



PACAOS-Appendix-E: Sexual Violence and Sexual Harassment Student Investigation and Adjudication Framework

Responsible Officer:	VP - Student Affairs
Responsible Office:	SA - Student Affairs
Issuance Date:	[Insert Issuance Date]
Effective Date:	[Insert Issuance Date]
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Scope:	Consistent with PACAOS 12.00, these Policies and the campus regulations implementing them apply to all campuses and properties of the University and to functions administered by the University, unless in special circumstances the President directs otherwise.

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I. POLICY SUMMARY

Consistent with the University *Policy on Sexual Violence and Sexual Harassment (SVSH Policy)* (see Section V.A.5.b. (“Formal Investigation”) and V.A.6. (“The Investigation Report and Outcome”) the following describes the University’s procedures for resolving reports of Sexual Violence, Sexual Harassment, and Other Prohibited Behavior as defined by the *SVSH Policy* where the responding parties are students, including the sanctioning of students found in violation of the *SVSH Policy*.

Campuses will also apply these procedures to resolve reports of other violations of University policies that apply to students (herein, “student conduct policies”) that occur in connection with violations of the *SVSH Policy*.

II. DEFINITIONS

Applicable definitions for the *SVSH Policy* can be found at <http://policy.ucop.edu/doc/4000385/SHSV>.

Applicable definitions for the [Policies Applying to Campus Activities, Organizations, and Students \(PACAOS\)](#), and the campus implementing regulations adopted pursuant to them, are provided in Section 14.00.

III. POLICY TEXT

I. PREFACE

The University of California is committed to creating and maintaining a community where all individuals who participate in University programs and activities can work and learn together in an atmosphere free of Sexual Violence, Sexual Harassment, and other conduct prohibited under the *SVSH Policy* (collectively, “Prohibited Conduct”). Consistent with its legal obligations, including those under Title IX of the Education Amendments of 1972, the Violence Against Women Reauthorization Act of 2013, and California Education Code section 67386, the University responds promptly and effectively to reports

of Prohibited Conduct under the *SVSH Policy*, and takes appropriate action to stop, prevent, remedy, and when necessary, to discipline behavior that violates the *SVSH Policy*. The University's student disciplinary procedures emphasize education, personal growth, accountability, and ethical behavior – upholding standards of responsible conduct to protect the welfare of the University community. The procedures are designed to provide a prompt, fair, and impartial resolution of the matter.

The following describes the University's formal investigation and adjudication (together, "resolution") procedures for resolving complaints of Prohibited Conduct under the *SVSH Policy* or related student conduct policy violations where the responding parties ("Respondents" as defined in the *SVSH Policy*) are students, including the sanctioning of students where policy violations are determined to have occurred.

II. RESOURCES RELATING TO SEXUAL VIOLENCE AND SEXUAL HARASSMENT

The University has a Title IX office at each campus that is responsible for receiving and responding to reports of Prohibited Conduct under the *SVSH Policy*. Confidential Resources, as defined by the *SVSH Policy*, also are available at each campus both before and after a person communicates with the Title IX office about potential violations of the *SVSH Policy*. Confidential Resources are also available to a person who chooses not to communicate with the Title IX office. These Confidential Resources are not required to report Prohibited Conduct to the Title IX office.

III. REPORT OF AND RESPONSE TO PROHIBITED CONDUCT

- A. Consistent with the *SVSH Policy*, the University may consider any person who reportedly experienced Prohibited Conduct a "Complainant," whether or not they make a report or participate in the resolution process.
- B. The University will strive to honor the stated wishes of the Complainant concerning whether to move forward with an investigation. In accordance

with the *SVSH Policy*, if the Complainant requests that no investigation occur, the Title IX Officer shall determine whether the allegations, nonetheless, require an investigation to mitigate a potential risk to the campus community.

- C. Throughout this resolution process, the University will offer support services for Complainants (through the CARE Advocate) and Respondents (through the Respondent Services Coordinator).
- D. The University will consider and implement interim measures throughout the process as appropriate to ensure the safety, well-being, and equal access to University programs and activities of its students. Interim measures include, but are not limited to: no contact orders; housing assistance; academic support and accommodations; and counseling. The University may place the Respondent on an Interim Suspension as appropriate and consistent with the *Policies Applying to Campus Activities, Organizations, and Students (PACAOS)* – 105.08 of the *Policy on Student Conduct and Discipline*.
- E. At all stages of this process, the Complainant and Respondent have the right to an advisor and a support person of their choosing. The advisor and/or the support person may be any person (including an advocate, attorney, friend, or parent) who is not otherwise a party or a witness. The advisor's primary role is to provide guidance through the process. The support person's primary role is to provide emotional support. The advisor and the support person may not speak on behalf of a student or otherwise disrupt any meetings or proceedings in any manner. The University reserves the right to exclude an advisor or support person who does not abide by these procedures.
- F. Neither the Complainant nor the Respondent is required to participate in the resolution process outlined in these procedures. The University will not draw any adverse inferences from a Complainant or Respondent's decision not to participate or to remain silent during the process. An investigator, hearing officer, or appeal officer will reach findings and

