

**University of California
College of the Law
San Francisco
("UC Law SF")**

SEX DISCRIMINATION & SEX-BASED HARASSMENT POLICY

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POLICY ON SEX DISCRIMINATION & SEX-BASED HARASSMENT

I. STATEMENT OF NON-DISCRIMINATION

The University of California College of the Law, San Francisco (hereinafter “UC Law SF” or “the College”) prohibits discrimination against any person on the basis of race, color, national origin, religion, age, sex, gender, sexual orientation, gender expression, gender identity, gender transition status, sex- or gender-stereotyping, pregnancy, physical or mental disability, medical condition (e.g., cancer-related or genetic characteristics), genetic information (including family medical history), ancestry, marital status, citizenship, or service in the uniformed services, including protected veterans. This Policy is intended to be consistent with applicable state and federal laws and the law school’s policies.

Every person at UC Law SF has the right to pursue an academic or professional career in an atmosphere that is safe and free from prohibited acts of discrimination, harassment, or violence, including sexual abuse, rape, sexual assault, domestic violence, intimate-partner violence, stalking, sexual coercion, or other forms of sexual violence. Bigotry, harassment, or intimidation is particularly insidious when directed at a member or group of the UC Law SF community on the basis of actual or perceived race, color, national origin, religion, age, sex, gender, sexual orientation, gender expression, gender identity, gender transition status, sex- or gender-stereotyping, pregnancy, physical or mental disability, medical condition (e.g., cancer-related or genetic characteristics), genetic information (including family medical history), ancestry, marital status, citizenship, or service in the uniformed services, including protected veterans, or any combination of these or related factors; and, to the degree it constitutes prohibited bias activity, such conduct will also not be tolerated. UC Law SF complies with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, the Americans with Disabilities Act, as amended, Section 504 of the Rehabilitation Act of 1973, and Title VII of the Civil Rights Act of 1964, as well as applicable state and local laws. The UC Law SF nondiscrimination policy covers admissions to, access to and treatment in UC Law SF-sponsored programs and activities.

II. OVERVIEW

Members of the College community, guests and visitors have the right to be free from all forms of sex discrimination, including sexual harassment, acts of sexual violence, relationship violence, and stalking. All members of the campus community are expected to conduct themselves in a manner that does not infringe upon the rights of others. This Sex Discrimination and Sex-Based Harassment Policy (“Policy” or “SDSBHP”) has been developed to reaffirm these principles and to provide recourse for those individuals whose rights have been violated. This Policy is intended to define community standards, to establish a mechanism for determining when those standards have been violated and to identify how the College will respond in such situations.

III. REPORTING CONTACT INFORMATION

A. Title IX Coordinator

Anyone wishing to make a report relating to sex discrimination or sex-based harassment may do so by reporting to the Title IX Coordinator or any responsible employee. All employees of the College (except confidential resources, as described below) are considered will share reports with the Title IX Coordinator, who will contact the complainant in order to offer support resources and share information

about filing a complaint. Inquiries about this Policy and related procedures may be made to the Title IX Coordinator. If a person is unsure about whether or not a situation falls within this Policy, they are encouraged to speak with the Title IX Coordinator, who can explain what conduct the Policy covers.

There is no time limitation on the filing of allegations. However, if the respondent is no longer subject to the College's jurisdiction, the ability to investigate, respond and provide remedies may be more limited, and the College reserves the right to decline to investigate in such a situation.

- 1) Report directly to the Title IX Coordinator at 415-565-4733 or TitleIXCoordinator@uclawsf.edu;
- 2) Report online, using the reporting form posted on [Sharknet](#) and/or
- 3) Employees can also make reports to managers and Human Resources.
- 4) Reports may be made to any administrator or faculty or staff member, who, unless they are "confidential resources," will promptly share the information with the Title IX Coordinator.

The College makes every effort to preserve the privacy of individuals making reports. Reports may also be anonymous. Anonymous reports will be reviewed to determine if remedies can be provided, although the College's ability to respond may be limited. Confidentiality and mandated reporting are addressed more specifically below. In the event that an incident involves alleged misconduct by the Title IX Coordinator, reports should be made directly to the Chancellor & Dean (Chancellor@uclawsf.edu or (415) 565-4700).

The College's Title IX Coordinator oversees compliance with all aspects of this Policy. Questions about this Policy should be directed to the Title IX Coordinator.

Andrea Bing, Title IX Coordinator
200 McAllister Street, Room 552
San Francisco, CA 94102
(415) 565-4733
TitleIXCoordinator@uclawsf.edu

Upon receipt of a complaint, the Title IX coordinator will assess each report of sexual harassment and provide outreach, as appropriate, to each identifiable party who is alleged to be the victim of the reported conduct. The outreach shall include all of the following information:

- The College has received a report that the student may have been a victim of sexual harassment.
- A statement that retaliation for filing a complaint or participating in a complaint process is prohibited.
- Counseling resources
- If a crime may have occurred, notice that the student has the right, but not the obligation, to report the matter to law enforcement.
- The institution's investigation procedures or a link to this Policy.
- Potential interim measures, such as no-contact orders, housing changes, and academic schedule changes.
- The importance of preserving evidence.
- A request for the person to meet with the Title IX coordinator or other designated employee to discuss options for responding to the report.
- The manner in which the institution responds to reports of sexual harassment and a description of potential disciplinary consequences.

B. External Reporting

Individuals experiencing harassment or discrimination also have the right to file a formal grievance with government authorities:

Office for Civil Rights (OCR)
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-1100
Customer Service Hotline #: (800) 421-3481
Facsimile: (202) 453-6012
TDD#: (877) 521-2172
Email: OCR@ed.gov
Web: <http://www.ed.gov/ocr>

Office for Civil Rights
San Francisco Office
U.S. Department of Education
50 United Nations Plaza
San Francisco, CA 94102
Telephone: (415) 486-5555
Facsimile: (415) 486-5570
Email: OCR.SanFrancisco@ed.gov

U.S. Department of Justice Civil Rights Division
950 Pennsylvania Avenue, N.W.
Educational Opportunities Section, PHB
Washington, D.C. 20530
By e-mail to: education@usdoj.gov
By telephone at (202) 514-4092 or 1-877-292-3804 (toll-free)
By facsimile at (202) 514-8337
Equal Employment Opportunity Commission (EEOC) (where the complainant is an employee)
Contact: <http://www.eeoc.gov/contact/>

C. Confidential Reporting:

1. Center for Advocacy, Resources, and Education (CARE):

If a person would like the details of an incident to be kept confidential, the person may speak with the CARE Advocate and any other service providers within CARE. The CARE Advocate and any other service providers in CARE are confidential resources, meaning that they do not have an obligation to report incidents of sexual misconduct to the Title IX Coordinator. Therefore, students can disclose instances of sexual misconduct to these staff members and receive confidential support, whether or not they want to report what happened.

CARE provides free and confidential support to any student who has been directly or indirectly impacted by sexual violence or harassment. Students can contact the CARE Advocate to receive emotional support, assistance in connecting to medical and legal resources, academic accommodations, information about the Title IX or criminal reporting processes, and more. Students can also contact CARE for

assistance in filing an anonymous report with Title IX. The CARE Advocate will not share information without the student's permission. Contact: care@uclawsf.edu

The CARE Advocate will maintain confidentiality except in extreme cases of immediate threat or danger, or abuse of a minor. The CARE Advocate is available to help free of charge and can be seen on an emergency basis during normal business hours. CARE will submit annual deidentified, aggregate statistical information for Clery Act purposes unless they believe it would be harmful to a specific client or patient.

2. Office of the Ombuds:

The Office of the Ombuds serves as a resource for current UC Law SF students, faculty, and staff. It offers a safe, confidential, voluntary and neutral place for individuals with college-related concerns to discuss them in an informal and unofficial setting.

Teddy Albiniak
albiniakteddy@uclawsf.edu

IV. Jurisdiction

This Policy applies to behaviors that take place in any program or activity of UC Law SF. This encompasses any location, event, or circumstance over which the College exercises substantial control over both the respondent and the context in which the alleged misconduct occurred, whether on or off campus, including in any building owned or controlled by a recognized student organization. This jurisdiction includes occurrences at College-sponsored events such as clinic fieldwork, exchange programs sponsored by the College, and events sponsored by College organizations, if the College exercises substantial control over the respondent and the context.

This Policy also applies to other actions off-campus and online when the Title IX Coordinator determines that the conduct affects a substantial College interest. A substantial College interest may be found in any of the following situations:

1. Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state or federal law;
2. Any situation where it appears that the respondent may present a danger or threat to the health or safety of self or others;
3. Any situation that significantly impinges upon the rights, property or achievements of self or others or significantly breaches the peace and/or causes social disorder; and/or
4. Any situation that is detrimental to the educational interests of the College, including a situation that creates a hostile environment on campus for a student or employee. (The definition of a hostile environment is explained below.)
5. Any online postings or other electronic communication by students, including cyber-bullying, cyber-stalking, cyber-harassment, etc. occurring completely outside of the College's control (e.g., not on College networks, websites or between College email accounts) are subject to this Policy when those online behaviors can be shown to cause a substantial disruption to a complainant's access to education, such as by creating a hostile environment. Otherwise, such communications are considered speech protected by the First Amendment. Remedies for such conduct may be provided, but protected speech cannot be legally subjected to discipline.

6. Off-campus discriminatory or harassing speech by employees may be regulated by the College when such speech is made in an employee's official or work-related capacity or where such speech contributes to a hostile environment at the College for a student or employee.

V. TERMINOLOGY AND KEY WORDS

Advisor – A person the complainant or respondent selects who may attend all meetings with the party. An advisor may be anyone the party chooses (e.g., friend, family member, or an attorney).

CARE Advocate – A College staff member in the Center for Advocacy, Resources and Education (CARE) who provides free, confidential support to any UC Law SF student or employee who has been impacted by sexual assault, dating/intimate partner violence, sexual harassment or stalking.

Confidential Employee – Confidential resources are staff members who do not have an obligation to report incidents of sex discrimination or sex-based harassment to the title IX Coordinator. Therefore, community members can disclose instances of sex discrimination and harassment to these employees and receive confidential support, whether or not they ultimately want to report what happened to the College. The College's confidential employees are the Associate Director of the Center for Advocacy, Resources and Education (CARE), other persons providing counseling through CARE and the Ombuds.

Complainant - (1) A student or employee who is alleged to have been subjected to conduct that could constitute a violation of this Policy; or (2) A person other than a student or employee who is alleged to have been subjected to conduct that could constitute a violation of this Policy and who was participating or attempting to participate in UC Law SF's education program or activity at the time of the alleged violation.

