

## Summary of Changes and Rationale

Current Chapter 6 reflects the university's values and the requirements of Title IX and the "Dear Colleague" letter issued by the Office of Civil Rights of the U.S. Department of Education. The chapter is now being extensively revised in light of recent Federal and state requirements.

In cases involving alleged sexual assault, 6-B (5)(a), domestic violence and dating violence, 6-B (7)(a), and stalking, 6-B (7), procedures for institutional disciplinary action must comply with new regulations issued by the Federal Government, 34 CFR 688.46(k), under the Violence Against Women Reauthorization Act, Public Law 113-4, popularly known as VAWA. This is done in many sections of the Chapter, including role of the advisor, 6-E (3), and interim protective and remedial measures, 6-H (1) and (2). New 6-B (7)(a), Domestic Violence, Dating Violence, and Intimate Partner Violence, makes such abuse a matter for discipline, as required by VAWA and also SB 967, mentioned below. The Executive Board thinks it is appropriate that this section apply to all cases, not just those involving students.

For cases involving students, California Education Code §67386, enacted by state law SB 967 effective January 1, 2015, requires the trustees to adopt certain policies. The trustees have asked that these policies be considered through the normal Handbook process. One of these policies specifies "affirmative consent" language. The Handbook Committee thinks it is appropriate that the affirmative consent standard apply to all cases, not just those involving students, and new 6-B (5)(b) on the affirmative consent standard tracks the language of the statute. The revised language in 6-D (2), Confidentiality and Privacy, also deals with subjects required by this law and was worded to match language adopted for SCampus.

6-A (9) on Fundamental Fairness has been expanded to provide new rights, and there are new sections 6-A(10) and (11) clarifying the scope of this chapter and referring to the governing Federal and state laws and regulations.

Amendments to 6-G are clarifications of the intent of the 2014 Handbook, making clear our compliance with the Government's expectations under Title IX that both parties have equal rights in bringing a grievance challenging a sanction imposed on a faculty member, or participating in a grievance brought by the other person.

Other changes are made to comply with requirements the Office of Civil Rights has made in recent determinations at other universities, through what are called "voluntary resolution agreements" (VRA) under Title IX. These include 6-A (4) advice and counseling, and 6-B (2)(a) role of Title IX Coordinator.

Section 6-B (3) on Other Harassment has been reworded to make it clear that the University does not inhibit behavior protected by the National Labor Relations Act.

The change in the affirmative action notice, 6-A (2), reflects current USC practice and refers to "every gender."

"Staff" are no longer covered (see 6-A (6), 6-A (10), 6-F (2), and rewording elsewhere in this chapter) because staff policies are now published in a separate policy.

Terminology of "complainant" and "accused" is used.

## **Chapter 6**

# **Providing a Safe Educational and Work Environment**

## Chapter 6. **PROVIDING A SAFE EDUCATIONAL AND WORK ENVIRONMENT**

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## **6-A FOUNDATIONS**

### **6-A (1) Equal Opportunity**

The University of Southern California is an equal-opportunity educator and employer, proudly pluralistic and firmly committed to providing equal opportunity for outstanding persons of every race, creed, and background. The University strives to maintain a community in which each person respects the rights of other people to live, work and learn in peace and dignity, be proud of who and what they are, and to have equal opportunity to realize their full potential as individuals and members of society. To this end, the University places great emphasis on those values and virtues that bind us together as human beings and members of the Trojan Family. The University enthusiastically supports this principle in its entirety, and expects that every person associated with the University will give continuing support to its implementation.

### **6-A (2) Non-Discrimination and Affirmative Action**

The University is firmly committed to complying with all applicable laws and governmental regulations at every level of government that prohibit discrimination against, or which mandate that special consideration be given to, students and applicants for admission, and faculty, staff, and applicants for employment, on the basis of any protected characteristic, as defined in Section 6-A (5).

This commitment applies to all of the University's educational programs and activities, including admissions, and all personnel actions including but not limited to recruiting, hiring, promotion, demotion, compensation, benefits, transfers, layoffs, return from layoff, provision of leaves, training, education, tuition assistance, and other University programs. In addition, an otherwise qualified individual must not be discriminated against in, or excluded from, admissions, participation in educational programs and activities, or employment due to his or her disability. The University seeks compliance with all statutes prohibiting discrimination in education, including Title VI and Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, the Age Discrimination in Employment Act of 1967, and the Americans with Disabilities Act of 1990 which respectively prohibit discrimination. This good-faith effort to comply is made even when such laws and regulations conflict with each other. The University will make reasonable accommodations for qualified individuals with known disabilities unless doing so would result in an undue hardship.

All employment ads for faculty ~~or staff~~ positions ~~should~~ include the following notice:

USC is an equal-opportunity educator and employer, proudly pluralistic and firmly committed to providing equal opportunity for outstanding persons of every race, gender, creed and background.

The University particularly encourages members of underrepresented groups, veterans and individuals with disabilities to apply.

The job posting in the University online system should include the following full version.

USC is an equal-opportunity educator and employer, proudly pluralistic and firmly committed to providing equal opportunity for outstanding persons of every race, gender, creed and background. The university particularly encourages members of underrepresented groups, veterans and individuals with disabilities to apply. USC will make reasonable accommodations for qualified individuals with known disabilities unless doing so would result in an undue hardship. Further information is available by contacting uschr@usc.edu.

*~~USC is an equal-opportunity educator and employer, proudly pluralistic and firmly committed to providing equal opportunity for outstanding persons of every race, gender, creed and background. The University particularly encourages women, members of underrepresented groups, veterans and individuals with disabilities to apply. USC will make reasonable accommodations for qualified individuals with known disabilities unless doing so would result in an undue hardship. Further information is available by contacting uschr@usc.edu.~~*

### **6-A (3) Academic Freedom**

Just as the University is committed to securing for its students, faculty, and staff a safe educational and work environment free of ~~sexual~~ harassment, it is equally committed to maintaining academic freedom as declared in Section 3-B (1)(a) of Chapter 3. Our academic community also recognizes that when harassment is committed against students or faculty it threatens their academic freedom.

The University recognizes that students are exposed to thought-provoking ideas as part of their educational experience, and some of these ideas may challenge their beliefs and may lead a student to claim that an educational experience is offensive. Therefore allegations of harassment that arise in the educational context will be considered in keeping with the University's commitment to academic freedom. The educational experience may include, for example, lectures, dialogues, assigned materials, and student assignments, and visual or written material as well as speech. The faculty member should carefully consider the class climate and ground rules around academic discourse, so that student learning is promoted but students are not unreasonably exposed to conditions in which harassment could easily arise.

### **6-A (4) Advice and Counseling**

A faculty member who is either an ~~accused/alleged-offender~~ or a complainant

under these policies may seek advice from the Academic Senate President and the Senate Committee on Faculty Rights and Responsibilities, recognizing that such communications are not confidential or legally privileged. Mediation and grievances are not available as a substitute for the process explained in this policy, and students who report sexual harassment by faculty will not be required to resolve the problem directly with the accused. Advisers may be present as provided in Section 6-E (3) and parties to grievances or dismissals before the Committee on Tenure Appeals under Section 6-G may have legal counsel participate as provided in Chapters 7 and 8. .