conclusions based on the information available. Such individuals may draw adverse inferences when a party selectively participates in the process, such as choosing to answer some but not all questions posed; any such inferences should be made only after considering potential alternative explanations for the selective participation.

- G. In all cases, including where the Complainant chooses not to participate or where there is no Complainant as provided for in the SVSH Policy (II.C.1.) and this policy (III.A.), the University's role is neutral as between the parties, and it will conduct any factfinding and sanctioning without taking the position of either party.
- H. The campus Case Management Team (CMT) will track all stages of the resolution process under these procedures.
- I. All University officials involved in this resolution process will be trained to carry out their roles in an impartial manner in keeping with trauma-informed practices.
- J. The standard of proof for factfinding and determining whether a policy violation(s) occurred is Preponderance of Evidence, as defined by the *SVSH Policy*. A Respondent will not be found responsible for a violation of the *SVSH Policy* and/or other student conduct policies unless there is sufficient evidence, by a Preponderance of Evidence, to support a finding that the Respondent violated the *SVSH Policy* and/or other student conduct policies.
- K. The campus Title IX Officer may extend any deadlines contained herein consistent with the *SVSH Policy* as applicable, and for good cause shown and documented. The Complainant and Respondent will be notified in writing of any extension, the reasons for it, and projected new timelines.

IV. FORMAL INVESTIGATION OF REPORT OF PROHIBITED CONDUCT

- A. Commencing a Formal Investigation.** Upon receipt of a report of or information about alleged Prohibited Conduct, the campus Title IX Officer

will determine, consistent with the University's *SVSH Policy*, whether to initiate a Formal Investigation.

B. Notice of Charges. If a Formal Investigation will be conducted, the Title IX Officer, after consulting with Student Conduct, will send written notice of the charges to the Complainant and Respondent. To the extent practicable, the written notice will include:

1. A summary of the reported conduct that potentially violated the *SVSH Policy* and, where applicable, other student conduct policy, the identities of the parties involved, the date, time and location of the reported incident, and the specific provisions of the *SVSH Policy* and/or any other student conduct policy potentially violated;
2. A statement that the investigative report, when issued, will make factual findings and a preliminary determination regarding whether there has been a violation of the *SVSH Policy* and/or other student conduct policy;
3. A statement that the parties will each have an opportunity at the outset to propose questions of the other party and witnesses, for the investigator to ask;
4. A statement that the factual findings and preliminary determination will be based on a Preponderance of Evidence standard;
5. A summary of the resolution process, including the possible hearing, and the expected timeline;
6. An admonition against Retaliation; and
7. A summary of rights and resources available to the Complainant and Respondent.

At any point during the investigation, the Title IX Officer may amend the Notice to add additional charges identified during the investigation. Any amended notice should include all the information described above.

C. Investigation Process. The Title IX Officer will oversee the investigation and will designate an investigator to conduct a fair, thorough, and impartial investigation.

1. During the investigation, the Complainant and Respondent will be provided an equal opportunity to meet with the investigator, submit evidence, identify witnesses who may have relevant information, and, at the outset, propose questions for the investigator to ask the the other party and witnesses. The investigator has discretion to determine the witnesses to interview and the questions to ask, and may decline to ask questions that are, for example, repetitive, harassing or not relevant to whether the reported violation(s) occurred.
2. The investigator will meet separately with the Complainant, Respondent, and witnesses, and will gather other available and relevant evidence. The investigator may follow up with the Complainant, the Respondent and witnesses as needed to clarify any inconsistencies or new evidence gathered during the course of the investigation.
3. The investigator will generally consider all evidence they determine to be relevant and reliable. The investigator may determine and weigh the relevance of any witness or other evidence to the findings and may exclude evidence that is irrelevant or immaterial.
 - a. The investigator will generally consider only direct observations or reasonable inferences from the facts.

