

UC Sexual Harassment Policy and Suggested Action

Background: Faculty Cases

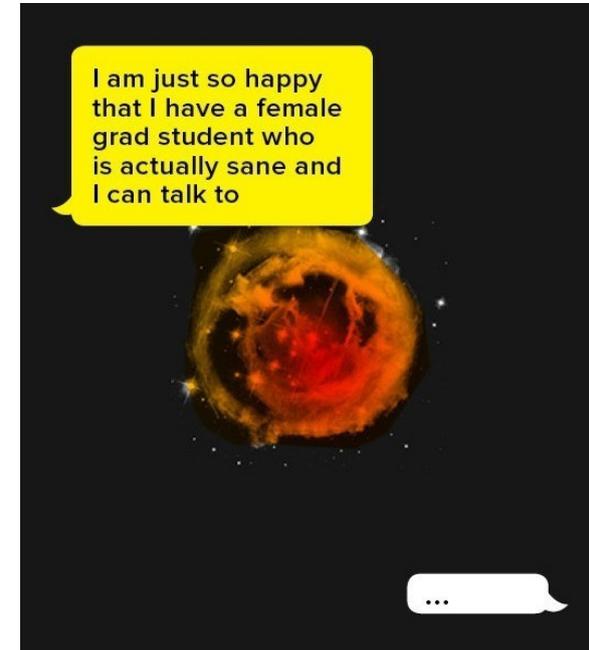


- UC Berkeley Astronomy Professor Geoff Marcy was found to have violated UC sexual harassment policies several times from 2001-2010.
 - He harassed 4 victims over 10 years
-
- UC Berkeley's response was to give Marcy “clear expectations concerning his future interactions with students.”
 - Eventually under public pressure, Marcy resigned in 2015. UC Berkeley never fired him or took punitive action against him.

Azeen Ghorayshi. “Famous Berkeley Astronomer Violated Sexual Harassment Policies Over Many Years.” *Buzzfeed.com*. BuzzFeed, 2015.

Background: Faculty Cases

- CalTech
Astrophysics
Professor Christian Ott was accused of sexual harassment by two students in 2015.
- Caltech found that “There was unambiguous gender-based harassment of both graduate students by the faculty member.”



- Ott was placed on ninth months of unpaid leave. He is required to have “rehabilitative training” before returning to his position.

Azeen Ghorayshi. “He Fell in Love with his Grad Student-- Then Fired Her For It..” *Buzzfeed.com*. BuzzFeed, 2016.

UC Sexual Harassment Policy

“The University will respond promptly and effectively to reports of Prohibited Conduct and will take appropriate action to prevent, to correct, and when necessary, to discipline behavior that violates this policy on Sexual Violence and Sexual Harassment”

- **Consent:** affirmative, conscious, voluntary, and revocable agreement to engage in sexual activity
- **Prohibited Conduct:** Sexual Assault, Dating Violence, Domestic Violence, Stalking, Invasion of sexual privacy, Sexual Harassment
- **Sexual Harassment:** Unwelcome sexual advances, unwelcome requests for sexual favors, unwelcome verbal, nonverbal or physical conduct of a sexual nature when:
Quid Pro Quo, Hostile Environment

Report to any Responsible Employee



Notify Title IX office



Initial Assessment



Formal Investigation



Alternative Resolution



Investigative Report

Report to any Responsible Employee

Notify Title IX office

- Anyone can report at any time after an incidence occurs
- No guarantee that Title IX office will be adequately funded to deal with these reports in a timely manner.

