

**UC Framework for Compliance with
NCAA Policy on Campus Sexual Violence**

The UC Working Group on NCAA Sexual Violence Policy Compliance¹ issues this Framework to guide campuses in complying with certain requirements of the NCAA Board of Governors' [NCAA Policy on Campus Sexual Violence](#) ("NCAA Policy"), consistent with state and federal law and University policy. It was developed with advice from UC Legal and in consultation with campus stakeholders in Title IX and Athletics.

The NCAA Policy requires that each member school's Chancellor, Athletic Director and Title IX Officer make certain annual attestations beginning in May 2023. Attestations Four, Five and Six require that schools take steps to elicit information about possible past misconduct by incoming, continuing and transfer student athletes, respond to such requests they receive from other NCAA schools, and have a written procedure related to same. In particular:

- Attestation Four requires that schools seek annual disclosure from incoming, continuing and transfer student-athletes of conduct that "resulted in discipline through a Title IX proceeding or in a criminal conviction for sexual, interpersonal or other acts of violence," and from transfer-athletes if "a Title IX proceeding was incomplete at the time of transfer."
- Attestation Five requires that schools take "reasonable steps to confirm whether incoming, continuing and transfer student-athletes have been disciplined through a Title IX proceeding or criminally convicted of sexual, interpersonal, or other acts of violence," and "share relevant discipline information and incomplete Title IX proceedings as a result of transfer with other member institutions when a student-athlete attempts to enroll in a new college or university."
- Attestation Six requires that schools have a written procedure that "reasonably yields information" from an incoming or transfer student-athlete's former school as to whether the student "left the institution with an incomplete Title IX proceeding, was disciplined through a Title IX proceeding or has a criminal conviction for sexual, interpersonal, or other acts of violence."

This Framework outlines how campuses can meet the requirements of Attestations Four and Five, and constitutes the written procedure required by Attestation Six. The Working Group recommends that each campus adopt a written protocol and forms to implement this Framework and other requirements of the NCAA Policy that this Framework does not address.

- A. Response to Information Requests from Other Schools. This section addresses campuses' response to inquiries about student-athletes from other schools, including inquiries that are broader than required by the NCAA Policy. Campuses can use the template [Response to Request for Information from Transfer-Applicant's School](#) form to implement this section.

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1. *Substantiated SVSH Allegations and Incomplete Title IX Processes.* The NCAA Policy requires that schools disclose discipline imposed through a Title IX proceeding, and incomplete Title IX proceedings as a result of transfer. Upon request, UC campuses can and should share the following information, when true:

- that the University determined, through an investigation and adjudication process that is final, that the student engaged in conduct prohibited by UC's Sexual Violence and Sexual Harassment (SVSH) Policy,² and the specific category of conduct (for example, Sexual Assault-Contact, Stalking, Relationship Violence, etc.);
- that the student is the respondent in a currently pending investigation and adjudication process to determine whether they engaged in conduct prohibited by the SVSH Policy, and the specific category of conduct; or
- there is no currently pending investigation or adjudication process to determine whether the student engaged in conduct prohibited by the SVSH Policy.

In addition, campuses can make clear that they complete investigation and adjudication processes and make determinations of responsibility even when the respondent leaves UC.

Note: An SVSH Policy investigation and adjudication process is final when the matter is completely resolved under the [applicable SVSH investigation and adjudication framework](#).³

2. *Unsubstantiated SVSH Allegations.* Except as stated in Section A.1 above, the NCAA Policy does not require that schools disclose that a student was a respondent under the SVSH Policy. Further, such disclosure could conflict with federal and state law and University policy. So campuses should not disclose that a student was alleged to have violated the SVSH Policy, except as stated in Section A.1. For example, campuses should not share that a student was a respondent if the Title IX Office did not investigate, or if the allegation was unsubstantiated in an investigation and adjudication process that is final.

3. *Non-SVSH Allegations.* The NCAA Policy does not require that schools disclose disciplinary information about conduct other than SVSH. Campuses typically can, consistent with law and UC policy, provide the following information, even though it is not required:

- that the University determined, through a disciplinary process that is final, that the student engaged in conduct that constitutes a "crime of violence" as defined in FERPA (other than SVSH), and the specific category of conduct;
- that the student is subject to a currently pending disciplinary process to determine whether they engaged in conduct considered a "crime of violence" and the specific category of conduct; or

² This includes all Prohibited Conduct as defined in the SVSH Policy except Retaliation, because FERPA does not permit disclosure of Retaliation without the respondent's consent.

³ Under [PACAOS-Appendix E](#) or [PACAOS-Appendix F](#), this means the period for submitting an appeal has lapsed, or the appeal process is complete. Under the *Investigation and Adjudication Framework for Staff and Non-Faculty Academic Personnel*, which could apply to student-employees, this means the University has either decided to take no further action, reached an informal resolution, or issued a Notice of Intent to take corrective action or terminate.

- that there is no currently pending disciplinary process to determine whether the student engaged in conduct considered a “crime of violence.”

Campuses should consult campus counsel before sharing such information. Campus counsel can help determine, for example, whether substantiated conduct is a “crime of violence.” Campuses should not otherwise disclose allegations of non-SVSH conduct.

