April 29, 2015

To Members of the CPUC:

At the February 24 CPUC Executive Committee meeting, the Executive Committee delegated authority to the Faculty-Student Committee on Sexual Misconduct to propose changes to the section in Rights, Rules, Responsibilities pertaining to sex discrimination and sexual misconduct (1.9). Throughout the current academic year, the Faculty-Student Committee has closely monitored the administration of the new policy and worked to identify ways in which it could be enhanced. The Faculty-Student Committee has also reviewed additional editorial changes requested by the Office of Civil Rights (OCR) of the U.S. Department for Education.

The Faculty-Student Committee reviewed each of the proposed changes thoroughly and recommended their adoption by the CPUC. In turn, the CPUC Executive Committee approved the changes, which are highlighted in the attached document for your review.

There are three categories of proposed changes:

- Revisions made in response to comments provided by OCR, in which OCR made requests for changes and clarification. These changes are largely non-substantive in nature.
- Revision made for compliance reasons (see section 1.9.3 on stalking, which was modified because the Violence Against Women Act requires that certain protections and rights be provided to complainants in all stalking cases, not just those involving intimate partners). This change is substantive in nature.
- Revisions that we have determined are best practices, based on our experience this fall and winter in implementing the policy. All of these proposed revisions conform with OCR’s public guidance and we believe that they will not result in an additional concerns with OCR. These “best practices” revisions include some substantive changes, including:

  - 1.9.0: This section was modified to permit the Title IX Coordinator to balance several factors (including the complainant’s wishes) in determining whether to move forward with an investigation. OCR provides guidance indicating that we can consider a balance of factors in determining whether to pursue an investigation. Our experience this year indicates that this is a best practice, and we have therefore modified the policy to permit this flexibility.
  - 1.9.10(7) (violations of University policy unrelated to sexual misconduct): This section was added to account for cases in which a respondent is alleged to have violated both the sexual misconduct policy and other rules or regulations of Rights, Rules, Responsibilities (for example, violation of a Dean’s no contact order, property damage, disorderly conduct) in the same course of conduct. There have been several such cases this year and we have found that it is inefficient and not beneficial to the parties involved to have two separate disciplinary bodies (the sexual misconduct panel as well as the Residential College Disciplinary Board or the Committee on Discipline) investigate and adjudicate what is essentially the same case.
We would be happy to answer questions, either now by e-mail or at the May 4 meeting.

Sincerely,

The Faculty-Student Committee on Sexual Misconduct