

UNIVERSITY OF ILLINOIS URBANA-CHAMPAIGN SENATE
SENATE EXECUTIVE COMMITTEE
(Final; Action)

SC.20.06 Resolution to Support the Timely Development and Implementation of Comprehensive Recommendations to Combat Sexual Misconduct, through Appropriate University Processes and Involving Relevant Stakeholders, Using as a Basis the Report by the Urbana Committee on Faculty Sexual Misconduct dated September 20, 2019

WHEREAS, the University of Illinois at Urbana-Champaign is a national leader in higher education and a public institution with a mission to promote the educational, research, and work objectives of a diverse population of students, faculty, and staff;

WHEREAS, sexual harassment and related improper behavior undermines the University's educational, research, and service missions by harming individual members of the campus community and threatening the work and learning environment of the University;

WHEREAS, traditional Title IX systems across the nation (that is, educational policies, practices, and procedures that are set up primarily to comply with the legal requirements of Title IX of the Education Acts of 1972) have proven necessary but insufficient to combat problems of sexual misconduct and have not yet proven capable of fostering an overall climate that is intolerant of sexual misconduct;

WHEREAS, one problem with traditional Title IX systems is that they rely on legal standards, which explicitly prohibit only sexual harassment and related improper behavior that is either *quid pro quo* or sufficiently "severe and/or pervasive" enough to create a hostile environment—thus creating undue barriers to effective responses to other forms of sexual misconduct in higher education that are often at least equally harmful and more common;

WHEREAS, another problem with traditional Title IX systems arises from the special procedures and protections that faculty are rightly granted to protect tenure and academic freedom but which currently make it difficult to respond expeditiously and effectively to faculty misconduct;

WHEREAS, protections for academic freedom and tenure were never meant to protect faculty from charges of sexual misconduct or harassment and can be fashioned in ways that do not produce those unintended consequences;

WHEREAS, the Committee on Faculty Sexual Misconduct at the University of Illinois at Urbana-Champaign has developed a comprehensive report (the “Report”),¹ which contains a package of reforms designed to target sexual misconduct more aggressively, even while creating additional protections for academic freedom, tenure, due process, and shared governance;

WHEREAS, this package of recommendations contains 65 recommendations, each of which obtained unanimous consensus from a 14-member committee with diverse expertise and perspectives after eight months and many hundreds of hours of intensive deliberation;

WHEREAS, this package of recommendations would make the University of Illinois at Urbana-Champaign a national leader in effective responses to, and prevention of, sexual misconduct;

WHEREAS, the implementation of these recommendations will require the cooperation and coordination of many different actors and stakeholders on campus (and sometimes with other campuses or at the system level), through processes that will undoubtedly generate further refinements and improvements;

WHEREAS, the University of Illinois Urbana-Champaign Senate and its committees will need to play a central role in refining and implementing some of the recommendations in the Report and supporting the efforts of other parts of the University and System;

WHEREAS, the package of recommendations contained in the Report aim to produce the type of culture and climate that the Senate desires for its community of students, faculty, and staff, and believes that producing such a culture and climate is more important for the University’s overall missions than any legal risks to the institution that may need to be incurred to produce such a culture and climate;

THEREFORE, be it resolved, that the Senate supports the expeditious refinement and implementation, through appropriate University processes and involving appropriate University stakeholders, of the recommendations found in the Report on Faculty Sexual Misconduct. More specifically,

1. The Senate supports **policy changes** to the Sexual Misconduct Policy, found in the Campus Administrative Manual, that would modify or eliminate the overly strict **“severe and/or pervasive” requirement** for sexual harassment or related improper behavior to be prohibited under campus policy (see Section II of the Report);
2. Given recent research on intersectionality, which suggests that members of our community who fall into more than one protected classification can often face compound harms from harassment and related improper behavior, and given the

¹ The Report can be found here: <http://publish.illinois.edu/office-of-the-provost/files/2019/10/Final-Report-Task-Force-on-Faculty-Sexual-Misconduct.pdf>.

need for parity in how the University addresses harassment and related improper behavior of different forms, the Senate supports **policy changes** to the Nondiscrimination Policy, found in the Campus Administrative Manual, that would modify or eliminate the overly strict **“severe and/or pervasive” requirement** for harassment or related improper behavior relating to other protected classifications as well (see Section II of the Report);