Complaint - an oral or written request for the College to investigate and make a determination about an alleged violation of this Policy.

Disciplinary sanctions - consequences imposed on a respondent following a determination under this Policy that the respondent violated the College's prohibition on sex discrimination.

Ombuds – The Office of the Ombuds serves as a resource for current UC Law SF students, faculty, and staff. It offers a safe, confidential, voluntary and neutral place for individuals with college-related concerns to discuss in an informal and unofficial setting. Confidentially listens to complaints, concerns, or questions about challenging situations. Provides neutral and unbiased feedback. Informs people of the possible options for next steps, both formal and informal. Helps to problem-solve in order to deescalate a conflict, including offering coaching for challenging conversations. Supports and helps instill confidence in anyone who visits the office. With permission, assists in resolving conflicts between individuals which might include the following voluntary options: meeting separately for discussion, engaging—with joint approval—in communication across two parties or groups, informal structured dialogue or mediation.

Party – a complainant or respondent, as those terms are defined herein.

Relevant - related to the allegations of sex discrimination under investigation as part of these grievance procedures. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred.

Remedies - measures provided, as appropriate, to a complainant or any other person the College identifies as having had their equal access to the College's education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to the College's education program or activity after determining that sex discrimination occurred.

Respondent - person who is alleged to have violated this Policy.

Respondent Services Coordinator- non-confidential support resource to student respondents who are alleged to have violated the UC Law SF Sexual Misconduct Policy or the UC Law SF Code of Student Conduct and Discipline. The Respondent Services Coordinator provides a safe and supporting listening space and can assist in a variety of ways including: Explaining the rights of a student respondent and answering questions related to policies and procedures; explaining and navigating the resolution, investigation, hearing, or appeal processes; helping the respondent prepare for meetings; accompanying the respondent to meetings related to the investigation, hearing, or appeal; providing information about and making referrals to campus resources; assisting with logistical issues related to interim suspension or other interim actions or restrictions; and assisting with securing an interpreter or translator.

Responsible Employee - At UC Law SF, "responsible employees" include all employees who are not designated as confidential employees. This includes, but is not limited to: administrators, faculty members (including adjunct faculty), staff members, and student employees (e.g., research and teaching assistants) when they learn of allegations while acting in their employee capacity. Attorneys working at or for the law school are also considered responsible employees and must report incidents to the Title IX Coordinator.

Retaliation - intimidation, threats, coercion, or discrimination against any person by the College, a student, an employee or a person authorized by the College to provide aid, benefit, or service under the College's education program or activity, for the purpose of interfering with any right or privilege secured by this Policy, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Title IX regulations.

Student Code - the Code of Student Conduct and Discipline, or any successor code of student conduct.

Supportive Measures – individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to:

- (1) Restore or preserve that party's access to the College's education program or activity, including measures that are designed to protect the safety of the parties or the College's educational environment; or
- (2) Provide support during the College's grievance procedures or during an informal resolution process.

VI. Prohibited Conduct:

A. SEX DISCRIMINATION¹

Sex discrimination is an Unfavorable Action taken because of an individual's actual or perceived sex. Discrimination on the basis of sex includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation and gender identity.

An Unfavorable Action is adverse or unequal treatment under College authority or the authority of a Recognized Student Organization that unreasonably denies, unreasonably limits, or materially interferes with an individual's ability to participate in programs, activities, or employment of the College, and/or receive services, benefits, or aid of the College, unless required or authorized by law. An Unfavorable Action is taken because of an individual's Sex. An Unfavorable Action will not exist where the action or inaction would have been taken regardless of the individual's Sex. Applying for or accepting research awards that contain eligibility restrictions that are permitted by state and federal law and that are required as a condition for funding does not constitute Prohibited Conduct under this Policy.

B. SEX-BASED HARASSMENT:

Sex-based harassment means sexual harassment and other misconduct on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, that falls into one of the following categories:

1. Quid pro quo harassment.

An employee, agent, or other person authorized by the College to provide an aid, benefit, or service under the College's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;

2. Hostile environment harassment.

Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the College's education program or activity (i.e., creates a hostile environment).

Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

- (i) The degree to which the conduct affected the complainant's ability to access the College's education program or activity;
- (ii) The type, frequency, and duration of the conduct;
- (iii) The parties' ages, roles within the College's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;

¹ "Sex discrimination" as used in this Policy means sex discrimination other than sex-based harassment. For purposes of this Policy, they are mutually exclusive categories.

- (iv) The location of the conduct and the context in which the conduct occurred; and
- (v) Other sex-based harassment in the College's education program or activity; or

3. Specific offenses.

a. Non-Consensual Sexual Contact²

Non-Consensual Sexual Contact is:

- any sexual contact (as defined below)
- however slight,
- by a person³ upon another person,
- that is without consent and/or by force.⁴

Sexual Contact includes:

- Intentional contact with the breasts, buttock, groin, mouth, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; or
- Any other intentional bodily contact that is reasonably perceived as sexual.
- May be clothed or unclothed.

b. Non-Consensual Sexual Intercourse

Non-Consensual Sexual Intercourse⁵ is:

- vaginal or anal penetration by a penis or other body part or an object and oral copulation (mouth to genital contact), no matter how slight the penetration or contact
- by a person upon another person,
- that is without consent and/or by force⁶.

c. Dating violence:

Violence committed by a person:

1. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
2. Where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - a. The length of the relationship;
 - b. The type of relationship; and
 - c. The frequency of interaction between the persons involved in the relationship;

² Non-Consensual Sexual Contact and Non-Consensual Sexual Intercourse include the acts defined as rape, sodomy, sexual assault with an object and fondling under the FBI Uniform Crime Reporting Program.

³ This includes a person touching another person with an object

⁴ The use of force is not "worse" than the subjective experience of violation of someone who has sex without consent.

However, the use of physical force constitutes a stand-alone non-sexual offense as well, as it is our expectation that those who use physical force (restrict, battery, etc.) would face not just the sexual misconduct charge, but charges under the code for the additional assaultive behavior.

⁵ Included in this definition is reproductive coercion, i.e., birth control sabotage. Examples may include when someone: hides, withholds, or destroys a sexual partner's birth control pills; replaces or tampers with a sexual partner's birth control pills without the partner's knowledge or consent; breaks or pokes holes in a condom on purpose; removes a condom during sex without telling their sexual partner; refuses to withdraw during sex, even if they previously agreed to do so; pulls out a sexual partner's vaginal contraceptive ring; or tears off a sexual partner's contraceptive patch.

⁶ See supra, n.5.

d. Domestic or Relationship Violence⁷:

1. A felony or misdemeanor crime; or
2. Intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to self or another; and
 - a. Committed by a current or former spouse, person with whom the complainant has had a child or has had a dating or romantic relationship, current or former cohabitant, or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the College, or a person similarly situated to a spouse of the victim;
 - b. Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
 - c. Shares a child in common with the victim; or
 - d. Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction; or

e. Stalking⁸⁹:

- A course of conduct¹⁰
- Directed at a specific person
- That would cause a reasonable¹¹ person to feel fear for their safety or the safety of others, or to suffer substantial emotional distress¹².

f. Sexual Exploitation

Examples of sexual exploitation include, but are not limited to:

- Invasion of sexual privacy, including non-consensual digital, video or audio recording of nudity or sexual activity;
- Prostituting another person;
- Unauthorized sharing or distribution of digital, video or audio recording of nudity or sexual activity;
- Engaging in voyeurism;
- Going beyond the boundaries of consent (such as letting your friend hide in the closet to watch you having consensual sex);
- Knowingly exposing someone to or transmitting an STI, STD or HIV to another person without their knowledge and consent;
- Intentionally or recklessly exposing one's genitals in non-consensual circumstances; inducing another to expose their genitals;
- Sexually-based stalking and/or bullying may also be forms of sexual exploitation;

⁷ The state legal definitions of domestic violence and dating violence can be found at [Cal Pen Code § 13700 \(2016\)](#) and [Cal. Pen. Code §273.5](#).

⁸ See [Cal Pen Code § 646.9 \(2008\)](#) and [Cal Civ Code § 1708.7 \(2014\)](#) on Stalking.

⁹ Stalking not based on a protected class may still be a violation of the Student Code

¹⁰ Course of conduct is defined as two or more acts. It includes following, monitoring, observing, surveilling, threatening, communicating, or interfering with property, etc.

¹¹ Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.

¹² Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

4. Consent

(a) Definition

Consent is the affirmative, conscious, voluntary, and revocable expression of agreement.

- Consent is affirmative. Consent to sexual activity is informed and requires of each person an affirmative, unambiguous, and conscious agreement to engage in mutually agreed-upon sexual activity.
- Consent is conscious. Consent cannot be given when a person is incapacitated. A person cannot consent if that person is unconscious or coming in and out of consciousness. A person cannot consent if that person is under the threat of violence, bodily injury, or other forms of coercion. A person cannot consent if that person's understanding of the act is affected by a physical or mental impairment. (See definition below on Incapacitation.)
- Consent is voluntary. It must be given without coercion, force, threats, or intimidation. Consent means positive cooperation in the act or expression of intent to engage in the act pursuant to an exercise of free will. It is the responsibility of each person to ensure they have the affirmative consent of the other to engage in the sexual activity. Lack of protest, lack of resistance, or silence do not alone constitute consent.
- Consent is revocable. Affirmative consent must be ongoing and can be revoked at any time during sexual activity. Once consent is withdrawn, the sexual activity must stop immediately. Consent to some form of sexual activity does not mean consent to other forms of sexual activity. Consent to sexual activity on one occasion is not consent to engage in sexual activity on another occasion. The existence of a dating relationship or past sexual relations between the persons involved should never by itself be assumed to be an indicator of consent (nor will subsequent sexual relations or dating alone suffice as evidence of consent to prior conduct). A current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent.
- The Respondent's belief that the Complainant consented shall not provide a valid defense unless the belief was actual and reasonable, considering all of the facts and circumstances the Respondent knew, or reasonably should have known, at the time. In particular, the Respondent's belief shall not provide a valid defense where:
 1. The Respondent's belief arose from the Respondent's own intoxication or recklessness;
 2. The Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the Complainant affirmatively consented; or
 3. The Respondent knew or a reasonable person should have known that the complainant was unable to consent because the Complainant was incapacitated, in that the Complainant was:
 - a. Asleep or unconscious;
 - b. Unable to understand the fact, nature, or extent of the sexual activity due to the influence of drugs, alcohol, or medication; or
 - c. Unable to communicate due to a mental or physical condition.

(b) Incapacitation

Incapacitation is a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the "who, what, when, where, why or how" of their sexual interaction).