Any person found to have been subjected to discrimination or harassment may access free counseling services through the University. Such services are also available to others who have been affected by harassment or discrimination, as well as to the person who engaged in the discrimination or harassment.

Counseling for faculty ~~and staff~~ is provided through the Center for Work and Family Life, and for students through the Engemann Student Health Center and the Center for Women and Men.

A student, faculty, or staff member who reports that he or she has been a victim of sexual assault or sexual harassment, or any form of gender-based misconduct, committed by a faculty member will receive written notification of (a) rights and options; (b) existing counseling, health, mental health, victim advocacy, legal assistance, and other services available for victims both on-campus and in the community; (c) options for, and available assistance in, changing academic, living, transportation, and working situations, if so requested by the victim and if such accommodations are reasonably available, regardless of whether the victim chooses to report the crime to the Department of Public Safety or local law enforcement.

#### **6-A (5) Protected Characteristics**

The protected characteristics under this policy include race, color, national origin, citizenship, ancestry, religion, gender, gender identity, gender expression, sex, sexual orientation, age (40 or older), physical disability, medical condition, mental disability, marital status, pregnancy, veteran status, genetic information, and any other characteristic which may be specified in applicable laws and governmental regulations.

#### **6-A (6) Relation to Other Policies**

This policy deals with complaints against faculty members, as defined by University policy (see Section 6-A(10)). Both faculty and staff members are mentioned in this policy because the same substantive responsibilities are imposed on both. This policy also states the basic procedure for complaints against faculty and staff members, with somewhat different processes for each. Additional information is at <http://equity.usc.edu>.—The substantive policies on behavior by students and staff are similar to this policy, with separate

processes. ~~For for considering~~ complaints against students; ~~see both are set out in~~ SCampus, <http://scampus.usc.edu>. For ~~complaints against staff behavior by or~~ anyone else who interacts with the University community, see <http://equity.usc.edu/sexual-harassment>. Some but not all of the provisions in this policy are required by law.

## **6-A (7) Definitions**

Mentions of "this policy" refer to all of Chapter 6. "A student" refers to a USC student. "Protected characteristics" are defined in Section 6-A (5). References to "discrimination, harassment, or retaliation" encompass any violation of this policy and mentions of any prohibited behavior include threats or attempts to perform that behavior. "Action" and similar terms include failure to act when there is a duty to do so. "Designated Investigator" is defined in Section 6-E (1). References to the "Vice Provost" mean the Vice Provost or the Vice President, trained in the requirements of Title IX and this policy, who is designated by the Provost to take actions under this policy. When the "Associate Senior Vice President, Human Resources" is not available, an official designated by the Senior Vice President, Administration, will act instead. "Government regulations" are defined in Section 6-A (11). Provisions in this Chapter mentioning those regulations are applicable to cases of alleged sexual assault, stalking, dating violence, or domestic violence; the University may also apply such provisions to other cases under this Chapter 6.

## **6-A (8) Sources of Information**

Questions regarding the application of the various rules and regulations concerning equal employment opportunity, affirmative action, and non-discrimination should be addressed to the Office of Equity and Diversity, [oed@usc.edu](mailto:oed@usc.edu). The Disabled/Veterans Affirmative Action Plan may be reviewed by employees and applicants upon request; for further information or to make an appointment during regular business hours, contact the Office of Equity and Diversity. The University's Title IX Coordinator, Age Discrimination Act Coordinator, and Americans with Disabilities Act ~~Section 504 of the Rehabilitation Act of 1973~~ Coordinator, is Jody Shipper, Executive Director of the Office of Equity and Diversity, University Park Campus, Los Angeles, California 90089-0704, [oed@usc.edu](mailto:oed@usc.edu). The Section 504 of the Rehabilitation Act of 1973 Coordinator is Edward Roth, [eroth@usc.edu](mailto:eroth@usc.edu). Further information on accommodations for disabilities is available from Human Resources Administration by contacting [uschr@usc.edu](mailto:uschr@usc.edu) or (213) 821-8111.

## **6-A (9) Fundamental Fairness**

### **6-A (9)(a) In General**

Procedures for disciplinary action shall provide a prompt, fair, adequate, reliable, and impartial process from the initial investigation to the final result. There will

be equitable information gathering from both the complainant and the person accused of the violation.

In the interest of separation of roles, the procedures established under this Chapter provide for different individuals or bodies to conduct fact finding, Section 6-B (1)(a), reach conclusions as to violations, Section 6-B (1)(b), decide on appeals of findings and conclusions, Section 6-F (1), and consult on and impose disciplinary action, Section 6-F (3), and also provide the right to a hearing before a faculty committee, Section 6-G.

### **6-A (9)(b) In Title IX Cases**

Both parties will be provided an equal opportunity to participate in any process that is part of a Title IX review, appeal of findings, or grievance. There are no public hearings.

As provided by Government regulations, all proceedings, including the investigation, appeals and grievances, shall be conducted in a manner that (a) is consistent with the University's policies and transparent to the accuser and accused; (b) includes timely notice, of meetings at which the accuser or accused, or both, may be present; (c) provides the complainant, the accused, and appropriate officials timely and equal access to the accuser, the accused, and appropriate officials to any information that will be used during informal and formal disciplinary meetings and hearings; and (d) are conducted by officials who do not have a conflict of interest or bias for or against the accuser or the accused. For cases involving sexual assault, dating violence, domestic violence, and stalking, the proceedings must be conducted by officials who at a minimum, receive annual training on the issues related to dating violence, domestic violence, sexual assault, and stalking and on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.

The Office of Equity and Diversity will maintain detailed records of each informal and formal complaint, including individuals involved, investigative steps taken, documentation received, individuals interviewed, decisions reached, and reasons for decisions reached.

### **6-A (10) Scope**

This policy applies to all behavior by a faculty ~~or staff~~ member while performing a University role; or on campus or at a facility of the University; or at an activity under the auspices of the University; or where the victim is a faculty or staff member, student, post-doctoral fellow, resident, applicant, patient, vendor, contractor, or visitor, or employee of an affiliate of the University; or which is adequate cause for discipline under Sections 8-B or 8-C of Chapter 8. This policy applies to off-campus misconduct when it falls within the purview of the prior sentence. The University will also consider the effects of off-campus conduct

when evaluating whether there is a hostile environment on campus.

The specific University policy and procedure that apply depend on who is alleged to have committed the misconduct. This policy applies to behavior by a faculty member. For behavior by students, see <http://scampus.usc.edu>; for behavior by staff or anyone else who interacts with the University community, see <http://equity.usc.edu/sexual-harassment>.

### **6-A (11) Government Regulations**

Mentions of “government regulations” refer to the following.

