senate

Enclosures

cc: Mary Ann Smart, Vice Chair, Berkeley Division of the Academic Senate
Thomas Leonard, Co-Chair Committee on Faculty Welfare
Laura Nelson, Co-Chair, Committee on Faculty Welfare
Samuel Otter, Chair, Committee on Privilege and Tenure
J. Keith Gilles, Chair, Committee on Rules and Elections
Jocelyn Surla Banaria, Executive Director, Berkeley Division of the Academic Senate
Sumei Quiggle, Associate Director staffing Committee on Rules and Elections
Patrick Allen, Senate Analyst, Committee on Faculty Welfare and Privilege & Tenure



320 STEPHENS HALL
UNIVERSITY OF CALIFORNIA

October 13, 2021

CHAIR RONALD COHEN
Academic Senate

*Re: FWEL Comments - Revised Presidential Policy on Sexual Violence and
Sexual Harassment*

Dear Chair Cohen,

The Committee on Faculty Welfare reviewed the proposed revisions to the Presidential Policy on Sexual Violence and Sexual Harassment ("SVSH Policy"). The Committee discussed revisions to the new Senate Bill (SB) 493, and language addressing Prohibited Conduct in the clinical setting. FWEL has no objections to either SB 493 or to the changes being made to include provisions for conduct in clinical settings.

The Committee wants to use this opportunity to raise some more general issues with the SVSH policy and Title IX legislation. Our concern is that the SVSH policy may be used to serve the University's interests in avoiding negative publicity and may not sufficiently protect the interests of either the complainant or the accused. Many cases involve criminal issues, yet the parties are not accorded criminal due process rights. This is but one of many on-going concerns with University-based hearings involving at times quite serious charges. This of course is part of a larger, national discussion of how to respond to, and ideally eliminate or at least reduce, SVSH in educational settings. Experience has shown that even the best programs administering such policies are often problematic, and that many such programs are not well administered.

We raise this issue on this occasion in hopes that it might elevate attention to the on-going problem.

We appreciate the opportunity to weigh in on these matters.

Sincerely,

A handwritten signature in black ink, appearing to read 'Thomas C. Leonard'.

Thomas Leonard, Co-Chair
Committee on Faculty Welfare

A handwritten signature in black ink, appearing to read 'Laura Nelson'.

Laura Nelson, Co-Chair
Committee on Faculty Welfare

TL/LN/pgs



320 STEPHENS HALL
UNIVERSITY OF CALIFORNIA

October 13, 2021

CHAIR RONALD COHEN
Academic Senate

*Re: P&T Comments - Revised Presidential Policy on Sexual Violence and
Sexual Harassment*

Dear Chair Cohen,

On October 8, 2021, the Committee on Privilege and Tenure reviewed and discussed the proposed revisions to the Presidential Policy on Sexual Violence and Sexual Harassment ("SVSH Policy"), drafted in response to new California Senate Bill 493. Overall, the Committee supports the proposed revisions, including the new language addressing Prohibited Conduct in the clinical setting.

P&T Committee members wish to raise some questions about the scope of specific language in the proposed revisions:

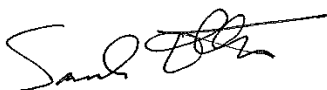
- Section B.1.a: Prohibited Conduct. Sexual Assault - Penetration (p. 3). "Without the consent of the Complainant, penetration, no matter how slight, of the Complainant's mouth by a penis or other genitalia." This description does not take into account that an object may be used as a form of penetration in a complainant's mouth during a sexual assault. A revision along the following lines may be appropriate: "the Complainant's mouth by a penis, other genitalia, or object."
- Section B.1.a: Prohibited Conduct. Sexual Assault – Contact (p. 3). The policy defines contact as, "touching Complainant's intimate body part (genitals, anus, groin, breast, or buttocks)." For some who are disabled (e.g., paralyzed or wheelchair users), a greater part of their bodies aside from intimate body parts may be vulnerable and contact with these parts may be conceived of as intimate. The parenthetical specification of an "intimate body part" may be too narrow and does not encompass everyone's experience with what constitutes a sexualized or intimate body part.
- Section B.1.a: Prohibited Conduct. Sexual Assault – Contact (p. 4). "deliberately causing the Complainant to be incapacitated (for example, through drugs or alcohol)." In the description of the Complainant's incapacitation, the proposed

revisions do not appear to factor in a situation where a third party might provide drugs or alcohol to the Complainant without their knowing.

- Section B.1.e.c: Sexual Exploitation (p. 5). “Threatening to post or share photographs, video, or audio recordings depicting the Complainant’s nudity or sexual acts unless the Complainant takes a particular action.” Committee members wonder if the phrase should be extended: “unless the Complainant takes a particular action or refrains from taking a particular action.” That is, in considering this scenario of sexual exploitation, the threat might involve a demand *not* to take an action (e.g., not to report someone for sexual harassment or violence). In a related matter, shouldn’t the specification in B.1.e.c include a prohibition against “watching or enabling others to watch the Complainant’s nudity or sexual acts,” as is currently specified in Appendix V.B.1.c, the analogous section on “Prohibited Conduct in the Context of Patient Care” (p.44)?
- Section B.3.c: Other Prohibited Behavior (p. 7). “Exposing one’s genitals in a public place for the purpose of sexual gratification.” There seems something anomalous here in emphasizing the intentions for such exposure. In all the other examples in B.3, the prohibited conduct involves the effects on a Complainant.
- Appendix V: Does the category “health care provider or health care worker” include such University employees as mental health providers, physical therapists, and assistant coaches, or would these personnel come under a different category in the University’s SVSH policies?

We appreciate the opportunity to weigh in on these matters.

Sincerely,

A handwritten signature in black ink, appearing to read "Samuel Otter", with a stylized flourish at the end.

Samuel Otter, Chair
Committee on Privilege and Tenure

SO/pgs



320 STEPHENS HALL
UNIVERSITY OF CALIFORNIA

October 19, 2021

RONALD C. COHEN
Chair, Berkeley Division

Re: Proposed revision to Presidential Policy on
Sexual Violence and Sexual Harassment

Dear Chair Cohen,

At its meeting on October 7, the Committee on Rules and Elections reviewed proposed revisions to the Presidential Policy on Sexual Violence and Sexual Harassment. We provide suggestions to improve clarity, as follows:

- The new section on Sexual Exploitation (p. 5) as a form of Prohibited Conduct does not define “sexual advantage,” and it is not clear whether the list of five behaviors is intended to be exhaustive or illustrative. It may be more appropriate to begin with a phrase such as “including but not limited to” the following, rather than the word “Specifically.”
- In section ii(b) (p. 6), “commercial” is not defined, nor does it state whether it matters who must benefit from receiving something of value.
- The definition of “force” in ii(c) (p. 6) as “physical conduct that would reasonably overcome the will of another” is a very high standard.
- In section V.A. (p. 14), the third bullet adds “including a post-MD resident.” The rationale for including this specific job classification is unclear without more context—perhaps the intent is to cover their work as UC employees working at non-UC facilities. Does the source of their compensation mean that they would not be covered by the more generic references to UC personnel in clinical settings?
- The section on timeframe for a formal investigation or DOE grievance process (Section 5.b(i)) adds that the Title IX Officer will update parties “periodically” on the status of the investigation (p. 19). We are concerned that without setting a specific standard for notification, this vague requirement will be unenforceable.

Sincerely,

A handwritten signature in blue ink, appearing to read "J. Keith Gilles", with a stylized, cursive script.

J. Keith Gilles

Chair, Committee on Rules and Elections

JKG/scq



DAVIS DIVISION OF THE ACADEMIC SENATE
ONE SHIELDS AVENUE
DAVIS, CALIFORNIA 95616-8502
(530) 752-2220
academicsenate.ucdavis.edu

November 15, 2021

Robert Horwitz
Chair, Academic Council

RE: Proposed Revisions to Presidential Policy on Sexual Violence and Sexual Harassment

Dear Robert,

The proposed revisions to the Presidential Policy on Sexual Violence and Sexual Harassment were forwarded to all standing committees of the Davis Division of the Academic Senate. Two committees responded: Faculty Welfare (FW) and Privilege and Tenure Investigative (P&T).

Committees support the proposed revisions. P&T noted one textual error in the policy: "On Section III. POLICY TEXT, subsection F. Free Speech and Academic Freedom (paragraph 1; Page 12 of 45), the document states 'free speech protections guaranteed by the First Amendment of the United States Constitution and Article I, Section I of the California Constitution.' However, California's free speech provision is actually [Article I, Section 2](#)."

The Davis Division appreciates the opportunity to comment.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Tucker", is written over a light blue circular stamp.

Richard P. Tucker, Ph.D.
Chair, Davis Division of the Academic Senate
University of California, Davis

Enclosed: Davis Division Committee Responses

c: Hilary Baxter, Executive Director, Systemwide Academic Senate
Michael LaBriola, Assistant Director, Systemwide Academic Senate
Edwin M. Arevalo, Executive Director, Davis Division of the Academic Senate

October 19, 2021

Richard Tucker

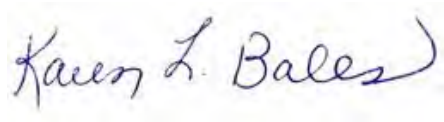
Chair, Davis Division of the Academic Senate

RE: Request for Consultation – Revised Presidential Policy on Sexual Violence and Sexual Harassment

Dear Richard:

The Committee on Faculty Welfare has reviewed the RFC – Revised Presidential Policy on Sexual Violence and Sexual Harassment and did not have any comments regarding the proposed revisions.