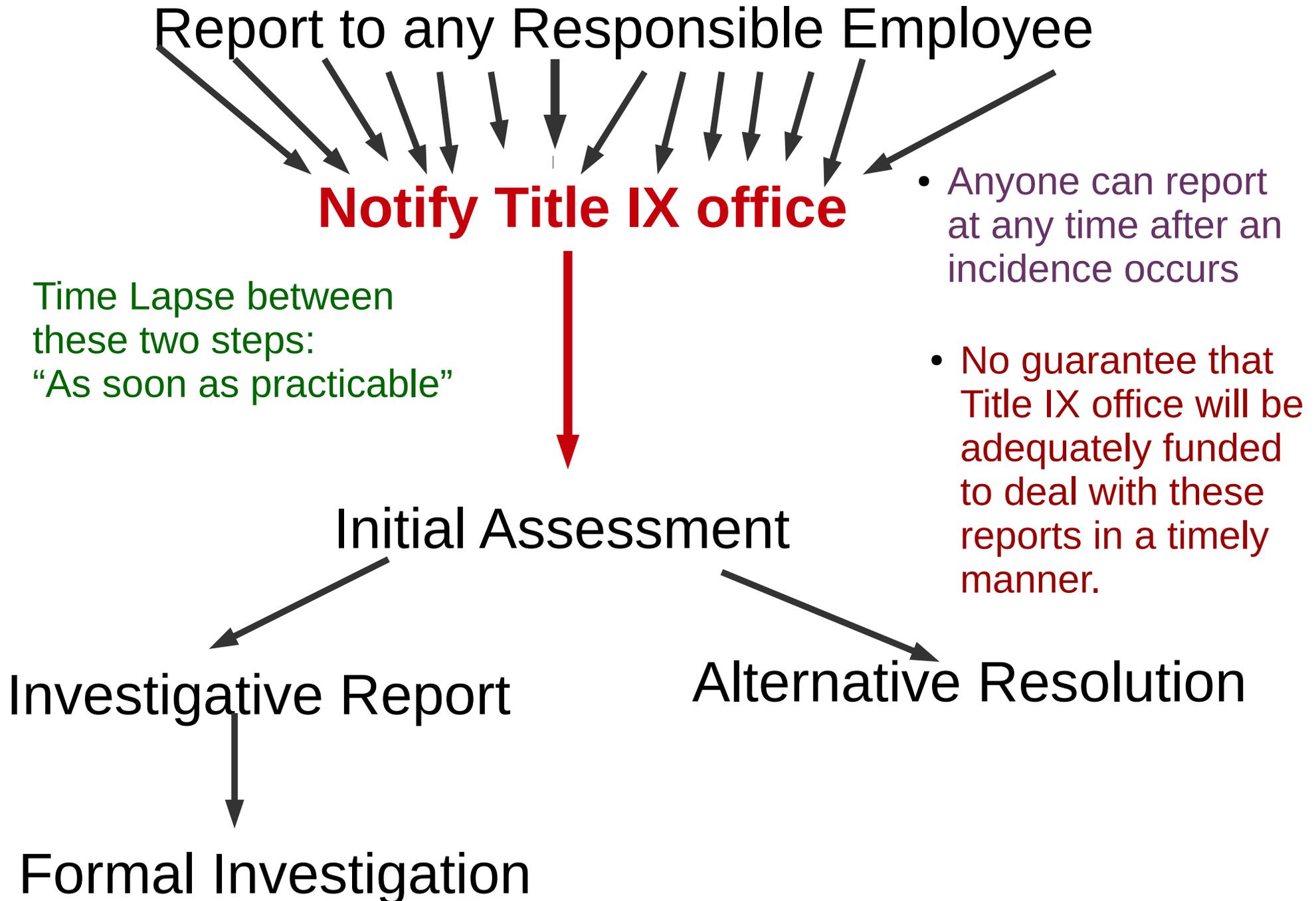
Time Lapse between these two steps:
"As soon as practicable"

Initial Assessment

Investigative Report

Alternative Resolution

Formal Investigation



UC Sexual Harassment Policy: Mandatory Reporting

“Any University employee who is not a Confidential Resource and who receives, in the course of employment, information that a student (undergraduate, graduate, or professional) has suffered sexual violence, sexual harassment, or other prohibited behavior shall promptly notify the Title IX Officer”

- Includes Resident Assistants, Graduate Teaching Assistants, all other student employees, Campus Police, Human Resource Administrators, Academic Personnel, Title IX Professionals, Deans, Department Chairs, Faculty Members.
- **Confidential Resources:** CARE Advocates, Ombuds, Licensed counselors, persons with professional license requiring confidentiality

Report to any Responsible Employee

Notify Title IX office

Initial Assessment

Title IX Officer has final authority for determining whether to initiate a formal investigation.