- Federal Government regulations, 34 CFR 688.46(k), issued under the Violence Against Women Reauthorization Act (VAWA) of 2013, Public Law 113-4. Provisions in this Chapter mentioning those regulations are applicable to cases of alleged sexual assault, stalking, dating violence, or domestic violence; the University may also apply such provisions to other cases under this chapter.
- California Education Code §67386, enacted by state law SB 967, which requires the trustees to adopt certain policies for cases involving students.
- Government’s expectations under Title IX, which state, among other things, that both parties have equal rights in bringing a grievance challenging a sanction imposed on a faculty member, or participating in a grievance brought by the other person.
- Requirements the Office of Civil Rights has made in determinations at other universities, through “voluntary resolution agreements” (VRA) under Title IX.

Measures required by government regulations must be applied as required by law, but may be extended at the University’s discretion to other proceedings under this policy.

### **6-B POLICY AGAINST DISCRIMINATION, HARASSMENT, AND RETALIATION**

The University of Southern California is committed to maintaining an environment that is free from discrimination and harassment, including sexual harassment. To carry out this University commitment, the University will not tolerate statements or actions that create a discriminatory or harassing work or educational environment.

Attempts or threats to commit acts prohibited by this policy, or to omit acts required by this policy, are prohibited. Complaints and witness statements that are not in good faith are also prohibited.

Any faculty ~~or staff~~ member who violates this policy will be subject to appropriate disciplinary action for misconduct, which may include termination or dismissal for cause in accordance with applicable University policies.

### **6-B (1) Discrimination**

No faculty ~~or staff~~ member may discriminate against anyone based on any protected characteristic, as defined in Section 6-A (5).

### **6-B (2) Harassment Based on a Protected Characteristic**

No faculty ~~or staff~~ member may take actions that are harassing, abusive, or intimidating against anyone based on any protected characteristic, as defined in Section 6-A (5), or commit actions that adversely affect another because of a protected characteristic. Alleged misconduct does not have to be directed at a specific person or persons to constitute harassment. To find that an action creates a hostile environment it must be found that the action was both objectively and subjectively offensive, i.e., one that a reasonable person would find hostile or abusive, and one that the complainant in fact did perceive to be so.

Such conduct may include, but is not limited to, the following examples, if a reasonable person would have perceived them as objectively offensive, and with due respect for the protection of academic freedom as discussed in Section 6-A (3):

- Ridicule, abuse, insults or derogatory comments that are directly or indirectly based on a protected characteristic;
- Offensive remarks about an individual's looks, clothing, or body parts, that relate to a protected characteristic;
- Offensive comments about an individual's racial, ethnic, or religious characteristics;
- Disparaging or offensive remarks about an individual's sex or gender whether or not sexual in nature;
- Offensive comments about an individual's religious beliefs or lack of religious beliefs;
- Expressing negative stereotypes regarding an individual's country of birth, ancestry, citizenship, or race;
- Negative comments regarding an individual's age when referring to employees 40 and over;

- Disparaging, intimidating, or offensive references to an individual's mental or physical impairment or disability;
- Disparaging and unwelcome racial or ethnic remarks, or disparaging and unwelcome racial or ethnic slurs, jokes, or epithets;
- Disparaging and unwelcome comments based on other protected characteristics;
- Offensive and unwelcome language directed at someone because of her or his gender or gender identity, or based on gender stereotypes;
- Any unwelcome verbal or physical behavior based on any protected characteristic when the behavior can reasonably be considered to adversely affect the work or academic environment, or when an academic, admissions, or employment decision or recommendation affecting the individual is based on his or her acceptance or rejection of such behavior.

#### 6-B (2)(a) Role of Title IX Coordinator

Regardless of which University entity processes a complaint, the Title IX Coordinator will maintain overview of the complaint's investigation and resolution as provided in the relevant policy, will be provided written notice of the complaint and investigation and, where sexual harassment is found to have occurred, will have overview of the steps the University will take in response in accordance with the relevant policy. In addition to disciplinary action taken as provided in this policy and steps to stop the harassment, the Title IX Coordinator will provide overview of all individual or systemic steps necessary to prevent recurrence, to eliminate any hostile environment, and to remedy the discriminatory effects of the harassment on the complainant and others, as appropriate. Some of the steps and remedies that might be provided depending on the investigation findings are listed in Section 6-H.

#### **6-B (3) Other Harassment**

No faculty ~~or staff~~ member may take actions that are harassing, abusive, or intimidating against another member of the University community, even if not based on a protected characteristics, if a reasonable person would have perceived them as objectively offensive, and with due respect for the protection of academic freedom as discussed in Section 6-A (3). Such actions may be investigated and corrective action or discipline imposed under this policy; or such actions may instead be responded to as are other instances of misconduct or poor performance.

#### **6-B (4) Sexual Harassment**

No faculty ~~or staff~~ member may commit sexual harassment, defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- submission to such conduct is either explicitly or implicitly made a term or condition of an individual's employment, appointment, admission, or academic evaluation; or
- submission to such conduct is used as a basis for evaluation in personnel decisions, academic evaluations, or admissions evaluations affecting an individual; or
- such conduct has the effect of unreasonably interfering with an individual's work or academic performance, or creating an intimidating, hostile, or offensive working or learning environment.

Sexual harassment includes, but is not limited to, the following examples, if a reasonable person would have perceived them as ~~objectively~~ offensive and the complainant perceived them as offensive, and with due respect for the protection of academic freedom as discussed in Section 6-A (3):

- written instances: suggestive or obscene communication via letters, notes, text messages, e-mails, any material distributed via social media, or any type of digital communication.
- verbal instances: derogatory comments, slurs, jokes, or epithets of a sexual nature or sexist remarks, discussions about sex or sexual activities, requests for sexual favors, repeated and unwelcome propositions for dates, or offensive sexual remarks about an individual's looks, clothing, or body parts when related to sex or gender.
- physical instances: leering, stalking, assaults, impeding or blocking movement, touching, or body contact.
- visual instances: inappropriate display of sexually explicit objects, pictures, cartoons, posters, computer screensavers, websites, movies, drawings, or sexual gestures.

## **6-B (5) Sexual Assault**

No faculty ~~or staff~~ member may commit sexual assault, defined as any physical sexual act (including, but not limited to, actual or attempted intercourse, sexual touching, fondling, or groping), perpetrated upon a person:

- without consent, or where consent is not freely given;

- where the assailant uses physical force, threat, coercion, or intimidation to overpower or control another; or where the victim fears that he or she, or another person, will be injured or otherwise harmed if he or she does not submit; or
- where the victim is unable to give consent. See Section 6-B(5)(a)(3).~~'s ability to give or withhold consent is impaired due to the influence of alcohol or other drugs, or due to age or mental incapacity, or because of unconsciousness or blackout.~~

For rules pertaining to past~~Past~~ sexual history of the complainant or the accused with each other or ~~with others will not be used in determining whether sexual misconduct occurred.~~, see Section 6-E (3).