- Being under the legal age counts as incapacitation and the inability to give consent.
- Sexual activity with someone you know to be or should know to be incapacitated constitutes a violation of this Policy.

- Incapacitation can occur mentally or physically, from developmental disability, by alcohol or other drug use, medication, or blackout.¹³
- The question of what the respondent should have known is objectively based on what a reasonable person in the place of the respondent, sober and exercising good judgment, would have known about the condition of complainant.
- This Policy also covers a person whose incapacity results from mental disability, sleep, unconsciousness, involuntary physical restraint, or from the taking of rape drugs. [Possession, use and/or distribution of any of these substances is prohibited, and administering one of these drugs to another student is a violation of this Policy. More information on these drugs can be found at <http://www.911rape.org/>].

(c) Physical Force

Physical force is the use or threat of physical violence. The use of physical force in order to engage in a sexual encounter negates consent.

(d) Coercion

Coercion is verbal or psychological pressure to engage in sexual activity. This may include threats, intimidation (implied threats), or attempts to overcome free will or resistance.

In evaluating an allegation of coercion, the College will consider the totality of the circumstances, looking at the following factors together:

- Frequency: How many times sex was requested. This includes sexual advances through the use of technology.
- Intensity: The creation of psychological pressure, through means such as attacks on a complainant's character, values, and morals. (For example: "Do you want to be the last virgin on earth? No one will find out; I won't tell anyone....")
- Isolation: Making advances at a crowded bar is going to be less coercive than when the advances occur when two people are alone in someone's living room.
- Duration: Making unrequited advances for 10 minutes vs. making advances for one hour.
- Power imbalance: The use of one's power or position to convince another person to have sex.

NOTE: There is no requirement for a party to physically resist the sexual advance or request for sexual activity to be nonconsensual, but physical resistance is a clear demonstration of non-consent. The absence of force is not demonstrated by the absence of resistance. Furthermore, sexual activity that is forced is by definition non-consensual, but non-forced sexual activity may also be non-consensual.

- Use of alcohol or other drugs will never function to excuse any behavior that violates this Policy.
- This Policy is applicable regardless of the sexual orientation and/or gender identity of individuals engaging in sexual activity.

¹³ Blackout, as it is used in scholarly literature, refers to a period where memory formation is blocked. A period of consistent memory loss is termed a blackout, whereas periods where memory is both lost and formed intermittently can be referred to in the literature as a brownout. Neither state of blackout nor brownout automatically indicates incapacitation, but factual context can establish that a blackout or a brownout is occurring in an individual who is incapacitated (where incapacity is defined as an inability to make rational, reasonable decisions or judgments). It is a mistake to automatically associate memory loss with incapacitation; they are often coupled, but not always. (see e.g.: Mundt & Wetherill – 2012; NIH 2004).

- For reference to the pertinent state statutes on sex offenses, please see the California Code Citations on page 32.

C. ADDITIONAL PROVISIONS

1. Retaliation

Retaliation is defined as intimidation, threats, coercion, or discrimination against any person by the College, a student, or an employee or other person authorized by the College to provide aid, benefit, or service under the College's education program or activity, for the purpose of interfering with any right or privilege secured by this Policy, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy. Retaliation is prohibited.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. UC Law SF is prepared to take appropriate steps to protect individuals who fear that they may be subjected to retaliation.

2. Attempted violations

In most circumstances, UC Law SF will treat attempts to commit any of the violations listed in this Policy as if those attempts had been completed.

3. False Reports

The College will not tolerate intentional false reporting of incidents. It is a violation of the Student Code to make an intentionally false report of any policy violation, and it may also violate state criminal statutes and civil defamation laws. However, the fact that a respondent is not found responsible with respect to a complaint does not alone establish that the complainant made an intentionally false report.

4. Amnesty for Victims and Witnesses

Sometimes, people are hesitant to report to College officials, participate in resolution processes or help others in need because they fear that they themselves may be accused of policy violations, such as drug use, at the time of the incident. It is in the best interests of this community that reporting parties choose to report to College officials, that witnesses come forward to share what they know and that community members help one another. To encourage reporting, the College may offer complainants, witnesses and individuals who help others amnesty from minor policy violations related to the incident.

5. Prohibited Conduct That Falls Outside of This Policy

This Policy may also be used to address collateral prohibited conduct occurring in conjunction with harassing or discriminatory conduct (e.g., vandalism, physical abuse of another). Allegations of misconduct unrelated to incidents covered by this Policy will be addressed through the procedures elaborated in the respective student, faculty, and staff handbooks.

6. Records

In implementing this Policy, records of all allegations, investigations, resolutions, and hearings will be kept by the Title IX Coordinator for 10 years.

VII. Supportive Measures

UC Law SF will offer and coordinate supportive measures as appropriate for a sex discrimination or harassment complainant and/or respondent to restore or preserve that person's access to UC Law SF's education program or activity.

Supportive measures are non-disciplinary, non-punitive services provided to a complainant or respondent before or after the filing of a complaint or where no complaint has been filed. They are designed to restore or preserve equal access to the College's education programs and activities without unreasonably burdening the other party. They include measures designed to protect the safety of all parties and the College's educational environment and to deter sexual misconduct. The Title IX Coordinator may provide supportive measures intended to address the short-term effects of harassment, discrimination and/or retaliation, in order to assist or protect the complainant, the respondent, or the College community. Supportive measures may remain in place until the final outcome of an informal resolution, grievance procedure, or subsequent disciplinary or appeal process; change or terminate depending on the parties' evolving needs, as assessed by the Title IX Coordinator; or become permanent as part of the resolution of a report.

These supportive measures may include:

- Referral to counseling and health services
- Extensions of deadlines or other course-related adjustments
- Modifications of work or class schedules
- Campus escort services
- Mutual restrictions on contact between the parties
- Changes in work or housing locations
- Leaves of absence
- Increased security and monitoring of certain areas of the campus
- Education to the community
- Altering the housing situation of a party, subject to availability

Similar measures may be put in place as deemed appropriate based on needs.

When requested by a complainant or otherwise determined to be appropriate, the College shall issue an interim no-contact order prohibiting the respondent from contacting the complainant during the pendency of the investigation. The College may also issue an interim mutual no-contact directive if after consideration of the specific circumstances of the case it determines that is necessary or justifiable to protect the noncomplaining party's safety or well-being, or to respond to interference with an investigation. A no-contact order related to an allegation issued after a decision of responsibility for that allegation shall be unilateral and only apply against the party found responsible. Upon the issuance of a mutual no-contact order, the College shall provide the parties with a written justification for the order¹⁴ and an explanation of the terms. Upon the issuance of any no-contact order,

¹⁴ No written justification will be provided when a mutual no contact order is agreed upon in a facilitated resolution.

the institution shall provide the parties with an explanation of the terms of the order, including the circumstances, if any, under which violation could be subject to disciplinary action.

The College will maintain as confidential any supportive measures to the extent feasible while allowing the College to effectively implement those measures and properly implement this Policy.

VIII. Informal Resolution

In lieu of resolving a complaint through UC Law SF's Title IX grievance procedures, the College may allow the parties instead elect to participate in an informal resolution process. UC Law SF will not permit informal resolution to resolve a complaint when such a process would conflict with Federal, State, or local law. Before the initiation of an informal resolution process, UC Law SF will explain in writing to the parties:

- The allegations;
- The requirements of the informal resolution process;
- That any party has the right to withdraw from the informal resolution process and initiate or resume grievance procedures at any time before agreeing to a resolution;
- That if the parties agree to a resolution at the end of the informal resolution process, they cannot initiate or resume grievance procedures arising from the same allegations;
- The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and
- What information UC Law SF will maintain and whether and how UC Law SF could disclose such information for use in Title IX grievance procedures if such procedures are initiated or resumed.

Informal resolution is a voluntary, remedies-based resolution process that balances support and accountability without formal disciplinary action. It must be agreed to by the complainant as well as the respondent and approved by the Title IX Coordinator.

If informal resolution is desired by the parties and approved by the Title IX Coordinator, then the report does not proceed to investigation.

The Title IX Coordinator reviews the matter to the extent necessary to confirm that it is of the type that would be appropriate for an informal resolution process and that use of an informal resolution process was without pressure or compulsion from others. The informal resolution options available under this Policy recognize:

- The goal of informal resolution is to address any prohibited conduct, identify ways that individuals and/or the community have been harmed, and develop a resolution agreement to address the harm and prevent future prohibited conduct;
- Participation is voluntary and both a complainant and a respondent, as well as any other participating individuals, must consent in writing to participation in informal resolution;
- The written consent will inform the complainant and the respondent that either can request to end informal resolution at any time, including to pursue an investigative resolution, if desired. The written consent will also inform parties that information gathered and utilized in informal resolution by and between the parties cannot be used in any other College process, including investigative resolution, unless agreed to by all involved;
- The College will not pressure or compel either party to engage in mediation, to directly confront the other party, or to participate in any particular form of informal resolution;
- Prohibited conduct affects complainants, respondents, witnesses, friends, community members, family members, and others;

- Complainants, respondents, and other participants in informal resolution often benefit when resolution processes and outcomes are tailored to meet their unique needs and interests;
- Complainants and other participants in informal resolution may find it useful to meet with a respondent who acknowledges the substance of the underlying events and who acknowledges that complainants have reported experiencing harm as a result;
- Structured interactions between participants can facilitate long-term healing and reduce recidivism; and
- Participants in informal resolution processes must be protected from secondary victimization and other potential harms, including the pressure to proceed through informal resolution instead of investigative resolution.

Measures that may be agreed to as a result of the resolution process may include:

- Alcohol education classes;
- Regular meetings with an appropriate College individual or resource;
- Extension of a no contact order;
- Restriction from participation in specific organizations;
- Restriction from participation in particular events;
- Completion of an educational plan with regular meetings with appropriate staff or faculty member; and
- Counseling sessions.

Informal Resolution can be pursued for any behavior that falls within this Policy at any time prior to a determination of responsibility for sex discrimination or sex-based harassment.

In informal resolution, the Title IX Coordinator or designee has the authority to address all collateral misconduct, meaning that they hear all allegations of sex-based harassment and misconduct, or retaliation, but also may address any additional alleged policy violations that have occurred in concert with the harassment, misconduct, or retaliation, even though those collateral allegations may not specifically fall within the Policy. Accordingly, investigations should be conducted with as wide a scope as necessary.