- b. The investigator will generally not consider statements of personal opinion as to anyone's general reputation or any character trait.
- c. The investigator may consider prior or subsequent conduct of the Respondent in determining pattern, knowledge, intent, motive, or absence of mistake. For example, evidence of a pattern of Prohibited Conduct or other conduct prohibited by student conduct policies by the Respondent, either before or after the incident in question, regardless of whether there has been a prior finding of an *SVSH Policy* or other policy violation, may be deemed relevant to the determination of responsibility for the Prohibited Conduct or related student conduct policy violation under investigation.
- d. The investigator will not, as a general rule, consider the sexual history of a Complainant or Respondent. However, in limited circumstances, sexual history may be directly relevant to the investigation.
 - i. For example, while the investigator will never assume that a past sexual relationship between the parties means the Complainant consented to the specific conduct under investigation, evidence of how the parties communicated consent in past consensual encounters may help the investigator understand whether the Respondent reasonably believed consent was given during the encounter under investigation. Sexual history might also be relevant to explain an injury, show a pattern of behavior by Respondent in accordance with Section IV.C.3.c, or resolve another issue of importance in the investigation.

- ii. Sexual history evidence that is offered to show a party's reputation or character will never be considered for that purpose.
- iii. The investigator will consider proffered evidence of sexual history, and provide it to the parties for review under Section IV.E. below, only if the investigator determines it is directly relevant. The investigator will inform the parties of this determination.

D. Coordination with Law Enforcement. When a law enforcement agency is conducting its own investigation, the investigator should coordinate their factfinding efforts with the law enforcement investigation in accordance with the *SVSH Policy*. A reasonable delay resulting from such coordination may be good cause for extending the timelines to complete the investigation. If so, the delay will be communicated and documented in accordance with the *SVSH Policy*.

E. Opportunity to Review and Respond. The Complainant and Respondent have an equal opportunity to review and respond to the evidence that the investigator has deemed relevant. Before the investigator concludes the investigation and finalizes a written report, the investigator will ensure that both Complainant and Respondent have had an opportunity to review and respond to the evidence that the investigator has deemed relevant, including relevant evidence that weighs against finding a policy violation(s). This review will also include a summary of relevant statements made by the parties and any witnesses. The Title IX Officer will ensure that this review occurs in a manner designed to protect the privacy of both parties. The Title IX Officer will designate a reasonable time for this review and response by the parties that, absent good cause found by the Title IX Officer, will not exceed five (5) business days.

F. Investigation Report. The investigator will prepare a written report that includes the factual allegations and alleged policy violations, statements of the parties and witnesses, a summary of the evidence the investigator considered, findings of fact, credibility determinations when appropriate, an analysis of whether a policy violation has occurred, and a preliminary determination regarding whether there are any policy violations. The investigator may consult with Student Conduct on the preliminary determinations regarding violations of student conduct policies other than the *SVSH Policy*. If credibility determinations were not necessary to reach the findings and preliminary policy determinations, the report will so note and explain why. If the Complainant or Respondent offered witnesses or other evidence that was not considered by the investigator, the investigation report will include an explanation of why it was not considered. The investigation report should also indicate when and how the parties were given an opportunity to review the evidence (see Section E above).

G. Issuance of Notice and Report.

1. Upon completion of the Title IX Investigation, the Title IX Officer will provide to the Complainant and the Respondent (a) written notice of the factual findings and preliminary determinations, and (b) the investigation report. The investigation report may be redacted to protect privacy. The Title IX Officer will provide Student Conduct with the written notice and an unredacted copy of the investigation report.
2. The notice of the factual findings and preliminary determinations will include the following:
 - a. A summary statement of the factual findings and preliminary determinations regarding whether the *SVSH Policy* or other student conduct policies have been violated;

- b. In cases where the investigator preliminarily determines a policy violation(s) occurred, an explanation of how the proposed sanction will be determined (see Section V);
- c. A statement that if either party contests the investigator's preliminary determinations as to policy violation(s), there will next be a factfinding hearing to determine whether the *SVSH Policy* or other student conduct policies have been violated, after which Student Conduct will determine any sanctions;
- d. An explanation of the procedures for contesting the preliminary determination (see Section VI);
- e. A statement that if neither party contests the preliminary determination, they still will have the right to appeal the sanction, if any;
- f. An admonition against Retaliation; and
- g. An explanation of any interim measures that will remain in place.

H. Access to Certain Investigation Records. After issuance of the investigator's written report, the investigation file, consisting of the investigation report and any evidence considered by the investigator (as documented in the investigation report), must be retained by the Title IX Officer and made available to the parties for inspection upon request. It may be redacted to protect privacy.

V. PROPOSED SANCTION In cases where the investigator preliminarily determines a policy violation occurred:

A. Party Input. Either party may schedule a meeting with or submit a written statement to Student Conduct to comment on sanctions. The meeting or written statement should be scheduled and/or submitted promptly.