~~Valid consent must be informed and knowing. When people consent to sexual activity, they will have indicated, verbally or otherwise, that they are participating willingly, freely, and voluntarily; silence, in and of itself, cannot demonstrate consent. Consent is an ongoing process in any sexual interaction and may be withdrawn at any time during a sexual interaction. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, does not by itself demonstrate consent. When there is a difference in power or authority (either due to differences in physical strength, or differences in real or perceived authority), the question of consent is more carefully scrutinized to ensure meaningful consent. In cases involving a student concerning sexual assault, domestic violence, dating violence, or stalking, section 6-B (5A) shall apply instead of his paragraph.~~

### 6-B (5)(a) Consent

#### 6-B (5)(a)(1) Affirmative Consent

An affirmative consent standard applies in the determination of whether consent was given by both parties to sexual activity. "Affirmative consent" means affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that he or she has the affirmative consent of the other or others to engage in the sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent.

#### 6-B (5)(a)(2) Accused's Condition And Reasonable Steps

In the evaluation of complaints in any disciplinary process, it shall not be a valid excuse that the accused believed that the complainant consented to the sexual activity under either of the following circumstances:

- The accused's belief in affirmative consent arose from the intoxication or recklessness of the accused.
- The accused did not take reasonable steps, in the circumstances known to the accused at the time, to ascertain whether the complainant affirmatively consented.

#### 6-B (5)(a)(3) Complainant's Inability To Consent

In the evaluation of complaints in the disciplinary process, it shall not be a valid excuse that the accused believed that the complainant affirmatively consented to the sexual activity if the accused knew or reasonably should have known that the complainant was unable to consent to the sexual activity under any of the following circumstances:

- The complainant was asleep or unconscious.
- The complainant was incapacitated due to the influence of drugs, alcohol, or medication, so that the complainant could not understand the fact, nature, or extent of the sexual activity.
- The complainant was unable to communicate due to a mental or physical condition.

### **6-B (6) Child Abuse**

No faculty ~~or staff~~ member may commit an act of child abuse, including sexual abuse of an individual under 18 years of age. All faculty and staff members are required to report any instances of known or suspected abuse, molestation or neglect relating to children. Please see Section 6-D (1)(b) and the University policy on Protecting Minors, <http://www.usc.edu/policies>.

### **6-B (7) Stalking**

No faculty ~~or staff~~ member may engage in stalking. Consistent with section 40002(a) of the Violence Against Women Act of 1994, stalking is defined to mean intentionally engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others; or suffer substantial emotional distress. ~~Stalking is defined as a non-consensual course of conduct directed at a specific person that would cause a reasonable person to feel fear or apprehension or suffer substantial emotional distress, or to fear a threat to her or his safety, mental health, or physical health, or the safety of others.~~ Stalking is also a crime. "Course of conduct" means behavior composed of two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, engages in any of the following: monitoring, following, observing, threatening, surveiling, or communicating to or about a

person, or interfering with a person's property. Tormenting behavior is prohibited equally with stalking. Tormenting behavior is defined as non-consensual willful conduct directed at a specific person that seriously alarms or annoysterrorizes the person, that would have that effect on a reasonable person, and that serves no legitimate purpose.

6-B (7)(a) Domestic Violence, Dating Violence, and Intimate Partner Violence.

No faculty or staff member may commit domestic violence, dating violence or intimate partner violence, on or off campus. Consistent with the definition in California law, Health & Safety Code 124250 (a), such "violence" means the infliction or threat of physical harm against past or present intimate partners, and includes physical, sexual, and psychological abuse against the partner, that is a part of a pattern of assaultive, coercive, and controlling behaviors directed at achieving compliance from or control over, that partner. "Partner" means a person who is a spouse or former spouse, a cohabitant or former cohabitant, a person with whom he or she has a child, or with whom he or she has, or had, a dating or engagement relationship.

Dating violence and domestic violence are crimes under California law and may be subject to criminal punishment.

**6-B (8) Retaliation**

No faculty ~~or staff~~ member may threaten, attempt, or commit retaliation against anyone who, in good faith, brings a complaint under this policy or applicable law; or participates in investigation of such a complaint; or protests in good faith alleged discrimination, harassment, or retaliation against another; or exercises their rights or responsibilities under this policy.

Such retaliation may include, but is not limited to, the following types:

- Coercion, intimidation, interference, harassment, discrimination, or vexatious behavior;
- Adverse employment or academic action (or recommending that such action be taken), such as lowering a grade or a performance evaluation, giving a poor academic or employment recommendation, or causing the individual to be demoted or terminated or not promoted, hired, or admitted;
- Exclusion from employment or educational opportunities or limiting scholarly activities such as teaching, research, or publication;
- Limiting employment opportunities, such as providing a poor reference, or refusing to allow appropriate travel;

- Spreading negative information about the individual;
- Shunning or ostracizing an individual.

As provided in government regulations, the University, or an officer, employee, or agent of the University, may not retaliate, intimidate, threaten, coerce, or otherwise discriminate against any individual for exercising their rights or responsibilities under any provision of those regulations.

## **6-C HARASSMENT-AWARENESS TRAINING**

All faculty ~~and staff~~ members must periodically complete required harassment-awareness training programs provided by the University. Additional examples of harassment are provided in this training. It is important for faculty and supervisors to take this training even if they do not believe they need it. This is especially so for senior faculty, who are leaders of the academic community and role models for others. Taking the training as periodically required is not discretionary; it is part of the duties of each faculty ~~and staff~~ member.

## **6-D PROCEDURES FOR COMPLAINTS**

### **6-D (1) Complaints and Reports**

#### *6-D (1)(a) Complaint by Person Subject to Discrimination, Harassment, or Retaliation*

Anyone who believes he or she has been discriminated against, harassed, or retaliated against in violation of this policy, or is otherwise directly affected by behavior prohibited by this policy, should report the fact to the Office of Equity and Diversity at 213-740-5086. If another faculty ~~or staff~~ member receives or is informed of a formal or informal complaint, that person must report the matter to OED, as stated in Section 6-D (1)(b).

OED also oversees affirmative-action compliance. Complaints of gender-based sexual misconduct, including sexual harassment or Title IX, should be addressed to the University's Title IX Coordinator, Jody Shipper, CUB Building, University Park Campus, Los Angeles, California 90089-0704, 213-740-5806. Jody Shipper is also the University's Americans with Disabilities Act/Section 504 of the Rehabilitation Act of 1973 Coordinator. She is also the University's Age Discrimination Act Coordinator. If a complaint is against a student, contact either the Title IX Coordinator or Student Judicial Affairs and Community Standards (SJACS).

Complainants are expected to make their complaints as soon as possible. While there is no time limit to making a complaint to the University, delay in taking formal action with respect to an incident may foreclose other remedies under

federal or state law, and can otherwise impede the investigation, due to changes in memory, or the reduced likelihood of finding witnesses.

*6-D (1)(b) Reports of Violations Under University Policy*

This Section 6-D (1)(b) deals only with responsibilities under University policy; for responsibilities under the law see Section 6-D (1)(c).

(i) Any faculty ~~or staff~~ member who receives or is informed of a formal or informal complaint involving our policy prohibiting discrimination, harassment, or retaliation, is required to immediately bring the matter to the attention of the Office of Equity and Diversity at (213) 740-5086. The same responsibility exists for a violation of Title IX.

