University of California
Office of the President
February 10, 2006

UNIVERSITY OF CALIFORNIA POLICY ON SEXUAL HARASSMENT

A. Introduction

The University of California is committed to creating and maintaining a community where all persons who participate in University programs and activities can work and learn together in an atmosphere free of all forms of harassment, exploitation, or intimidation. Every member of the University community should be aware that the University is strongly opposed to sexual harassment, and that such behavior is prohibited both by law and by University policy. The University will respond promptly and effectively to reports of sexual harassment, and will take appropriate action to prevent, to correct, and if necessary, to discipline behavior that violates this policy.

This policy applies to the University of California campuses, the DOE Laboratories, the Medical Centers, and the Office of the President, including Agriculture and Natural Resources, and all auxiliary University locations (*the locations*).

B. Definition of Sexual Harassment

Sexual harassment is unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when submission to or rejection of this conduct explicitly or implicitly affects a person's employment or education, unreasonably interferes with a person's work or educational performance, or creates an intimidating, hostile or offensive working or learning environment. In the interest of preventing sexual harassment, the University will respond to reports of any such conduct.

Sexual harassment may include incidents between any members of the University community, including faculty and other academic appointees, staff, coaches, housestaff, students, and non-student or non-employee participants in University programs, such as vendors, contractors, visitors, and patients. Sexual harassment may occur in hierarchical relationships or between peers, or between persons of the same sex or opposite sex.

In determining whether the reported conduct constitutes sexual harassment, consideration shall be given to the record of the conduct as a whole and to the totality of the circumstances, including the context in which the conduct occurred.

This policy covers unwelcome conduct of a sexual nature. Consensual romantic relationships between members of the University community are subject to other University policies, for example, those governing faculty-student relationships are detailed in the Faculty Code of Conduct.[1] While romantic relationships between members of the University community may

[1] The Faculty Code of Conduct may be found in Academic Personnel Manual (APM) section 015.

begin as consensual, they may evolve into situations that lead to charges of sexual harassment, subject to this policy.

Harassment that is not sexual in nature but is based on gender, sex-stereotyping, or sexual orientation also is prohibited by the University's nondiscrimination policies[2] if it is sufficiently severe to deny or limit a person's ability to participate in or benefit from University educational programs, employment, or services. While discrimination based on these factors may be distinguished from sexual harassment, these types of discrimination may contribute to the creation of a hostile work or academic environment. Thus, in determining whether a hostile environment due to sexual harassment exists, the University may take into account acts of discrimination based on gender, sex-stereotyping, or sexual orientation.

C. Retaliation

This policy also prohibits retaliation against a person who reports sexual harassment, assists someone with a report of sexual harassment, or participates in any manner in an investigation or resolution of a sexual harassment report. Retaliation includes threats, intimidation, reprisals, and/or adverse actions related to employment or education.

D. Dissemination of the Policy, Educational Programs, and Employee Training

As part of the University's commitment to providing a harassment-free working and learning environment, this policy shall be disseminated widely to the University community through publications, websites, new employee orientations, student orientations, and other appropriate channels of communication. The locations shall make educational materials available to all members of the University community to promote compliance with this policy and familiarity with local reporting procedures. In addition, the locations shall designate University employees responsible for reporting sexual harassment and provide training to those designated employees. Generally, such persons include supervisors, managers, academic administrators, deans, department chairs, student advisors, graduate advisors, residence hall staff, coaches, law enforcement officers, student judicial affairs staff, and health center staff. Each location shall post a copy of this policy in a prominent place on its website.