Typically, within ten days of the close of an investigation, the parties are given the opportunity to request informal resolution instead of proceeding to a hearing. At any point during the informal resolution process, including at its conclusion, either party may request that the matter be referred to the formal resolution process (e.g., investigation or a hearing)

IX. Advisors

Each party is allowed to have an advisor or support person of their choice present with them for all meetings and proceedings during any stage of the process. Parties also have the right to consult with an attorney, at their own expense, at any stage of the process if they wish to do so. The parties may select whomever they wish to serve as their advisor. The advisor may be a friend, mentor, family member, attorney, or any other supporter a party chooses to advise them. The parties may choose advisors from inside or outside the campus community. The College is not responsible for providing or paying for an advisor to any party.

A party may be accompanied by their advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. The College requires twenty-four hours' notice of all persons who will be present in a meeting, including advisors. Advisors will be asked to sign a form stating they have read and understood their role prior to attending any meetings. Advisors should

help their advisees prepare for each meeting, and are expected to advise ethically, with integrity and in good faith. The Title IX Coordinator is available to go over advisor role or process questions with advisors.

The College cannot guarantee equal advisory rights, meaning that if one party selects an advisor who is an attorney, but the other party does not, or cannot afford an attorney, the College is not obligated to provide an attorney to the other party. To engage an advisor, respondents may wish to contact organizations such as:

- FACE (<http://www.facecampusequality.org>)
- SAVE (<http://www.saveservices.org>).

Complainants may wish to contact organizations such as:

- Equal Rights Advocates (<https://www.equalrights.org>), which provides free legal advice and resources to student survivors of sexual violence and harassment.
- The National Center for Victims of Crime (<http://www.victimsofcrime.org>), which maintains the Crime Victim's Bar Association.

All advisors are subject to the same campus rules, whether they are attorneys or not. Advisors may not address campus officials in a meeting or interview unless invited to. The advisor may not make a presentation or represent the complainant or the respondent during any meeting or proceeding, except for questioning during a hearing, as set forth below, and may not speak on behalf of the advisee to the investigators or hearing officer. The parties must respond to questions on their own behalf, without representation by their advisor. Advisors may confer quietly with their advisees or in writing as necessary, as long as they do not disrupt the process. For longer or more involved discussions, the parties and their advisors should ask for breaks or step out of meetings to allow for private conversation. Advisors will typically be given an opportunity to talk in advance of any interview or meeting with the administrative officials conducting that interview or meeting. This discussion will allow advisors to clarify any questions they may have, and allows the College an opportunity to clarify the role the advisor is expected to take.

Advisors are expected to refrain from interference with the investigation and resolution. Any advisor who steps out of their role will be warned once and only once. If the advisor continues to disrupt or otherwise fails to respect the limits of the advisor role, the advisor will be asked to leave the meeting. When an advisor is removed from a meeting, that meeting will typically continue without the advisor present. Subsequently, the Title IX Coordinator will determine whether the advisor may be reinstated, may be replaced by a different advisor, or whether the party will forfeit the right to an advisor for the remainder of the process.

The College expects that the parties will wish to share documentation related to the allegations with their advisors. The College provides a consent form that authorizes such sharing. The parties must complete this form before the College is able to share records with an advisor, though parties may share the information directly with their advisor if they wish. Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the College. The College may seek to restrict the role of any advisor who does not respect the sensitive nature of the process or who fails to abide by the College's privacy expectations.

UC Law SF expects an advisor to adjust their schedule to allow them to attend meetings when scheduled. The College does not typically change scheduled meetings to accommodate an advisor's inability to attend. The College will, however, make reasonable provisions to allow an advisor who cannot attend in person to attend a meeting by telephone, video and/or virtual meeting technologies as may be convenient and available.

A party may elect to change advisors during the process, and is not required to use the same advisor throughout. Where a party is an employee who is a member of a union and entitled to a union representative in the process, that employee may be accompanied by the union representative as their advisor or may choose an advisor in addition to their union representative. In such cases, the other party may have two advisors as well.

The parties must advise the investigators of the identity of their advisor at least one day before the date of their first meeting with investigators (or as soon as possible if a more expeditious meeting is necessary or desired). The parties must provide timely notice to investigators if they change advisors at any time.

X. GRIEVANCE PROCEDURES FOR COMPLAINTS OF SEX DISCRIMINATION AND SEX-BASED HARASSMENT

A. General Principles

UC Law SF has adopted grievance procedures that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in its education program or activity, or by the Title IX Coordinator, alleging any action that would be prohibited by Title IX, the Title IX regulations, or this Policy.

UC Law SF will treat complainants and respondents equitably.

UC Law SF requires that any Title IX Coordinator, investigator, or decisionmaker not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. A decisionmaker may be the same person as the Title IX Coordinator or investigator.

UC Law SF presumes that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its grievance procedures.

Neither party is required to participate in a sexual misconduct proceeding, and an inference may not be drawn from the silence of the respondent.

B. How to make a Complaint

A person can make a complaint by reporting alleged sex discrimination or sex-based harassment to the Title IX Coordinator and asking the College to investigate it, either orally or in writing.

C. Persons who can Make a Complaint.

Any person may report alleged sex discrimination or sex-based harassment to the College. The following persons have a right to make a complaint of sex discrimination or sex-based harassment:

1. A complainant;
2. A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant;
3. The Title IX Coordinator, after making the determination specified below:
 - a. In the absence of a complaint or the withdrawal of any or all of the allegations in a complaint, and in the absence or termination of an informal resolution process, the Title IX Coordinator will determine whether to initiate a complaint of with respect to an allegation of sex discrimination or sex-based harassment that complies with the grievance procedures under this Policy.
 - b. To make this fact-specific determination, the Title IX Coordinator will consider, at a minimum, the following factors:
 - i. The complainant's request not to proceed with initiation of a complaint;
 - ii. The complainant's reasonable safety concerns regarding initiation of a complaint;
 - iii. The risk that additional acts of sex discrimination would occur if a complaint is not initiated;
 - iv. The severity of the alleged sex discrimination, including whether the discrimination, if established, would require the removal of a respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;
 - v. The age and relationship of the parties, including whether the respondent is an employee of the College;
 - vi. The scope of the alleged sex discrimination, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals;
 - vii. The availability of evidence to assist a decisionmaker in determining whether sex discrimination occurred; and
 - viii. Whether the College could end the alleged sex discrimination and prevent its recurrence without initiating its grievance procedures.
 - c. If, after considering these and other relevant factors, the Title IX Coordinator determines that the conduct as alleged presents an imminent and serious threat to the health or safety of the complainant or other person, or that the conduct as alleged prevents the College from ensuring equal access on the basis of sex to its education program or activity, the Title IX Coordinator may initiate a complaint.
4. With respect to complaints of sex discrimination, in addition to the persons listed above:
 - a. Any student or employee; or
 - b. Any person other than a student or employee who was participating or attempting to participate in the College's education program or activity at the time of the alleged sex discrimination.

D. General Procedures

1. No unauthorized audio or video recording of any kind is permitted during investigation meetings or other resolution process proceedings.
2. In any meeting or proceeding under this Policy, the College will:
 - Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all meetings or proceedings with at least one week for the party to prepare to participate;
 - Provide any party the opportunity to be accompanied to any meeting or proceeding by

the advisor of their choice, who may be, but is not required to be, an attorney, although the College will not take responsibility for finding or paying for an advisor for any party, and an advisor may not speak on behalf of a party during meetings or proceedings, and must conform to such other reasonable requirements as the College shall identify.

- Provide the parties with the same opportunities, if any, to have persons other than the advisor of the parties' choice present during any meeting or proceeding.
3. Parties and their advisors may not disclose information and evidence obtained solely through a grievance process under this Policy without authorization from the Title IX Coordinator. For purposes of this paragraph, disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex discrimination, disclosures necessary to obtain and present evidence, including by communicating with witnesses, consulting with family members, confidential resources or advisors, and otherwise preparing for participation in the grievance process under this Policy, are authorized. Noncompliance with this provision may be cause for discipline.
4. UC Law SF has established the following timeframes for the major stages of the grievance procedures:
- Evaluation (i.e., the decision whether to dismiss or investigate a complaint):
 - usually takes 3-5 business days to complete.
 - Investigation:
 - An investigator will be assigned and commence an investigation expeditiously.
 - An investigation is usually completed in 60 to 90 days, though it may take less or more time depending on the availability of the parties, number and availability of witnesses, and the complexity of the case and evidence.
 - The Title IX Coordinator or their designee will convey the investigation report to the parties within seven days of receipt.
 - Hearing:
 - Parties will receive notice of hearing at least 10 days prior to hearing.
 - Hearings usually take place over 1-2 business days.
 - The hearing officer will deliver a report to the Title IX Coordinator within 14 days of the end of deliberations, unless the Title IX Coordinator grants an extension for good cause.
 - The Title IX Coordinator or their designee will convey the report to the parties simultaneously within the next two business days.
 - Appeal:
 - Parties have 7 calendar days after receiving notice of sanction to submit a request for appeal;
 - The other party will receive notice of the request for appeal within 2 business days and will have 7 calendar days to respond;
 - The Chancellor & Dean will have three weeks to decide an appeal unless extending the time for good cause or remanding due to new evidence.
 - The resolution of a complaint will normally take two to four months, though some investigations take less or more time, depending on the nature, extent and complexity of the allegations, availability of witnesses, police involvement, etc.
 - The Title IX Coordinator may pause proceedings under this policy during study and exam periods, if the Title IX Coordinator concludes that this is in the educational interests of a party and that this will not materially deny access to the educational program to either party. The Title IX Coordinator will seek the input of parties before implementing such a pause.

5. UC Law SF has also established the following process that allows for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the parties that includes the reason for the delay:
 - The party making a request for extension must submit the request in writing to the Title IX Coordinator.
 - The request should include the length of extension the party is requesting, good cause reasons for requesting the extension, and any supporting documentation.
 - The Title IX Coordinator will evaluate the request for an extension. If denied, the Title IX Coordinator will notify the requesting party.
 - If the extension is granted, the Title IX Coordinator will notify both parties that a reasonable extension has been granted, sharing the reasons for it, and the projected new timelines.
6. UC Law SF will take reasonable steps to protect the privacy of the parties and witnesses during its grievance procedures. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures. The parties cannot engage in retaliation, including against witnesses.