(ii) Moreover, any faculty ~~or staff~~ member who is aware of sex-based harassment must report it to the Title IX Coordinator regardless of whether a complaint is made.

(iii) Health-care professionals and any other individuals who are statutorily exempt from reporting should respect confidentiality.

(iv) The Office of Equity and Diversity will decide whether an investigation is appropriate in the circumstances; the person initially learning of the complaint must not make that decision or try to investigate or resolve the matter except under the guidance of OED.

(v) A notification to the Office of Equity and Diversity shall preferably be in writing or by email and should include (1) all known information about the alleged or suspected discrimination, harassment, or retaliation; (2) the names of the complainant and of the alleged offender(s), if known; and (3) any additional information which would enable the investigator to investigate the allegation.

(vi) Any faculty ~~or staff~~ member is required to report any known or suspected abuse, molestation or neglect related to children. See Section 6-B (6) and the University policy on Protecting Minors at <http://www.usc.edu/policies>. For other responsibilities, see the University policy on Reporting Wrongdoing at <http://www.usc.edu/policies>.

(vii) No employee or unit of the University other than the Office of Equity and Diversity should attempt to investigate or resolve an apparent violation of any of these policies on discrimination, harassment or retaliation except under the guidance of the Office of Equity and Diversity (and except as permitted by Section 6-B (3)) so it can decide whether an investigation is appropriate in the circumstances.

*6-D (1)(c) Legal Responsibilities*

This Section 6-D (1)(c) is to remind certain faculty ~~and staff~~ members of responsibilities under the law; for responsibilities under University policy see Section 6-D (1)(b).

(i) Supervisors must promptly inform the Office of Equity and Diversity of any report to them of sexual assault or sexual harassment, under Title VII of the Civil Rights Act of 1964 and California's Fair Employment and Housing Act.

(ii) Responsible USC officials must promptly inform the Title IX Coordinator of any report of gender-based sexual misconduct, or other violation of Title IX, under Title VII of the Civil Rights Act of 1964 and California's Fair Employment and Housing Act, see 6-D (1)(a). Responsible USC officials include the Provost and all Vice Provosts; Deans of schools, as well as Vice Deans for Faculty and for Students; and any administrator of the rank of Assistant Vice President or above.

(iii) Campus Security Authorities must promptly inform the Department of Public Safety about any report of sexual assault or other crime within USC's geographic area, under the Clery Act (The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act of 1990). Campus Security Authorities include any USC official who has significant responsibility for student and campus activities, including student discipline. The definition of CSA is found in the University's Annual Security Report, <http://capsnet.usc.edu/departments/public-safety/annual-security-report>.

(iv) Those designated by law as a "mandated reporter" have an individual duty to report known or suspected abuse or neglect related to children, elders or dependent adults, under the Child Abuse and Neglect Reporting Act and the Welfare and Institutions Code. This requirement and the definition of "mandated reporter" are explained in the policies on Mandated Reporters, Protecting Minors, and Reporting Wrongdoing at <http://www.usc.edu/policies>.

#### *6-D (1)(d) Other Information on Violations*

In the absence of a complaint or report, the University may initiate an investigation if it has reason to believe that this policy has been violated.

The University has an obligation to make reasonable efforts to investigate and address instances of sex discrimination when it knows or should have known about such instances, regardless of cooperation and involvement by the complainant.

#### *6-D (1)(e) Complaints to Government Agencies*

In addition to notifying the University about unlawful discrimination, harassment, or retaliation, affected employees or other complainants also may direct their complaints to the California Department of Fair Employment and

Housing (DFEH) or the Equal Employment Opportunity Commission (EEOC), which have the authority to conduct investigations of the facts. The deadline for filing complaints with the DFEH is one year from the date of the alleged unlawful conduct. If the DFEH believes that a complaint is valid and settlement efforts fail, the DFEH may seek an administrative hearing before the California Fair Employment and Housing Commission (FEHC) or file a lawsuit in court. Both the FEHC and the courts have the authority to award monetary and non-monetary relief in meritorious cases. The Office for Civil Rights (OCR) is responsible for enforcing laws prohibiting discrimination on the basis of race, color, national origin, disability, age, or sex. Any person who believes that the University has violated nondiscrimination or affirmative-action obligations as a Federal contractor may contact the Office of Federal Contract Compliance Programs (OFCCP). Contact information: DFEH: email [contact.center@dfeg.ca.gov](mailto:contact.center@dfeg.ca.gov) or <http://www.dfeh.ca.gov>. EEOC: 1-800-669-4000 (TTY 1-800-669-6820) or <http://www.eeoc.gov>. OCR: [1-800-421-3481](tel:1-800-421-3481) or <http://www2.ed.gov/about/offices/list/ocr/complaintinfo.html>. <http://www.hhs.gov/ocr/office/about/contactus/>. OFCCP: 1-800-397-6251 (TTY: 1-202-693-1337).

The crime of rape, or attempted rape, is a serious criminal act. It is the victim's right to choose whether to file a criminal report. The University encourages victims to consider reporting these crimes. To report a crime, victims may contact the Department of Public Safety (DPS), (213) 740-4321, 24 hours a day. Whenever a crime of a sexual nature is reported to DPS, they immediately notify the Los Angeles Police Department. In cases where the complainant has requested that his or her name not be provided to the LAPD, DPS will honor that request. The LAPD (or the appropriate law enforcement agency if outside of Los Angeles) has the responsibility for the investigation of these crimes; DPS is not permitted to do so. Any report filed with DPS will be shared with the Title IX Coordinator.

#### 6-D (1)(f) University Response - Sexual Harassment

The University will respond to complaints, reports, or information about incidents of sexual harassment in order to stop prohibited conduct, eliminate any hostile environment, take steps to prevent the recurrence of sexual misconduct, and address any effects on campus from such conduct.

### **6-D (2) Privacy and Confidentiality**

#### **6-D (2)(a) Privacy**

The University will respect and safeguard the privacy interests of individuals involved in reports under this policy to the extent possible. Privacy in this context means that information related to a report made under this policy will generally be shared only with those University employees who need to know the information in order to assist in the review, investigation, or resolution of the report. These individuals will keep as private as possible information related to

the report. If an investigation is pursued against an accused person, however, information will need to be shared with the accused person and, as appropriate, with relevant witnesses. To the extent a person making a report wishes to keep the victim's name private, this may limit the University's ability to investigate or discipline the responsible student.

### **6-D (2)(b) Confidentiality**

The University will also respects confidentiality as provided by law. ~~Although the University cannot commit to keeping a complaint under this policy confidential because of its obligation to investigate, the University will protect the confidentiality of the person bringing the allegation as well as the accused to the extent possible by using its best efforts not to disseminate information concerning the allegation beyond those who have a legitimate need to know. Any publicly available recordkeeping will exclude information about the victim to the extent permissible by law.~~The university will keep as private as possible the identity of persons who report having been the victim of sexual misconduct, but will inform the person making the report that keeping the victim's name private may limit the university's ability to investigate or discipline the responsible student. Confidentiality is different from privacy. For information regarding confidential resources for victims of sexual misconduct, please see Section 6-A (4). Confidentiality in this context means that information shared only with campus or community professionals who have legal confidentiality (such as licensed counselors or therapists) will only be disclosed with the individual's express written permission or as provided by law (where there is a continuing threat of serious harm to the individual or others, or where there is suspected abuse or neglect of a minor; or where disclosure to a third party is otherwise legally required.) An individual can seek confidential assistance and support by speaking with specially designated confidential resources. For information regarding confidential resources for victims see Section 6-A(4).

