

Sexual Violence and Sexual Harassment Resolution Process Frequently Asked Questions

1. What happens when a Complainant files a complaint of sexual violence or sexual harassment with the University?

Complaints are generally received either by the Title IX Officer or staff in the Harassment & Discrimination Assistance and Prevention Program (HDAPP). Upon receipt of a complaint, HDAPP and the Title IX Officer will review it to determine if the complaint meets the definition of sexual harassment, sexual violence, or other prohibited behavior in the University's policy and if there is a sufficient connection with a University activity or program such that the University can take action. If the Title IX Officer determines that the complaint meets the policy definition and there is a sufficient connection with the University, the complaint will be resolved through either alternative resolution or formal investigation.

2. What are the policy definitions of sexual harassment and sexual violence?

For a comprehensive list of policy definitions, see <https://policy.ucop.edu/doc/4000385/SVSH>.

3. What does it mean for there to be a sufficient connection to a University activity?

A sufficient connection or "nexus" as the term is used in the Sexual Violence or Sexual Harassment policy depends on the specific facts of each report. The Title IX Officer will consider the following factors:

- where and in what context the conduct allegedly occurred;
- whether the conduct is allegedly having ongoing adverse effects on University property or in a University program, activity or service;
- whether the parties were members of the UC community when the conduct allegedly occurred;
- whether the parties were members of the UC community at the time of the report; and
- whether there is information indicating an ongoing threat to the University community.

4. What if the Title IX Officer determines the complaint does not meet the policy definition of sexual harassment, sexual violence, or other prohibited behavior or that there is not a sufficient connection between the reported conduct and a University activity?

In this situation, the Title IX Officer will notify the Complainant of this decision and the reason for the decision, and will provide referrals to resources as well as supportive measures where appropriate, such as assistance with academic, housing and/or employment accommodations that the Complainant may need to continue to participate in University programs or activities. The Title IX Officer may also take actions focused on addressing the behavior.

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5. What is a Formal Investigation?

A formal investigation involves the assignment of an investigator who will serve as a neutral and objective fact-finder. At UC Davis, an investigator will be assigned from the Compliance & Policy office. The investigator will interview the Complainant, the accused (Respondent), and other witnesses with relevant information and will examine all other available relevant evidence to make a factual determination about what occurred. In cases involving student respondents, the investigator makes a recommendation about whether the Respondent violated University policy and the Director of Student Conduct makes the policy determination. In cases involving employee respondents, the investigator determines whether the Respondent violated University policy. If there is a determination that the Respondent engaged in conduct that violates University policy, the matter will be referred to the appropriate decision-maker to determine what action to take in response to the findings, including possible discipline.

6. What is Alternative Resolution?

In comparison with formal investigation, alternative resolution provides a less formal and more flexible process for resolving reports. The University can engage in alternative resolution when the Title IX Officer determines it is appropriate and both the Complainant and Respondent agree to it. Alternative resolution can include, for example:

- Mediation (except in cases of sexual violence);
- Separating the parties;
- Providing for safety;
- Referring the parties to counseling;
- Referral for disciplinary action;
- A settlement agreement;
- Conducting targeted preventive educational and training programs; and
- Conducting a follow-up review to ensure that the resolution has been implemented effectively.

For alternative resolution to be successful, both parties must agree to the outcome. This means that no action, including referral for discipline, will typically occur unless both the Complainant and Respondent agree. Sometimes, though, alternative resolution includes actions by the University to support the Complainant—the Respondent need not agree to or know about these. Either party can terminate the alternative resolution process at any time before it is completed. Additionally, the Title IX Officer can terminate the process if it appears that the process will not be successful.

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7. Who decides which process will be used?

The Title IX Officer will determine whether alternative resolution is appropriate for resolving the complaint based on the Complainant's allegations. If the Title IX Officer determines alternative resolution is appropriate, the Complainant will be offered the choice of either alternative resolution or formal investigation. Some forms of alternative resolution, such as mediation, are not permitted by policy where the allegations involve sexual violence. Additionally, alternative resolution is not appropriate when the report involves other allegations of serious misconduct, such as sexual harassment of a student by a faculty member.

8. What is the process for initiating an alternative resolution?

If a Complainant requests alternative resolution, the policy requirements discussed above are met, and the Title IX Officer agrees, HDAPP will contact the Respondent to determine if the Respondent will agree to participate in the process. If the Respondent agrees, both parties will receive written notice about the allegations, the process, and their rights during the process.

9. What if the Respondent doesn't agree to participate in alternative resolution?

A formal investigation will be initiated if Complainant wants one. If Complainant does not want a formal investigation, the Title IX Officer will seriously consider the Complainant's wishes, but will charge an investigation if the Title IX Officer determines one is necessary to mitigate the risk to the campus community.