E. Emergency Removal¹⁵

1. UC Law SF retains the right to remove a respondent from the College or from some program or activity of the College on an emergency basis, after the Title IX Coordinator undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal.¹⁶
2. UC Law SF retains the right to place a non-student employee respondent on administrative leave during the pendency of this grievance process .
3. In all cases in which a removal (including an interim suspension or administrative leave) is imposed, the student, employee or student organization will be given notice of the removal and the opportunity to meet with the Title IX Coordinator prior to such removal being imposed, or as soon thereafter as reasonably possible, to show cause why the removal should not be implemented. The Title IX Coordinator has sole discretion to implement or stay an interim removal and to determine its conditions and duration. Violation of a removal under this policy will be grounds for expulsion or termination.
4. During an interim suspension or administrative leave, a student or employee may be denied access to on-campus housing and/or the UC Law SF campus/facilities/events. As determined by the Title IX Coordinator, this restriction can include classes and/or all other College activities or privileges for which the respondent might otherwise be eligible. At the discretion of the Title IX Coordinator, alternative coursework or work options may be pursued to ensure as minimal an impact as possible on the respondent. An interim suspension or administrative leave will not equate to a finding of violation of policy, and as such, will not be recorded on any student or employment files other than confidential Title IX files.

¹⁵ This provision may not be construed to modify any rights under the [Individuals with Disabilities Education Act](#), Section 504 of the [Rehabilitation Act of 1973](#), or the Americans with Disabilities Act.

¹⁷ A party may request, in writing, to meet sooner than one week and the Title IX Coordinator will determine if the party's request is appropriate given the totality of the circumstances. Also, a meeting with a party to provide the party with information may be scheduled sooner than one week after notice.

F. Evidence, Permissible and Impermissible

In resolution proceedings, the College may consider all evidence that it deems relevant and is not bound by formal rules of evidence. UC Law SF will objectively evaluate all evidence that is relevant and not otherwise impermissible—including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.

The following types of evidence, and questions seeking that evidence, are impermissible (i.e., will not be accessed or considered, except by UC Law SF to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:

- Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless UC Law SF obtains that party's or witness's voluntary, written consent for use in its grievance procedures; and
- Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

G. Dismissals

1. Upon receipt of a complaint and at any time thereafter, the Title IX Coordinator will review the complaint and dismiss it if:
 - a. The College is unable to identify the respondent after taking reasonable steps to do so;
 - b. The respondent is not participating in the College's education program or activity and is not employed by the College;
 - c. The complainant voluntarily withdraws any or all of the allegations of the complaint in writing, the Title IX Coordinator declines to initiate a complaint, and the College determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under Title IX or this Policy even if proven; or
 - d. The College determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX or this Policy. Prior to dismissing the complaint under this provision, the College will make reasonable efforts to clarify the allegations with the complainant.
2. Notwithstanding the foregoing, should a student decide to withdraw while an allegation is pending for a violation of this Policy, the Title IX Coordinator in their discretion may determine that the process will nonetheless proceed in the student's absence to a reasonable resolution and that student will not be permitted to return to UC Law SF unless all sanctions have been satisfied or

may reasonably be satisfied upon the student's return. The student will not have access to an academic transcript until the allegations have been resolved. Also notwithstanding the foregoing, should an employee resign with unresolved allegations pending, the Title IX Coordinator in their discretion may determine that the process will nonetheless proceed in the employee's absence to a reasonable resolution, the records of the Title IX Coordinator will reflect that status, and any College responses to future inquiries regarding employment references for that individual will indicate the former employee is ineligible for rehire until the allegations have been resolved and/or all sanctions have been satisfied.

3. Upon dismissal, UC Law SF will promptly notify the complainant of the basis for the dismissal in writing. If the dismissal occurs after the respondent has been notified of the allegations, then the College will also notify the respondent of the dismissal simultaneously in writing. Notification of dismissal will describe the opportunity for appeal of the dismissal.
4. Bases for Appeal of Dismissal

A party may appeal a dismissal of a complaint on any of the following bases:

- a) Procedural irregularity that would change the outcome;
- b) New evidence that would change the outcome and that was not reasonably available when the determination whether sex-based harassment occurred or dismissal was made; and
- c) The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

Process for Appeal of Dismissal

If the dismissal is appealed, the College will:

- a) So notify the complainant and the respondent, if known, including notice of the allegations consistent with [section on notice of allegations] if such notice was not previously provided to the respondent;
- b) Implement appeal procedures equally for the parties;
- c) Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
- d) Ensure that the decisionmaker for the appeal has been trained based on federal and state law standards and with regards to this Policy;
- e) Provide the parties at least one week to make a written statement in support of, or challenging, the dismissal; and
- f) Notify the parties of the result of the appeal and the rationale for the result.

H. Written Notice of Allegations.

If the Title IX Coordinator does not dismiss the complaint upon receipt prior to notification to the respondent per [Section on Dismissals], the Title IX Coordinator will provide written notice to the parties whose identities are known with sufficient time that the parties have at least one week¹⁷ to prepare a response before any initial interview.

¹⁷ A party may request, in writing, to meet sooner than one week and the Title IX Coordinator will determine if the party's request is appropriate given the totality of the circumstances. Also, a meeting with a party to provide the party with information may be scheduled sooner than one week after notice.

The written notice will include the following information:

- The College's grievance procedures under this Policy and the informal resolution process described in [Section VII. Informal Resolutions];
- Sufficient information as available at the time to allow the parties to respond to the allegations. This shall include the identities of the parties involved in the incident(s), the conduct alleged to constitute sex discrimination under this Policy, and the date(s) and location(s) of the alleged incident(s), to the extent that information is available to the College;
- A statement of the potential sanctions/responsive actions that could result from a finding of responsibility.
- A statement that retaliation is prohibited;
- A statement that the parties and their advisors are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence as set out in this Policy; and if the College provides a description of the evidence, that the parties are entitled to an equal opportunity to access to the relevant and not otherwise impermissible evidence upon the request of any party.
- A statement that the respondent is presumed not responsible for the alleged sex-based discrimination until a determination is made at the conclusion of the grievance procedures under this section and that prior to the determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decisionmaker;
- A statement that each party may have an advisor of their choice to serve in the role set out in the advisors section of this Policy and that the advisor may be, but is not required to be, an attorney, but that the College takes no responsibility for providing or paying for an advisor for a party;
- A statement that the Student Code prohibits knowingly making false statements or knowingly submitting false information during the grievance procedure.
- A description of the informal resolution process available to the parties.

If, in the course of an investigation, the College decides to investigate additional allegations of sex-based discrimination by the respondent toward the complainant that are not included in the written notice previously provided or that are included in a complaint, the College will provide written notice of the additional allegations to the parties whose identities are known.

To the extent the College has reasonable concerns for the safety of any person as a result of providing this notice, the College may reasonably delay providing written notice of the allegations in order to address the safety concern appropriately. Reasonable concerns must be based on individualized safety and risk analysis and not on mere speculation or stereotypes.

I. Complaint investigation.

Following notice to the parties of a complaint as set forth in Written Notice of Allegations, the College will commence an investigation of the complaint. The Title IX Coordinator will investigate or retain the services of an investigator. Investigations will be completed expeditiously, normally within two to three months of notice to the parties, though some investigations take less or more time, depending on the nature, extent and complexity of the allegations, availability of witnesses, police involvement, etc.

The College may undertake a short delay in its investigation when criminal charges on the basis of the same behaviors that give rise to the Complaint are being investigated (usually one to four weeks, to

allow evidence collection by law enforcement authorities). The College will promptly resume its investigation and resolution processes once notified by law enforcement that the initial evidence collection process is complete. College action will not typically be altered or precluded on the grounds that civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced.

The College may allow for the reasonable extension of timeframes on a case-by-case basis for good cause with written notice to the parties that includes the reason for the delay.

The purpose of an investigation is to assist in the provision of a fair and efficient hearing to resolve a Complaint. The Title IX Coordinator will prepare the charge of the investigation as they believe appropriate to support this purpose. The Title IX Coordinator may charge the investigator to do any or all of the following:

- Interview parties and witnesses and otherwise gather evidence relevant to the Complaint.
- Analyze party and witness testimony and other evidence.
- Prepare a report that
 - Identifies and summarizes the relevant, non-excluded testimony and other evidence gathered by the investigator.
 - Provides an account of events as agreed upon and/or as disputed by the parties and witnesses.
 - Identifies where a Party or witness may have contradicted themselves and any other facts that may call into question credibility.
 - Suggests possible further questions or evidence gathering the hearing officer may usefully undertake.

When investigating a complaint alleging sex-based harassment, the College will:

- Determine whether the parties may present expert witnesses, with the determination applying equally to the parties;
- Allow for the reasonable extensions of timeframes on a case-by-case basis for good cause with written notice to the parties that includes the reason for the delay; and
- Provide each party and the party's advisor, if any, with an equal opportunity to access the evidence that is relevant to the allegations of sex-based harassment and not otherwise impermissible as described in [Section on Evidence].

Investigations will be trauma-informed, thorough, reliable, impartial, prompt, and fair. Investigations will typically entail interviews with all relevant parties and witnesses, obtaining available evidence and identifying sources of expert information, as necessary. All Parties shall have the opportunity to identify witnesses and evidence to the investigator.

The investigator may take some or all of the following steps:

- Identify all policies allegedly violated;
- Commence a thorough, reliable and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended timeframe, and order of interviews for all witnesses and the parties;
- Provide regular updates to the parties throughout the investigation;
- Allow each party the opportunity to suggest witnesses to be interviewed and evidence to be considered.
- Allow each party the opportunity to suggest questions they wish the investigators to ask of the other party and witnesses.

- Provide the parties with the opportunity to inspect and review any relevant, permissible evidence obtained in the investigation and with at least ten days to submit a written response; which response the investigator will consider prior to completing an investigation report.;
- Create an investigation report that fairly summarizes relevant, non-excluded evidence and responds to the charge of the investigation, which will be provided to the parties at least 10 days prior to any hearing.

The investigator will complete the investigation promptly, and without unreasonable deviation from the intended timeline.

Witnesses (as distinguished from the parties) are expected to cooperate with and participate in the College's investigation and resolution process. Any witness who declines to participate or cooperate during an investigation will not be permitted to offer evidence or testimony during any subsequent hearing. At the discretion of the investigator, witnesses may provide written statements in lieu of interviews during the investigation and may be interviewed remotely by phone, video+audio link, or e-mail if they cannot be interviewed in person or if the investigators determine that timeliness or efficiency dictate a need for remote interviewing.

Upon completing the investigation, the investigator will write an investigation report that satisfies the charge of the investigation from the Title IX Coordinator and deliver it to the Title IX Coordinator. The report will include a description of the procedural steps taken from the receipt of the complaint through completion of the investigation, including any notifications to the parties, interviews with parties and witnesses, site visits, and methods used to gather other evidence. The Title IX Coordinator or their designee will convey the investigation report to the parties within seven days of receipt.

J. Hearings

The purpose of a hearing is to determine whether the respondent is responsible for the sex discrimination or sexual misconduct alleged in the complaint. The hearing will be overseen by a hearing officer, appointed by the Title IX Coordinator, who was not the investigator in the complaint. Where a faculty member is a respondent, the hearing will be conducted according to the Faculty Rules and Procedures.