4. *Criminal Proceedings.* The NCAA does not require that schools share information about criminal proceedings or convictions. In response to crime-related inquiries, campuses can, consistent with law and UC policy, share convictions disclosed to them per this Framework, California Education Code 67362⁴, or both. In addition, the UC official responding to the inquiry has discretion to share responsive information that they or their colleagues personally possess. If the official chooses to provide this information, they should also share how they learned of the information (for example, through a media report, from another student, etc.).

B. Requests for Information from Athletes. This section addresses campuses’ requests for information from student-athletes. Campuses should ask student-athletes to attest in writing as follows:

1. *First-Year Applicants or Admits.* Before a first-year applicant/admit participates in their first practice as a UC athlete, campuses should ask whether they:
 - have been found responsible or disciplined by any high school (or high school equivalent) for sexual or sex-based misconduct such as sexual harassment, sexual assault, sexual exploitation, stalking, invasion of sexual privacy, or relationship violence; or
 - are currently subject to any pending high school investigation or adjudication process to determine whether they engaged in sexual or sex-based misconduct.

Campuses can use the template [Request for Information from First-Year Student-Athlete Applicant](#) form for this inquiry.

Recommendations regarding Criminal Inquiries: The Working Group recommends that campuses (i) not ask first-year applicants/admits about criminal convictions or proceedings as part of the NCAA Policy inquiry, as this may violate CA Education Code 66024.5⁵, and (ii) work with campus counsel to ensure they are complying with [CA Education Code 67362](#) (summarized in footnote 4).

2. *Transfer and Graduate Program Applicants or Admits.* Before a transfer applicant/admit or graduate program applicant/admit participates in their first practice as a UC athlete, campuses should ask whether they:

⁴ In short, [ED Code 67362](#) prohibits UC students from participating in intercollegiate athletics if they are at any time after college enrollment convicted as an adult for certain criminal conduct, until they complete probation or any prison term and parole.

- have been found responsible or disciplined by any college or university for sexual or sex-based misconduct such as sexual harassment, sexual assault, sexual exploitation, stalking, invasion of sexual privacy, or relationship violence;
- are currently subject to any pending college or university investigation or adjudication process to determine whether they engaged in sexual or sex-based misconduct; or
- were, at the time they left any previous college or university, subject to any pending investigation or adjudication process to determine whether they engaged in sexual or sex-based misconduct.

Campuses can use the template [Request for Information from Student-Athlete Transfer Applicants and Student-Athlete Graduate Program Applicants](#) form for this inquiry.

Recommendations regarding Criminal Inquiries: The Working Group recommends that campuses (i) not ask transfer or graduate program applicants/admits about criminal convictions or proceedings as part of the NCAA Policy inquiry, as this may violate CA Education Code 66024.5⁶, and (ii) work with campus counsel to ensure they are complying with [CA Education Code 67362](#) (summarized in footnote 4).

3. *Continuing Students.* Before the first practice of the next athletic season, campuses should ask continuing students whether they:

- have been found responsible or disciplined by any college or university for sexual or sex-based misconduct such as sexual harassment, sexual assault, sexual exploitation, stalking, invasion of sexual privacy, or relationship violence;
- are currently subject to any college or university investigation or adjudication process to determine whether they engaged in sexual or sex-based misconduct;
- were, at the time they left any previous college or university, subject to any pending investigation or adjudication proceeding to determine whether they engaged in sexual or sex-based misconduct;
- have been criminally convicted of a crime of sexual violence, such as rape, sexual assault, or sexual battery; interpersonal violence, such as dating or domestic violence; or other acts of violence, such as murder, manslaughter, aggravated assault, assault employing use of a deadly weapon, or assault causing serious bodily harm; or
- are currently subject to criminal proceedings to determine whether they committed a crime of sexual violence, interpersonal violence or other acts of violence.

Campuses can use the template [Request for Information from Continuing Student-Athlete](#) form for this inquiry. Campuses can also combine this inquiry with inquiries made per CA Education Code 67362.

C. Requests for Information from Other Schools. This section addresses campuses' requests to other schools for information about student-athlete applicants. Campuses can use the template [Request for Information from First-Year Applicant's School](#) form and [Request for](#)

[Information from Transfer Applicant's School](#) form to request the following information from schools, and ask applicants to authorize their schools to provide it.

1. *First-Year Applicants or Admits.* Campuses should ask each high school a first-year applicant/admit has attended whether the student:
 - was ever found responsible or disciplined for sexual or sex-based misconduct such as sexual harassment, sexual assault, sexual exploitation, stalking, invasion of sexual privacy, or relationship violence; or
 - is currently subject to any pending proceedings to determine whether they engaged in sexual or sex-based misconduct.
2. *Transfer and Graduate Student Applicants or Admits.* Campuses should ask each college or university transfer or graduate student applicant/admit has attended whether the student:
 - was ever found responsible or disciplined for sexual or sex-based misconduct such as sexual harassment, sexual assault, sexual exploitation, stalking, invasion of sexual privacy, or relationship violence;
 - is currently subject to any pending proceedings to determine whether they engaged in sexual or sex-based misconduct; or
 - left the school while proceedings to determine whether they engaged in sexual or sex-based misconduct were pending.