10. What is the process for initiating a formal investigation?

If the Complainant requests a formal investigation and the policy requirements discussed above are met, the Title IX Officer will assign an investigator to conduct the investigation. The Title IX Officer will notify both the Complainant and Respondent in writing about the investigation, the allegations under review and each party's rights during the process.

11. How long does each process take?

Alternative resolution typically takes 30 to 60 business days after the written notice is sent. Formal investigation typically takes 60 business days after the written notice is sent. If either process will exceed 60 business days, Complainants and Respondents will receive notice of the reason and the projected new timeline.

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12. If the Complainant requests an alternative resolution, do they have to talk to Respondent?

Not necessarily. It depends on what both parties agree on as the outcome for the alternative resolution. For example, if the Complainant wants the Respondent to receive additional training related to sexual harassment and the Respondent agrees, there is no need for the parties to communicate with each other.

13. What if one of the parties changes their mind and no longer wants an alternative resolution?

Either party can change their mind at any point before the process is completed. This will terminate the alternative resolution process. The Title IX Officer can also terminate the alternative resolution process if it appears it will not be successful, or the Title IX Officer otherwise determines it is not appropriate. If the process is terminated, this may result in a formal investigation.

14. What are the protections given to those participating in an alternative resolution or a formal investigation?

The University prohibits any form of retaliation against a person who reports sexual violence or sexual harassment conduct or participates in either process. If you believe you are experiencing retaliation for your participation in alternative resolution or formal investigation, please report it to the Title IX Officer immediately.

15. Are either alternative resolution or formal investigation confidential?

No, but regardless of the process used, the University treats all information gathered as private, meaning that information is shared only with those who have a right or need to know or where sharing information is necessary to successfully complete the process. For example, in an investigation, limited information may be shared with witnesses where needed to conduct a thorough review.

Although these processes are not confidential, there are confidential resources available. The following link provides a list of confidential resources:

https://hdapp.ucdavis.edu/local_resources/docs/resource_list.pdf

16. What will happen to the information shared during formal investigation or alternative resolution?

The Title IX Officer maintains a record of all matters addressed. Information obtained during a formal investigation is shared with those who have a right or need to know. Complainants and Respondents have the right to receive a copy of the investigation report. Depending on the

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affiliation of the parties involved, others will be informed of the outcome and will receive a copy of the report. This can include Student Conduct, Human Resources, Academic Affairs and managers of respondents who are employees.

Information obtained as part of an alternative resolution can be used by the University:

- If a formal investigation is initiated regarding the allegations;
- To track a pattern of behavior; and
- In the event future allegations are made against the same respondent, as potential evidence in a future investigation.

17. Can I have an advisor throughout either process?

Complainants and Respondents may be accompanied by an advisor throughout either the alternative resolution or formal investigation process.

18. Who can be an advisor?

An advisor can include any individual, except a potential witness, who provides the Complainant or Respondent with support, guidance, or advice (including attorneys). The University may restrict the extent to which the advisor can participate in the process.

19. When does the alternative resolution process end and how do I know it has ended?

The process concludes when both parties agree upon the resolution terms and written notice is sent to both parties notifying them of the agreed upon outcome.

20. What if the Respondent fails to follow the resolution terms after the alternative resolution is completed?

The Complainant should inform the Title IX Officer as soon as possible if this occurs. The Title IX Officer will determine if the Respondent is not fulfilling the terms of the resolution. If the Title IX Officer makes this determination, an investigation may be charged (see FAQ #9 and 13).

21. When would an alternative resolution be considered unsuccessful?

An alternative resolution could be considered unsuccessful if:

- The terms are not agreed upon;
- The Respondent failed to satisfy the terms of the alternative resolution;
- The process is terminated by either party or the Title IX Officer;
- The Title IX Officer determines the resolution was not successful in stopping or preventing recurrence of the alleged conduct.

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22. What can happen if it is considered unsuccessful?

A formal investigation may be initiated. See FAQ #9 and 13.

23. Can the Complainant ask for an investigation after alternative resolution is completed?

A Complainant does not have the right to a formal investigation after an alternative resolution, if:

- An agreement was made;
- The agreement is being followed; and
- The Title IX Officer has determined that the agreement has stopped/prevented the alleged conduct.

If you have additional questions not addressed in these FAQs, please contact the Harassment & Discrimination Assistance and Prevention Program (HDAPP) ((530) 747-3864; (916) 734-3417; or hdapp@ucdavis.edu) or refer to the Sexual Violence Prevention and Response website at <http://sexualviolence.ucdavis.edu>.