



Davis Division Academic Senate

Request for Consultation Responses

Proposed Revised Presidential Policy - Sexual Harrassment & Sexual Violence

April 24, 2015

The proposed revisions are intended to update the policy in accordance with Final Regulations implementing the requirements of the Violence Against Women Act (VAWA) that was reauthorized by President Obama in 2013. These Final Regulations were issued by the U.S. Department of Education on October 20, 2014 and become effective July 1, 2015. Additionally, proposed revisions address outstanding issues and questions dating from the original policy review process in fall 2013, assure that the policy is consistent with the efforts of the President's Task Force on Preventing and Responding to Sexual Violence and Sexual Assault, and improve clarity as requested by faculty, students, and staff. Please note: the document provided contains a version with changes tracked and a clean copy.

Faculty Welfare

April 15, 2015 11:42 AM

Regarding reporting obligation (page 8 of 52), there should be additional clarification of those who are required to report incidents. While the policy explicitly states "academic appointees," it is unclear whether all academic-related personnel, such as graduate teaching assistants, are included.

Graduate Council

April 24, 2015 4:59 PM

Response continued on next page.

April 24, 2015

RFC: Proposed Revised Presidential Policy – Sexual Harassment & Sexual Violence

The Graduate Council, based on a memo from its APD Committee, forwards their recommendations for the aforementioned RFC.

The Academic Planning and Development (APD) Committee met on April 7, 2015, and considered the Proposed Revised Presidential Policy – Sexual Harassment & Sexual Violence and discussed the proposed revisions. APD recognizes that the policy pertains to critically important issues to the campus community. Discussion started with the recognition that incidents of sexual harassment and sexual violence tend to be greatly underreported, whether on campus or in the greater community. Also discussed was the issue of Cleary Act statistics and time trends of the statistics being impacted by the efficiency of reporting incidents, and that a surprisingly large portion of men in this society (around 20%) think some forms of sexual violence against women are acceptable.

The following comments and discussion points resulted:

The APD felt that online training, such as the training program for graduate students, is not sufficiently effective compared to traditional in-person training such as seminars and workshops. Some members suggested role-playing and skit-based training could be even more effective than other in-person training. The training discussion also included cultural competency issues that are linked to the possibility of actions perceived as harassment in this society but not so perceived in the home culture/society of the student, staff, or faculty. Finally, APD suggested follow-on measurable outcome analysis be applied to the evaluation of the training programs.

In general, there are different degrees of import in the two types of misconduct issues being covered by the policy, with sexual violence being more serious than sexual harassment. Although related issues, definitions of, discussions about and policies set to combat sexual harassment and sexual violence should not be conflated with one another. Sexual violence is a criminal act that requires exigency. APD suggested separating the two issues into two separate policy documents, rather than mixing them together in the same policy. In addition many of the individual definitions used in policy draft are unclear, and at times recursive. If sexual violence and sexual harassment are to be covered by a single policy document, the wording and organizational structure of the policy should be improved to better distinguish between the special circumstances and needs associated with each issue.

Related to the concept of mixing degrees of import, APD noted that within the document less serious actions, some potentially not related to sexual violence are mixed in level of importance to very serious actions.

Instead of “no means no,” perhaps migrate towards California’s move to only “yes means yes,” emphasizing the need for conscious positive consent.

Some discussion also arose regarding the need for due process to deal with the possible (albeit rarer) cases of false accusations. Whereas current policy briefly mentions due process rights of the respondent, any mention of this in the draft is rather brief.

The fact sheet at the end of the package should be rewritten as two fact sheets, one for sexual harassment and the other for sexual violence. At the head of each fact sheet a short definition of what the unacceptable behavior not to be tolerated is (One strong sentence, in bold) should be included along with a short summary of the University Policy (a couple of sentences).

Regarding specific suggestions for revising the text of the document, the following were offered:

- Section II.A. The wording on student to student harassment seems to be more detailed than for other harassment possibilities. Is there a reason for this?
- Section II.B. Definition of sexual violence: Perhaps "...is unable to consent..." should be changed to "cannot consent" to be consistent with later wording.
- Section II.F. Definition of consent: Perhaps change "...can only give his/her true consent if there is no force, threats, or intimidation..." to "...can give his/her true consent only if it has not been influenced by force, threats, or intimidation..."
- Section III.D. Response to reports of sexual harassment...violence: This section seems to be related only to harassment, and not violence, so we suggest adding wording (*in italics*) to indicate this: "Generally, *in cases of sexual harassment*, disciplinary action will be taken..."
- In the definition of incapacitation, the following sentence could be confusing: "Being intoxicated by drugs, alcohol, or other medication does not give another party permission to ignore whether consent was given." The following is offered to improve clarity: "Being intoxicated by drugs or alcohol does not diminish one's own responsibility to obtain consent from the potential partner one wishes to engage in the activity with."
- In this same section, should under age victims be also specifically mentioned as unable to give consent (does this depend on the age of the older person compared to the victim?)
- III B. Consensual Relationships: "also are..." should be "may also be" since not all consensual romantic relationships are subject to campus policies (such as of-age student romantic relationships; staff at equal appointment levels in different working groups, etc.)
- III C. Some minimum frequency of informing the campus community should be codified (for example, annual?)
- IIIG. Again, the frequency of training, or a minimum frequency, should be codified in the policy, in this section, for the community, not just for a few investigators and officers.
- IV B. Should the senate role in advising with UCOP be included explicitly here?
- V A 1. Should the official name of the office be codified as "CARE" in the document, or can we have different names on different campuses. There is some value in a

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GRADUATE COUNCIL

standardized name to make sure people know where to turn to no matter which campus they're at.

- V A 3. Again, the frequency of training, or a minimum frequency, should be codified in the policy, in this section. Also, maybe wording on training on first entry into the UC system/campus would be pretty important.
- V A 4. Maybe a similar section should be added for sexual harassment, for prevention programs, right now seems limited to sexual violence.
- V A 6. Advertising and other continuing notification of the community of the location of the resources would be advisable.
- V B Suggest that there be a deadline consistent with related criminal code statutes of limitations involved with both sexual harassment and violence.
- V B 4. Shouldn't the age of any community member be included, in case visitors, etc. might be under legal age? Not just students.
- VB4e. Why can't witnesses have the right to representation without the approval of the investigator?

Sincerely,



Kyaw Tha Paw U, Chair
Graduate Council

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C: Gina Anderson, Academic Senate Executive Director

Undergraduate Council

March 23, 2015 3:13 PM

Undergraduate Council endorses the proposal to update the policy.