The parties will receive notice of the hearing at least 10 days before a hearing. If any party does not appear at the scheduled hearing, the hearing will be held in their absence. For compelling reasons, the hearing officer may reschedule the hearing at least 10 days before a hearing. Hearings for complaints made near or after the end of an academic term and that are not resolved prior to the end of spring term will typically be held immediately after the end of the term or during the summer.

The parties will receive the investigation report at least 10 days before a hearing. The investigation report will, among other things, summarize the relevant and permissible evidence gathered in the investigation. Upon request, a party and the party's advisor will be granted access to the relevant and permissible evidence.

The hearing officer may, in their discretion, invite written responses from the parties to the investigation report and the relevant, permissible evidence; any such response will be shared with the other party. If the hearing officer does not invite such written responses, the parties will have the opportunity to respond to the investigation report and the evidence at the hearing.

In their discretion, the hearing officer will determine whether the parties may present expert witnesses to address particular questions or matters, with such determination applying equally to the parties.

The parties may propose witnesses who were interviewed or provided written statements during the investigation to appear at the hearing, or any witness consented to by all parties; and the hearing officer will approve any such proposal if the witness can provide relevant testimony, unless the witness's proffered testimony is not disputed by either party. The hearing officer will provide the parties with the names of witnesses who will be participating in the hearing at least two days prior to the hearing.

The hearing officer will ask all questions of parties and witnesses at the hearing. The hearing officer will invite the parties to propose questions to ask parties and witnesses at the hearing and will ask any proposed questions that are relevant and permissible; except that they will not ask questions that are unclear or harassing, in which case the party proposing the question will be permitted to attempt to reformulate the question.

A party may propose questions prior to another Party or a witness's testimony or as reasonable follow-up to such testimony. The hearing officer will explain any decision to exclude a question as not relevant or otherwise impermissible.

Formal rules of evidence do not apply during the investigation or hearing. Any evidence that the investigator or hearing officer believes is relevant may be considered, including history and pattern evidence, except as set forth below. The investigator may exclude evidence they deem not relevant to the allegation, even if it is in the investigation report proffered to the parties for inspection and review. The hearing officer will address any evidentiary concerns prior to and/or during the hearing and will exclude evidence the hearing officer determines to be irrelevant. The hearing officer will determine all questions of procedure and evidence. Generally, a party may not introduce evidence, including witness testimony, at the hearing that the parties did not identify during the investigation and that was available at the time of the investigation. However, the hearing officer has discretion to accept for good cause such new evidence offered at the hearing. Similarly, the hearing officer may call witnesses who were not interviewed by the investigator sua sponte.

The hearing officer will not consider party or witness statements not subjected to cross-examination at a live hearing, where truthfulness is contested, except where they deem such statements would be admissible under standard rules of evidence.

While previous conduct violations by the respondent are not generally admissible as information about the present allegation, the investigator may consider information about previous good faith allegations and/or findings to consider as evidence of pattern and/or predatory conduct.

The College or hearing officer may also adopt and apply other reasonable rules regarding procedure and decorum that will apply equally to the parties.

The hearing officer may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed relevant and not impermissible. The decisionmaker must not draw an inference about whether sex-based harassment occurred based solely on a party's or witness's refusal to respond to such questions.

The College may conduct the hearing at a physical location, or it may conduct it remotely via audio and video link. If the hearing occurs at a physical location, the College may, and upon the request of

either party it will, allow the Parties to be in separate rooms, with arrangements enabling the hearing officer and Parties to simultaneously see and hear the party or the witness while that person is speaking. The College will create an audio or audiovisual recording or transcript, of any hearing and make it available to the Parties for inspection and review.

The hearing officer may allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the hearing officer or the parties involved and then be excused. Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

In hearings involving more than one respondent or in which two or more complainants have accused the same individual of substantially similar conduct, the standard procedure will be to hear the allegations jointly; however, the Title IX Coordinator may permit the hearing pertinent to each respondent to be conducted separately. In joint hearings, separate determinations of responsibility will be made for each respondent.

Proceedings are private and the College will make reasonable efforts to maintain the confidentiality of all persons participating. All persons present at any time during the hearing are requested to respect the privacy of the proceedings. The parties and witnesses have the discretion to share their own experiences if they so choose, and should discuss doing so with their advisors.

Hearings are recorded or transcribed for purposes of review in the event of an appeal. The parties may not record the proceedings and no other unauthorized recordings are permitted. The hearing officer, the parties, and appropriate administrative officers of the College will be allowed to inspect and review the audio recording or transcript in a location determined by the Title IX Coordinator. No person will be given or be allowed to make a copy of the recording without permission of the Title IX Coordinator.

K. Determination of Responsibility

The hearing officer will make determinations of responsibility for any violations of this Policy on a preponderance of the evidence basis (i.e., whether it is more likely than not that the alleged misconduct occurred, based on the facts available at the time of the decision). At the request of the Title IX Coordinator, the hearing officer will also determine whether any violation of this Policy has been shown to have occurred by clear and convincing evidence (i.e., whether it is highly probable the alleged misconduct occurred, based on the facts available at the time of the decision), which is the standard for dismissal from the College for a student or termination of employment in any College sanctioning process. To sustain a charged violation, the College bears the burden of proof.

The hearing officer will convey the determination whether sex discrimination or sex-based harassment occurred in a written determination. The written determination will include:

- A description of the alleged sex discrimination or sex-based harassment;
- Information about the policies and procedures that the hearing officer used to evaluate the allegations;
- A description of procedural steps of the hearing process;
- The hearing officer's evaluation of the relevant and not otherwise impermissible evidence and determination whether sex discrimination or sex-based harassment occurred, for each allegation, including:

- Findings of fact supporting the determination;¹⁸
- Conclusions regarding the application this Policy and any other applicable conduct policies to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility;
- A description of the process for determining sanctions, if there is a finding of responsibility;
- The College's procedures for the parties to appeal (although any appeal may be brought only after the determination of sanction, if there has been a finding of responsibility).

The hearing officer will deliver the written determination to the Title IX Coordinator within 14 days of the end of deliberations, unless the Title IX Coordinator grants an extension for good cause. The Title IX Coordinator or their designee will convey the report to the parties simultaneously within the next two business days. The report may be delivered by one or more of the following methods: in person; mailed to the local or permanent address of the parties as indicated in official College records; or emailed to the parties' College-issued email account. Once mailed, emailed and/or delivered in-person, notice will be presumptively delivered.

L. Sanctions

1. Determination of Sanction

- Parties have seven days after a determination of responsibility to submit a statement of requested sanctions and reasons therefor to the Title IX Coordinator.
- The appropriate College official (Dean of Students for students, Director of Human Resources for staff, entity stated in Faculty Rules for faculty) will decide sanctions or responsive actions appropriate to the policy violation. Factors considered when determining a sanction/responsive action may include:
 - The nature, severity of, and circumstances surrounding the violation
 - An individual's disciplinary history
 - Previous allegations or allegations involving similar conduct
 - Any other information deemed relevant by the hearing officer
 - The need for sanctions/responsive actions to bring an end to the discrimination, harassment and/or retaliation
 - The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment and/or retaliation
 - The need to remedy the effects of the discrimination, harassment and/or retaliation on the complainant and the community
 - Restoring access to the education program

2. Student Sanctions

The following are the usual sanctions/responsive actions that may be imposed upon students singly or in combination:

- **Warning:** A formal statement that the behavior was unacceptable and a warning that further infractions of any UC Law SF policy, procedure or directive will result in more severe sanctions/responsive actions.

¹⁸ Where dismissal is a possible sanction, the report should also include an indication of whether the findings were determined by preponderance of the evidence or clear and convincing evidence.

- Censure: A written reprimand for violation of this Policy.
- Exclusion from activities: Excluding the student from participating in designated classes or activities for a specified period.
- Suspension: Terminating student status for a specified period. Suspension may include exclusion from designated areas of the campus.
- Dismissal: Permanently terminating student status.
- Withholding Diploma: The College may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities if the student has an allegation pending, or as a sanction if the student is found responsible for an alleged violation.
- Other Actions: In addition to or in place of the above sanctions, the College may assign any other sanctions as deemed appropriate.

A sanction may be noted on a student's official College transcript, if so ordered by the official or body imposing the sanction. When a sanction is noted on a student's transcript, the College will report that sanction to a state bar to which the student has applied for admission and to any state bar the student has previously been certified for admission. A disciplinary sanction, whether or not noted on the student's transcript, will be reported to any licensing authority making an inquiry.

In lieu of a sanction, a student may be warned that a future violation of this Code will be cause for disciplinary action. A warning is not a disciplinary sanction and will not be reported to a licensing authority unless the student is subsequently sanctioned for a violation of this Code.

A student may not be excused from compliance with the Academic Regulations because of a sanction imposed. In imposing a sanction, the impact of this rule on the student shall be considered.

The imposition of a sanction or warning may be conditioned on the student completing an act such as an apology, reflection, a restorative act, a work assignment, service to the College, or similar action. These conditions shall be set forth in writing. If the student does not complete these conditions, an additional sanction may be imposed by the Academic Dean.

3. Faculty/Employee Sanctions

Responsive actions for an employee who has engaged in harassment, discrimination and/or retaliation include:

- Warning: A formal statement that the behavior was unacceptable and a warning that further infractions of any UC Law SF policy, procedure or directive will result in more severe sanctions/responsive actions.
- Performance Improvement/Management Process
- Required Counseling
- Required Training or Education
- Probation
- Loss of Oversight or Supervisory Responsibility
- Demotion
- Suspension with pay
- Suspension without pay
- Termination
- Other Actions: In addition to or in place of the above sanctions, the College may assign any other sanctions as deemed appropriate.

Dismissal from the College for a student or termination of employment may only be imposed if responsibility for a violation of this Policy has been shown to have occurred by clear and convincing evidence (i.e., whether it is highly probable the alleged misconduct occurred, based on the facts available at the time of the decision).

4. Long-Term Remedies/Actions and Supportive Measures

Following the conclusion of the resolution process and in addition to any sanctions implemented, the Title IX Coordinator may implement long-term supportive measures or utilize long-term remedies or actions to stop the harassment or discrimination, remedy its effects and prevent reoccurrence. Similar to interim supportive measures in [Section Supportive Measures] the following long-term supportive measures may be implemented:

- Referral to counseling and health services
- Permanently altering the housing situation of the respondent
- Permanently altering work arrangements for employees
- Providing campus escorts
- Providing transportation accommodations
- Implementing long-term contact limitations between the parties
- Offering adjustments to academic deadlines, course schedules, etc.
- Individual education/training

When the harm is potentially still ongoing and community-based, the Title IX Coordinator may implement the following remedies/actions:

- Education to the community
- Climate surveys
- Policy modification

At the discretion of the Title IX Coordinator, long-term remedies may also be provided even when the respondent is found not responsible.