Note: Schools that are not NCAA member schools, including high schools, are not obligated by the NCAA Policy to provide responsive information.

- D. Response to Disclosures and Failures to Disclose. Campus protocols should address how the campus will respond to disclosures made per the NCAA Policy, and to a student's failure to make required disclosures. The protocols should be consistent with the following.
 1. *Decision-Makers.* The response will be decided by a committee that includes at least the Athletics Director, the Title IX Officer and the Student Conduct Director.

Note: To promote consistent outcomes, the Working Group recommends against delegating this responsibility to designees if practicable.
 2. *Supporting Information.* The committee will review and consider at least any relevant and reliable information provided by the student-athlete and the student-athlete's current or former school.
 3. *Criminal Convictions; Substantiated Sexual or Sex-Based Misconduct.* CA Education Code 67362 prohibits intercollegiate athletic participation by a student who is convicted as an adult of certain crimes,⁷ until they complete any assigned probation, prison term or parole. Campuses should consult with campus counsel to determine whether the statute applies, and ensure compliance.

⁷ In summary, these include certain forms of sexual assault and abuse, certain forms of non-sexual assault, murder and attempted murder, kidnapping, robbery, and battery against a sports official.

Otherwise, in deciding how to respond to disclosure of a criminal conviction or substantiated sexual or other sex-based misconduct, the committee will consider factors such as:

- protection and safety of the community;
 - seriousness of the conduct (for example, nature, extent and duration; number of incidents; any connected misconduct; use of intimidation; use of authority to abuse trust or confidence; presence of weapons; use of force or violence; physical injury; menace; duress; deliberately causing or taking advantage of incapacitation; making, using, or sharing intimate or sexual images without consent);
 - the student's intent or motivation (for example, hate or bias, and whether they intended to cause harm, played a passive role, or were pressured or induced to participate);
 - the student's other disciplinary or criminal history;
 - impact of the conduct on others;
 - the student's response following the conduct (for example, voluntarily acknowledging wrongdoing, failing to follow a no-contact or similar order, attempting to influence witnesses, obstructing or disrupting the process);
 - whether the student fulfilled an assigned sanction, restitution or other remediation for the conduct; and
 - the student's age and circumstances at the time of the conduct.
4. *Currently Pending Proceedings.* When a student-athlete is the respondent in another school's pending Title IX proceeding, or the defendant in a pending criminal proceeding, the committee will determine whether Interim Measures (as defined in the SVSH Policy) are appropriate pending final outcome. If the student-athlete is ultimately found responsible, the committee will decide appropriate response consistent with its protocols.
5. *Incomplete School Proceedings.* When a student-athlete left a previous school while Title IX proceedings were pending and the previous school will not finalize the proceeding to determine whether the student engaged in sexual or sex-based misconduct, the committee will determine whether steps are appropriate to prevent recurrence of the alleged conduct, such as providing targeted preventive education.
6. *Failure to Disclose.* In deciding how to respond to a student-athlete's failure to disclose misconduct or pending proceedings as required by the NCAA Policy, the committee will consider factors such as:
- whether the failure was knowing or deliberate;
 - whether the student received guidance on what they were required to disclose;
 - whether the student failed to make required disclosures on other occasions;
 - whether the student acknowledged the failure; and
 - the student's response when informed of or learning of the failure.

- E. Appeals. Campuses have discretion to allow student-athletes to appeal the committee's response. If a campus provides an appeal, then its campus protocols should address:
- written notice to the student of their right to appeal;
 - the timeline for the student to file the appeal;
 - the student's ability to submit information to support their appeal;
 - the form the appeal will take (for example, written submissions only or a live hearing);
 - the office or official who will decide the appeal; and
 - the timeline for issuing a written decision.
- F. Record-Keeping. Campus protocols should address documentation the campus will maintain to ensure a complete and accurate record of compliance with the NCAA Policy, and what office or official will maintain the records.
- G. Documentation to Senior Leaders. Campus protocols should address the documentation that will be provided to the Chancellor, Athletic Director and Title IX Officer annually so they can determine whether to make the attestations required by the NCAA Policy.
- H. Privacy. The University must balance the privacy interests of student-athletes against the need to gather and verify information and ensure a fair and appropriate response to disclosures, consistent with applicable law including FERPA. In this context, campus officials implementing this framework must try to protect student privacy to the extent permitted by law and University policies.
- I. Resource for Student Athletes. Campuses should designate an employee to serve as a non-confidential resource for student-athletes. The official should be knowledgeable about and able to explain the NCAA Policy, this framework, and campus protocols, and otherwise able to answer questions from student-athletes.
- J. Response to Information Requests Outside the NCAA Policy. Campuses may receive requests for information about a student-athlete's conduct history from entities other than prospective schools (for example, an athletics conference). The Working Group recommends that campuses respond according to their established policies and procedures for responding to other requests for student records (for example, by issuing a [Dean's Certification](#) or [Letter of Good Standing](#)).