If complainant does not want a formal investigation, Title IX Officer can do it anyway

Formal Investigation

Alternative Resolution

- Mediation, separating parties, providing safety, referring parties to counseling, referral for disciplinary action, settlement, preventative education or training programs.

Investigative Report

Report to any Responsible Employee

Notify Title IX office

Initial Assessment

Alternative Resolution

Formal Investigation

Investigation completed promptly, "typically" within 60 days.

Investigative Report

- Both parties are allowed to have an adviser present at any interview or meeting
- **Retaliation:** Completely prohibited
- **Preponderance of evidence:** Guilty if it's more likely than not that you are guilty

Report to any Responsible Employee

Notify Title IX office

Initial Assessment

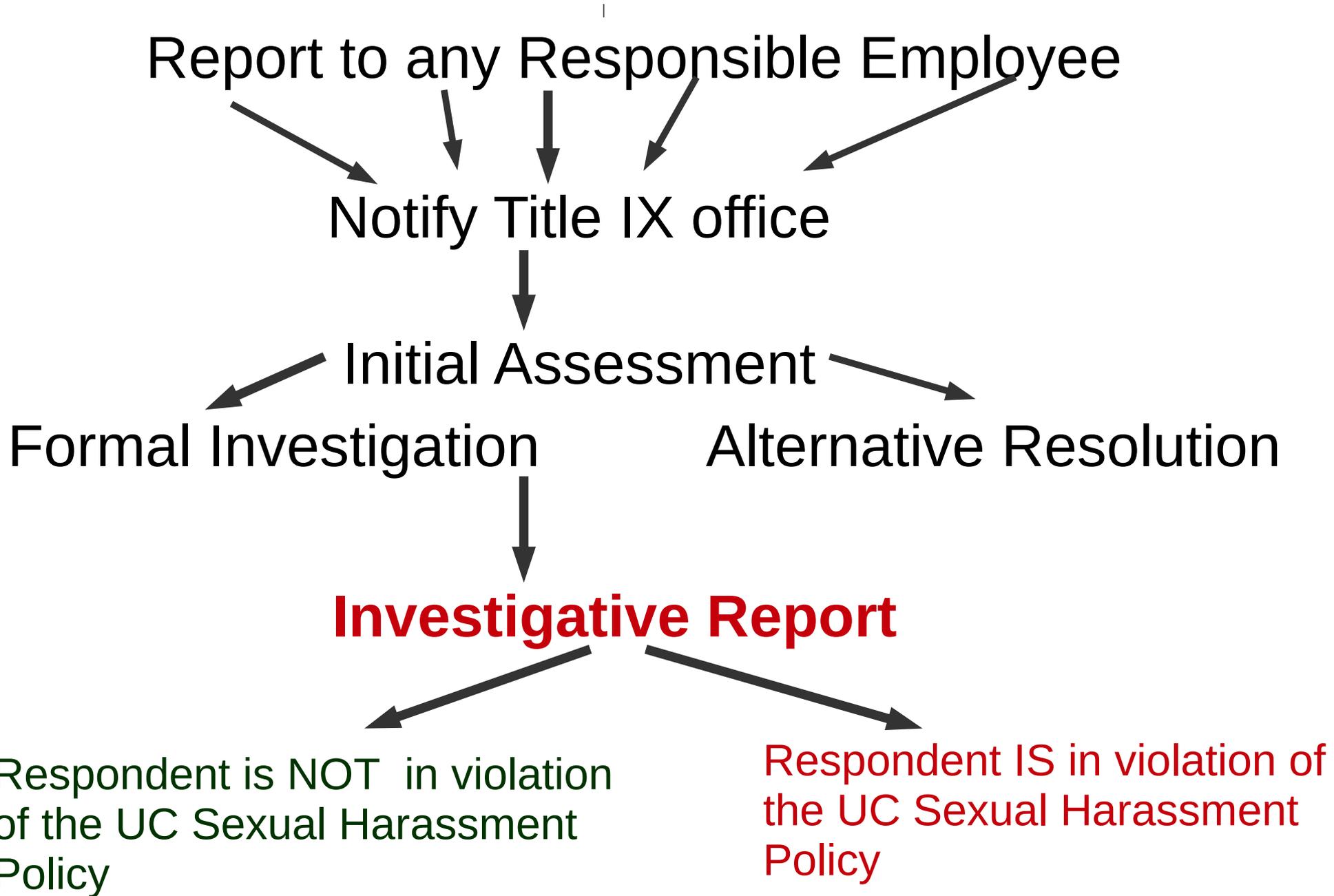
Formal Investigation

Alternative Resolution

Investigative Report

Respondent is NOT in violation of the UC Sexual Harassment Policy

Respondent IS in violation of the UC Sexual Harassment Policy



Report to any Responsible Employee

Notify Title IX office

Initial Assessment

Formal Investigation

Alternative Resolution

Investigative Report

Respondent is NOT in violation
of the UC Sexual Harassment
Policy

Respondent IS in violation of
the UC Sexual Harassment
Policy

**Discipline?
Consequences?**

Formal Investigation Outcomes:

- University will take steps to prevent recurrence of violation and remedy its effects
- Title IX officer will forward Investigation Report to “administrator responsible for discipline”.
- Disciplinary action can be up to and including dismissal in accordance with University discipline procedure.

First Impressions

Pros

- Good definitions of consent, sexual harassment, sexual violence
- Some mandatory reporting should be in place (deans, department heads, some university admin)
- Language appears to take this problem seriously, and a university official acting in good faith could use that language to support their investigation

Cons

- Lack of specifics (**timelines, disciplinary action**)
- Mandatory reporting far too expansive
- Lack of victim agency wrt formal investigations
- I don't see how this policy ensures the sexual harassment problem as it exists today will be solved

Relevant Information from Faculty Code of Conduct