Sincerely,

A handwritten signature in blue ink that reads "Karen L. Bales". The signature is written in a cursive style with a large, sweeping "K" and a long, horizontal stroke at the end.

Karen L. Bales

Chair, Committee on Faculty Welfare

c: Edwin M. Arevalo, Executive Director, Davis Division of the Academic Senate

November 05, 2021

Richard Tucker

Chair, Davis Division of Academic Senate

RE: RFC: Revised Presidential Policy on Sexual Violence and Sexual Harassment

Dear Richard:

The Committee on Privilege & Tenure -- Investigative Subcommittee reviewed the Request for Consultation (RFC) of the Revised Presidential Policy on Sexual Violence and Sexual Harassment. The committee was in overall agreement with the proposed revisions.

However, the committee did note that on Section III. POLICY TEXT, subsection F. Free Speech and Academic Freedom (paragraph 1; Page 12 of 45), the document states "free speech protections guaranteed by the First Amendment of the United States Constitution and Article I, Section I of the California Constitution." However, California's free speech provision is actually Article I, Section 2. See https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=CONS&division=&title=&part=&chapter=&article=I

Thank you.



Catherine VandeVoort

Chair, Committee on Privilege and Tenure – Investigative Subcommittee

November 8, 2021

Robert Horwitz, Chair
Academic Council

Re: Systemwide Review of Revised Presidential Policy on Sexual Violence and Sexual Harassment

Dear Chair Horwitz,

The Irvine Division discussed the revised presidential policy on sexual violence and sexual harassment (SVSH) at its November 2, 2021 Cabinet meeting. The Committee on Privilege and Tenure (CPT); the Council on Teaching, Learning, and Student Experience (CTLSE); and the Council on Faculty Welfare, Diversity, and Academic Freedom (CFW) also reviewed the policy. Feedback from those committees is attached for your review.

Members of CPT had no issues with the proposed revisions. However, both CTLSE and CFW raised a number of concerns, many of which were shared by members of the Cabinet, and noted some unclear or confusing language in the policy, for example, around the use of the word "fraud." Members were primarily concerned that the policy does not take a trauma-informed approach and may cause more harm to victims of SVSH. They felt that giving Title IX offices the right to file a formal complaint when the victim does not wish to do so was an overreach that may prevent some victims from seeking help or information. Members also thought the addition of language noting, "all participants are expected to behave respectfully" during the resolution proceedings was unnecessary and offensive to victims. One member noted that this language is not included in SB-493 and recommended that the university ensure the policy is consistent with the bill and other areas of state law, particularly with regard to language around discipline and investigations.

The Irvine Division appreciates the opportunity to comment.

Sincerely,



Joanna Ho, Chair
Academic Senate, Irvine Division

Encl: CPT, CTLSE, CFW memos

Cc: Georg Striedter, Chair Elect-Secretary
Gina Anzivino, Interim Executive Director



October 19, 2021

**JOANNA HO, CHAIR
ACADEMIC SENATE – IRVINE DIVISION**

**Re: Systemwide Review of Proposed Revisions to the Presidential Policy on
Sexual Violence and Sexual Harassment**

Systemwide Academic Senate Chair Horwitz has forwarded for review proposed revisions to the Presidential Policy on Sexual Violence and Sexual Harassment. The proposed revisions are to: (i) comply with a new state law, Senate Bill (SB) 493, and (ii) better account for Prohibited Conduct in the clinical setting.

The Council on Faculty Welfare, Diversity, and Academic Freedom (CFW) discussed this issue at its meeting on October 12, 2021, and would like to submit the following comments:

1. Page 19 section 5.b.i: "timeframe" has been updated to state "The Title IX Officer will update parties periodically on the status of the investigation and notify them in writing of the reason for any extension and the projected new timeline." The phrase "periodically" is too vague. What is the minimum frequency for the parties to receive updates? Lack of communication is surely a huge source of distress.
2. Providing OEOD with the right to file a formal complaint when the aggrieved individual does not desire this is over reach and infantilizes the victim. All individuals should have a right to decide, once they are informed of the OEOD process, whether they wish to move forward. That may prevent some from seeking help and information.
3. The limitations on UC's use of no-contact orders that restrict a Complainant's contact with a Respondent is an important change to align with state temporary restraining orders which typically are not imposed on both parties. To impose on both parties might be viewed as punitive.
4. The new policies for clinical settings are important and provides needed protection for potentially vulnerable sub-populations.

Sincerely,



Terry Dalton, Chair
Council on Faculty Welfare, Diversity, and Academic Freedom



C: Gina Anzivino, Associate Director
Academic Senate

Matthew Hurley, Cabinet Analyst
Academic Senate

October 13, 2021

**JOANNA HO, CHAIR
ACADEMIC SENATE, IRVINE DIVISION**

**RE: Systemwide Review of Proposed Revisions to the Presidential Policy on Sexual
Violence and Sexual Harassment (SVSH)**

At its meeting on October 11, 2021, the Committee on Privilege and Tenure (CPT) discussed the proposed revisions to the Presidential Policy on Sexual Violence and Sexual Harassment (SVSH). The proposed revisions are to: (i) comply with a new state law, Senate Bill (SB) 493; and (ii) better account for Prohibited Conduct in the clinical setting.

The Committee had no concerns with the proposed revisions.

The Committee on Privilege and Tenure appreciates the opportunity to comment.

Sincerely,



Irene Tucker, Chair
Committee on Privilege and Tenure

C: Gina Anzivino, Associate Director
Julie Kennedy, CPT Analyst
Matthew Hurley, Cabinet Analyst



October 18, 2021

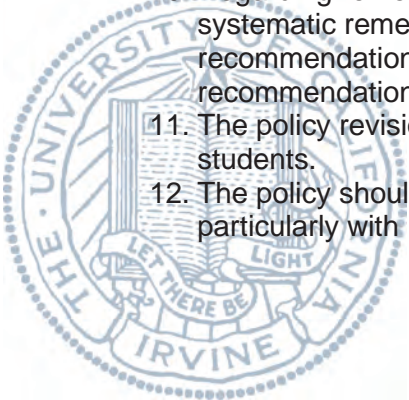
**JOANNA HO, CHAIR
ACADEMIC SENATE – IRVINE DIVISION**

**Re: Systemwide Review of Proposed Revisions to the Presidential Policy on
Sexual Violence and Sexual Harassment**

Systemwide Academic Senate Chair Horwitz has forwarded for review proposed revisions to the Presidential Policy on Sexual Violence and Sexual Harassment. The proposed revisions are to: (i) comply with a new state law, Senate Bill (SB) 493, and (ii) better account for Prohibited Conduct in the clinical setting.

The Council on Teaching, Learning, and Student Experience (CTLSE) discussed this issue at its meeting on October 4, 2021, and would like to submit the following comments:

1. The policy needs to be more patient- and survivor-centered, with a focus on trauma informed approaches.
2. The language should be more inclusive and gender neutral.
3. The use of the word “fraud” is confusing, and “coercion” may be a better term.
4. In section II.1.e.ii.a, what constitutes, “non-physical harm?” The policy should outline the specifics of this terminology.
5. Regarding “members of the clergy,” does the UC have clergy who are employees hired as clergy in hospitals? Is the definition of clergy one defined by UC or the State of CA? Should this term be replaced with spiritual care?
6. The designation of “responsible employees” can be a problem regarding medical licensure and patient confidentiality; that is, an individual who “is acting in a professional capacity for which confidentiality is mandated by law” such as a nurse or physician who may also be a faculty member. (See CA EDC Title 3, Div 45, Part 40, Chp 4.5, Art. 4)
7. Is a non-UC employee with hospital privileges considered a “responsible employee?” Another example would be graduate students as instructors of record? This needs further clarity.
8. What happens if a “Confidential Resource” does not “inform a person who discloses experiencing possible Prohibited Conduct of the discloser’s right to report directly to the Title IX Officer and how to do so?”
9. What happens if a Title IX Officer fails to “inform parties of the University’s rules of conduct during the [resolution] process?”
10. Regarding remedies, how and why will Title IX Officers “consider whether any systematic remedies are also appropriate?” To whom do they make that recommendation and what are the mechanisms and procedures for how such recommendations will be considered for implementation?
11. The policy revisions should be more widely distributed to undergraduate and graduate students.
12. The policy should clarify what if any remedies may be possible for affected students, particularly with regard to supportive services.



Sincerely,

A handwritten signature in black ink, appearing to read 'Ian Straughn', with a large, stylized initial 'I'.

Ian Straughn, Chair
Council on Teaching, Learning, and Student Experience

C: Gina Anzivino, Associate Director
Academic Senate

C: Matthew Hurley, Cabinet Analyst
Academic Senate

November 15, 2021

Robert Horowitz
Chair, UC Academic Senate

Re: Revised Presidential Policy on Sexual Violence and Sexual Harassment

Dear Chair Horowitz,

The Divisional Executive Board, councils, and committees appreciate the opportunity to review the Revised Presidential Policy on Sexual Violence and Sexual Harassment. The Executive Board reviewed the proposal and divisional council and committee feedback via email.

Most members had no issue with the proposed revisions. A few raised the general concern that the policy is part of the continuing transfer and concentration of a disciplinary apparatus to administrative units of the university. This transfer effectively resets the balance of responsibility in a system of shared governance, particularly by limiting the Senate's involvement in personnel decisions and the determination of policies and enforcement under the faculty code of conduct.