3. The Senate supports **policy changes** to the Sexual Misconduct Policy, found in the Campus Administrative Manual, that would prohibit not only domestic and dating violence but also **domestic and dating abuse** that often involves other harms and patterns of coercive control (see Section II of the Report);
4. The Senate supports the refinement and implementation of a **comprehensive set of reforms** designed to allow the University **to respond more fairly, aggressively, and expeditiously** to charges of sexual misconduct by **all employees** (see Section III of the Report) consistent with the Guiding Principles found on pp. 43-44 of the Report and attached as Appendix A
5. The Senate supports the refinement and implementation of a **comprehensive set of reforms**, applicable to all sexual misconduct cases regardless of whether the respondent is a member of the faculty, designed to allow the University to create **greater transparency** about its response system **while protecting personally sensitive information** about complainants and maintaining consistency with governing legal requirements (see Section IV of the Report) consistent with the Guiding Principles found on pp. 75-76 of the Report and attached as Appendix B.
6. The Senate asks the Senate Executive Committee to ensure that Senate Committees with the relevant expertise are charged to consider any and all Senate tasks identified in the Report for timely elaboration and execution;
7. Given that the Chancellor has offered to provide information that the Senate may need to play an effective role in this process, the Senate asks the Senate Committees referenced above (in point 6) to work with the administration to seek any additional information that may be needed for it to act as an effective and cooperative partner in combatting sexual misconduct on campus.

SENATE EXECUTIVE COMMITTEE

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APPENDIX A

Guiding Principles and Goals Sanctions and Other Responsive Measures²

The recommendations found in Section III of the Report on Faculty Sexual Misconduct, which relate to sanctions and other responsive measures, were designed to:

- Provide the University with a robust set of tools to respond early, effectively, and expeditiously to faculty violations of the new policy;
- Enable swift and effective resolutions of egregious violations and early intervention for repeat offenders;
- Implement effective educational and rehabilitation efforts when appropriate;
- Facilitate reporting, regardless of the severity of the alleged behavior;
- Support complainants and witnesses, safeguard them from retaliation, and minimize retraumatization from multiple stages of review;
- Promote coordination, communication, transparency, and expeditious action between different parts of the response system;
- Ensure that the University's response system respects due process, academic freedom, free speech, and shared governance, preserves a culture of freedom of thought, and can withstand review and challenges both internally and externally;
- Enable the University to explain and defend its response system in simple and transparent enough terms to assure the community of protection;
- Produce a campus climate that is widely celebrated as intolerant of sexual harassment and related improper behavior; and
- Foster a safe and welcoming environment where members of the campus community can carry out their work and studies free from sexual harassment and related improper behavior.

² These guiding principles were taken verbatim from pp. 43-44 of the Report.

APPENDIX B

Guiding Principles and Goals Confidentiality and Transparency³

The recommendations found in Section IV of the Report on Faculty Sexual Misconduct, which relate to confidentiality and transparency, were designed to:

- Promote the availability of sufficient confidential resources for people who have experienced sexual misconduct to discuss their experiences, rights, and options in a timely and confidential manner and to obtain support—whether or not they decide to report the incident;
- Inform the campus community about confidentiality policies in multiple, comprehensive, repeat, accurate, intentional, easily accessible, and easily digestible ways so that complainants can make well-informed decisions about whether to report incidents and how to obtain other forms of confidential advice and support;
- Ensure that the University’s public confidentiality policies address common confidentiality concerns that may otherwise discourage reporting or prevent people who have experienced sexual misconduct from getting the support they need;
- Prioritize complainants’ desires for confidentiality over sensitive information both before and after a report has been filed and consider complainant safety and well-being crucial priorities in all decisions regarding confidentiality and other actions taken by the University;
- Respect due process, especially during the course of an investigation, and protect the fairness and integrity of investigations;
- Provide parties with sufficient information and resources to make responsible decisions about information sharing during the course of an investigation;

³ These guiding principles were taken verbatim from pp. 75-76 of the Report.

- Promote a climate of trust among complainants that the University has taken their reports seriously by providing them with notice prior to communicating any complaints to a respondent, regular updates about their cases, and adequate information about findings and outcomes;
- Promote a climate of trust that the University is handling reports of sexual misconduct in a fair and expeditious manner by publishing regular, summary information about the outcomes of sexual misconduct cases and clear notice about the consequences of sexual misconduct;
- Protect the larger campus community against any safety or risk issues that may affect their well-being;
- Provide sufficient information, which is sensitive to complainants' concerns for confidentiality, to supervisors, executive officers, and other University officials to administer the University's policies, protect complainants from retaliation, provide for the well-being of students and employees, and promote a healthy climate and culture surrounding issues of sexual misconduct; and
- Ensure that confidentiality and non-disclosure policies do not prevent the University from sharing information in appropriate ways, which protect the confidentiality of complainants to every extent possible, when needed to address safety or risk concerns.