The institution will maintain as confidential any long-term remedies/actions or protective measures, provided confidentiality does not impair the institution's ability to provide the actions or protective measures.

5. Written Communication of Determination of Sanction

The College will convey in writing to the Parties, within two weeks of receipt of the written determination of responsibility unless that time is extended by the Title IX Coordinator for good cause:

- Any disciplinary sanctions the College will impose on the respondent,
- Whether remedies other than the imposition of disciplinary sanctions will be provided by the postsecondary institution to the complainant, and, to the extent appropriate, other students identified by the postsecondary institution to be experiencing the effects of the sex-based harassment; and
- The College's procedures for the Parties to appeal.

The determinations regarding responsibility and discipline, if any, becomes final either on the date that the postsecondary institution provides the parties with the written determination of the result of any appeal, or, if no party appeals, the date on which an appeal would no longer be considered timely.

6. Compliance with Sanctions

All parties are expected to comply with conduct sanctions within the timeframe specified by the Title IX Coordinator. Failure to do so whether by refusal, neglect, or any other reason, may result in additional sanctions/responsive/corrective actions and/or suspension, expulsion and/or termination from the UC Law SF and may be noted on a student's official transcript. A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

7. Appeals of Determinations or Sanctions

A party may appeal on the following bases:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the determination whether sex-based harassment occurred or dismissal was made; and
- The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

To appeal, a party must submit to the Title IX Coordinator within seven calendar days of delivery of notice of the decision being appealed a petition of appeal stating:

- the basis upon which the appeal is being made,
- any supporting argument and materials the Party wishes to offer, although the College will exclude any impermissible evidence from consideration.

The College will within two business days convey the petition of appeal to any other parties, and such parties may submit a response supporting or contesting the petition of appeal providing any argument and materials they wish to offer within 7 days.

Appeals will be decided by the Chancellor & Dean who will consider the parties' appeal submissions and, at the Chancellor & Dean's discretion, all relevant records and documents regarding the complaint. The Chancellor & Dean will issue a decision on the appeal and the rationale therefor in writing within three weeks of the deadline for submission of the final party appeal document, unless the Chancellor & Dean must extend this time period for good cause, in which case the Chancellor & Dean will notify the parties as to the amended timeline. The Chancellor & Dean's decision will be final.

Principles governing the deciding of appeals include the following:

- Decisions by the Chancellor & Dean will be deferential to the original decision, making changes to findings only where there is clear error and to the sanction/responsive action only if there is a compelling justification to do so.
- Appeals are not intended to be full re-hearings (de novo) of the allegation. In most cases, the appeal process is confined to a review of the documentation or record of the original hearing, and pertinent documentation regarding the grounds for appeal. It is not intended to be a substitution of judgment because of a disagreement over findings and/or sanctions.
- Appeals granted based on new evidence should normally be remanded to the Title IX Coordinator, hearing officer and/or investigator for reconsideration. The Chancellor & Dean in their discretion may remand and/or make a final decision in appeals on other grounds. The

Chancellor & Dean and/or Title IX Coordinator shall set timelines for process following remand.

- Sanctions imposed in matters on appeal are implemented immediately unless the Title IX Coordinator or designee stays their implementation in extraordinary circumstances, pending the outcome of the appeal.
 - For students, graduation, study abroad, internships/ externships, etc. do NOT in and of themselves constitute extraordinary circumstances, and students may not be able to participate in those activities during their appeal.

M. Consolidation of complaints.

The College may consolidate complaints against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations arise out of the same facts or circumstances. When more than one complainant or more than one respondent is involved, references in this Policy to a party, complainant, or respondent include the plural, as applicable.

XI. Additional Information

A. Revision

These policies and procedures will be reviewed and updated annually by the Title IX Coordinator. The College reserves the right to make changes to this document as necessary and once those changes are posted online, they are in effect. The Title IX Coordinator may make minor modifications to procedure that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules, etc. The Title IX Coordinator may also vary policy or procedures materially with notice (on the institutional web site, with appropriate date of effect identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this Policy. Procedures in effect at the time of the complaint will apply to resolution of incidents, regardless of when the incident occurred. Definitions in effect at the time of the offense will apply even if the Policy is changed subsequently but prior to resolution, unless the parties consent to be bound by the current Policy. If government regulations change in a way that impacts this document, this document will be construed to comply with government regulations in their most recent form.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such codes generally.

B. Federal Statistical Reporting Obligations

Certain campus officials – those deemed Campus Security Authorities - have a duty to report sexual assault, domestic violence, dating violence and stalking for federal statistical reporting purposes under the Clery Act. Personally identifiable information is not disclosed in such reports, but statistical information must be passed along to the Office of Safety and Emergency Preparedness regarding the type of incident and its general location (such as on-campus or in the surrounding area, but without addresses) for publication in the Annual Security Report. This report helps to provide the community with a clear picture of the extent and nature of campus crime, to ensure greater community safety. Campus Security Authorities include: student/conduct affairs, campus law enforcement, local police, residence life staff, student activities staff, human resources staff, advisors to student organizations and

any other official with significant responsibility for student and campus activities. The information to be shared includes the date, the location of the incident (using Clery location categories) and the Clery crime category. This reporting protects the identity of the victim and may be done anonymously.

C. Federal Timely Warning Reporting Obligations

Reporters of sexual misconduct should also be aware that College administrators must issue immediate timely warnings for incidents reported to them that are confirmed to pose a substantial threat of bodily harm or danger to members of the campus community. The College will ensure that a reporter's or complainant's name and other identifying information are not disclosed, while still providing enough information for community members to make safety decisions in light of the danger.

D. Relevant Codes

CALIFORNIA CODES

Consent

- Cal Pen Code §266a (2014)

Rights of Sexual Assault Victims:

- Cal Pen Code §680.2 (2018)

Stalking:

- Cal Pen Code § 646.9 (2008)
- Cal Civ Code § 1708.7 (2014)

Dating Violence/Domestic Violence:

- Cal Pen Code § 1300 (2016)

This Policy was implemented in August 2024.

XII. Supplemental Resources

A. UC Law SF Support Resources

CARE Advocate: The Center for Advocacy, Resources and Education (CARE) provides free, confidential support to any UC Law SF student who has been impacted by interpersonal violence such as sexual assault, dating/intimate partner violence, sexual harassment, or stalking.

Contact

Phone: 415-565-4699

Email: Care@uclawsf.edu

Carbon Health: Carbon Health is a comprehensive healthcare option available to all UC Law SF students. Carbon Health provides short-term individual counseling and therapy (maximum of eight sessions per year), which is goal-focused cognitive behavioral therapy. If you require additional behavioral health services, Carbon Health will refer you to a specialist for long-term care. Any visits with doctors or behavioral health professionals are confidential. For more information, please visit: carbonhealth.com/student-health/uc-hastings.

Title IX Coordinator: The Title IX Coordinator manages neutral investigations of allegations of sexual assault, dating violence, stalking and sexual harassment and is available to explain and discuss resources and investigative processes.

Contact

Phone: 415.565.4733

Email: titleixcoordinator@uclawsf.edu

B. Community Support

San Francisco Women Against Rape (SFWAR): SFWAR provides a 24-hour crisis hotline (Counselors are trained in areas such as sexual harassment, incest, child sexual assault, same-sex sexual assault, domestic violence, ritual abuse, suicide prevention, male survivors, and stalking), counseling & support groups, legal advocacy, medical accompaniment & advocacy, and case management. SFWAR can provide confidential counseling and advocacy services.

Contact

Phone: 415.647.RAPE

Email: www.sfwar.org

Trans Lifeline: Trans Lifeline is a grassroots hotline and microgrants organization offering direct emotional and financial support to trans people in crisis - for the trans community, by the trans community. The Hotline was, and still is, the only service in the country in which all operators are transgender.

Contact

Phone: 877.565.8860

Website: <https://www.translifeline.org>

ENOUGH Pro Bono Legal Service:

A program through Equal Rights Advocates that provides student survivors of sexual violence and sexual harassment with free legal advice and services.

Contact: Website: <https://www.equalrights.org>

Trauma Recovery Center (TRC): Trauma-informed, evidence-based mental health services; individual and group psychotherapy; help with practical needs.

Contact

Phone: 415.437.3000

Website: www.traumarecoverycenter.org

Cooperative Restraining Order Clinic (CROC): Elisha Jussen-Cooke is a Victims' Rights Attorney at CROC in San Francisco. To protect the rights of domestic violence, sexual assault and stalking survivors, Elisha represents clients in civil, criminal and Title IX administrative proceedings. Her work includes providing information and advice to victims about criminal proceedings and their rights as victims of crime, as well as direct representation of these victims in criminal matters. On San Francisco campuses, Elisha educates and advises survivors about their rights under Title IX and represents clients in administrative proceedings. She also helps sexual assault and stalking survivors obtain Civil Harassment Orders, as well as representing domestic violence victims in restraining order hearings.

Elisha's services are confidential.

Contact

Phone: 415.864.1790

Email: Elisha@roclinic.org

W.O.M.A.N. Inc., Domestic Violence Services: The hotline provides live, secure, anonymous crisis support for victims of sexual violence, their friends, and families.

Contact

Phone: 415.864.4722

Email: www.womaninc.org

C. National Support Resources

RAINN National Sexual Assault Online Hotline: The hotline provides live, secure, anonymous crisis support for victims of sexual violence, their friends, and families.

Contact:

Phone: 1.800.656.4673

Website: rainn.org/get-help/national-sexual-assault-online-hotline

The StrongHearts Native Helpline for domestic/sexual violence is available 7am-10pm CT, confidential, and specifically for Native communities

Contact

Phone: [1-844-762-8483](tel:1-844-762-8483).

National Suicide Prevention Hotline: The National Suicide Prevention Lifeline is a national network of local crisis centers that provides free and confidential emotional support to people in suicidal crisis or emotional distress 24 hours a day, 7 days a week.

