MEMORANDUM

FACULTY EXECUTIVE COMMITTEE
College of Letters and Science

To: Leo Estrada, Chair, Academic Senate
Fr: Joseph Bristow, Chair, College Faculty Executive Committee
Date: October 19, 2015
Re: College FEC response to revisions to Presidential Policy on Sexual Violence and Sexual Harassment

The College FEC appreciates the opportunity to review the final revisions to Presidential Policy on Sexual Violence and Harassment. The committee reviewed the proposed changes at its meeting on October 16, 2015, and our discussion was guided by Kathleen Salvaty and LaNell Shirley from the Title IX Office. The committee reviewed the document and identified several areas that would benefit from additional clarity, described below.

1. The “Note” section of II.B.1. – Prohibited Conduct clearly provides definitions for what is considered aggravated in both instances of actual sexual assault or attempted sexual assault. However, the attempted sexual assault does not appear to be prohibited by this policy whereas attempted relationship violence is prohibited (II.B.1.b.).

2. The committee noted some issues with the term complainant.
   a. The portion of the definition for complainant (II.C.2.) “any person who files a report of sexual harassment or sexual violence” appears to include individuals who may be third-parties simply reporting an incident as opposed to being a term strictly for alleged victims of sexual violence or harassment.
   b. The term complainant could be used to describe an alleged victim, even if they never make an actual complaint.
   c. The term complainant does not seem to align with the definition in the description of stalking (II.B.1.c.). If stalking is the “repeated conduct directed at a complainant…” it implies that the subject of stalking must already have reported it. All uses of “complainant” should be reviewed for this unintended implication.

3. The committee noted some issues with the term respondent.
   a. Similar to the issues noted above, the term respondent (II.C.5) is “a person alleged to have engaged in a Prohibited Conduct” but the definition requires the allegation to have already been made.

4. It may be useful to provide hyperlinks or references to the specific laws that articulate the federal and state anti-discrimination laws referred to in III.D.

5. There are portions of the document that seem to contradict. Section V.A.4.a. indicates “the Complainant and Respondent have the right to request a Formal Investigation at any time...” However, in V.A.4.b. it states “when an individual has requested an investigation, that request will...”
be considered, but is not determinative.” Furthermore, should V.A.4.b. be edited to indicate that the request for an investigation is made by a complainant or respondent, not just any individual?

6. The committee requested clarity on the issue of confidentiality.
   a. Section V.A.4.b. notes that, “the Title IX Officer shall attempt to maintain the identity of the Complainant confidential from the Respondent or inform the Complainant that such confidentiality cannot be maintained.”
      i. Are there circumstances under which the Respondent is entitled to know their accuser and other circumstances where the Respondent is not?
      ii. If so, shouldn’t those circumstances be articulated in this policy?

7. Clarifications to V.A.5. would be useful. The last paragraph currently states “Any conclusion in a Report finding sexual violence, sexual harassment, or retaliation that involves an assessment of academic merit (either individual or programmatic) or academic freedom may only be made following a referral of that assessment to and an opportunity within 10 working days for a response from the Chief Academic Officer or delegee.”
   a. Where does the referral of the assessment need to be made?

As always, our membership appreciates the consultative process and welcomes the opportunity to opine on important matters like this. You are welcome to contact me at jbristow@humnet.ucla.edu with questions. Mitsue Yokota, Academic Administrator, is also available to assist you and she can be reached at (310) 794-5665 or myokota@college.ucla.edu.

cc: Lucy Blackmar, Assistant Vice Provost, Division of Undergraduate Education
    Serge Chenkerian, MSO/Executive Assistant, Academic Senate
    Linda Mohr, Chief Administrative Officer, Academic Senate