

*This is part of a package proposal. UAW reserves the right to withdraw this package proposal at any time, at its sole discretion and without penalty. If this package proposal is not accepted as written in its entirety and without modification as described below, this proposal will be declared to be void and non-existent and the Union will return to bargaining from its language proposed prior to this package proposal.*

## **ARTICLE \_\_ NON-DISCRIMINATION IN EMPLOYMENT**

### **A. NON-DISCRIMINATION**

Within the limits imposed by law or University regulations, the University shall not discriminate or harass any Academic Researcher on the basis of race, color, religion, marital status, national origin, ancestry, sex, (including gender, pregnancy, childbirth, medical conditions related to pregnancy and childbirth, breastfeeding, and medical conditions related to breastfeeding), sexual orientation, gender expression, gender identity, physical or mental disability, medical condition, (cancer-related or genetic characteristics), genetic information (including family medical history), HIV status, service in the uniformed services, age, citizenship, political affiliation, or union activity.

1. "Gender expression" means a person's gender-related appearance or behavior, or the perception of such appearance or behavior, whether or not stereotypically associated with the person's sex assigned at birth.
2. "Gender identity" means each person's internal understanding of their gender, or the perception of a person's gender identity, which may include male, female, a combination of male and female, neither male nor female, a gender different from the person's sex assigned at birth, or transgender.

### **B. SEXUAL HARASSMENT**

1. The University of California is committed to creating and maintaining a community dedicated to the advancement, application and transmission of knowledge and creative endeavors through academic excellence, where all individuals who participate in University programs and activities can work and learn together in an atmosphere free of harassment, exploitation, or intimidation. The University prohibits sexual harassment and retaliation that violates law,

this Article, and/or University policy (herein referred to as prohibited behavior). The University shall respond promptly and effectively to reports of prohibited behavior and shall take appropriate action to prevent, to correct, and when necessary, to discipline behavior that violates the law, this Article, and the SVSH Policy.

2. Sexual Harassment is defined as unwelcome sexual advances, unwelcome requests for sexual favors, and other unwelcome verbal, nonverbal or physical contact of a sexual nature when:
  - a. Quid Pro Quo: A person's submission to or rejection of such conduct is implicitly or explicitly made the basis for employment decisions, academic evaluation, or advancement, or other decisions affecting participation in a University program; or
  - b. Hostile Environment: such conduct is sufficiently severe or pervasive that it unreasonably denies, adversely limits, or interferes with a person's participation in or benefit from the education, employment or other programs and services of the University and creates an environment that a reasonable person would find to be intimidating or offensive.
3. Sexual harassment may include incidents between any members of the University community, including: administrators, faculty and other academic appointees (including academic researchers), staff, student employees, students, coaches, residents, interns, and non-student or non-employee participants in University programs (e.g., vendors, contractors, visitors, and patients); in hierarchical relationships and between peers, and; between individuals of any gender or gender identity.
4. The University prohibits retaliation against or by academic researchers based on their report of prohibited behavior or participation in the investigation, report, remedial, or disciplinary processes provided for in the SVSH Policy. Retaliation includes threats, intimidation, reprisals, and/or adverse employment and/or academic actions against a person based on their report of prohibited behavior or

participation in the investigation, report, remedial, or disciplinary processes provided for in the SVSH Policy or this Article.

- C. Complaint procedures are covered by the University's Sexual Violence Sexual Harassment Policy ("SVSH") (<https://policy.ucop.edu/doc/4000385/SVSH>) and the Discrimination, Harassment, and Affirmative Action in the Workplace Policy ("Nondiscrimination") (<https://policy.ucop.edu/doc/4000376/DiscHarassAffirmAction>).

Where there is no conflict with this Agreement, the University's SVSH Policy and the Nondiscrimination Policy shall continue to apply to Academic Researchers. If the definitions in the SVSH Policy or Nondiscrimination Policy change, ~~the parties may bargain to include the new definitions will apply to~~ in this Article.

**D. RESOLUTION PROCEDURES**

- ~~1. If an academic researcher files a timely grievance that includes an alleged violation of this article, the University shall forward such a complaint to the campus office responsible for formally investigating allegations of discrimination and/or sexual harassment. The grievance shall be held in abeyance during the time the allegations are under review in accordance with the University's SVSH Policy and/or the University's Nondiscrimination Policy.~~
- ~~2. At the conclusion of the review, the abeyance shall automatically terminate and the grievance procedure shall resume within fifteen (15) calendar days from the date from the conclusion of the review.~~

**Reports of alleged violations of Section A. or B. above and/or University Policy may be addressed through the complaint procedure and/or the grievance procedure. Additionally, Alternative Resolution may be used at any time to address the issues. Formal Investigations may be initiated as part of the complaint resolution or grievance procedure.**

