

April 30, 2019

**Focused Follow-up Re: Human Resources Infrastructure at UCR**

**UCR initiated a focused follow-up to the James Sandoval Title IX and Whistleblower investigations. This report represents the summary findings of that review, along with background about the review, and addresses other HR related issues which arose during that review**

**Proposal and Rationale:** Conduct a focused follow-up to the findings from the Title IX and Whistleblower investigations related to former Vice Chancellor for Student Affairs (VCSA), James Sandoval, to understand lessons learned and potential opportunities and enhancements for UCR processes moving forward. This focused follow-up aims to consider and evaluate the human resources infrastructure on campus, which includes the central HR office as well as those decentralized human resources assets that would have or should have been involved. The follow-up will also consider complaint and investigation processes, designed to detect and respond to misconduct. While UC Office of the President (UCOP) has completed investigations, those investigations were focused on identifying the misconduct—not on addressing areas of potential campus improvement. We believe it is our duty to conduct a focused follow-up to the investigation findings from a campus policy/process perspective.

There are several additional reviews taking place to address concerns regarding workplace misconduct, climate, and favoritism (particularly in hiring and appointments) for the Division of Student Affairs and the entire campus (e.g., Campus Culture Task Force). Although those reviews' findings and recommendations are outside the scope of this report, the multiple reviews will be considered holistically to work toward improving campus policies, procedures, and culture.

**Who is initiating this Focused Follow-up?** The focused follow-up was initiated by the Vice Chancellor for Planning, Budget and Administration's (VC PB&A) office. Interviews were conducted and co-led by Gerry Bomotti, VC PB&A, and Kiersten Boyce, Associate Vice Chancellor and Chief Compliance Officer/Locally Designated Official (LDO).

**Expected Goals and Outcomes of Focused Follow-up:** This review was intended to identify opportunities to prevent misconduct of this nature from occurring and persisting without review and action. The outcomes from the focused follow-up would include the following:

- Review of the current identification, reporting and action process for campus supervisor/employee issues and concerns, and suggest any appropriate improvements.
- Identify any significant opportunities for improvements, as well as mechanisms to deliver these specific improvements to the campus.
- Communicate those findings and recommendations for action and campus implementation in an open and appropriate manner.

**Overall Context:**

It is important to recognize that whenever one reviews past actions, hindsight is valuable to identify opportunities for improvements. Mistakes are inevitable, and it is important to work toward learning from those mistakes. Thus, the primary goal of this report is to improve campus HR and related complaint policies and practices – not to assign guilt or fault to specific individuals. This focused follow-up intends to look at a past

situation and identify what UCR might be able to do to improve its overall HR infrastructure on campus and safeguard a healthy, fair workplace moving forward.

It is relevant to note that former Vice Chancellor Sandoval was found to have violated UC Sexual Harassment and Sexual Violence Policy, based on an investigation led by the UC Office of the President. Pasted below is information from the UC [web site](#) regarding Sexual Harassment.

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

**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

**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.

Accordingly, this report seeks to identify specific opportunities for HR and other campus policies and practices to more effectively interface with the above sexual harassment definition and policy. It is important to note here that there are other concurrent assessments associated with the Sandoval situation, and those discussions are outside the scope of this report, but may support or align with the current set of recommendations (Student Affairs, Campus Climate Task Force, and perhaps others).

The preliminary recommendations listed below are intended to generate feedback and input on changes that will benefit UCR.

**Summary Recommendations from focused follow-up: (Note: While the Sandoval situation initiated this focused follow-up, some of these recommendations came about naturally out of the review and not all parts of all recommendations flow just from the Sandoval situation.)**

1. **Overall Evaluation, in Hindsight:** It is important to look at significant issues within an organization and work to learn from them, and to identify improvements in institutional policies, process, and in some cases, culture. In order to identify possible solutions and improvements to the existing processes, we need to acknowledge that prior actions related to the Sandoval case were not ideal for UCR; and we can, with the benefit of hindsight, learn from this experience and identify improvements going forward.