### **6-D (2)(c) Anonymous Reporting**

Students have the option to make anonymous reports of sexual misconduct **by faculty**, and may also anonymously access information about resources, through the Sexual Assault Resource Center/Center for Women & Men (213-740-4900) or Student Counseling Services (213-740-7711); similarly, faculty members may call the Center for Work and Family Life (213-821-0800). Such anonymous reports are confidential and do not trigger an investigation.

The University will, if so requested, keep as private as possible the identity of persons who report having been victims of domestic violence, dating violence, or intimate partner violence to the fullest extent of the law, but will inform the person making the report that keeping the victim's name private may limit the University's ability to investigate or discipline the responsible individual.

### **6-D (2)(d) Medical and Counselling Records**

Medical and counseling records are privileged and confidential and a party will never be required to disclose them

### **6-D (3) Warning Against Retaliation**

The Designated Investigator shall inform the complainant that the law and the University's rules prohibit threatened, attempted, or actual retaliation against him or her for bringing a good-faith complaint, or against any participant in good faith in the investigation, or against any person who in good faith protests the alleged discrimination, harassment, or retaliation; and shall inform the complainant that any incident of retaliation must be reported immediately to the Office of Equity and Diversity

In addition, when the Designated Investigator investigates the complaint, he or she shall warn the alleged offender(s) that retaliation or threats or attempts to retaliate are strictly prohibited. See Section 6-B (8).

### **6-D (4) Notification**

Upon receipt of an allegation by or against a faculty member, the Office of Equity and Diversity shall notify the appropriate Dean and the Vice Provost for Faculty Affairs and the Vice Provost designated by the Provost for such matters.

## **6-E INVESTIGATION**

### **6-E (1) Designated Investigator**

The Office of Equity and Diversity is Designated Investigator under this policy.

The University may designate a different investigator and a different person to determine violations if it determines it is appropriate.

For complaints that the Designated Investigator determines fall under [Title IX or California Education Code §67386](#), mediation or other informal processes are not available.

#### 6-E(1)(a) Fact Finding

The assigned investigator within the Office of Equity and Diversity will conduct a prompt, thorough, and impartial investigation of the complaint to find the facts. The responsibility is on the University, not the parties to the complaint, to gather the relevant evidence, to the extent reasonably possible, relating to a complaint, report, or other incident of misconduct under this policy of which the University has notice.

#### 6-E(1)(b) Conclusions as to Violations

The executive director of the Office of Equity and Diversity will determine whether the facts as found show that a violation of this policy has occurred.

If the Executive Director conducted the investigation the Associate Senior Vice President, Human Resources, will designate a different official to make this determination.

#### 6-E(1)(c ) Evidentiary Standard.

In matters under Title IX or California Education Code §67386, the evidentiary standard is a preponderance of evidence.

#### 6-E(1)(d) Conflict of Interest and Bias

If the ~~person~~ accused or the complainant believes there is a conflict of interest or bias involving the assigned investigator or the executive director in the Office of Equity and Diversity, he or she may call that to the attention of the Executive Director of that office, or to the Associate Senior Vice President, Human Resources, ~~who supervises that office, who may if appropriate designate a different persons~~ investigator.

#### 6-E(1)(e) Relation to Criminal Cases

The University cannot and does not determine if the criminal law was violated. The University's investigation is independent of any criminal investigation. Complainants have a right to proceed simultaneously with a criminal investigation and a University investigation; the University may defer its investigation for a limited time for criminal fact gathering but will then promptly resume its investigation.

~~The University may designate a different investigator if it determines it is appropriate.~~

~~The Designated Investigator will conduct a prompt, thorough, and impartial investigation of the complaint to determine whether a preponderance of the evidence shows that a violation of this policy has occurred.~~

### **6-E (2) Informing the Accused/leged-Offender**

In the conduct of the investigation, the Designated Investigator shall present the accused/leged-offender with sufficient information so that he or she can meaningfully respond. As required by gGovernment regulations, the complainant/accuser, the accused, and appropriate officials will be provided timely and equal access to any information that will be used during the investigation. In communications with the accused/leged-offender, the Designated Investigator will attempt to employ means of communication that

preserve confidentiality. The ~~accused/alleged offender~~ shall participate in interviews as requested and may also respond in writing.

### **6-E (3) Investigative Procedure**

The investigation will be conducted in accordance with the University's policies and procedures generally applicable to investigations by the Office of Equity and Diversity. The investigation includes interviewing the complainant, alleged offender(s) and relevant witnesses, and viewing other evidence as may be available. All faculty and staff members and all students are required to cooperate in the investigative process. In investigations of an allegation of sexual assault or sexual harassment, or any form of gender-based misconduct, both the faculty member accused as well as the complainant (whether faculty or staff member, or student) shall have equal procedural rights. For the availability of advice and counseling, see Section 6-A (4).

In cases concerning accusations of sexual assault, the past sexual history of any involved party will not be considered unless directly relevant to the matter under consideration. In general, a complainant's prior sexual history is not relevant and will not be considered. But where there is a sexual history between the complainant and the accused, and the accused alleges consent, the prior sexual history between the parties may be relevant to assess the manner of consent between the parties. However, the mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. In addition, other conduct may be relevant to prove a material fact (for example, to explain an injury or physical finding). Where there is evidence of conduct substantially similar in nature by the accused, regardless of whether there has been a finding of responsibility, this information may be deemed relevant to the determination of responsibility or sanction.

More detailed information about the investigative procedure is available at the Equity and Diversity website, <http://equity.usc.edu>.

As provided by government regulations, in cases involving alleged sexual assault, domestic violence, dating violence, or stalking, the University does not limit the choice or presence of an adviser for either the accuser or the accused in any meeting or university disciplinary proceeding where that party is present. At the separate meetings of the complainant and the accused with the investigator, the person being interviewed may have one adviser present. The role of the adviser in that setting is to provide support to the person being interviewed, and the conversation will be between with investigator and the person being interviewed. The adviser may not interfere with or disrupt the interview. To protect the privacy of students and witnesses, the adviser is required to sign a confidentiality statement prior to attending an interview or otherwise participating in the university's investigatory process. At any hearing before the Tenure and Privileges Appeals Committee, this paragraph does not limit the ability of each party to be represented by legal counsel with the role provided in Section 7-C (4) of Chapter 7.

