

UC Berkeley Center for Student Conduct
Sexual Violence and Sexual Harassment Cases
January 1, 2017- June 30, 2017

Total Student Conduct Cases (Student conduct cases involve a range of matters including, but not limited to, academic dishonesty, alcohol/drug issues, theft, physical abuse, hazing & sexual violence and sexual harassment).		01/01/17- 06/30/17
		258
Cases Involving Sexual Violence and Sexual Harassment (SVSH) (SVHS is defined later in this document).	Total Sexual Misconduct Cases Resolved	15
	Total Students Found Responsible	11
	<i>Students Dismissed</i>	1
	<i>Students Suspended*</i>	10
	<i>Other Sanctions Issued (Disciplinary Probation or Warning)</i>	0
	Total Cases Dropped	2
	Total Students Found Not Responsible for Violating SVSH Policy	2
Case Resolution Type	Total Cases Resolved Without an Appeal	9
	Total Cases Appealed	6
	<i>Appeals Submitted**</i>	7
Sexual Misconduct Type	Sexual Assault - Penetration (SAP)	6
	<i>SAP + Aggravating Factors</i>	4
	Sexual Assault - Contact (SAC)	2

Sexual Misconduct Type Cont.	SAC + <i>Aggravating Factors</i>	1
	Relationship Violence: Dating Violence	3
	Relationship Violence: Domestic Violence	0
	Stalking	2
	Sexual Harassment	2
	Other Prohibited Behavior	2
	Retaliation	1
Active Investigation Pending in Office for the Prevention of Harassment and Discrimination (Title IX Office)		20
Active Adjudication Pending in Center for Student Conduct		3

* Respondents found responsible who are suspended may receive disciplinary probation in addition to educational sanctions.

**Includes all appeals submitted by the Respondent and/or Complainant(s).

Applicable Policies and Definitions Regarding Sexual Violence and Sexual Harassment

[University of California – Sexual Violence and Sexual Harassment Policy](#)

[University of California, Berkeley Campus Code of Student Conduct](#)

[University of California, Berkeley - Procedures for Implementation of the Student Adjudication Model](#)

Definitions:

A. Respondent: A person alleged to have engaged in Prohibited Conduct and about whom a report of sexual violence, sexual harassment, other prohibited behavior, or retaliation is made.

B. Complainant: Any person who files a report of sexual violence or sexual harassment or other prohibited behavior or retaliation or any person who has been the alleged subject of such Prohibited Conduct or retaliation

C. Retaliation

Retaliation includes threats, intimidation, reprisals, and/or adverse employment or educational actions against a person based on their report of Prohibited Conduct or participation in the investigation, report, remedial, or disciplinary processes provided for in this Policy.

D. Prohibited Conduct

1. Sexual Violence:

a. Sexual Assault - Penetration: Without the consent of the Complainant, penetration, no matter how slight, of the vagina, anus, or mouth by a penis; or the vagina or anus by any body part or object.

b. Sexual Assault - Contact: Without the consent of the Complainant, touching an intimate body part (genitals, anus, groin, breast, or buttocks) (i) unclothed or (ii) clothed.

Note: As this definition encompasses a broad spectrum of conduct, not all of which constitutes sexual violence. The Title IX Officer will determine whether the allegation should be treated as sexual violence or sexual harassment. (See FAQ #4 for more information)

Note: Sexual Assault—Penetration and Sexual Assault—Contact are aggravated when it includes the following:

- Overcoming the will of Complainant by:
- force (the use of physical force or inducing reasonable fear of immediate or future bodily injury);
- violence (the use of physical force to cause harm or injury);
- menace (a threat, statement, or act showing intent to injure);
- duress (a direct or implied threat of force, violence, danger, hardship, or retribution that is enough to cause a reasonable person of ordinary sensitivity, taking into account all

circumstances including age and relationship, to do or submit to something that they would not otherwise do).

- deliberately causing a person to be incapacitated (through drugs or alcohol);
- Intentionally taking advantage of the other person's incapacitation (including voluntary intoxication).
- Recording, photographing, transmitting, or distributing intimate or sexual images without the prior knowledge and consent of the parties involved.

c. **Relationship Violence**

d. **Dating Violence:** Conduct by a person who is or has been in a romantic or intimate relationship with the Complainant that intentionally, or recklessly, causes bodily injury to the Complainant or places the Complainant in reasonable fear of serious bodily injury. The nature of the relationship between the Complainant and Respondent is determined by the length, type, and frequency of interaction between them.

e. **Domestic Violence:** Conduct by a current or former spouse or intimate partner of the Complainant; or a person with whom the Complainant shares a child in common, that intentionally, or recklessly, causes bodily injury to the Complainant or another, or places the Complainant or another in reasonable fear of serious bodily injury.

f. **Stalking:** Repeated conduct directed at a Complainant (e.g., following, monitoring, observing, surveilling, threatening, communicating or interfering with property), of a sexual or romantic nature or motivation, that would cause a reasonable person to fear for their safety, or the safety of others, or to suffer substantial emotional distress. Stalking of a nonsexual nature is addressed by other University policies including but not limited to the Policy on Student Conduct and Discipline Section 102.10.