- B. Student Conduct Proposal.** Student Conduct will review the report, the evidence considered by the investigator as documented in the report, the preliminary determinations, respondent's prior conduct record, and any comment on sanctions from the parties (received either in person or in writing), and will determine a proposed sanction based on the investigator's preliminary determinations of a policy violation(s).
- C. Notification.** Student Conduct will notify the parties of the proposed sanction and supporting rationale within 15 business days of the investigation report's issuance.
- D. One Student Conduct Meeting.** Where a party elects to meet with Student Conduct to provide input on proposed sanctions, Student Conduct will also explain the implications of and procedures for contesting the preliminary determination (see below) in that same meeting.

VI. OPPORTUNITY TO CONTEST THE PRELIMINARY DETERMINATION

If either party contests the investigator's preliminary determinations as to policy violation(s), there will next be a factfinding hearing to determine whether the *SVSH Policy* or other student conduct policies have been violated, after which Student Conduct will determine any sanctions.

- A. Opportunity to Discuss Options.** If either party wishes to discuss the possibility of contesting and the implications of contesting or not contesting the preliminary determination, including the hearing that will result if either party contests, they may discuss their options with Student Conduct. The meeting should be scheduled promptly.
- B. Preliminary Determination That Policy Violation Occurred and Presumption That Respondent Contests in Certain Cases.** When the investigator preliminarily determines that a policy violation(s) occurred:
 - 1. Either party may contest the preliminary determination within 20 business days of the Notice of Investigative Findings and Preliminary Determination. If either party contests within this time

period, then the matter will proceed to a hearing to determine if a policy violation occurred.

2. In cases where Student Conduct proposes suspension or dismissal:
 - a. Respondent is presumed to contest the preliminary determination unless Respondent provides Student Conduct with a written acknowledgment stating that Respondent does not contest, accepts the preliminary determination and proposed sanction, and waives their right to a hearing.
 - b. If Respondent does not provide Student Conduct the written acknowledgment during the allotted time, then the matter will proceed to a hearing to determine if a policy violation occurred.
 - c. If Respondent does provide the written acknowledgment, and Complainant does not contest during the allotted time, then Student Conduct will notify the parties that the preliminary determination regarding policy violation(s) is final, and Student Conduct will impose the proposed sanction, and the parties will have the right to appeal the sanction.
 - d. If Respondent does provide the written acknowledgement, and Complainant contests during the allotted time, then the matter will proceed to a hearing to determine if a policy violation occurred.
3. In cases where Student Conduct does not propose suspension or dismissal:

- a. If either party informs Student Conduct that they contest during the allotted time, the matter will proceed to a hearing to determine if a policy violation occurred.
- b. If neither party informs Student Conduct that they contest during the allotted time, then Student Conduct will notify the parties that the preliminary determination regarding policy violation(s) is final, and Student Conduct will impose the proposed sanction, and the parties have the right to appeal the sanction.

C. Preliminary Determination That No Policy Violation Occurred.

When the investigator does not preliminarily determine that there was a policy violation(s):

1. Either party may contest the preliminary determination within 20 business days of the Notice of Investigative Findings and Preliminary Determination. If either party informs Student Conduct that they contest during this time period, then the matter will proceed to a hearing to determine if a policy violation(s) occurred.
2. If neither party informs Student Conduct that they contest during the allotted time period, then Student Conduct will notify parties that the preliminary determination regarding policy violations is final.

D. Consideration of Consolidation of Related Cases

Where a case arises out of substantially the same set of factual allegations as another case in the student resolution process (for example, where multiple Complainants or Respondents are involved in the same incident), or where it involves the same Complainant and Respondent, the Title IX officer may consider and will have discretion to determine whether to coordinate or combine the investigation and/or adjudication of those cases.

VII. HEARING TO DETERMINE RESPONSIBILITY

A. Factfinding Hearing. If either party contests, or is presumed to contest, the investigator's preliminary determinations, there will be a factfinding hearing before a single hearing officer to determine whether a violation of the *SVSH Policy* (and any non-SVSH policy violations charged in conjunction with them) occurred. The University's role in the hearing is neutral. The University will consider the relevant evidence available, including relevant evidence presented by the parties, in order to make factual findings as to whether a policy violation occurred.