- No disciplinary action may commence if more than **three years** have passed between the time when the Chancellor knew about the violation and the notice of disciplinary action.
- During a disciplinary hearing, accused faculty have right to counsel. The witness (typically the victim in sexual assault cases) **does not have this right.**
- The accused faculty may cross-examine the witness, without counsel to object to mistreatment
- Burden of Proof: “Clear and Convincing” which conflicts with preponderance of evidence.

Objections from UAW 5810 (postdoc union)

- Faculty discipline takes place under Academic Senate Rules and is divorced from the complaint process, which the new policy focuses on.
- The prohibited retaliation is impossible to enforce, and must be supplemented by stronger support for complainants, particularly those at the mercy of their PI's (like postdocs)
- Create reporting mechanisms that don't automatically trigger a Title IX complaint (like trained peer advisers) to create enough trust between victims and the complaint system that complaints will actually be reported

Objections from UAW 5810 (postdoc union)

- There should be measurable timelines for each step of the complaint process
 - Students have left messages of complaints without ever hearing back.
 - Initial assessments have taken over a year.
- Complaints start in the Title IX office and end in Investigative Reports. From there it's too murky how discipline and remedies take place. There should be specific administrators held accountable to take specific steps to eliminate a hostile work environment.

Objections from UAW 5810 (postdoc union)

- Tighten the language surrounding sexual assault in the faculty code of conduct
- Give right to counsel for victims during faculty disciplinary hearings.
- Get rid of the three-year statute of limitations for faculty
- Should be a time frame within which to initiate disciplinary action against a faculty member
- Give victims appeal rights. They should be able to seek review of decisions at every step of the Title IX investigation

Sign our Petition



Tell Janet Napolitano:
Petition to Sexual
Harassment and
Assault at the UC!
Started by UAW Locals
2865 and 5810.

- Easily Google-able at Change.org

<https://www.change.org/p/tell-janet-napolitano-end-sexual-harassment-and-assault-at-uc>

Questions/Discussion