It appears that various issues and concerns regarding Sandoval's behavior had been raised with or identified by HR, and that opportunities to recognize the seriousness and validity of these issues and concerns were missed. The specific relationship (later determined to constitute sexual harassment) identified in May 2017 should have immediately been discussed with the Title IX office to determine an appropriate course of action. Additionally, following the disclosure of the relationship, there were no clear or obvious consequences for Sandoval. In hindsight, for this particular situation, a response more in keeping with UCR's commitment to its staff would have been for the supervisor with authority to have been immediately removed from the workplace and placed on investigatory leave, in order to allow a thorough and robust inquiry into the situation. Additionally, more direct communications with the staff in the VCSA office would have been appropriate, as they were in

general left with little information to understand what was happening in their office environment, while most had been subject to observing some unusual activities.

**Action Follow-up:** VCPB&A and LDO will work together to assure training of existing key staff is addressed and updated standard operating procedures are developed for both HR and Compliance Office. Completion of this task is estimated to be no later than November, 2019. These procedures will include a standard response to situations where a responsible employee fails to report a complaint or incident as required.

2. **Encourage reporting of misconduct by empowering employees.** Employees need to be empowered to address unethical behavior and abuse of power. When campus expectations are not clear, or when employees struggle to identify unethical conduct, matters are unlikely to be addressed. Education and awareness efforts need to be enhanced; SVSH (Sexual Violence and Sexual Harassment Policy) training is necessary but more is needed.

Employees also need to know how to report misconduct. It is important to assure that clear information is provided to all campus employees at least annually about options to report issues of concern, irregularities, fraud, violations of policy and/or law (including sexual harassment, discrimination, etc.) and to provide this information on the web site as well. UCR has recently rolled out a new resource that can help in this area – **help@ucr website** <https://help.ucr.edu/>. It should also be noted that all UC employees are required to participate in sexual harassment training every two years (online or in person).

**Action Follow-up:** The Central HR Office and Compliance Office will coordinate to finalize an appropriate annual announcement schedule for the UCR campus, and assure the resources on the central web site are sufficient, and work to identify effective ways to promote core ethical values. Completion of these tasks is estimated to be no later than September, 2019. Developing and delivering a comprehensive education and awareness program for UCR, no later than March, 2020.

3. **Addressing staff fear of retaliation.** It appears that there was some specific knowledge of misconduct in the Vice Chancellor for Student Affairs office, but no formal complaint or report was made until a whistleblower report was filed in August 2017. Fear of retaliation is a significant barrier to reporting. UCR does not tolerate retaliation and takes steps to try to protect employees from retaliation, but it is important to consider how to reassure employees (staff, faculty, or students) that measures are in place to protect individuals from retaliation. The campus should therefore consider more robust steps to prevent retaliation; appropriate disciplinary action, when retaliation does occur; and sufficient measures to ensure that retaliation does not continue or recur.

**Action Follow-up:** Some of the other actions noted in this report should assist with this recommendation, and HR and Compliance Office will work together to identify other appropriate responses that support this recommendation. Completion of this task is estimated to be no later than January, 2020.

4. **Consistently treat all complaints seriously and professionally:** UCR needs robust Standard Operating Procedures (SOPs) for coordinated intake and assessment of all issues, complaints, and reports of misconduct. This is to ensure that such reports are reviewed promptly and professionally, without bias or preconceptions, and regardless of which office first becomes aware of the matter. Reports must be reviewed by trained professionals, skilled in identifying harassment, discrimination, and other misconduct, and who are familiar with UC and campus procedures. This must be done to avoid valid concerns being trivialized or misunderstood, or key issues being missed. Checks and balances should be in place, in order to avoid a single individual making decisions on complex and highly consequential issues and to ensure that any complaint regarding a senior administrator is handled fairly, without bias in favor of the administrator. All relevant campus-based processes must be codified so that they can be fully understood, and to ensure consistent action going forward. Moreover, these processes should be regularly reviewed, as they may evolve and should be improved over time.

Some adjustments to our existing processes are likely needed in order to better serve UCR. The relatively new investigations group has made some steps to improve review and triage of complaints, by providing some checks and balances on single decision-makers; but further improvement is needed. Similarly, the fact-finding team within the Compliance Office has begun developing SOPs, working with ELR and others, but this work is not yet complete.