Others noted that using Title IX frameworks for addressing SVSH has concentrated resources and attention on Title IX in ways that deemphasize preventative and restorative approaches. While this is not a concern relevant to the proposed revisions, it is one that calls on the university to better support the voices and communities that are doing that work on our campuses.

Sincerely,



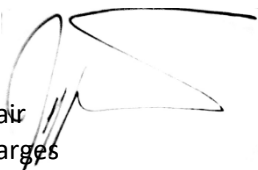
Jody Kreiman
Chair
UCLA Academic Senate

Cc: Jessica Cattelino, Vice Chair/Chair Elect, UCLA Academic Senate
Shane White, Immediate Past Chair, UCLA Academic Senate
April de Stefano, Executive Director, UCLA Academic Senate

October 29, 2021

To: Jody Kreiman, Chair
Academic Senate

From: Jeff Bronstein, Chair
Committee on Charges



Re: (Systemwide Senate Review) Revised Presidential Policy on Sexual Violence and Sexual Harassment

Dear Chair Kreiman,

The Committee on Charges appreciates the opportunity to review the proposed revisions to the Presidential Policy on Sexual Violence and Sexual Harassment. The issue was submitted to members for comments. Committee members had no issues with the proposed revisions, especially as they seem to align with state requirements.

cc: Jessica Cattelino, Vice Chair/Chair-Elect, Academic Senate
April de Stefano, Executive Director, Academic Senate
Shane White, Immediate Past Chair, Academic Senate
Members of the Committee on Charges
Marian M. Olivas, Principal Policy Analyst, Judicial Committees

October 29, 2021

To: Jody Kreiman, Chair
Academic Senate

From: Sandra Graham, Chair 
Committee on Privilege and Tenure

Re: (Systemwide Senate Review) Revised Presidential Policy on Sexual Violence and Sexual Harassment

Dear Chair Kreiman,

At its meeting on October 28, 2021, the Committee on Privilege and Tenure (P&T) had an opportunity to discuss the proposed revisions to the Presidential Policy on Sexual Violence and Sexual Harassment. Committee members agreed that the revisions align with the new California Education Code requirements (as set by California Senate Bill 493) and the recommendations of the President's Working Group on SVSH in the Clinical Setting. The Committee noted one small addition to the requirement described in the cover letter as adding "a statement that resolution processes under the SVSH Policy are not adversarial."¹ Though not part of the required language, the proposed revision adds the phrase "in which all participants are expected to behave respectfully." Though likely hard to define "respectfully," the Committee did not find this addition problematic.

Thank you for the opportunity to review the proposed revisions.

cc: Jessica Cattelino, Vice Chair/Chair-Elect, Academic Senate
April de Stefano, Executive Director, Academic Senate
Shane White, Immediate Past Chair, Academic Senate
Members of the Committee on Privilege and Tenure
Marian M. Olivas, Principal Policy Analyst, Judicial Committees

¹ This section reads in full as follows: (i) They shall state that the investigation and adjudication of alleged misconduct under this section is not an adversarial process between the complainant, the respondent, and the witnesses, but rather a process for postsecondary institutions to comply with their obligations under existing law. The complainant does not have the burden to prove, nor does the respondent have the burden to disprove, the underlying allegation or allegations of misconduct. [See: [Senate Bill No. 493](#)]

October 29, 2021

To: Jody Kreiman
Chair, Executive Board

Re: **Systemwide Review: Revised Presidential Policy on Sexual Violence and Sexual Harassment**

Dear Chair Kreiman,

Members of Committee on Academic Freedom (CAF) independently reviewed the Systemwide Review: Revised Presidential Policy on Sexual Violence and Sexual Harassment proposal and commented as follows:

- In the section on Retaliation (page 7), it may be helpful to clarify that filing a formal complaint is not retaliation.
- Consider adding text on page 20 to indicate that the Chair of the Committee on Academic Freedom shall be informed when a Title IX case involves academic freedom issues.
- Further clarify the circumstances in which the Title IX office would collaborate or coordinate with the police.

Sincerely,

Susanne Lohmann
Chair, Committee on Academic Freedom

Cc: Jessica Cattelino, Vice Chair/Chair Elect, UCLA Academic Senate
April de Stefano, Executive Director, UCLA Academic Senate
Shane White, Immediate Past Chair, UCLA Academic Senate

3125 Murphy Hall
410 Charles E. Young Drive East
Los Angeles, California 90095

October 27, 2021

To: Jody Kreiman, Chair, Academic Senate

From: Kathleen Bawn, Chair, Undergraduate Council

Re: Systemwide Senate Review: Revised Presidential Policy on Sexual Violence and Sexual Harassment

At its meeting on October 15, 2021, the Undergraduate Council had an opportunity to review the Revised Presidential Policy on Sexual Violence and Sexual Harassment. Members saw nothing of concern in the proposed revisions and offered no additional comments.

Thank you for the opportunity to opine. If you have any questions, please contact me via the Undergraduate Council's analyst, Julia Nelsen, at jnelsen@senate.ucla.edu.

cc: Jessica Cattelino, Vice Chair/Chair-Elect, Academic Senate
April de Stefano, Executive Director, Academic Senate
Julia Nelsen, Committee Analyst, Undergraduate Council
Peter Petersen, Vice Chair, Undergraduate Council
Shane White, Immediate Past Chair, Academic Senate

3125 Murphy Hall
410 Charles E. Young Drive East
Los Angeles, California 90095

October 26, 2021

To: Jody Kreiman, Chair, UCLA Academic Senate

From: Leah Lievrouw, Chair, Graduate Council

Re: Systemwide Senate Review: Revised Presidential Policy on Sexual Violence and Sexual Harassment

At its meeting on October 22, 2021, the Graduate Council reviewed and discussed the revised Presidential Policy on Sexual Violence and Sexual Harassment.

Members are in support of the proposed revisions as they better account for prohibited conduct in the clinical setting, and offered no additional comments.

Thank you for the opportunity to opine. If you have any questions, please contact us via Graduate Council Analyst, Estrella Arciba, at earciba@senate.ucla.edu.

October 25, 2021

To: Jody Kreiman, Chair
Academic Senate

From: Carson T. Schutze, Chair
Faculty Welfare Committee

Re: (Systemwide Senate Review) Revised Presidential Policy on Sexual Violence and Sexual Harassment

Dear Chair Kreiman,

At its meeting on October 13, 2021, the Faculty Welfare Committee (FWC) reviewed the proposed revisions to the Presidential Policy on Sexual Violence and Sexual Harassment. Members agreed with the proposed changes and offered no additional comments.

Thank you for the opportunity to review.

cc: Jessica Cattelino, Vice Chair/Chair-Elect, Academic Senate
April de Stefano, Executive Director, Academic Senate
Elizabeth Feller, Assistant Director, Academic Senate
Shane White, Immediate Past Chair, Academic Senate
Members of the Faculty Welfare Committee

October 15, 2021

Jody Kreiman, Chair
Academic Senate

Re: (Systemwide Senate Review) Revised Presidential Policy on Sexual Violence and Sexual Harassment

Dear Chair Kreiman,

At its meeting on October 6, 2021, the Council on Research (COR) had an opportunity to review the proposed revisions to the Presidential Policy on Sexual Violence and Sexual Harassment Policy. Members agreed with the proposed revisions and offered no additional comments.

Thank you for the opportunity to review and comment. If you have any questions for us, please do not hesitate to contact me at jacoboni@ucla.edu or via the Council's analyst, Elizabeth Feller, at efeller@senate.ucla.edu.

Sincerely,

Marco Iacoboni, Chair
Council on Research

cc: Jessica Cattelino, Vice Chair/Chair-Elect, Academic Senate
Shane White, Immediate Past Chair, Academic Senate
April de Stefano, Executive Director, Academic Senate
Elizabeth Feller, Assistant Director, Academic Senate
Members of the Council on Research

October 2, 2021

Jody Kreiman, Chair
Academic Senate

Re: (Systemwide Senate Review) Revised Presidential Policy on Sexual Violence and Sexual Harassment

Dear Chair Kreiman,

At its meeting on September 27, 2021, the Council on Planning and Budget (CPB) had an opportunity to review the Revised Presidential Policy on Sexual Violence and Sexual Harassment. Members agreed with the proposed revisions and offered no additional comments.

If you have any questions for us, please do not hesitate to contact me at blumenberg@ucla.edu or via the Council's analyst, Elizabeth Feller, at efeller@senate.ucla.edu.

Sincerely,



Evelyn Blumenberg, Chair
Council on Planning and Budget

cc: Jessica Cattelino, Vice Chair/Chair-Elect, Academic Senate
Shane White, Immediate Past Chair, Academic Senate
April de Stefano, Executive Director, Academic Senate
Elizabeth Feller, Assistant Director, Academic Senate
Members of the Council on Planning and Budget

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SANTA BARBARA • SANTA CRUZ

OFFICE OF THE ACADEMIC SENATE
LEROY WESTERLING, CHAIR, ACADEMIC SENATE
senatechair@ucmerced.edu

UNIVERSITY OF CALIFORNIA, MERCED
5200 NORTH LAKE ROAD
MERCED, CA 95343

November 10, 2021

To: Robert Horwitz, Chair, Academic Council

From: LeRoy Westerling, Chair, UCM Divisional Council

Re: [Proposed Revised Presidential Policy on Sexual Violence and Sexual Harassment](#) (SVSH)

The Merced Division Senate and School Executive Committees were invited to comment on the proposed revisions to the SVSH policy. Comments were received from the Committee on Academic Personnel (CAP), the Committee on Rules and Elections (CRE), the Committee for Equity, Diversity and Inclusion (EDI), the Committee on Faculty Welfare and Academic Freedom (FWAF), and the School of Natural Sciences Executive Committee (SNSEC). All comments are appended to this memo and summarized below.

