

Committee on Rules and Elections (CRE)

## Approved Minutes

Monday, October 8, 2018

1:30-3:00pm – KL 397

**I. Chair’s Report – Christopher Viney**

Chair Viney inquired about the status for the revised CRE Conflict of Interest policy, discussed at the September 10 CRE meeting. Members had requested that the term “personal interest” be clarified to avoid any potential confusion. Fatima Paul will contact the former CRE analyst to check on the status of the revised policy and report back to the Chair.

Chair Viney requested that each meeting agenda include “Matters Arising” as a standing agenda section for each meeting going forward.

**II. Consent Calendar**

- A. The September 10 Meeting Minutes were approved as presented
- B. The October 8 Agenda was approved as presented.

**III. Systemwide Review Items****A. Presidential Policy BFB-RMP-7 Protection of Administrative Records Containing Personally Identifiable Information**

Chair Viney led the discussion of the proposed revisions to *Presidential Policy BFB-RMP-7 Protection of Administrative Records Containing Personally Identifiable Information*. The revised policy addresses the following key issues:

- Combines and updates BFB-RMP-7, Privacy of and Access to Information Responsibilities; BFB-RMP-11, Student Applicant Records; and BFB-RMP-12, Guidelines for Assuring Privacy of Personal Information in Mailing Lists and Telephone Directories
- Incorporates the UC Statement of Privacy Principles and Values
- Clarifies the roles of Privacy Officials, Records Management Coordinators and Information Practices Coordinators

CRE members offered the following comments:

**a) Pages 3 and 4 - II. DEFINITIONS**

“Administrative Records: As defined in Business and Finance Bulletin Records Management and Privacy-1: University Records Management Program (RMP-1), this term is used to describe any record, regardless of physical form or characteristics, that documents or contains valuable information related to the organization, functions, policies, decisions, procedures, operations, or other business activities of the University”

An internet search was conducted by CRE and yielded no rigorous definitions of the term “valuable” information. Some clarification would be useful.

**b) Page 6 - III. POLICY TEXT**

“This policy applies to all Personally Identifiable Information (PII) in the University of California’s Administrative Records, regardless of the record’s function or medium, and addresses requirements related to the treatment of such information. Requests for academic personnel records from government agencies are governed by Business and Finance Bulletin Records Management and Privacy Policies 9a, 9b, and 9c.<sup>4</sup>

All faculty, staff, and other individuals associated with the University who have access to Administrative Records containing PII must understand their responsibilities for safeguarding the privacy of that information. The Information Practices Coordinators, Campus Privacy Officials, and Records Management Coordinators in consultation with the UC Office of the General Counsel (OGC), are responsible for providing overall policy and procedural guidance to University locations about privacy of and access to Administrative Records.<sup>5</sup>

CRE wonders what policy *does* apply to the records held by the Principal Officers of the Regents; teaching and research records (e.g. library materials, faculty research and teaching materials, students examinations); or records pertaining to individual patient care (medical records).

- c) It is not clear how this policy will affect disclosure of faculty research. Some clarification regarding this particular aspect would be useful.
- d) The policy does not address cloud storage, specifically, who might potentially access that information, and the consequences of such information being stored and backed up in multiple locations with the owner having no control over its persistence.

**Action:** The analyst, on behalf of the Chair, will transmit comments to the Senate Chair by November 20, 2018.

#### **B. Proposed revised Presidential Policy on Sexual Violence and Sexual Harassment (“SVSH Policy”)**

Member Christine Isborn led the review of this systemwide item. The draft revisions are proposed by Interim Systemwide Title IX Coordinator Suzanne Taylor, and were distributed for review to the UC Chancellors, the Director of the Lawrence Berkeley National Laboratory, the Chair of Academic Council, the Chairs of the Senate Divisions and the Vice President of Agriculture and Natural Resources. Interim Title IX Coordinator Taylor’s [cover letter](#) provides context and background. Proposed Draft revisions are available [here](#).

CRE members offered the following comments:

a) Page 8-Section 7

“Responsible Employee: 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~~ may have experienced Prohibited Conduct shall promptly notify the Title IX Officer or designee. This includes ~~Resident Assistants, Graduate Teaching Assistants~~ resident assistants, graduate teaching assistants, and all other student employees, when disclosures are made to any of them in their capacities as employees.”

The above notwithstanding, Responsible Employees are not required to report to the Title IX Officer possible Prohibited Conduct they become aware of while attending a public awareness event, such as “Take Back the Night” (see FAQ #9) or disclosed by an individual when participating in human subjects research that has either been approved by an Institutional Review Board (IRB) or certified as exempt from IRB review under one or more of the categories in 45 CFR 46.101(b) (see FAQ #10).”

If a faculty member finds out that a staff member or another faculty member is/was a victim of sexual harassment; does this not require notification? Does the policy apply only when a student experiences Prohibited Conduct? Additional clarification should be made in the policy.

If the employees become aware of possible prohibited conduct through discussion with a friend, or while in an off-campus social setting (e.g. coffee shop, bar); would said conduct be exempt from notification because it was not divulged “in the course of employment”?

b) Page 10

**“Protection of Complainants, Respondents, and Witnesses**

**1. ~~Immunity~~ Amnesty: [...]**

UC encourages the reporting of Prohibited Conduct and ~~therefore generally does~~ will not hold Complainants and/or witnesses accountable for alcohol or drug-related student violations that may have occurred at or near the time of the Prohibited Conduct, unless – as stated above – the University determines the violation was egregious.”

It is not clear what is meant by “will not hold Complainants and/or witnesses *accountable* for alcohol or drug-related *student* violations”.

Does this mean that the violation will not be reported to law enforcement and why does it apply only to student violations? The notion of accountability is vaguely presented here.

CRE recommends clarifying the language related to accountability and a) including a description of potential interfaces with any other body of law enforcement and b) revising “student violations” to “violations” to be broader.

c) Page 29

**“~~8.7.~~ Does the University need to conduct a Title IX investigation if a criminal investigation is taking place?”**

[...] The University has a duty under Title IX to resolve complaints promptly and equitably and to provide a safe and nondiscriminatory environment for all students, free from sexual harassment ~~and~~, sexual violence and other prohibited behavior.”

CRE wonders if the Title IX duty applies to all university employees or just students?

**Action:** The analyst, on behalf of the Chair, will transmit comments to the Senate Chair by November 20, 2018.

Minutes prepared by Fatima Paul  
Attest: Christopher Viney, Chair