**Action Follow-up:** HR and Compliance Office will work together to finalize updated SOP's no later than October, 2019.

5. **Expectation to review/share otherwise confidential information with those who need to know:** While it is very important to protect "confidential" information, there are those individuals with a need-to-know, including Central HR staff and other appropriate offices related to and working with Central HR. Central HR does not appear to have a culture of sharing critical or confidential information with team members, in order for them all to help participate in solutions to specific HR issues that arise across campus. While respect for sensitive information is essential within an HR office, there are clearly many HR team members who need to be brought into key discussions (especially if there are HR items arising within the client group they directly support, as they would be able to bring critical context details to the discussion), along with other appropriate offices such as Title IX and the LDO. HR needs to be effective in working together as a team to solve/address issues, and this requires trust and appropriate sharing of information within the HR office, for those with a need-to-know. Some of these needed discussions may happen at the Investigations Group, with appropriate adjustments to their meeting schedule and process.

**Action Follow-up:** VCPB&A will work directly with the HR office to implement an appropriate process for communications of confidential information, to include internal procedures. Completion of this task is estimated to be no later than June, 2019. Additional case management teams are being assembled to formalize the information-sharing between HR, the LDO and other key offices. These teams are expected to be established no later than September, 2019.

6. **Cognizant Vice Chancellor involvement:** The Vice Chancellor to which HR reports needs to have some direct involvement in significant HR issues – including those involving other Vice Chancellors. Without the adequate involvement and oversight from the Vice Chancellor and other

appropriate campus offices, the HR division is working in isolation, which is not the most appropriate way to support and fully develop recommendations to the Chancellor.

**Action Follow-up.** VCPB&A will work with HR to put into effect immediately.

7. **Workplace sexual/romantic relationships:** When organizational power differentials between a supervisor and employee exist, a sexual or romantic relationship is inappropriate and presents a conflict of interest. To put it simply, supervisors should not seek out or engage in such relationships with their subordinates. While there was not an official “consensual relationship” policy in place until relatively recently, a situation involving a supervisor and an employee over which they hold power is and has been prohibited by UC policies on conflicts of interest, and needs to be evaluated by those with relevant expertise (Title IX) regarding improper sexual relationships. In the Sandoval case, the Title IX office should have been consulted immediately. UCR will strengthen its consensual relationships policy to ensure appropriate review occurs.

**Action Follow-up:** HR and Compliance Office, consistent with other action follow-ups noted above, will work to complete this task no later than September, 2019.

8. **Consistent application of HR policies, regardless of position title:** It is important to assure that Central HR (and all service offices across campus) treat everyone on campus in a consistent and fair manner. Unfortunately, it appears that “exceptions to policy” were more frequently granted than perhaps warranted. When assumptions or exceptions are made solely based on position title or level, it undermines the effectiveness of HR to consistently and fairly serve the campus. While some individuals on campus can overrule HR recommendations, any exceptions to policy should be considered under rare circumstances and verified in writing. HR recommendations (including for exceptions) need to be based on existing policy and procedures that are consistently applied across the campus. If HR recommendations are based on the campus positions involved, this approach must be addressed and corrected. This, of course, applies to the Vice Chancellor to which HR reports, as well as everyone else on campus.

In addition, there also appeared to be recurrent admonishments that reasonable HR requests could not be granted because they were deemed to be “against policy”. These actions, combined with the frequency of “exceptions to policy”, give the impression that HR decisions may be ad-hoc, arbitrary or unfair. There should be a transparent mechanism put in place for reasonable policy changes or exceptions to be reviewed and approved, along with second-level review by the cognizant Vice Chancellor (and all provided in writing). Such a mechanism will help to ensure that HR policies and practices do not remain static, and support the campus’s ability to adjust or improve based on evolving circumstances.

**Action Follow-up:** VCPB&A will work with HR to implement immediately and assure there are written procedures in place to document all exceptions.

9. **Opportunities for delegations of authority and responsibility relative to HR activities.** UCR has a strong HR infrastructure on campus, with many HR professionals in the central office, but many working in units across campus (e.g., CFAOs, HR Business Partners, analysts). A focused review should be made as to what delegations of authority and responsibility, appropriately balanced against risk, could be made to these HR professionals across the campus that would better serve UCR

overall. Any delegations should be based on the experience, training, skills and abilities of the individual under consideration for delegation, and not as a blanket delegation, and with a goal of allowing central HR staff more time to focus on higher priority and higher risk issues. Additionally, delegations need to be made formally and with a structure to assure strong accountability and performance. This could also reinforce the role of local HR professionals as “responsible employees” to identify and report possible sexual violence/sexual harassment.

**Action Follow-up:** VCPB&A will work with HR and HR professionals across UCR to develop a delegation proposal that best serves UCR. Completion of this task is estimated to be no later than November, 2019.