E. Reports of Sexual Harassment

Any member of the University community may report conduct that may constitute sexual harassment under this policy. In addition, supervisors, managers, and other designated employees are responsible for taking whatever action is necessary to prevent sexual harassment, to correct it when it occurs, and to report it promptly to the Title IX Compliance Coordinator (Sexual Harassment Officer) or other appropriate official designated to review and investigate

[2] University of California Nondiscrimination and Affirmative Action Policy Regarding Academic and Staff Employment; Nondiscrimination and Affirmative Action Policy Statement for University of California Publications Regarding Employment Practices; Academic Personnel Policy 035, Affirmative Action and Nondiscrimination in Employment; Personnel Policies for Staff Members 12, Nondiscrimination in Employment; University of California Policies Applying to Campus Activities, Organizations, and Students; and Nondiscrimination Policy Statement for University of California Publications Regarding Student-Related Matters.

sexual harassment complaints. An individual also may file a complaint or grievance alleging sexual harassment under the applicable University complaint resolution or grievance procedure (*University of California Procedures for Responding to Reports of Sexual Harassment, Appendix I: University Complaint Resolution and Grievance Procedures*).

F. Response to Sexual Harassment

The locations shall provide a prompt and effective response to reports of sexual harassment in accordance with the *University of California Procedures for Responding to Reports of Sexual Harassment (Procedures)*. A prompt and effective response may include early resolution, formal investigation, and/or targeted training or educational programs. Upon findings of sexual harassment, the University may offer remedies to the individual or individuals harmed by the harassment consistent with applicable complaint resolution and grievance procedures (*Procedures*, *Appendix I: University Complaint Resolution and Grievance Procedures*). Such remedies may include counseling, an opportunity to repeat course work without penalty, changes to student housing assignments, or other appropriate interventions. Any member of the University community who is found to have engaged in sexual harassment is subject to disciplinary action up to and including dismissal in accordance with the applicable University disciplinary procedure (*Procedures, Appendix II: University Disciplinary Procedures*) or other University policy. Generally, disciplinary action will be recommended when the harassing conduct is sufficiently severe, persistent, or pervasive that it alters the conditions of employment or limits the opportunity to participate in or benefit from educational programs. Any manager, supervisor, or designated employee responsible for reporting or responding to sexual harassment who knew about the harassment and took no action to stop it or failed to report the prohibited harassment also may be subject to disciplinary action. Conduct by an employee that is sexual harassment or retaliation in violation of this policy is considered to be outside the normal course and scope of employment.

G. Intentionally False Reports

Because sexual harassment frequently involves interactions between persons that are not witnessed by others, reports of sexual harassment cannot always be substantiated by additional evidence. Lack of corroborating evidence or "proof" should not discourage individuals from reporting sexual harassment under this policy. However, individuals who make reports that are later found to have been intentionally false or made maliciously without regard for truth, may be subject to disciplinary action under the applicable University disciplinary procedure (*Procedures, Appendix II: 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.

H. Free Speech and Academic Freedom

As participants in a public university, the faculty and other academic appointees, staff, and students of the University of California enjoy significant free speech protections guaranteed by the First Amendment of the United States Constitution and Article I, Section I of the California Constitution. This policy is intended to protect members of the University community from

discrimination, not to regulate protected speech. This policy shall be implemented in a manner that recognizes the importance of rights to freedom of speech and expression. The University also has a compelling interest in free inquiry and the collective search for knowledge and thus recognizes principles of academic freedom as a special area of protected speech. Consistent with these principles, no provision of this policy shall be interpreted to prohibit conduct that is legitimately related to the course content, teaching methods, scholarship, or public commentary of an individual faculty member or the educational, political, artistic, or literary expression of students in classrooms and public forums. However, freedom of speech and academic freedom are not limitless and do not protect speech or expressive conduct that violates federal or state anti-discrimination laws.

I. Additional Enforcement Information

The federal Equal Employment Opportunity Commission (EEOC) and the California Department of Fair Employment and Housing (DFEH) also investigate complaints of unlawful harassment in employment. The U.S. Department of Education Office for Civil Rights (OCR) investigates complaints of unlawful harassment of students in educational programs or activities. These agencies may serve as neutral fact finders and attempt to facilitate the voluntary resolution of disputes with the parties. For more information, contact the nearest office of the EEOC, DFEH or OCR listed in the telephone directory.

This Policy has been updated with a technical change and supersedes the University of California Policy on Sexual Harassment dated December 14, 2004.