B. Hearing Officer.

1. The hearing officer will be appropriately trained, with such training coordinated by the Title IX Officer, whether they are a University employee or outside contractor.
2. The hearing coordinator will inform the parties of the hearing officer's identity. Within 5 business days after the notification, the parties may request the hearing officer's disqualification on the basis of bias or conflict of interest.
 - a. For example, involvement in the case or knowledge of the allegations at issue prior to the hearing, or a personal or professional relationship with a party or expected witness in the proceeding could, depending on the circumstances, warrant disqualification of the hearing officer.
 - b. Employment by the University, or prior work for the University as a contractor, on its own, does not warrant disqualification.
 - c. The hearing officer's gender, gender identity, race, ethnicity, religion, sexual orientation or similar identifying

characteristic, or the fact that they differ from those of any party, do not, on their own, warrant disqualification.

3. The hearing coordinator will decide any request for disqualification of the hearing officer and inform both parties of their decision and, if they determine to change hearing officers, the name of the new hearing officer.

C. Hearing Coordinator. Each campus will have a hearing coordinator, distinct from the hearing officer, who will manage the administrative and procedural aspects of the hearing.

D. Pre-Hearing Procedures.

1. When a hearing is required under these procedures, the hearing officer and hearing coordinator will hold a separate meeting with each party, to explain the hearing process, address questions, begin to define the scope of the hearing, and address other issues to facilitate a productive, fair, and orderly hearing.
 - a. No later than 5 business days before the pre-hearing meeting, each party will submit to the hearing officer a preliminary statement of what issues, if any, each considers to be disputed and relevant to the determination of whether a policy violation occurred, and the evidence they intend to present on each issue, including all documents to be presented, the names of all requested witnesses, and a brief summary of such witnesses' expected testimony. The parties will later have an additional opportunity to submit proposed evidence, see Section VII.D.3 below.
 - b. At the pre-hearing meeting, the hearing officer and party will discuss the evidence the party has provided, to help identify and refine the issues to be decided at the hearing, which will

inform the hearing officer's determination of the scope of the hearing.

- c. Each party should also come to the pre-hearing meeting prepared to schedule dates for the hearing.
- d. The hearing officer and/or coordinator will explain what to expect at the hearing, see Section VII.E. below.
- e. The hearing officer and/or coordinator will also discuss measures available to protect the well-being of parties and witnesses at the hearing, as appropriate.
- f. Any party contesting (or presumed to contest) the investigator's preliminary determination regarding policy violation(s) is required to participate in the pre-hearing meeting.
- g. If a contesting party does not participate in the pre-hearing meeting (or does not let the hearing coordinator know they need to reschedule in advance), the hearing coordinator will notify the party that they have 2 business days to contact the hearing coordinator to reschedule. If the party does not contact the hearing officer within the allotted timeframe, they will be presumed to no longer contest the investigator's preliminary determination, and if the other party has not contested, there will be no hearing, and Student Conduct will notify the parties that the investigator's preliminary determination is final, and impose the proposed sanction (see Section V). If the other party has contested, the hearing will proceed but the non-appearing party will be presumed to agree with the definition of the scope of the hearing.

and the Respondent informing them of the hearing date, time, location and procedures.

5. The hearing coordinator will ensure that the Title IX investigator (or if not available, a representative from that office) will be available to testify during the hearing. Based on the hearing officer's determination, the hearing coordinator will request the attendance of all witnesses whose testimony is determined to be within the scope of the hearing.
6. At least 2 days prior to the hearing, the Complainant and the Respondent will receive the hearing officer's final determination of scope and evidence; copies of all the evidence that will be considered at the hearing that the hearing officer has received, including the investigation file and any other documents that will be considered; the names of expected witnesses and a summary of their expected testimony. If the hearing officer has excluded evidence (including witness testimony) that a party has requested to present, they will explain why. The hearing officer will also notify the parties of any procedural determinations they have made regarding the hearing. This material will also be provided to the Title IX Officer.
7. The parties are encouraged to submit any questions for any expected witnesses to the hearing coordinator in advance of the hearing, but will not be limited to those questions at the hearing. These questions will not be shared with the other party or witnesses before the hearing.

E. Hearing Procedures

1. The hearing will be conducted in a respectful manner that promotes fairness and accurate factfinding. The parties and witnesses will

address only the hearing officer, and not each other. Only the hearing officer may question witnesses and parties.

2. Courtroom rules of evidence and procedure will not apply. The hearing officer will generally consider all evidence they determine to be relevant and reliable. The hearing officer may determine and weigh the relevance of any witness testimony or other evidence to the findings and may exclude evidence that is irrelevant or immaterial. The hearing officer will also follow the evidentiary principles in Section IV.C.3. Throughout the hearing, the hearing officer will:
 - a. Exclude evidence including witness testimony that is irrelevant in light of the policy violation(s) charged, or relevant only to issues not in dispute, or unduly repetitive,
 - b. Decide any procedural issues for the hearing, and/or
 - c. Make any other determinations necessary to ensure an orderly, productive, and fair hearing.
3. All witnesses other than the parties will attend the hearing only for their own testimony.
4. The investigation file will be entered as evidence at the hearing. The hearing officer generally will rely on any finding in the report that is not disputed.
5. In cases where the credibility of a witness is not central to the determination of a particular disputed issue and the witness does not appear at the hearing, the hearing officer may determine what weight to give to their statements from the investigation report.
6. The hearing officer will implement measures they deem appropriate to protect the well-being of parties and witnesses. For example, the

hearing officer may allow separation of the parties, breaks, and the participation of support persons in accordance with these procedures.