CAP views the revisions positively but suggests that the policy specify that the Title IX Officer should update the complainant on the status of an investigation monthly.

CRE found that none of the revisions in the red-line copy raised issues pertinent to the jurisdiction of CRE, and that none of the references to the APM and other areas that would fall under CRE (e.g. IV Part F) seem in any way controversial.

EDI is supportive of the proposed revisions and is pleased to endorse the proposed revisions to the policy.

FWAF welcomes the proposed revisions in response to Senate Bill 493, to address concerns shared by UC and Equal Rights Advocates about potential adverse effects of the 2020 amendments to the federal Title IX regulations. FWAF supports the proposed revisions that explicitly acknowledge and address sexual violence and sexual harassment in clinical settings. It also supports the Policy's strengthened protections of Complainants' rights with respect to no-contact orders, protections that, FWAF believes, still manage to respect the rights of Respondents.

The School of Natural Sciences Executive Committee also expressed its support for the proposed revisions.

CC: Divisional Council
Hilary Baxter, Executive Director, Systemwide Academic Senate
Michael LaBriola, Assistant Director, Systemwide Academic Senate
Senate Office

Encl (5)

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ACADEMIC SENATE, MERCED DIVISION
COMMITTEE ON ACADEMIC PERSONNEL (CAP)
RAMESH BALASUBRAMANIAM, CHAIR
ramesh@ucmerced.edu

UNIVERSITY OF CALIFORNIA, MERCED
5200 NORTH LAKE ROAD
MERCED, CA 95343

October 13, 2021

To: LeRoy Westerling, Senate Chair

From: Ramesh Balasubramaniam, Chair, Committee on Academic Personnel (CAP)

A handwritten signature in black ink, appearing to read "R. Balasubramaniam".

Re: Revised Presidential Policy on Sexual Violence and Sexual Harassment

CAP reviewed the revised Presidential Policy on Sexual Violence and Sexual Harassment. CAP views the revisions positively but does suggest that the policy specify that the Title IX Officer should update the complainant on the status of an investigation monthly.

We appreciate the opportunity to provide comments.

Cc: Senate Office

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ACADEMIC SENATE, MERCED DIVISION
COMMITTEE ON RULES AND ELECTIONS (CRE)

UNIVERSITY OF CALIFORNIA, MERCED

October 15, 2021

To: LeRoy Westerling, Chair, Divisional Council

From: Christopher Viney, Chair, Committee on Rules and Elections (CRE)

Re: [Proposed Revised Presidential Policy on Sexual Violence and Sexual Harassment](#)

CRE reviewed the Proposed Revised Presidential Policy on Sexual Violence and Sexual Harassment and offers the following comments:

- None of the revisions in the red-line copy raise issues pertinent to the jurisdiction of CRE.
- The document contains references to the APM and other areas that would fall under CRE (e.g. IV Part F), but none of these areas seem in any way controversial.

The Committee on Rules and Election appreciates the opportunity to opine.

CC: CRE Members
Senate Office

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SANTA BARBARA • SANTA CRUZ

ACADEMIC SENATE, MERCED DIVISION
COMMITTEE FOR EQUITY, DIVERSITY AND INCLUSION

UNIVERSITY OF CALIFORNIA, MERCED
5200 NORTH LAKE ROAD
MERCED, CA 95343

October 15, 2021

To: LeRoy Westerling, Senate Chair

From: Committee for Equity, Diversity and Inclusion (EDI)

Re: Proposed Revised Presidential Policy on Sexual Violence and Sexual Harassment

The Committee for Equity, Diversity and Inclusion (EDI) reviewed the [proposed Revised Presidential Policy on Sexual Violence and Sexual Harassment](#). EDI is supportive of the proposed revisions, and is pleased to endorse the proposed policy.

The Committee for Equity, Diversity and Inclusion appreciates the opportunity to opine.

cc: EDI Members
Fatima Paul, Executive Director, Senate Office
Senate Office

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ACADEMIC SENATE, MERCED DIVISION
COMMITTEE ON FACULTY WELFARE AND ACADEMIC FREEDOM
DAVID JENNINGS, CHAIR
djennings3@ucmerced.edu

UNIVERSITY OF CALIFORNIA, MERCED
5200 NORTH LAKE ROAD
MERCED, CA 95343

October 19, 2021

To: LeRoy Westerling, Chair, Divisional Council

From: David Jennings, Chair, Committee on Faculty Welfare and Academic Freedom (FWAF)

Re: Proposed Revised Presidential Policy on Sexual Violence and Sexual Harassment

On October 7, FWAF reviewed [the proposed revised Presidential Policy on Sexual Violence and Sexual Harassment](#). Our committee welcomes the proposed revisions in response to Senate Bill 493, to address concerns shared by UC and Equal Rights Advocates about potential adverse effects of the 2020 amendments to the federal Title IX regulations. We strongly support the proposed revisions that explicitly acknowledge and address sexual violence and sexual harassment in clinical setting. We also support the Policy's strengthened protections of Complainants' rights with respect to no-contact orders, protections that, we believe, still manage to respect the rights of Respondents. In our estimation, the Policy changes are appropriate and salutary.

FWAF appreciates the opportunity to opine.

cc: Senate office

From: Harish Bhat <hbhat@ucmerced.edu>
Sent: Monday, October 18, 2021 9:43 AM
To: Fatima Paul <fpaul@ucmerced.edu>
Subject: two items that were due on Fri 10/15

Hi Fatima,

I forgot to send a quick note that NSEC discussed both of the following items:

Proposed Revisions to Presidential SVSH Policy

Proposed Revisions to Senate Regulation 478 (IGETC)

In both cases, we appreciate the opportunity to opine, but we do not have substantive feedback beyond saying that we are fine with the proposed revisions to both policies.

Best Regards,
Harish



CHAIR, ACADEMIC SENATE
RIVERSIDE DIVISION
UNIVERSITY OFFICE BUILDING, RM 225

JASON STAJICH
PROFESSOR OF BIOINFORMATICS
RIVERSIDE, CA 92521-0217
TEL: (951) 827-6193
EMAIL: JASON.STAJICH@UCR.EDU

November 15, 2021

Robert Horwitz, Chair, Academic Council
1111 Franklin Street, 12th Floor
Oakland, CA 94607-5200

RE: Proposed Revised Presidential Policy on Sexual Violence and Sexual Harassment

Dear Robert,

The Riverside Executive Council discussed Proposed Revised Presidential Policy on Sexual Violence and Sexual Harassment on November 8, 2021 and I write to provide the attached consultative feedback from local committees as well as Executive Council's comments below.

Council members expressed alarm about learning that UC – and other universities - is currently unable to find an insurer who can assess risk regarding sexual misconduct in order to provide coverage. Other members highlighted the importance of ensuring alignment and reconciliation between the important intersection between the APM and other UC policies.

Sincerely yours,

/s/Jason

Jason Stajich
Professor of Bioinformatics and Chair of the Riverside Division

CC: Hilary Baxter, Executive Director of the Academic Senate
Cherysa Cortez, Executive Director of UCR Academic Senate Office



Academic Senate

COMMITTEE ON CHARGES

October 20, 2021

TO: Jason Stajich, Chair
Riverside Division

FR: Richard Stouthamer
Chair, Committee on Charges

Re: **[Systemwide Review] Proposed Revisions to Policy: Revised Presidential Policy on Sexual Violence and Sexual Harassment**

The Committee on Charges reviewed the proposed revisions to the Presidential Policy on Sexual Violence and Sexual Harassment at its meeting on October 20, 2021. The Committee determined this to be outside its purview and therefore chose not to opine.



Academic Senate

COMMITTEE ON PRIVILEGE & TENURE

October 25, 2021

To: Jason Stajich, Chair
Riverside Division

Fr: James Tobias, Chair
Committee on Privilege & Tenure

Re: [Systemwide Review] Proposed Revisions to Policy: Revised Presidential Policy on Sexual Violence and Sexual Harassment

The UCR Academic Senate Committee on Privilege and Tenure has reviewed changes proposed to UC's policies on sexual violence, sexual harassment, and sexual exploitation, and clarifying prohibited conduct in response to the 2020 passage of California SB 493.

(For convenience, in this memorandum we abbreviate the area of policy in question as SVSH even though the draft revisions add details adding sexual exploitation to the types of prohibited conduct.)

Comment by committee members indicates that the policy revisions proposed in the document are largely clear, detailed, and thorough.

Our discussion also reflected concern among committee members to the effect that UC SVSH policy remains less specific than it should be in regards to reporting requirements. Thus, while UC employees including Senate faculty are required to report potential prohibited conduct, some members feel that additional policy detail could be helpful to encourage accurate and timely reporting. Members noted that when reporting of alleged violations happens only after significant periods of time, the extent of unnecessary damage caused by delays in reporting is compounded - in human and institutional costs alike. Too, as an Academic Senate committee charged with hearing cases of disciplinary violations or grievance, we think that it is fair to express concern about whether the clear time requirements for bringing charges and implementing hearings may work against clear reporting capabilities in SVSH cases in which reporting may be delayed or even simply too-long neglected. We state this concern for the record even though the language being proposed in this draft revision does not explicitly address requirements for timeliness of reporting.

Relatedly, we do note that the proposed revisions in the version of SVSH policy under review provides clarity that members of the clergy will be classified as "confidential resources," and that as such, they are required to inform a complainant about Title IX resources. While this clarification

may be helpful, we do not see that the legislation to which this document seeks to conform UC policy actually requires clergy to be classed as “confidential resources.”