## 6-E (4) Investigator's Report

The Designated Investigator shall attempt to complete the investigation and make a written report as efficiently and promptly as possible. Absent extenuating circumstances, the University endeavors to complete investigations of complaints, find the facts and determine if this policy was violated, and make initial determination as to sanctions, in cases of sexual harassment, sex/gender discrimination, sexual assault, domestic violence, dating violence, or stalking, within 60 days, excluding time for any appeal of findings, from the date of an intake interview, and for other complaints within 90 days. If the report is not complete within the stated 90-day time frame, the alleged offender, the complainant, the Academic Senate President, or the designated Vice Provost may ask the Associate Senior Vice President, Human Resources (who has authority over the Office of Equity and Diversity) to explain why it is not yet complete. As provided by government regulations, in cases involving alleged sexual assault, domestic violence, dating violence, or stalking, the Director of the Office of Equity and Diversity may authorize the extension of timeframes only for good cause and with written notice to the accuser and the accused of the delay and the reason for the delay. Good causes to extend the period may include the need to conduct a fair and complete investigation, or accommodate or allow for a request by external law enforcement, the availability of witnesses, delays by the parties, University breaks or vacations, the need to await comments under Section 6-F(3), the complexity of the investigation, or other legitimate reasons. Best efforts will be made to complete the investigation in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

## 6-F RESPONSE TO INVESTIGATION/ APPEAL OF FINDINGS

The Executive Director of the Office of Equity and Diversity Designated Investigator will notify the complainant and the alleged-offender/accused of the findings and conclusions of the investigation, as well as the procedures for appeal, in writing and on the same day.

The University will take immediate and appropriate corrective action when it is determined that harassment or other violation of this policy has occurred. If the finding of violation is modified or reversed on appeal, any discipline will be reviewed and modified or rescinded as appropriate.

### 6-F (1) Appeal of Findings and Conclusions

W~~For cases against faculty or staff, w~~ithin 10 calendar days of being notified of the findings and conclusions, either the person-accused or the complainant (whether faculty or staff member, or student) may appeal them to a designee of the Provost who is not otherwise involved in any step of the process ~~the findings~~

~~to the Executive Director of the Office of Equity and Diversity. If the Executive Director has personally conducted the investigation, the appeal will instead be to the Associate Senior Vice President, Human Resources. If the Associate Senior Vice President, Human Resources is not available, an official designated by the Senior Vice President, Administration, will act instead. The anticipated timeframe for decision on an appeal of findings is 15 days, unless the Provost's Associate Senior Vice President, Human Resources or designee authorizes an extension of the timeframe for good cause and with written notice to the **accuser/complainant** and the accused of the delay and the reason for the delay.~~

**6-F (2)** Omitted in this edition

~~**6-F (2) — Staff**~~

~~For complaints against staff, the Associate Senior Vice President for Human Resources, will receive and review the investigative report and, when warranted, take appropriate corrective action, including any disciplinary action deemed appropriate. If the Associate Senior Vice President, Human Resources is not available, an official designated by the Senior Vice President, Administration, will act instead. The possible sanctions range from counseling or a written reprimand to suspension or termination, depending upon the severity of the conduct. For more information, please consult the Equity and Diversity website, <http://equity.usc.edu>, and also the policy on Staff Disciplinary Practices, <http://www.usc.edu/policies>. For cases alleging a violation of the University policy against sexual harassment, or any form of gender-based misconduct, both the complainant and the respondent shall be notified, in writing and on the same day, of the disciplinary decision, as well as any change in that decision.~~

~~A staff corrective action may be appealed in writing within ten calendar days to the Senior Vice President, Administration. For cases alleging a violation of the University policy against sexual harassment, or any form of gender-based misconduct, both parties will have the same rights of appeal and, should either party appeal, the appeals document will be forwarded to the other party.~~

**6-F (3) Faculty Disciplinary Action**

~~For complaints against faculty,~~ The Vice Provost will receive and review the investigative report and consult with the President of the Academic Senate and the relevant Dean. When warranted and considering the seriousness of the offense and all the circumstances, the Vice Provost will proceed to take action as set forth in Section 6-I. For cases alleging a violation of the University policy against sexual harassment, or any form of gender-based misconduct, both the complainant and the **respondent-accused** shall be notified, in writing and on the same day, of the disciplinary decision as well as any change in that decision.

In general the timeframe for initial decision on disciplinary action is as discussed in Section 6-E (4). However, when there has been an appeal of findings or

opportunity of the accused to submit comments, the anticipated timeframe for decision on a decision on action is 15 days after the appeal is resolved or the accused's comments are received whichever is later, unless the Vice Provost authorizes an extension of the timeframe for good cause and with written notice to the accuser and the accused of the delay and the reason for the delay.

The accused faculty member may file a grievance as provided in Section 6-G within ten days of being notified of the Vice Provost's decision. For cases alleging a violation of the University policy against sexual harassment, or any form of gender-based misconduct, both parties will have the same rights to file a grievance within the same timeframe. And, should either party do so, the document will be forwarded to the other party.

However, dismissal for cause and demotion as defined in Section 8-D (5) of Chapter 8, shall occur only pursuant to the formal proceedings set forth in Section 8-D (2) of Chapter 8, commencing with Step 4, if the Provost decides to bring formal charges on the recommendation of the Vice Provost. In making such a recommendation to the Provost, the Vice Provost shall confirm that the alleged offender received a statement of evidence and was allowed 18 calendar days to provide comments in writing. The Vice Provost will consider any comments provided and will share them, and the statement of evidence, with the Provost. Moreover, for cases alleging a violation of the University policy against sexual harassment, or any form of gender-based misconduct, the Vice Provost shall confirm that the complainant also received the statement of evidence and was allowed 18 calendar days to provide comments in writing, and that the comments of each were forwarded to the other party. When there has been an appeal of findings or opportunity of the accused to submit comments, the anticipated timeframe for decision on action is 15 days after the appeal is resolved or the accused's comments are received, whichever is later, unless the Vice Provost authorizes an extension of the timeframe for good cause and with written notice to the accuser and the accused of the delay and the reason for the delay.

#### **6-F (4) Notifications**

As required by government regulations, both the complainant and the accused, will be notified, in writing and on the same day: (a) the result of any disciplinary proceeding, and the rationale, including notifying a complainant about the sanction imposed on an accused who was found to have engaged in harassment when the sanction directly relates to the complainant; (b) any change to the result; (c) when such results become final, and (d) the procedures for the accused and the complainant to appeal or grieve the result.

#### **6-G RIGHT TO A HEARING**

## **6-G (1) In general**

With respect to any sanction or corrective action taken by the Vice Provost, the ~~accused~~~~faculty member~~ will be entitled, within ten calendar days of being notified of the Vice Provost's decision, to file a grievance as provided in Chapter 7 of this Faculty Handbook. For cases alleging a violation of the University policy against sexual harassment, or any form of gender-based misconduct, both parties will have the same right to file a grievance within the same time frame. Should other party do so, the document will be forwarded to the other party. This is the method provided by the University to review the Provost's sanction or corrective action.

If certain sanctions are grieved, and the Provost also brings forward charges seeking dismissal or demotion of the faculty member, the same panel will function as the grievance hearing panel and the dismissal hearing board (as provided in Step 5 of the formal proceedings set forth in Chapter 8, Section 8-D (2)).