7. The hearing officer may allow the Complainant, Respondent, and/or witnesses to be visually or physically separated during the hearing. This may include, but is not limited to, the use of a physical partition, a separate physical location, videoconference and/or any other appropriate technology. To assess credibility, the hearing officer must have sufficient access to the Complainant, Respondent, and any witnesses presenting information; a sighted hearing officer must be able to see them.
8. The Complainant and Respondent will have the opportunity to present the evidence they submitted, subject to any exclusions determined by the hearing officer. Generally, the parties may not introduce evidence, including witness testimony, at the hearing that they did not identify during the pre-hearing process. However, the hearing officer has discretion to accept or exclude additional evidence presented at the hearing.
9. The Complainant and Respondent have the right to hear (or, if deaf or hard of hearing, to access through auxiliary aids for services) testimony of all individuals who testify at the hearing and to propose questions to be asked of all individuals who testify at the hearing. The Complainant and Respondent may propose questions by submitting them to the hearing officer.
10. The parties are expected not to spend time on undisputed facts or evidence that would be duplicative.
11. The hearing officer will determine the order of questioning. Whenever practical, the hearing officer will ask the questions as they are submitted by the Complainant and Respondent and will

not rephrase or change them. The hearing officer may, however, exclude questions that are unduly repetitive, clearly not relevant, harassing, or unduly time consuming. The hearing officer may also rephrase questions, for example to prevent them from being harassing, or for clarity. Whenever practical, the hearing officer will briefly state their reasons for excluding or rephrasing questions submitted by the parties.

12. The hearing will be audio recorded.
13. Complainant and Respondent may have their advisors and support persons present throughout the hearing.

F. Determination of Policy Violation

1. **Standards for Deliberation.** The hearing officer will decide whether a violation of the SVSH policy (or related non-SVSH policy violation) occurred based on a Preponderance of Evidence standard.
2. **Information Considered.** The hearing officer will take into account the investigative file and the evidence presented and accepted at the hearing. See also the principles in Section IV.C.3. On any disputed and material issue, the hearing officer should make their own findings and credibility determinations based on all of the evidence before them.

G. Sanction. If the hearing officer decides that any policy violation has occurred, they will send their determination and findings to Student Conduct within 10 business days. Based on the hearing officer's findings and determinations, and other information relevant to sanctioning (see Section VIII.D.), Student Conduct will determine an appropriate sanction.

H. Notice of Determination and Sanction. Within 15 business days of the hearing, the hearing coordinator will send written notice to the

Complainant and Respondent (with a copy to the Title IX Officer and Student Conduct) setting forth the hearing officer's determination on whether the *SVSH Policy* and/or other student conduct policies have been violated, and, if so, Student Conduct's determination of any sanctions to be imposed. The written notice will include the following:

1. A description of the determinations of whether the *SVSH Policy* and/or other student conduct policies have been violated,
2. If so, a description of the sanctions;
3. The findings on each disputed, material fact and an analysis of the evidence supporting the findings;
4. A summary of the facts found by the investigator that the parties did not dispute.
5. The rationale for the determination of each charge;
6. The rationale for any sanctions;
7. A statement of the right to appeal, grounds and timeframe for the appeal, the office to which the appeal must be submitted, and the procedure that the University will follow in deciding the appeal; and
8. An explanation that both the Complainant and Respondent will receive a copy of any appeal submitted in accordance with these procedures.

- I. **Documentation of Hearing.** Throughout the pre-hearing and hearing process, the hearing coordinator will document the process's compliance with the procedures (including timeframes) in this section. After the notice of policy violation determination and any sanction has been finalized, the hearing coordinator will provide this documentation, along with all documents relating to the hearing, and the recording of the hearing, to the campus Title IX Officer.