Given that underreporting of prohibited conduct continues to be observed in and beyond the UC, given the human and institutional costs that accrue with delayed reporting, and given that the role of clergy members involved in pastoral care on UC campuses does not seem to be significantly different than care required by other UC employees such as academic or faculty advisors charged with monitoring degree progress or mentoring academic work, we question whether the status of “confidential resources” should in fact be granted to anyone not specifically charged with responsibilities associated with CARE and thus capable of accessing appropriate (that is, professionally trained and funded) UC resources when responding to reports of SVSH.

We thus would like to know what provisions of SB 493 require that members of the clergy employed in the UC be granted the privilege of “confidential resource,” and whether members of the clergy working in the UC shouldn’t simply be subject to the same reporting requirements as are faculty or other staff routinely charged with advisory or mentoring roles.

Finally, we suggest that for accuracy, perhaps “SVSH” policy should be referred to as “SVSHSE” policy in UC documents, in order to reflect the new language proposed in this document that specifically prohibits sexual exploitation.

Beyond these concerns, the committee finds the proposed changes acceptable.

September 28, 2021

To: Jason Stajich, Ph.D., Chair, Academic Senate, UCR Division

From: Declan McCole, Ph.D., Chair, Faculty Executive Committee, UCR School of Medicine

Subject: Response to *[Systemwide Review] (Proposed Revisions to Policy) Revised Presidential Policy on Sexual Violence and Sexual Harassment*

Dear Jason,

The SOM Faculty Executive Committee has reviewed the Proposed Revisions to the Presidential Policy on Sexual Violence and Sexual Harassment. We approve of the proposed revisions and have no additional comments.

Yours sincerely,

A handwritten signature in cursive script that reads "Declan McCole".

Declan F. McCole, Ph.D.
Chair, Faculty Executive Committee School of Medicine



OFFICE OF THE ACADEMIC SENATE

9500 GILMAN DRIVE
LA JOLLA, CALIFORNIA 92093-0002
TELEPHONE: (858) 534-3640
FAX: (858) 534-4528

November 15, 2021

Professor Robert Horwitz
Chair, Academic Senate
University of California
VIA EMAIL

Re: Divisional Review of Revised Presidential Policy on Sexual Violence and Sexual Harassment

Dear Professor Horwitz,

The revised Presidential Policy on Sexual Violence and Sexual Harassment was distributed to San Diego Divisional Senate standing committees and discussed at the November 8, 2021 Divisional Senate Council meeting. Senate Council endorsed the proposal, and had no additional comments.

The response from the Divisional Committee on Privilege and Tenure is attached.

Sincerely,

A handwritten signature in black ink, appearing to read "Tara Javidi", with a long horizontal flourish extending to the right.

Tara Javidi
Chair
San Diego Divisional Academic Senate

Attachment

cc: Nancy Postero, Vice Chair, San Diego Divisional Academic Senate
Lori Hullings, Executive Director, San Diego Divisional Academic Senate
Hilary Baxter, Executive Director, UC Systemwide Academic Senate

October 13, 2021

TARA JAVIDI

Chair, San Diego Divisional Academic Senate

SUBJECT: Presidential Policy on Sexual Violence and Sexual Harassment

Dear Chair Javidi,

The Committee on Privilege and Tenure reviewed the proposed changes to the Presidential Policy on Sexual Violence and Sexual Harassment at its October 7, 2021 meeting. The Committee has no objections to the revisions and had no additional comments.

Sincerely,

Philip Gill, Chair

Committee on Privilege and Tenure

cc: Lori Hullings, Executive Director
Nancy Postero, Senate Vice Chair

Office of the Academic Senate

500 Parnassus Ave, MUE 230
San Francisco, CA 94143-0764

Campus Box 0764

tel.: 415/514-2696

academic.senate@ucsf.edu

<https://senate.ucsf.edu>

Steven W. Cheung, MD, Chair

Steve Hetts, MD, Vice Chair

Pamela Ling, MD, Secretary

Kathy Yang, PharmD, Parliamentarian

November 15, 2021

Robert Horwitz

Chair, Academic Council

Systemwide Academic Senate

University of California Office of the President

1111 Franklin St., 12th Floor

Oakland, CA 94607-5200

Re: UCSF Academic Senate Invitation

Dear Robert:

The San Francisco Division of the Academic Senate recently reviewed the amendments to the Presidential Policy on Sexual Violence and Sexual Harassment (SVSH). As we understand it, these changes are mostly required by Senate Bill 493, as well as a number of changes related to clinical care settings, which is extremely important. Our Division is very thankful for the work done last year by the *President's Working Group on SVSH in the Clinical Setting*.

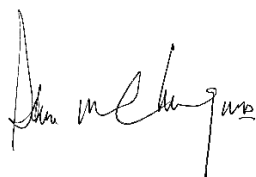
With that in mind, our Clinical Affairs Committee (CAC) made the following comments:

1. CAC supports the inclusion of a new appendix detailing prohibited conduct in the context of patient care. CAC supports making sexual assault during a clinical encounter an aggravated assault. Abusing the trust that patients place in their providers not only does great harm to those subjected to an assault, but it also undermines the ability of all providers to gain their patients' trust and serve them. The University is right to call for heightened accountability from those who engage in prohibited conduct during clinical encounters.
2. CAC also wishes to inquire whether the SVSH Policy should reference chaperones who should be offered to patients during sensitive exams. That said, the UCSF CAC defers to the University's experts on our SVSH policies.

In addition, our Committee on Faculty Welfare (CFW) asked whether and how these changes would apply to UC faculty and staff at affiliate sites. Given the vast network of UC Health affiliates, CFW is concerned about how this proposed policy might, or might not, work at affiliate sites, and whether any additional revisions might be needed.

Thank you for the opportunity to opine on the revisions to this important Presidential Policy. If you have any questions, please let me know.

Sincerely,



Steven W. Cheung, MD, 2021-23 Chair
UCSF Academic Senate

Enclosures (2)

Cc: Kathleen Liu, Chair, UCSF Clinical Affairs Committee

Lindsay Hampson, Chair, UCSF Committee on Faculty Welfare

Clinical Affairs Committee

Kathleen Liu, M.D., Ph.D., M.A.S., Chair

November 8, 2021

Steven Cheung, M.D.
Division Chair
UCSF Academic Senate

Re: Systemwide Review of Proposed Revisions to UC Presidential Policy on Sexual Violence and Sexual Harassment

Dear Chair Cheung:

The Committee on Clinical Affairs (CAC) writes to comment on the Systemwide Review of the proposed revisions to the Presidential Policy on Sexual Violence and Sexual Harassment (SVSH Policy).

CAC supports the inclusion of a new appendix detailing prohibited conduct in the context of patient care. CAC supports making sexual assault during a clinical encounter an aggravated assault. Abusing the trust that patients place in their providers not only does great harm to those subjected to an assault, but it also undermines the ability of all providers to gain their patients' trust and serve them. The University is right to call for heightened accountability from those who engage in prohibited conduct during clinical encounters.

CAC also writes to inquire whether the SVSH Policy should reference chaperones who should be offered to patients during sensitive exams. CAC defers to the University's experts on our SVSH policies. Committee members simply wished to raise the question.

Thank you for the opportunity to comment on the proposed revisions to this important policy. CAC hopes the proposed revisions lead to more just and equitable procedures for addressing sexual violence and sexual harassment at the University of California.

Sincerely,



Kathleen Liu, M.D., Ph.D., M.A.S.
Clinical Affairs Committee Chair

Committee on Faculty Welfare
Lindsay Hampson, MD, MAS, Chair

October 13, 2021

Steven Cheung, MD
Division Chair
UCSF Academic Senate

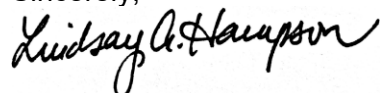
Re: Systemwide Review of Revised Presidential Policy on Sexual Violence and Sexual Harassment

Dear Chair Cheung:

The Committee on Faculty Welfare (CFW) writes to comment on the Systemwide Review of the Revised Presidential Policy on Sexual Violence and Sexual Harassment (SVSH). CFW supports the proposed changes and specifically endorses the revisions that strengthen accountability for SVSH in the clinical setting.

CFW writes to call attention to the issue of whether and how these changes would apply to UC faculty and staff at affiliate sites. CFW appreciates that this proposed policy fits into a larger system of investigating and addressing misconduct, and this question might be addressed elsewhere. Nevertheless, CFW believes it is important to raise this issue with Academic Council to ensure that SVSH policy experts have considered how this proposed policy might and might not work at affiliate sites and consider whether any additional revisions might be needed following that analysis.

Sincerely,



Lindsay Hampson, MD, MAS
Committee on Faculty Welfare Chair



UC SANTA BARBARA

Academic Senate
Susannah Scott, Chair
Shasta Delp, Executive Director

1233 Girvetz Hall
Santa Barbara, CA 93106-3050
<http://www.senate.ucsb.edu>

November 17, 2021

To: Robert Horwitz, Chair
Academic Senate

From: Susannah Scott, Chair
Santa Barbara Division 

Re: Systemwide Review of the Revised Presidential Policy on Sexual Violence and Sexual Harassment

The Santa Barbara Division distributed the proposed revised policy to the Committee on Privilege and Tenure (P&T), Committee on Diversity and Equity (CDE), and the Faculty Executive Committees (FECs) of the Gevirtz Graduate School of Education (EDUC), the College of Letters and Science (L&S), and the College of Engineering (COE). The EDUC FEC opted not to opine. All of the committees indicated either their support for the proposal or a lack of objections. CDE also provided one comment, which is detailed here for your consideration.