## **6-G (2) Gender-based misconduct**

This Section 6-G (2) deals with ~~In the cases~~ of an allegation of sexual assault, ~~or~~ sexual harassment, domestic violence, dating violence, stalking, or any form of gender-based misconduct, as required by government regulations.

~~Both~~ the faculty member accused as well as the complainant (whether faculty or staff member, or student) shall have the same right to file a grievance against the University regarding the sanction or corrective action as provided in this section. Whether the grievance is filed by the complainant or respondent~~accused~~ into the original allegation, the Academic Senate President shall distribute a copy to the other person and inform that the person of the right to comment on the grievance, and inform that person that they both parties have equal rights to participate under Sections 7-C (4) and 7-D of Chapter 7 (unless the Vice Provost has already so informed them).

If it happens that both parties file a grievance, the same panel will hear both grievances simultaneously, and the chair of the Committee on Faculty Tenure and Privileges Appeals shall provide equal and appropriate rights as to convening the grievance hearing, under Section 7-C (2) of Chapter 7.

If the complainant and the ~~respondent-accused~~ are of different genders, the grievance hearing panel, or the Step 5 (of Section 8-D (2) of Chapter 8) hearing panel for a dismissal or demotion, shall include members of different genders.

As provided in Section 6-F (4), both the accused and the complainant will be notified, in writing and on the same day, of any initial, interim, and final decision resolving the disciplinary matter, including any sanctions imposed and the rationale for the result and the sanctions.

The timeframes for the steps in the grievance process are set out in Chapter 7. The chair of the Committee on Tenure and Privileges Appeals or the Provost may authorize an extension of a timeframe for good cause and with written notice to the complainant and the accused of the delay and the reason for the delay.

~~If certain sanctions are grieved, and the Provost also brings forward charges seeking dismissal or demotion of the faculty member, the same panel will function as the grievance hearing panel and the dismissal hearing board (as provided in Step 5 of the formal proceedings set forth in Section 8-D (2) of Chapter 8).~~

## **6-H SANCTIONS, PROTECTIVE AND REMEDIAL MEASURES, AND CORRECTIVE ACTIONS**

### **6-H (1) Interim Protective Measures.**

Protective measures are undertaken by the University to protect the complainant or the University community. Consistent with Federal law (20 U.S. Code 1092(f)(8)(B)(ii)) and government regulations, the range of protective measures that the University may offer to the complainant following an allegation of rape, acquaintance rape, sexual assault, dating violence, domestic violence, or stalking, include but are not limited to a directive or agreement that the accused and the complainant have no contact; or changing advisers, graders, line of supervision, or physical location of work, residence or dining; or paid temporary leave; or temporary exclusion from the campus; or, in the case of students, other protective measures mentioned in SCampus. Changes in location or line of supervision and other protective measures will be undertaken only when appropriate, feasible and justified by the evidence available at that time.

A request for interim protective measures may be made by the complainant to the Designated Investigator at the time the complaint is made or while the investigation or decision is pending. The request will be forwarded for decision to the Provost.

The University does not require a student filing a complaint with the Title IX Coordinator or the Department of Public Safety to sign a no-contact order on the sole basis that the student filed a complaint.

### **6-H (2) Interim Remedial Measures**

The University will offer the parties interim remedial measures as appropriate and feasible. This may include, for example, counseling, medical support, a paid leave of absence for the complainant, changes to work schedule to accommodate the need to go to court for a restraining order, help with accessing supportive resources, and other measures including the interim remedial measures for students mentioned in section E.9.II.3 of SCampus. A

request for interim remedial measures may be made by the complainant to the Designated Investigator at the time the complaint is made or while the investigation or decision is pending. The Investigator will work with the appropriate University office on an appropriate response to the request.

### **6-H (3) Sanctions and Corrective Actions**

When a faculty member has been found to have violated this policy, sanctions and corrective action may include but are not limited to, any of the following actions by the University:

- approving an informal resolution;
- ensuring that the person against whom the complaint is made is not called upon to write letters of recommendation or make academic judgments about the person making the complaint or any other decision that affects the academic or professional career of the complainant or witnesses (and making alternative arrangements if necessary);
- changing advisers, graders, the line of supervision, or physical locations of work;
- conducting training, holding discussions, distributing leaflets, showing videos or films, or sending letters in the relevant unit explaining the University's policy on discrimination, harassment, or retaliation;
- action to remedy harm to the complainant or witnesses, e.g., reinstatement of teaching or research assistantships from which complainant or witness was removed by the accused or re-evaluation of course work graded unfairly by the accused;
- reviewing materials in the complainant's or witness's file and, if there is evidence of materials placed in the file by the individual as an act of discrimination, harassment or retaliation, removing such materials when appropriate;
- counseling of the individual by his or her supervisor(s), such as the Dean, Vice Provost, or Provost, about the individual's behavior;
- counseling by the Center for Work and Family Life or its designee;
- oral warning of the individual by his or her supervisor(s), such as the Dean, Vice Provost, or Provost, with a record in the individual's personnel file, that the individual's behavior constitutes a violation of the University's policy on discrimination, harassment, or retaliation;

- written warning of the individual by his or her supervisor(s), such as the Dean, Vice Provost, or Provost, with a copy to the individual's personnel file, that the individual's behavior violates the University's policy on discrimination, harassment, or retaliation;
- elimination or reduction of merit increases for the next year;
- removing the individual from a University administrative position;
- denial of promotion or postponement of consideration for promotion;
- suspension without pay, for a period not to exceed one semester;
- reduction in salary;
- for faculty [members](#) who do not hold tenure, non-reappointment or termination effective at the end of the current academic or fiscal year; or effective on 90 days' notice or pay in lieu of notice;
- demotion as defined in Section 8-D (5) of Chapter 8;
- dismissal for cause.

## **6-I CONSENSUAL RELATIONSHIPS**

The University strongly discourages sexual relationships between faculty and students, or persons in a supervisor/supervisee relationship. There is an inherent power differential between faculty and students, and supervisors and supervisees. Sexual relationships between these parties may lack meaningful consent. These relationships may put either party at risk. They can create a perceived lack of freedom to give meaningful consent about the relationships. The University does not tolerate non-consensual sexual relationships within its work and academic environment. Faculty and supervisors should seriously consider the risks to their own professional and private lives, as well as those created for the student or supervisee before entering into such a relationship. The University strongly recommends that such relationships generally be avoided. If the relationship is nevertheless not avoided, the University strongly recommends that the faculty member disclose it to the department chair or Dean or Vice Provost designated for such purposes by the Provost. Confidentiality shall be protected to the fullest extent possible.

A relationship may be voluntary in the sense that an individual is not forced to participate against his or her will, yet it may be unwelcome and therefore result in a claim of sexual harassment or sexual assault. Even a fully consensual relationship may create an exposure to legal risk, as others may [be treated less favorably, or may](#) feel they have been treated less favorably, than was the person in the sexual relationship; this may be considered a form of sexual favoritism and, as such, is a violation of University policy.

