

November 19, 2018

To: Joseph Bristow, Chair
Academic Senate

From: Andrea Kasko, Vice Chair
Graduate Council

Re: Proposed Presidential Policy on Sexual Violence and Sexual Harassment

At its meeting on November 16, 2018, the Graduate Council reviewed and discussed the Proposed Presidential Policy on Sexual Violence and Sexual Harassment.

Members offered the following observations for Executive Board's consideration:

Regarding **"b. Formal Investigation**. If the Complainant requests that no Formal Investigation occur, the Title IX Officer will seriously consider the Complainant's request, but must determine whether the allegations nonetheless require an investigation to mitigate a risk to the campus community" (pg. 18):

- Members had questions regarding the criteria used to determine whether the allegations require an investigation. Members thought it would be important to revise the policy to reference such guidelines or criteria. Members found the proposed policy to be unclear on what the decision would be based.

Regarding *"Administrative Closure*. The Title IX Officer may administratively close a Formal Investigation before its completion if the Title IX Officer determines that, due to a significant change in circumstances, its ability to investigate is so substantially impaired that it is unable to gather sufficient evidence to reach a reasonably reliable conclusion about whether Prohibited Conduct occurred" (pg. 20):

- Members found that *substantially impaired* is not clearly defined in the proposed policy, nor are possible examples of substantial impairment articulated.
- Members found that there were no options, remedies, or resolutions for the complainant detailed in the policy document. There should be some language included that protects the interests and rights of both the complainant and respondent.
- Members also wondered what the baseline would be for a change in circumstances. Members agreed that there should be mechanisms in place to ensure investigations continue.

Regarding Alternative Resolution and Formal Investigation. "However, the Title IX Officer may extend the process beyond the 60th day for good cause" (pg. 18) and "However, the Title IX Officer may extend the process beyond the 90th day for good cause."

- Members requested a definition and examples of good cause.

Thank you for the opportunity to review and comment.