CDE members identified the proposed changes related to ending mutual no contact orders as problematic, especially in situations involving relationship violence. They noted the possibility of cross-complaints which would complicate who is the complainant and who is the respondent in a given case.

We thank you for the opportunity to comment.



UC SANTA BARBARA

Academic Senate
Susannah Scott, Chair
Shasta Delp, Executive Director

1233 Girvetz Hall
Santa Barbara, CA 93106-3050
<http://www.senate.ucsb.edu>

October 5, 2021

To: Susannah Scott, Divisional Chair, Academic Senate

From: Risa Brainin, Chair, Committee on Privilege and Tenure

Re: Review of Proposed Revisions to the UC Presidential Policy on Sexual Violence and Sexual Harassment

At its meeting on October 1st, 2021, the Committee on Privilege and Tenure (P&T) discussed the proposed revisions to the University of California's Presidential Policy on Sexual Violence and Sexual Harassment (SVSH Policy).

Following a careful review of the proposed changes, the Committee has decided to support the revisions without objection.

The Committee appreciates the opportunity to respond to these proposed changes to SVSH Policy.

Cc: Shasta Delp, Executive Director, Academic Senate
Monica J. Solorzano, Analyst, Committee on Privilege and Tenure

**Academic Senate
Santa Barbara Division**

October 28, 2021

To: Susannah Scott, Divisional Chair
Academic Senate

From: Jean Beaman, Chair
Committee on Diversity and Equity



Re: Systemwide Review of the Presidential Policy on Sexual Violence and Sexual Harassment

At its meeting of October 18, 2021, the Committee on Diversity and Equity (CDE) reviewed the latest revisions to the Presidential Policy on Sexual Violence and Sexual Harassment. While many changes will predominantly affect UC campuses with medical centers, some medical facilities at UCSB will also fall under these new clinical SVSH policies. While members did not voice any objections to the revised policies, there were concerns raised about ending mutual no contact orders. This seems problematic, especially in cases of relationship violence, and there are likely to be cross-complaints made which will complicate who is the complainant and who is the respondent.

CC: Shasta Delp, Executive Director, Academic Senate

October 14, 2021

To: Susannah Scott
Chair, Divisional Academic Senate

From: Sabine Frühstück
Chair, L&S Faculty Executive Committee



Re: Proposed Revisions to Presidential Policy on Sexual Violence and Sexual Harassment

At its meeting on October 7, 2021, the Faculty Executive Committee of the College of Letters and Science (FEC) reviewed proposed revisions to the Presidential Policy on Sexual Violence and Sexual Harassment. The rationale provided for the revisions is that they "(i) comply with a new state law, Senate Bill (SB) 493, and (ii) better account for Prohibited Conduct in the clinical setting."

The committee found no significant concerns with the specific revisions proposed, and offers its full endorsement.

Thank you for the opportunity to comment.

cc: Pierre Wiltzius, Executive Dean of the College and Dean of Science
Michael Miller, Interim AVC and Dean of Undergraduate Education
Mary Hancock, Acting Dean of Humanities and Fine Arts
Charlie Hale, Dean of Social Sciences

October 6, 2021

TO: Susannah Scott
Divisional Chair, Academic Senate

FROM: Tobias Hollerer, Chair
College of Engineering, Faculty Executive Committee

RE: Thematic Pathway for Reaffirmation Proposal - WASC

DocuSigned by:
Tobias Hollerer
41EFFFAB98F442F...

The College of Engineering FEC met on Monday, October 4, 2021 and reviewed and approved of the proposal. 9 yes, 0 abstained, 0 no (out of 10 eligible faculty members).

October 25, 2021

**SUSANNAH SCOTT, CHAIR
ACADEMIC SENATE — SANTA BARBARA DIVISION**

Re: Systemwide Review of the Presidential Policy on Sexual Violence and Sexual Harassment

The Faculty Executive Committee - Gevirtz School does not wish to opine on this issue.

Sincerely,

, Chair
Faculty Executive Committee - Gevirtz School

c: Shasta Delp, Executive Director
Academic Senate



1156 HIGH STREET
SANTA CRUZ, CALIFORNIA 95064

Office of the Academic Senate
SANTA CRUZ DIVISION
125 CLARK KERR HALL
(831) 459 - 2086

November 15, 2021

ROBERT HORWITZ, Chair
Academic Council

Re: Systemwide Review of Revised Presidential Policy on Sexual Violence and Sexual Harassment

Dear Robert,

The Santa Cruz Division has completed its review of the proposed revisions to the Presidential Policy on Sexual Harassment and Sexual Violence (SVSH) with the Graduate Council (GC), and the Committees on Affirmative Action and Diversity (CAAD), Academic Freedom (CAF), Privilege and Tenure (P&T), and Rules, Jurisdiction, and Elections (RJ&E), responding. Generally, the committees recognized the need for the conforming changes required by the changes in state law resulting from the passage of Senate Bill 493 and the need to address sexual violence and sexual harassment in clinical settings. The reviewing committees also found a lack of clarity and consistency in areas of the policy.

RJ&E identified a conflict within Section B(e)(i)(b) and (d), the section addressing Sexual Exploitation. Here, they note that both “intent and effect” must occur before a violation occurs, and that this would not cover the case in which a person provides alcohol or drugs with the intent of engaging in prohibited conduct, but the prohibited conduct did not occur. RJ&E suggested amending the language to state “Providing alcohol or drugs to the Complainant with the specific intent or effect of facilitating Prohibited Conduct” would help to address what is also undesirable behavior, even if the *intended* outcome is not achieved. Relatedly, CAAD suggested clarification of the definitions of drunkenness, intoxication, and incapacitation. This is due to the fact that “drunkenness” and “intoxication” are only defined as less than “incapacitation,” which makes it unclear what the consequences are if a Complainant is deemed drunk or intoxicated in the context of SVSH.

CAAD appreciated the inclusion of “sexual exploitation” as a form of prohibited conduct but suggested that the revisions could be expanded to include exploitation that does not involve the use of photographs, video, or audio. They suggest acts such as “doxing”¹ be included.

¹ Interstate Doxxing Prevention Act (HR 6478), is “to knowingly publish (or attempt or conspire to publish) personally identifiable information of another person with the intent to threaten, intimidate, harass, or stalk, and as a result, place that person in reasonable fear of death or serious bodily injury to that person, or to that person’s family member or intimate partner.”

CAF raised concerns about how the description of prohibited conduct could gather into it behavior that is in fact consensual. Specifically, they worry that statements such as “physical violence is physical conduct that intentionally or recklessly threatens the health and safety of the recipient of the behavior” could unintentionally place those who engage in Bondage & Discipline, Dominance & Submission, Sadochism & Masochism (BDSM) in jeopardy of being subject to administrative scrutiny for engaging in consensual acts that by definition, violate the SVSH policy. This is because “There are many consensual activities involved in BDSM that can include an intentional threat to the safety or health of the recipient of the behavior.” CAF goes on to identify three additional places where prohibited conduct could capture acts that are in fact consensual (see attached). The Committee’s focus is “to clarify the centrality of consent for distinguishing prohibited from permitted conduct.”

P&T noted a lack of clarity within Section II(2)(C)(e) that pertains to “Confidential Sources” and the status of members of the clergy which are identified as such in this section. The confusion stems from the language found at the end of this subsection which provides:

“Designation as a “Confidential Resource” under this Policy only exempts a person from reporting to the Title IX Officer. It does not affect 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.”

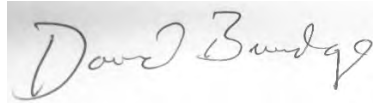
The problem is, under the Clery Act, clergy, there identified as Pastoral Counselors, do not have responsibilities as a CSA, and under the UC CANRA clergy are specifically identified as mandated reporters. Members suggested more clarity should be provided regarding the clergy’s duty to report. This is especially true in the event that a faculty member is an ordained member of the clergy, which is another layer of complexity to this reporting requirement. P&T, as well, raised a concern about “no contact” options, which appear not to restrict a complainant from contacting a respondent. Given that a respondent is prohibited from contacting a complainant, it makes sense to extend this “no contact” order in both directions. The Graduate Council joined P&T in expressing both of these concerns.

CAAD observed that the usage of the terms “clinical setting,” “clinical encounter,” and “patient care” are ill-defined and sometimes used interchangeably, with only “clinical encounter” defined. These are used in various places in the policy which makes it unclear who can be defined as a patient and thus a Complainant.

There are other vagaries identified by the reviewing committees, such as the use of the word “periodically” as applied to when the Title IX office might update parties of any updates to investigations. On this, CAAD commented that the Complainants deserve a clear notification period, and suggested 30 days.

In closing, I would like to clarify that not all of the very pointed and detailed comments have been accounted for here and that the full responses have been included as enclosures. As well I thank you, on behalf of the Division, for the opportunity to comment on this significant policy.

Sincerely,

A handwritten signature in dark ink, reading "David Brundage", is centered on a light gray rectangular background.

