



# **Davis Division Academic Senate**

## **Request for Consultation Responses**

### **Sexual Violence & Sexual Harassment Policy - 2nd Review**

**October 23, 2015**

Academic Council Chair Hare has requested expedited review of proposed revision to the Presidential Policy on Sexual Violence and Sexual Harassment. The Academic Senate review concluded May 2015 resulted in revisiting the policy. Some of the changes suggested by the Academic Senate were incorporated. Those committees responding last year are being asked to review the revision. I have enclosed last year's Divisional and individual committee responses at the end of the document.

## **Faculty Research Lecturer**

**October 17, 2015 8:27 AM**

The revised document seems responsive to the prior concerns. One small typo: page 8 under "Domestic Violence", sentence should close with "reasonable fear of serious bodily harm" or possibly injury, not "reasonable fear of serious bodily."

# Faculty Welfare

**October 22, 2015 9:00 AM**

The Faculty Welfare Committee reviewed the proposed revision of the Presidential Policy on Sexual Violence and Sexual Harassment. The committee consensus is that the revised policy draft is considerably improved in regard to organization and clarity of wording. Many of the previously identified concerns have been addressed.

The committee noted that disclosure of disciplinary actions to the complainant remains within this document (page 13, item 6C). While the policy includes a statement that the Complainant can be advised of the confidential nature of disciplinary actions (page 18, item 6), it is not clear if this is adequate to fulfill standard confidentiality clauses in settlement agreements involving faculty. The committee also notes that the increased workload of the Title IX Officers has not been clearly addressed.

Three editorial details were noted:

1. Pages 3-4, definition of aggravated sexual assault: As written, the list should include "or" because as written, it could be interpreted that all of these scenarios are required to meet the definition. In contrast, any one of these scenarios should constitute aggravated sexual assault.
2. Page 12, item 4C (Grievance Procedures for Employees): This item may be more appropriately included in the Reporting section (page 10, item 1) and not listed in Overview of Resolution Processes.
3. Page 16, item 12: This item specifies the required record keeping for the Title IX officer; however, this responsibility is similarly listed on page 14, item 4e which details the responsibilities of the Title IX officer. It may be appropriate to consolidate these two items.

The Faculty Welfare Committee appreciates the opportunity to comment and commend the efforts of the Policy Work Group in incorporating many of the previously identified concerns.

# **FEC: College of Letters and Science**

**October 9, 2015 9:06 AM**

# **Graduate Council**

**October 23, 2015 7:37 AM**

*Response continued on next page.*

October 22, 2015

**RFC: Revised UC Sexual Violence & Sexual Harassment Policy Draft**

The Graduate Council met on October 9, 2015 and considered the revised draft UC Policy on Sexual Violence & Sexual Harassment, and subsequently continued the discussion through the Academic Senate Whiteboard.

The consensus was that the revision is substantially improved from the original draft, and is generally responsive to Academic Senate comments. The wording has clarified the differences between sexual harassment and sexual violence, reducing the need to create separate policies for each. However, some concerns were raised as to the increased costs associated with the administrative structures planned to comply with the policy, such as the CARE office, service coordinators, case management team, and other activities, and the lack of an estimate of these costs.

Other issues were typographical; the suggested edits are shown in [square brackets]:

- (1) II A. end of section: "Being intoxicated by drugs.....permission to ignore whether [consent] was given." [font of "consent" looks different from rest of document, perhaps make the font the same]
- (2) II B.1.b.ii. "Domestic violence also includes placing the Complainant in reasonable fear of serious bodily [harm]."
- (3) II.B.1.c. "Stalking of a non-sexual nature is addressed by other University [policies] including but not limited to....."

Sincerely,



Kyaw Tha Paw U, Chair

Graduate Council

# **Undergraduate Council**

**October 12, 2015 10:06 AM**

*Response continued on next page.*

The Undergraduate Council received the RFC on Sexual Violence & Sexual Harassment Policy. Comments from the UGC ranged over issues beyond addressing the revisions *per se*. First, in reconsidering this policy, the UGC does not consider that a single policy covering both violence and harassment is appropriate. The UGC would suggest that the policy should be divided into two separate policies to provide clear policy and guidance on each issue, to avoid any confusion regarding these offenses. The draft policy does not seem to explicitly deal with the legal aspects of these offenses, the necessity of law enforcement involvement (particularly campus law enforcement) in dealing with cases of sexual violence, or how administrators or reporters should interact with law enforcement.

To reduce the frequency of incidents, should this policy specify the type and frequency of education that undergraduates (and campus personnel) receive on sexual violence and the nature and meaning of consent to sexual activity?

A concern expressed is that sexual violence is criminal behavior and is governed by the California Penal Code. Students, staff, and faculty may all be victims of sexual violence. The UC policy should delineate reporting mandates and document the existing support for victims, but should also explicitly describe the simultaneous involvement of administration and law enforcement, and specify the requirement for law enforcement investigation of possible sexual violence. Because the legal training and background of campus administrators varies, the role and expectations for administrators in involving law enforcement and interacting with law enforcement should be clearly described and defined. The involvement of law enforcement is necessary to ensure appropriate legal protection to both accuser and accused.

Deterrence of sexual harassment on the campus is presumably aided by the biannual on-line training required for personnel; however, undergraduates and graduate students (?) are not required to participate in such training. Perhaps such training should be required? The sexual harassment section of the policy has been relatively well developed, although cyber-harassment is not addressed in the document and should be defined and discussed.

## The UGC noted typographical errors and unclear writing.

1.b.i. "...fear of serious bodily." insert "injury?" 1.b.ii. "...fear of serious bodily." insert "injury?"

c. Stalking.... "...his or her safety, or the safety of others, or to suffer...." delete the first "or" (?)

2. Sexual Harassment Between students b. "...that is so severe and/or pervasive, ....and that so substantially impairs a person's access..." Is the word "so" necessary? That is raising the standard to a potentially extreme level that would leave individuals exposed to a damaging environment.

C. Protection for complainants.... 1. Immunity.... ".....plagiarism.... egregious." Is plagiarism in this context appropriately considered egregious (in a document concerning sexual violence and sexual harassment)?

Pg. 17 The meaning of the paragraph beginning "Any conclusion in a report... 10 working days...." is not clear. This needs to be revised so that any time limits are clearly expressed.

III D "free speech" has a paragraph saying that academic freedom is not limitless re: discrimination. That's not germane, and should be removed.