VIII. APPEAL PROCESS

- A. Equal Opportunity to Appeal.** The Complainant and Respondent have an equal opportunity to appeal the policy violation determination(s) and any sanction(s). The University administers the appeal process, but is not a party and does not advocate for or against any appeal.
- B. Grounds for Appeal.** A party may appeal only on the grounds described in this section. The appeal should identify the reason(s) why the party is challenging the outcome under one or more of the available grounds.
1. In cases where the University conducted a hearing to determine whether a policy violation occurred, the following grounds for appeal apply:
 - a. There was procedural error in the hearing process that materially affected the outcome;
 - b. The determination regarding policy violation was unreasonable based on the evidence before the hearing officer; this ground is available only to a party who participated in the hearing; and
 - c. The sanctions were disproportionate to the hearing officer's findings.
 2. In cases where no hearing to determine whether a policy violation occurred was held, the parties may appeal on only one ground: that the sanctions were disproportionate to the investigator's preliminary determination regarding policy violations.
- C. Commencing an Appeal.** An appeal must be submitted in writing to the hearing coordinator within 10 business days following issuance of the notice of the hearing officer's determination and, if imposed, the disciplinary sanctions (see Section VII.H.). The appeal must identify the ground(s) for appeal and contain specific arguments supporting each ground for appeal.

D. Appeal Decision

1. Standards for Deliberation. The appeal officer will decide whether the appealing party has proven the asserted ground(s) for appeal. They will only consider the evidence presented at the hearing, the investigation file, and the appeal statements of the parties. They will not make their own factual findings, nor any witness credibility determinations.
2. Disproportionate Sanction Appeals – Opportunity for Meeting. In cases where a ground of appeal is disproportionate sanction, the parties may meet separately with the appeal officer for the limited purpose of providing input on their desired outcomes as to sanctions only.
3. Decision by Appeal Officer. The appeal officer may:
 - a. Uphold the findings and sanctions;
 - b. Overturn the findings or sanctions;
 - c. Modify the findings or sanctions; or
 - d. In appeals alleging material procedural error (ground (a) above), remand to the hearing officer for further factfinding if needed.
4. Written Report. The appeal officer will summarize their decision in a written report that includes the following:
 - a. A statement of the grounds identified on appeal;
 - b. A summary of the information considered by the appeal officer; and
 - c. The decision of the appeal officer and the rationale for the decision including, where the findings or sanctions are overturned or modified, an explanation of why the findings

were not reasonable or the sanctions were disproportionate, or how the procedural error materially affected the outcome.

5. Distribution of Written Decision. Within 10 days of receiving the appeal, the appeal officer will send their written decision to Complainant and Respondent (with copies sent to the Title IX Officer and Student Conduct).
 - a. Unless the appeal officer remands the matter, they will inform the Respondent and the Complainant that the matter is closed with no further right to appeal.
 - b. If the appeal officer remands the matter, they will specify what further factfinding should occur or what additional information should be considered and request that the hearing officer report back to the appeal officer on their additional factfinding. After receiving the hearing officer's additional factual findings, the appeal officer will issue their decision within 10 business days. This decision will be final.

VIII. PRINCIPLES, OPTIONS, AND FACTORS IN STUDENT SANCTIONS

A. Introduction

These standards are intended to ensure the consistent and proportionate application of disciplinary sanctions by the University of California in responding to conduct that violates the University's *Policy on Sexual Violence and Sexual Harassment* and the applicable portions of the University's *Policies Applying to Campus Activities, Organizations, and Students* (PACAOS) – Section 100.00 (*Policy on Student Conduct and Discipline*).¹ The following describes the University's principles, options, and factors to consider in assigning sanctions when the Respondent is a student.

¹ This supplements the Policies Applying to Campus Activities, Organizations, and Students (PACAOS, 5/10/2012). In the event of any conflict this document shall take precedence.

B. Principles

1. The administration of student discipline will be consistent with the applicable portions of the *Policy on Student Conduct and Discipline*.
2. When a student is found responsible for violating the University's *SVSH Policy* or other student conduct policies, the University will assign sanctions that are proportionate and appropriate to the violation, taking into consideration the context and seriousness of the violation. The University is also committed to providing appropriate remedial measures to Complainant, as described in the *SVSH Policy*.
3. When a student is found not responsible for violating the University's *SVSH Policy* and other student conduct policies, the University is committed to taking reasonable efforts to assist any student who has been disadvantaged with respect to employment or academic status as a result of the unsubstantiated allegations.
4. Sanctions are designed to hold a student accountable for violating University standards of conduct and to promote personal growth and development. Sanctions also serve the purpose of stopping Prohibited Conduct under the *SVSH Policy*, and preventing its recurrence.
5. The University of California recognizes that acts of Sexual Violence, Sexual Harassment and other forms of Prohibited Conduct are contrary to its goals of providing an educational environment that is safe and equal for all students.