David Brundage, Chair
Santa Cruz Division of the Academic Senate

Enc: Santa Cruz Divisional Response Bundle

cc: Kirsten Silva Gruesz, Chair, Committee on Affirmative Action and Diversity
Minghui Hu, Chair, Committee on Academic Freedom
Nico Orlandi, Chair, Committee on Faculty Welfare
Julie Guthman, Chair, Committee on Privilege and Tenure
Melissa Caldwell, Chair, Graduate Council
Kenneth Pedrotti, Chair, Committee on Rules, Jurisdiction, and Elections

November 4, 2021

David Brundage, Chair
Academic Senate, Santa Cruz Division

**Re: Systemwide Presidential Policy on Sexual Violence and Sexual Harassment
Proposed Revisions**

Dear David,

The Committee on Affirmative Action and Diversity (CAAD) appreciates the opportunity to respond to the proposed revisions to the Presidential Policy on Sexual Violence and Sexual Harassment (SVSH). This letter focuses on the document's revisions in response to SB 493 and SVSH in clinical settings, rather than the document as a whole.

CAAD appreciates the addition of "sexual exploitation" as a form of Prohibited Conduct. In defining "sexual exploitation," the revisions mention "[t]hreatening to post or share photographs, video, or audio recordings depicting the Complainant's nudity or sexual acts..." (Section II B.1.e.i.c, p. 5; this language repeats twice more in Appendix V). The committee suggests that the proposed revisions be expanded to include exploitation that does not include photographs, video, or audio. The committee particularly requests attention to other non-multimedia sexual exploitation, including but not limited to doxxing, which, as defined by the Interstate Doxxing Prevention Act (HR 6478), is "to knowingly publish (or attempt or conspire to publish) personally identifiable information of another person with the intent to threaten, intimidate, harass, or stalk, and as a result, place that person in reasonable fear of death or serious bodily injury to that person, or to that person's family member or intimate partner."

In revisions to the "Overview of Resolutions Processes," this sentence has been added: "Resolution Processes are non-adversarial proceedings in which all participants are expected to behave respectfully" (Section V A.5, p. 17). The committee finds this sentence confusing and problematic, as the meaning of "non-adversarial" and "behave respectfully" are unclear. The committee fears that this terminology potentially discourages legal representation by the Complainant, and the meaning of "behave respectfully" carries gendered and racial undertones. CAAD would like to see this sentence removed or significantly revised.

The committee also suggests clarification of the definitions of drunkenness, intoxication, and incapacitation. Currently, "drunkenness" and "intoxication" are only defined as less than "incapacitation" (Section II A.1, p. 3), making it unclear what the consequences are if a Complainant is deemed drunk or intoxicated in the context of SVSH.

CAAD is heartened to see SVSH that occurs in clinical encounters directly addressed in these revisions. The committee suggests, though, that usage of the terms "clinical setting," "clinical encounter," and "patient care" are ill-defined and sometimes used interchangeably, with only "clinical encounter" defined. This makes it unclear who can be defined as a patient and thus a Complainant. The term "patient care" is used in Note Two (p. 7), the definition of a "Responsible Employee" (Section II C.3.b.7, p. 9), and the title of Appendix V. The phrase "clinical setting" is also used (Section VIII, p. 30). These terms overlap with "clinical encounter," which is used four times (Section II B.1, p. 4; Section V A.3, p. 16; Section V A.4,

p. 16; Appendix V A.a) and defined in Appendix V (B.2, p. 44). The committee requests clearer terminology.

The committee is pleased to see that “the discloser’s right to report directly to the Title IX Officer” has been clarified (Section III G, p. 12). CAAD would also like to see rights to legal representation clarified in the document (see previous comment regarding Section V A.5, p. 17), and for timeframes for Title IX investigations more clearly defined. A revision notes that the Title IX Officer will “update parties periodically on the status of the investigation and notify them in writing of the reason for any extension and the projected new timeline” (Section V A.5.b, p. 19). While this revision attempts to clarify the original text, the committee finds the term “periodically” to be vague. We believe that Complaints deserve a clear notification timeline (30 days from making the complaint, etc.).

Lastly, CAAD is unclear how/if students have been offered opportunities to provide feedback on these revisions. Thus, as in CAAD’s response to previous SVSH policy (see letter dated 11/19/18), the committee asks that students be provided formal opportunities to respond.

Sincerely,



Kirsten Silva Gruesz, Chair
Committee on Affirmative Action and Diversity

Encl. CAAD to ASC Lau re Proposed Revised Presidential Policy on SVSH, 11-19-2018

cc: Minghui Hu, Chair, Committee on Academic Freedom
Nico Orlandi, Chair, Committee on Faculty Welfare
Julie Guthman, Chair, Committee on Privilege and Tenure
Kenneth Pedrotti, Chair, Committee on Rules, Jurisdiction, and Election
Melissa Caldwell, Chair, Graduate Council

November 19, 2018

Kimberly Lau, Chair
Academic Senate

Re: Proposed Revised Presidential Policy on Sexual Violence and Sexual Harassment

Dear Kim,

During its meeting of October 15, 2018, the Committee on Affirmative Action and Diversity (CAAD) reviewed the proposed revisions to the Presidential Policy on Sexual Violence and Sexual Harassment. CAAD wishes to comment on one issue.

On p. 8, regarding the definition for "Location": This definition restricts "location" to properties owned or managed by UC. However, at III.B and III.B.3 and the sentence just after III.B.3, the document indicates that, at times, the SVSH policy "covers acts of Prohibited Conduct" even when "the conduct occurs off University property." Events that occur on properties not owned by UC may nevertheless be considered under the UC SVSH policy.

For example, the most recent draft of the Self-Supporting Graduate Degree Program Guidelines, shared with CAAD on October 18, 2018, discusses the utilization of off-campus locations for self-supporting graduate degree programs, referred to in the System-wide/Regental Policies and Overarching Principles section point 1d. as an "alternative location (e.g. off-campus centers)" and point 4 as "appropriate off-campus locations."

CAAD proposes that the original definition of "location" on p. 8 ought to be glossed to account for these exceptions.

Finally, CAAD is concerned with the prevailing discourse about the lack of opportunity for significant discussion and change during this review period. As there does not appear to be an effective way for student voices to be heard in this review, we are thus forwarding the concerns of the UCSC Title IX Student Advisory Board¹ along with our response.

Sincerely,

/s/

Elizabeth Abrams, Chair
Committee on Affirmative Action and
Diversity

¹ UCSC Title IX Student Advisory Board to Academic Senate, 11/14/18, Re: UC Sexual Violence and Sexual Harassment (SVSH) Policy Revisions Comments for Academic Senate Review

Cc: Grant McGuire, Chair, Committee on Faculty Welfare
Jorge Hankamer, Chair, Committee on Privilege & Tenure
Jason Nielsen, Chair, Committee on Rules, Jurisdiction, and Elections
Gina Dent, Chair, Graduate Council
Senate Director Mednick

November 9, 2021

DAVID BRUNDAGE, Chair
Academic Senate, Santa Cruz Division

Re: Proposed Changes to the Systemwide Policy on Sexual Violence/Sexual Harassment

Dear David,

On October 20, 2021 the Committee on Academic Freedom (CAF) discussed the proposed changes to the systemwide policy on Sexual Violence/Sexual Harassment. CAF appreciates the proposed system-wide revision to the Sexual Violence and Sexual Harassment Policy. The proposed changes align with state law by adding two areas on the prohibition of sexual exploitation (sexually taking advantage of others, such as using sexual photos of them to gain their compliance) and stealthing (non-consensual condom removal).

Despite the welcome changes made to the policy, other aspects of the policy still included from previous versions include language to which the CAF recommends making changes. Four clauses in particular from Section B (Prohibited Conduct) are recommended for revision to clarify the centrality of consent for distinguishing prohibited from permitted conduct. All four recommendations aim to broaden the scope of, instead of tightening, the range of prohibitions.

- **Clause One:** "physical violence is physical conduct that intentionally or recklessly threatens the health and safety of the recipient of the behavior."
Problem: There are many consensual activities involved in BDSM that can include an intentional threat to the safety or health of the recipient of the behavior.
Recommendation: "physical violence is physical conduct that 1) intentionally or recklessly threatens the health and safety of the recipient of the behavior and 2) is done without the consent of the recipient or is done without the recipient's full knowledge of the potential risks of the activity.
- **Clause Two:** "patterns of abusive behavior may consist of or include non-physical tactics (e.g., threats, isolation, property destruction, abuse of pets, economic control, displaying weapons, degradation, or exploitation of a power imbalance).
Problem: Some individuals at this campus are involved in Domination/submission relationships, which may involve explicitly negotiated between the participants to structure their preferred sexual act and relationship to involve acts listed but do not constitute abuse.
Recommendation: "patterns of abusive behavior may consist of or include non-physical tactics (e.g., threats, isolation, property destruction, [abuse of pets deleted here, moved to

the end of the clause] economic control, displaying weapons, degradation, or exploitation of a power imbalance) unless the use of those tactics has been explicitly and enthusiastically consented to by the recipient or the tactics involve the abuse of pets."

- **Clause Three:** "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."

Problem: While a submissive in a D/s relationship might experience a lot of comfort, security, peace of mind, joy, sexual arousal, and excitement from having a partner monitoring their location, vital signs, or other personal information electronically via electronic devices it is entirely likely that a university administrator would consider that a "reasonable person" would not find these activities exciting, and would interpret these behaviors as stalking, even when consensually negotiated.

Recommendation: "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 unless the use of those tactics has been explicitly and enthusiastically consented to by the recipient."

- **Clause Four:** "Exposing one's genitals in a public place for the purpose of sexual gratification."

Problem: Consensual kink practices (such as nudity at a public sex dungeon or kink-oriented party, in which nudity is a norm for some participants) could fall under the definition, depending upon how a university administrator interprets the phrase "public place." Similarly, we know that hundreds of students on this campus annually engage in the first rain run, which is ceremonial and relatively harmless, and could imply the arbitrary punishment of only students who are sexually aroused by the experience.