**1. Alternative Resolution**

**Academic Researcher(s) and/or the Union and/or the University may seek Alternative Resolution at any time.**

- a. **After a preliminary assessment of the facts, the Title IX / EEO Officer may initiate an Alternative Resolution process, which may include: 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.**
- b. **If Alternative Resolution is unsuccessful, the Title IX / EEO Officer may initiate a formal investigation.**
- c. **Attempts at Alternative Resolution at the informal level do not extend the thirty (30) calendar day time limit to file a grievance. However, should a grievance be filed, the parties may agree in writing that the grievance be held in abeyance while alternative resolution is being considered or ongoing.**

**2. Interim Measures for Complainant(s)**

- a. **When the appropriate administrative officer has determined that a Complainant has established a prima facie case of harassment and/or discrimination based on a protected category, the University shall implement interim measures when necessary. Such measures shall allow the Academic Researcher to continue research and/or training in an environment free from harassment and/or discrimination based on a protected category.**
- b. **Interim measures available to Academic Researchers may include, but are not limited to: change to a different workstation, schedule, work location, unit, department, or position for which the Academic Researcher is qualified provided that, in the case of a Complainant, the change is voluntary and equitable; training and education of the Respondent; no contact remedies.**

**3. Grievance Procedure**

- a. **If an Academic Researcher files a timely grievance that includes an alleged violation of this article, the University**

shall forward such a complaint to the campus office responsible for formally investigating allegations of discrimination and/or sexual harassment. If the campus office determines an investigation is warranted, the Union and the University may agree in writing that the grievance, or a portion thereof, be held in abeyance while the investigation is ongoing.

- i. If the Union and the University agree in writing to put the grievance in abeyance, the University shall issue the Step 2 decision within fifteen (15) days from the end of abeyance and the grievance procedure shall continue per Article XX.
  - ii. When the University issues the report, the abeyance shall automatically terminate and a Step 2 written response to the grievance shall be issued within fifteen (15) calendar days from the date on which the report of findings was issued.
  - iii. If the Union and the University do not agree in writing to put the grievance in abeyance, the grievance shall continue pursuant to Article XX.
- b. For sexual harassment cases only:
  - i. The Title IX Officer, in coordination with the campus Case Management Team, shall make an immediate assessment concerning the health and safety of the individual and the campus community, may implement interim measures, in accordance with section D.2. above, and provide to the Complainant a written explanation of rights and reporting options (including the right to make reports to the police), and available campus and community resources. The local Labor Relations Office shall forward a copy of the written explanation and rights document to the Union.
  - ii. As soon as practicable after the local Labor Relations Office receives the grievance, the Title IX Officer will make an initial assessment to determine whether (i) the allegation(s) constitute a prima facie case of an act of

**prohibited behavior; and (ii) such conduct has a sufficient nexus to the University for it to intervene. It is the intent of the University to make this initial assessment no later than five (5) business days after the Title IX Officer receives the grievance.**

- iii. **In the event that a formal investigation is conducted, the investigation shall be completed promptly, within 60 business days of its initiation, unless extended by the Title IX Officer for good cause followed by written notice to the Complainant and Respondent of the reason for the extension and the projected new timeline for issuance of the report of findings. The local Labor Relations Office shall forward a copy of the extension for good cause document to the Union.**

#### E. REMEDIES

1. Remedies available to academic researchers may include, but are not limited to: change to a different workstation, schedule, work location, unit, department, or position for which the academic researcher is qualified provided that, in the case of the complainant/grievant, the change is voluntary and equitable; training and education of the respondent; no contact remedies.

2. The University shall implement appropriate remedies if a complaint and/or grievance is sustained, or as an alternative measure. Such remedies, shall ensure that the academic researcher continue research in an environment free from harassment and/or discrimination based on a protected category.

#### F. REPRESENTATION

The academic researcher (as a complainant, Grievant, respondent, or witness) shall have the right to be represented by **one** representative(**s**) of their choice, including a union representative, in the grievance, arbitration, and/or complaint process.

G. The Title IX Offices and the Offices of Equal Employment Opportunity responsible for investigations are listed in Appendix \_\_\_.

**H. TRAINING**

**Beginning in 2020, the Union and the University shall partner in developing a peer-led, in-person training module specifically tailored for Academic Researchers on the prevention of sexual harassment and other forms of discrimination.**

**I. LACTATION SUPPORT**

1. Where spaces exist for faculty or staff for the primary purpose of expressing breast milk, academic researchers shall have access to those spaces for the purpose of expressing and storing breast milk.
2. If no such space exists in reasonable proximity to an academic researcher's work location, the department will designate an appropriate temporary space, which is not open to the general public, for the purpose of expressing and storing breast milk.
3. The University will allow adequate time for an academic researcher to express breast milk.

**J. ALL-GENDER RESTROOMS**

1. The University and the Union recognize the importance of having safe and accessible campus restroom facilities.
2. Upon request, the University will provide the academic researcher with the location of the nearest all-gender restroom.