2. Sexual Harassment:

a. Sexual Harassment is unwelcome sexual advances, unwelcome requests for sexual favors, and other unwelcome verbal, nonverbal or physical conduct of a sexual nature when:

- i. *Quid Pro Quo:* a person's submission to such conduct is implicitly or explicitly made the basis for employment decisions, academic evaluation, grades or advancement, or other decisions affecting participation in a University program; or
- ii. *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.

- b. Consideration is given to the totality of the circumstances in which the conduct occurred. Sexual harassment may include incidents:
 - i. between any members of the University community, including faculty and other academic appointees, staff, student employees, students, coaches, residents, interns, and non-student or non-employee participants in University programs (e.g., vendors, contractors, visitors, and patients);
 - ii. in hierarchical relationships and between peers; and
 - iii. between individuals of any gender or gender identity.
- c. This Policy shall be implemented in a manner that recognizes the importance of the rights to freedom of speech and expression and shall not be interpreted to prohibit expressive conduct that is protected by the free speech and academic freedom principles discussed in Section III.F.

3. Other Prohibited Behavior:

- a. Invasions of Sexual Privacy
 - i. Without a person's consent, watching or enabling others to watch that person's nudity or sexual acts in a place where that person has a reasonable expectation of privacy;
 - ii. Without a person's consent, making photographs (including videos) or audio recordings, or posting, transmitting or distributing such recorded material depicting that person's nudity or sexual acts in a place where that person has a reasonable expectation of privacy; or
 - iii. Using depictions of nudity or sexual activity to extort something of value from a person.
- b. Sexual intercourse with a person under the age of 18.
- c. Exposing one's genitals in a public place for the purpose of sexual gratification.
- d. Failing to comply with the terms of a no-contact order, a suspension of any length, or any order of exclusion issued under this Policy.

Case: A case is defined as an incident in which the Center for Student Conduct and the Office for the Prevention of Harassment and Discrimination jointly notify a student or student organization that their alleged behavior may be in violation of the Code of Student Conduct and the UC Policy on Sexual Violence and Sexual Harassment.

Active Investigation Pending in Office for the Prevention of Harassment and Discrimination (Title IX Office):

The incident is currently pending an investigation in the Office for the Prevention of Harassment and Discrimination.

Active Adjudication Pending in Center for Student Conduct: A student/student organization has been charged with violating the Code of Student Conduct, however, the case is not resolved.

Disciplinary Sanctions Resulting from a Finding of Responsibility

University disciplinary sanctions include, but are not limited to:

1. Dismissal from the University of California

Termination of student status for an indefinite period. Readmission to the University requires the specific approval of the Chancellor of the campus to which a dismissed student has applied. Dismissal will typically be used in cases that cannot be appropriately addressed with a suspension because the recurring nature of multiple violations or the extraordinary caliber of a single violation demonstrates that the student does not deserve an opportunity to return to campus. Readmission after dismissal may be granted only under exceptional circumstances.

2. Suspension from the Campus

Termination of student status at the campus for a specified period of time with reinstatement thereafter certain, provided that the student has complied with all conditions imposed as part of the suspension and provided that the student is otherwise qualified for reinstatement. Suspensions will typically be issued in cases of extraordinarily serious first-time violations and for subsequent violations of a serious degree after a warning or disciplinary probation has been administered. Violation of the conditions of Suspension or of University policies or campus regulations during the period of Suspension may be cause for further disciplinary action, normally in the form of Dismissal.

3. Disciplinary Probation

A status imposed for a specified period of time during which a student must demonstrate conduct that conforms to University standards of conduct. Conditions restricting the student's privileges or eligibility for activities may be imposed. Misconduct during the probationary period or violation of any conditions of the probation may result in further disciplinary action, normally in the form of Suspension or Dismissal. Disciplinary probation will typically be issued in response to more egregious violations and recurring serious violations to communicate to the student that further violations will most likely lead to temporary or permanent removal from campus

4. Warning

Written notice or reprimand to the student that a violation of specified University policies or campus regulations has occurred and that continued or repeated violations of University policies or campus regulations may be cause for further disciplinary action. A warning may be issued in instances of deliberate and serious violations as well as for repeat, non-egregious violations.

Appeals

The Complainant and Respondent may contest the decision and/or the sanctions stated in the Case Outcome Letter by submitting an appeal. The appeal should identify the reason(s) why the complainant or respondent is challenging the outcome under one or more of the following grounds:

1. There was procedural error in the process that materially affected the outcome, such as the investigation was not fair, thorough or impartial;
2. The decision was unreasonable based on the evidence;
3. There is new, material information that was unknown and/or unavailable at the time the decision was made that should affect the outcome;
4. The disciplinary sanctions were disproportionate to the findings.