Recommendation: "Exposing one's genitals in a public place for sexual gratification, unless that exposure is explicitly consented to by all parties who might view that exposure, or that exposure takes place during an event in which the nudity of participants is very strongly implicitly agreed to by one's participation in the event, such as nude modeling for an art class, being naked on a nude beach, or participation in the First Rain Run."

On behalf of the CAF, I hope these suggestions prove useful, and that they will help to provide more clarity and precision in the next iteration of the SVSH policy.

Sincerely,

/s/

Minghui Hu, Chair

Committee on Academic Freedom

cc: Kirsten Silva Gruesz, Chair, Committee on Affirmative Action and Diversity
Julie Guthman, Chair, Committee on Privilege and Tenure
Nico Orlandi, Chair, Committee on Faculty Welfare
Kenneth Pedrotti, Chair, Committee on Rules, Jurisdiction, and Elections
Melissa Caldwell, Chair, Graduate Council

November 9, 2021

David Brundage, Chair
Academic Senate

RE: Systemwide Review: Revised Presidential Policy on Sexual Violence and Sexual Harassment

Dear David,

At its meeting of November 4, 2021, Graduate Council reviewed the proposed revisions to the Presidential Policy on Sexual Violence and Sexual Harassment (SVSH Policy).

Council understands that these proposed changes are intended to comply with state law SB493 and to better account for Prohibited Conduct in the clinical setting. In this context, Graduate Council had little additional comment. However, GC would like to affirm two important suggestions identified by the Committee on Privilege and Tenure (P&T). First, P&T suggested clarifying language around clergy's duty to report, currently unclear in the proposed revisions, and including in cases where a clergy might also have an appointment as a faculty member. Council agrees this is an area that needs clarification.

Second, Council concurred with P&T's concern that "no contact" options, which appear not to restrict a complainant from contacting a respondent. Given that a respondent is prohibited from contacting a complainant, it makes sense to extend this "no contact" order in both directions.

Graduate Council appreciates the opportunity to comment on the proposed revisions to the SVSH Policy.

Sincerely,

A handwritten signature in black ink that reads "Melissa L. Caldwell". The signature is written in a cursive, flowing style.

Melissa L. Caldwell, Chair
Graduate Council

cc: CAAD Chair Gruesz
CAF Chair Hu
CFW Chair Orlandi
RJ&E Chair Pedrotti
P&T Chair Guthman

October 26, 2021

DAVID BRUNDAGE, Chair
Academic Senate, Santa Cruz Division

Re: Proposed Changes to the Systemwide Policy on Sexual Violence/Sexual Harassment

Dear David,

On October 20, 2021 the Committee on Privilege and Tenure (P&T) discussed the proposed changes to the systemwide policy on Sexual Violence/Sexual Harassment and identified two areas of potential confusion.

The first involves the creation of a new category of confidential resources with the inclusion of “members of the clergy” (II (2)(C)(e)). Language at the end of this subsection states:

Designation as a “Confidential Resource” under this Policy only exempts a person from reporting to the Title IX Officer. It does not affect 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.

One specific concern is that existing policy is already confusing regarding obligations of clergy to report. The Clery Act states that members of the clergy, in that policy referred to as “Pastoral Counselors,” do not have responsibilities as a CSA; however, in Appendix A of the UC CANRA, clergy are specifically listed as “mandated reporters.” P&T worries that without additional clarifying language, the proposed SVSH exemption could generate additional confusion about clergy’s duty to report. A second concern derives from a scenario contemplated by the committee in which a member of the clergy could also have an appointment as a faculty member. Were that the case, it is not clear which role would take precedence in determining the obligation to report and obligation to inform the person providing confidential information.

The second area of confusion involves “no contact options.” The second bullet point of Appendix III, section ix lists several steps that the Title IX Officer “will” take. The committee imagines that not all of these options must be undertaken and the language should therefore read that these are options the Office “can” take. Further below a bullet point lists a number of parameters for no-contact orders between parties. While it seemed to make sense at first glance, the committee was troubled by the idea that the university would not restrict the Complainant from contacting the Respondent, since presumably such contact would be inviting a response from the Respondent.

Since such a response would necessarily be strictly prohibited, it is not clear why a complainant should be allowed to initiate contact. If this unilateral exemption is required by law it might be useful to cite the law; otherwise it might be more prudent to make all no-contact orders bilateral.

We hope that the final version of the revised policy addresses all four issues of confusion identified here.

Sincerely,

/s/

Julie Guthman, Chair

Committee on Privilege and Tenure

cc: Kirsten Silva Gruesz, Chair, Committee on Affirmative Action and Diversity
Minghui Hu, Chair, Committee on Academic Freedom
Nico Orlandi, Chair, Committee on Faculty Welfare
Kenneth Pedrotti, Chair, Committee on Rules, Jurisdiction, and Elections
Melissa Caldwell, Chair, Graduate Council

November 9, 2021

DAVID BRUNDAGE, Chair
Academic Senate, Santa Cruz Division

Re: Proposed Changes to the Systemwide Policy on Sexual Violence/Sexual Harassment

Dear David,

On October 20, 2021 the Committee on Rules, Jurisdiction & Elections (RJ&E) discussed the proposed changes to the systemwide policy on Sexual Violence/Sexual Harassment. One issue concerned Section B Prohibited Conduct, which provides as follows:

e. Sexual Exploitation:

i. Sexual Exploitation is taking sexual advantage of another, where the conduct is not otherwise addressed in this Policy. Specifically:

(b) Knowingly making a material false representation about sexually transmitted infection, birth control, or prophylactic status with the specific intent and effect of inducing the Complainant to participate in a specific sexual act or encounter

(d) Providing alcohol or drugs to the Complainant with the specific intent and effect of facilitating Prohibited Conduct; or

This says that both “intent and effect” must occur before a violation occurs. Intent is often difficult to ascertain. It might appear that just listing “effect” would be sufficient. This wording however would not cover the case in which a person provides alcohol or drugs with the intent of engaging in prohibited conduct, but the prohibited conduct did not occur. This behavior strikes us as undesirable as well. A change of the wording to: *Providing alcohol or drugs to the Complainant with the specific intent or effect of facilitating Prohibited Conduct*, would cover this case as well.

Sincerely,

/s/

Kenneth Pedrotti, Chair
Committee on Rules, Jurisdiction, & Elections

cc: Kirsten Silva Gruesz, Chair, Committee on Affirmative Action and Diversity
Minghui Hu, Chair, Committee on Academic Freedom
Nico Orlandi, Chair, Committee on Faculty Welfare
Julie Guthman, Chair, Committee on Privilege and Tenure
Melissa Caldwell, Chair, Graduate Council



UNIVERSITY COMMITTEE ON FACULTY WELFARE (UCFW)
Jill Hollenbach, Chair
Jill.Hollenbach@ucsf.edu

Assembly of the Academic Senate
1111 Franklin Street, 12th Floor
Oakland, CA 94607-5200

November 15, 2021

**ROBERT HORWITZ, CHAIR
ACADEMIC COUNCIL**

RE: Proposed Revisions to the UC Presidential Policy on Sexual Violence and Sexual Harassment

Dear Robert,

The University Committee on Faculty Welfare (UCFW) has reviewed the proposed revision to the UC Presidential Policy on Sexual Violence and Sexual Harassment, and we have several comments. First, we support codifying current best practices. However, some specifics of the proposed revision raise concerns:

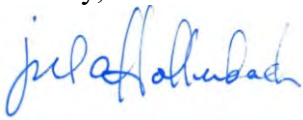
1. *The Title IX Officer will update parties periodically on the status of the investigation and notify them in writing of the reason for any extension and the projected new timeline.* We find the term “periodically” too vague. What is the minimum frequency for the parties to receive updates? Lack of communication is surely a huge source of distress.
2. Providing OEOD with the right to file a formal complaint when the aggrieved individual does not desire this is over-reach and denies agency to the victim. All individuals should have agency and control the right to decide, once they are informed of the OEOD process, whether they wish to move forward. Such a policy could have a chilling effect and prevent some from seeking help and information.
3. The limitations on UC’s use of no-contact orders that restrict a Complainant’s contact with a Respondent is an important change to align with state temporary restraining orders, which typically are not imposed on both parties. To impose them on both parties might be viewed as punitive.
4. The new policies for clinical settings are important and provide needed protection for potentially vulnerable sub-populations.
5. Recommendations for edits - Knowingly making a material false representation about sexually transmitted infection, birth control, **serious illness (add this)**, or prophylactic status with the specific intent and effect of inducing the Complainant to participate in a specific sexual act or encounter. **OR** Knowingly making a material false representation about sexually transmitted infection, birth control, ~~serious illness (add this)~~, or

~~prophylactic status~~ with the specific intent and effect of inducing the Complainant to participate in a specific sexual act or encounter

6. *Resolution Processes are non-adversarial proceedings in which all participants are expected to behave respectfully.* Such expectations, on the part of an individual who has experienced sexual trauma, are unrealistic and do not take into account all that is now known about survivors of sexual trauma. Such a specific policy does not represent a trauma informed approach to investigating sexual assault.
7. Implementation guidelines for off-site or affiliate locations will be needed.

Thank you for advancing our shared concerns on this important issue.

Sincerely,



Jill Hollenbach, UCFW Chair

Copy: UCFW
Hilary Baxter, Executive Director, Academic Senate
Susan Cochran, Academic Council Vice Chair