6. University of California campuses are permitted to inform other UC campuses of a student's disciplinary record for violating the University's *SVSH Policy* and other student conduct policies.

C. Sanctioning Options

1. University sanctions include, but are not limited to:
 - a. Dismissal from the University of California;
 - b. Suspension from the University of California;
 - c. Exclusion from areas of the campus or from official University functions;
 - d. Loss of privileges and exclusion from activities;
 - e. Restitution;
 - f. Probation;
 - g. Censure/Warning; and/or
 - h. Other actions as set forth in University policy and campus regulations.
2. The definitions of sanctions are found in University of California PACAOS Section 105.00 (Types of Student Disciplinary Action) of the *Policy on Student Conduct and Discipline* and local campus regulations.
3. The posting of sanctions on academic transcripts will follow University policy as defined in University of California PACAOS, Section 106.00 of the *Policy on Student Conduct and Discipline*.

D. Factors Considered In Determining Sanctions

1. In all cases, when determining the appropriate and proportionate sanction, the following factors will be taken into account when applicable:

- a. Seriousness of violation: location and extent of touching; duration of conduct; single or repeated acts; multiple policy violations in connection with the incident; verbal or physical 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 a person's incapacitation; and recording, photographing, transmitting, viewing, or distributing intimate or sexual images without consent.
- b. Intent or motivation behind violation: no intent to cause harm; passive role in violation; pressured or induced by others to participate in the violation; planned or predatory conduct; hate or bias based on the Complainant's membership or perceived membership in a protected group as defined in *PACAOS* Section 104.90 of the *Policy on Student Conduct and Discipline*.
- c. Whether the conduct is aggravated, as defined in the *SVSH Policy*.
- d. Response following violation: voluntarily acknowledged wrongdoing at early stage of the process; failure to follow no contact order; attempt to influence witnesses; obstructed or disrupted the process.
- e. Disciplinary history: unrelated prior violations; related prior violations.
- f. Impact on others: input from the Complainant; protection or safety of the Complainant or the community.

E. Sanctions for Certain Conduct

1. Sanctions will be assigned as follows:

- a. Sexual Assault – Penetration or Sexual Assault – Contact that is aggravated as defined in the *SVSH Policy* will result in a minimum sanction of suspension for two years.
 - b. Sexual Assault – Penetration, Domestic or Dating Violence, or Stalking will result in a minimum sanction of suspension for two years unless there are exceptional circumstances.
 - c. Sexual Assault – Contact will result in a minimum sanction of suspension for one year, unless there are exceptional circumstances.
 - d. Sexual Harassment and Other Prohibited Behavior, as defined by the *SVSH Policy*, will not result in any minimum sanction but shall be sanctioned in accordance with the factors identified in Section E above.
2. Assigned sanctions for each case will be documented and reported to the University of California Office of the President on a regular basis. The report is to ensure a reasonable level of consistency from campus to campus.

IV. COMPLIANCE / RESPONSIBILITIES

Chancellors shall adopt campus implementing regulations consistent with these Policies. The University shall publish these Policies and make them widely available, and Chancellors shall do the same with respect to the implementing regulations for their campuses. This requirement may be satisfied through the online publication of these Policies and their respective campus implementing regulations. (See also Section 13.20 of these Policies.)

V. PROCEDURES

The President shall consult as appropriate with Chancellors, Vice Presidents, the Office of the General Counsel, and Universitywide advisory committees prior to amending these Policies. Chancellors shall consult with faculty, students, and staff prior to

submitting to the President any campus recommendations related to proposed amendments to these Policies. Amendments that are specifically mandated by law, however, do not require consultation with campus representatives or Universitywide advisory committees to the extent that legal requirements do not permit such consultation. (See also Section 13.10 of these Policies.)

Chancellors shall consult with students (including student governments), faculty, and staff in the development or revision of campus implementing regulations except when the development or revision of such regulations results from changes to these Policies that have been specifically mandated by law. Campuses shall specify procedures, including consultation processes, by which campus implementing regulations may be developed or revised. (See also Section 13.30 of these Policies.)

Prior to their adoption, all proposed campus implementing regulations, including all substantive modifications to existing such regulations, shall be submitted to the Office of the President for review, in consultation with the Office of the General Counsel, for consistency with these Policies and the law. (See also Section 13.40 of these Policies.)

VI. RELATED INFORMATION

[Sexual Harassment and Sexual Violence](#)

[Policies Applying to Campus Activities, Organizations, and Students \(PACAOS\)](#)

VII. FREQUENTLY ASKED QUESTIONS

Not Applicable

VIII. REVISION HISTORY

Interim revisions issued **[Insert Issuance Date]**.