Contact:

Phone: 1.800.273.8255

Email: <https://suicidepreventionlifeline.org/>

D. Prohibited Conduct Examples:

Some examples of possible sexual harassment include:

- A professor insists that a student have sex with them in exchange for a good grade. This is harassment regardless of whether the student accedes to the request.
- A student repeatedly sends sexually oriented jokes around on an email list that student created, even when asked to stop, causing one recipient to avoid the sender on campus and in the Tower apartments in which they both live.
- Explicit sexual pictures are displayed in a professor's office or on the exterior of a residence hall door
- Two supervisors frequently 'rate' several employees' bodies and sex appeal, commenting suggestively about their clothing and appearance.
- A professor engages students in her class in discussions about their past sexual experiences, probing for explicit details, and demands that students answer her, though they are clearly uncomfortable and hesitant.
- An ex-girlfriend widely spreads false stories about her sex life with her former boyfriend to the clear discomfort of the boyfriend, turning him into a social pariah on campus
- Male students take to calling a particular brunette student "Monica" because of her resemblance to Monica Lewinsky. Soon, everyone adopts this nickname for her, and she is the target of relentless remarks about cigars, the president, "sexual relations" and Weight Watchers.

Examples of Stalking:

- A student repeatedly shows up at another student's on-campus residence, always notifying the front desk security that they are there to see the resident. Upon a call to the resident, the student informs security that this visitor is uninvited and continuously attempts to see them, even so far as waiting for them outside of classes and showing up to their on-campus place of employment requesting that they go out on a date together.
- A student receives a message on Instagram from a classmate asking if they would like to go on a date. The student declines the offer. Over the next few weeks, the student receives a dozen messages on Instagram, Facebook and via their personal email address from the same classmate, each containing a list of reasons why this classmate thinks the student should change their mind. When the student does not respond, the classmate begins commenting on pictures the student has posted on social media, occasionally making profane comments about the way they look.
- A student working as a teaching assistant received flowers and gifts delivered to their apartment. After learning the gifts were from another student they recently tutored, they thanked the student and stated that it was not necessary and they would appreciate the gift deliveries to stop. The student then started leaving notes of love and gratitude in the TA's car, both on-campus and at home. Asked again to stop, the student stated by email: "You can ask me to stop, but I'm not giving up. We are meant to be together, and I'll do anything necessary to make you have the feelings for me that I have for you." When the TA did not respond, the student emailed again, "You cannot escape me. I will track you to the ends of the earth. We are meant to be together."

Examples of Retaliation:

- Student A files an allegation against a professor for sexual harassment; the professor subsequently cuts the student's internship hours through the Clinic the professor supervises without a legitimate justification.

- A faculty member complains of gender inequity in pay within her department; the Department Chair then revokes his prior approval allowing her to attend a national conference, citing the faculty member's tendency to "ruffle feathers."
- A student from Organization A participates in a sexual misconduct hearing against the respondent – also a member of Organization A; the student is subsequently removed as a member of Organization A because he participated in the hearing.

Examples of Nonconsensual Encounters

1. Amanda and Bill meet at a party. They spend the evening dancing and getting to know each other. Bill convinces Amanda to come up to his room. From 11:00pm until 3:00am, Bill uses every line he can think of to convince Amanda to have sex with him, but she adamantly refuses. He keeps at her, and begins to question her religious convictions, and accuses her of being "a prude." Finally, it seems to Bill that her resolve is weakening, and he convinces her to give him a "hand job" (hand to genital contact). Amanda would never had done it but for Bill's incessant advances. He feels that he successfully seduced her, and that she wanted to do it all along, but was playing shy and hard to get. Why else would she have come up to his room alone after the party? If she really didn't want it, she could have left. Bill is responsible for violating the College's policy prohibiting Non-Consensual Sexual Contact. It is likely that campus decision-makers would find that the degree and duration of the pressure Bill applied to Amanda are unreasonable. Bill coerced Amanda into performing unwanted sexual touching upon her. Where sexual activity is coerced, it is forced. Consent is not valid when forced. Sex without consent is sexual misconduct.
2. Jiang is a 3L in law school. Beth is a 1L. Jiang comes to Beth's Tower apartment with some mutual friends to watch a movie. Jiang and Beth, who have never met before, are attracted to each other. After the movie, everyone leaves, and Jiang and Beth are alone. They hit it off, and are soon becoming more intimate. They start to make out. Jiang verbally expresses his desire to have sex with Beth. Beth, who was abused by a baby-sitter when she was five, and has not had any sexual relations since, is shocked at how quickly things are progressing. As Jiang takes her by the wrist over to the bed, lays her down, undresses her, and begins to have intercourse with her, Beth has a severe flashback to her childhood trauma. She wants to tell Jiang to stop, but cannot. Beth is stiff and unresponsive during the intercourse. Is this a Policy violation? Jiang would be held responsible in this scenario for Non-Consensual Sexual Intercourse. It is the duty of the sexual initiator, Jiang, to make sure that he has mutually understandable consent to engage in sex. Though consent need not be verbal, it is the clearest form of consent. Here, Jiang had no verbal or non-verbal mutually understandable indication from Beth that she consented to sexual intercourse. Of course, wherever possible, it is important to be as clear as possible as to whether or not sexual contact is desired, and to be aware that for psychological reasons, or because of alcohol or drug use, one's partner may not be in a position to provide as clear an indication as the Policy requires. As the Policy makes clear, consent must be actively, not passively, given.
3. Kevin and John are at a party. Kevin is not sure how much John has been drinking, but he is pretty sure it's a lot. After the party, he walks John to his room, and John comes on to Kevin, initiating sexual activity. Kevin asks him if he is really up to this, and John says yes, but he is slurring his words. Clothes go flying, and they end up in John's bed. Suddenly, John runs for the bathroom. When he returns, his face is pale, and Kevin thinks he may have thrown up. John gets back into bed, and they begin to have sexual intercourse. Kevin is having a good time, though he can't help but notice that John seems pretty groggy and passive, and he thinks John may have even passed out briefly during the sex, but he does not let that stop him. When Kevin runs into John the next day, he thanks him for the wild night. John remembers nothing, and decides to make a report to the Dean. This may be a violation of the Non-Consensual Sexual Intercourse Policy. Some of the factors that will be considered are whether Kevin should have known that John was incapacitated and therefore unable to consent. Even if John seemed to consent by saying

“yes” and initiating sexual activity, there was evidence that Kevin was aware that John had consumed a large amount of alcohol, was slurring, and Kevin thought John was physically ill, and that he passed out during sex. Kevin will likely be held responsible for violating the College’s policy prohibiting Non-Consensual Sexual Intercourse. When someone is intoxicated to the point that they are slurring, throwing up, and vomiting, they lack the capacity to give knowing consent.

4. Sara and Michael have been dating since the first week of Law School. One evening during their 2L year, Michael is cramming late for an exam. Sara comes over to his apartment to bring him study snacks and begins undressing herself and leading Michael over to his bed. Michael tells Sara that he is not in the mood to have sex and needs to get back to studying. Sara ignores his comments and begins to try to take his clothes off. Michael again rejects her advances and tells her how important the exam is and that he still has a lot of studying to do. Sara tells Michael that she is “not taking no for an answer” and becomes upset when Michael redirects the conversation to talk about his stress over the test. Finally, not wanting to upset Sara further, he agrees to have sex with her. It is likely that campus decision-makers would find that Sara coerced Michael into the sexual encounter and is therefore responsible for violating the College’s policy prohibiting Non-Consensual Sexual Contact. Sara and Michael’s prior relationship does not negate the need to get consent for every future sexual encounter, and the College would not consider their prior relationship proof that Michael consented in this encounter.

E. Information for Responsible Employees

UC Law SF employees who are deemed “responsible employees” are mandatory reporters under this Policy, and are therefore required to promptly report allegations of sexual violence, discrimination, sexual harassment, and sexual misconduct to the College’s Title IX Coordinator. In the event that an incident involves alleged misconduct by the Title IX Coordinator, reports should be made directly to the Chancellor & Dean [Chancellor@uclawsf.edu or (415) 565-4700]. All employees receiving reports of a potential violation of the Sexual Misconduct Policy, except those employees authorized to discuss sexual misconduct confidentially, must promptly contact the Title IX Coordinator, within 24 hours of becoming aware of a report or incident.

Common Responsible Employee Questions and Answers

Who is a Responsible Employee?

At UC Law SF, “responsible employees” include, but are not limited to: administrators, faculty members (including adjunct faculty), staff members, student employees (e.g. research and teaching assistants) when they learn of allegations while acting in their employee capacity, and UCSF Police and Security Guards. Attorneys working at or for the law school are also considered responsible employees and must report incidents to the Title IX Coordinator.

What must a responsible employee report?

Any information that you receive (even “rumors”) that this Policy may have been violated should be reported to the Title IX Coordinator. That means that if anyone shares information with you about possible sex- or gender-based discrimination or harassment or sexual misconduct, you should immediately report it to the Title IX Coordinator.

Generally, climate surveys, classroom writing assignments, human subjects research, or events such as Take Back the Night marches or speak-outs do not provide notice that must be reported to the Coordinator by employees.

What happens after I report to the Title IX Coordinator?

The Title IX Coordinator can answer any process questions you or the complainant may have, but will explain that, due to confidentiality, you as the responsible employee will not continue to receive updates on action taken. After notification, the Title IX Coordinator will reach out to any potential complainants in order to offer them support services and resources and information about filing a complaint, if that is the person's wish.

What should I do if someone comes to me with information that a member of the community has been a victim of sexual violence, discrimination, harassment, or other misconduct?

- First, thank the person for coming forward and sharing their concerns or experiences. If it is a personal experience, acknowledge how difficult it is to share that with someone else.
- Early in the conversation, you should let the other person know that, as a responsible employee, you are required to notify the Title IX Coordinator and therefore, cannot maintain complete confidentiality.
- Let them know that the Title IX Coordinator is there so the College can provide support services. The Title IX Coordinator can also answer questions and provide further resources, including about filing a complaint. People are welcome to speak with the Title IX Coordinator about general matters without divulging specific concerns.
- If the person wants to talk with someone who can maintain complete confidentiality, direct them to the CARE Advocate, a confidential campus resource for students, or to a medical or mental health professional.

Do I need to report an incident to the police?

- Under your obligations as a responsible employee under Title IX and the Sexual Misconduct Policy, the answer is no. You are required to report the information to the Title IX Coordinator. Otherwise, you should maintain the confidentiality of the parties involved. There are two (2) exceptions to this rule:
 - If you are given information that someone is in danger or needs help immediately. In this case, you should call SFPD or urge the person with the concern to do so.
 - Cases involving minors: Employees are required to report cases involving child abuse or neglect if, in a professional capacity or within the scope of employment, they have knowledge of or have observed a child whom they know or reasonably suspect has been the victim of child abuse or neglect. This should be reported to police or to the California Department of Social Services. The California County Emergency Response Child Abuse Reporting number for San Francisco County is (415) 558-2650 or (800) 856-5553.