

UC DAVIS ADJUDICATION OF STUDENT CASES OF SEXUAL VIOLENCE AND SEXUAL HARASSMENT

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 and sexual harassment. Consistent with its legal obligations 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 sexual violence and sexual harassment, and takes appropriate action to prevent, to correct, and when necessary, to discipline behavior that violates the University's policy on Sexual Violence and Sexual Harassment.

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. When formal fact-finding procedures are used, the procedures are designed to provide a prompt, fair, and impartial resolution of the matter.

The following describes the University's procedures for resolving complaints of sexual violence and sexual harassment where the parties are students, including the discipline of students found in violation of University policy.

- A. Authority for adjudicating student conduct at UC Davis is delegated by the Chancellor to the Office of the Vice-Chancellor of Student Affairs to the Office of Student Support and Judicial Affairs. As referenced in this policy, "Student Conduct" is the Office of Student Support and Judicial Affairs (OSSJA).
- B. These procedures apply to sexual violence and sexual harassment cases where the parties are students, and they may be used to adjudicate other charges of misconduct in connection with a case involving sexual violence or sexual harassment. "Students" as used in this policy includes students as defined in Section 14.40 of the University of California Policies Applying to Campus Activities, Organizations, and Students (PACAOS), as well as Extension, Open Campus, and Summer Session students.
- C. Any person who experiences sexual assault, dating or domestic violence, or stalking by a UC Davis student on University property or at an official University function may file a complaint with the UC Davis Harassment and Discrimination Assistance and Prevention Program (HDAPP) or the UC Davis Title IX Officer for investigation and possible adjudication by the Office of

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Student Support and Judicial Affairs. Every case is considered individually and a decision whether to investigate is made on a case-by-case basis.

- D. Sexual violence and sexual harassment occurring off University property may also be considered for investigation and adjudication if the alleged perpetrator is a UC Davis student. The University may, at its sole discretion, exercise jurisdiction over student behavior that occurs off campus that would violate student conduct policies or regulations including, but not limited to the following circumstances; when the alleged misconduct indicates the student may pose a threat to the safety or security of any member(s) of the University community; is in connection with a University academic program; has an impact on the educational environment of a student at the University.
- E. In determining whether to exercise jurisdiction for adjudication purposes, the Office of Student Support and Judicial Affairs and the Vice Chancellor for Student Affairs may consider the seriousness of the alleged misconduct; the risk of future harm involved; whether a crime has been reported to the criminal authorities; the ability of the University to gather information, including the statements of witnesses; and/or whether the off-campus conduct is part of a series of actions that occurred both on and off campus.

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 sexual violence and sexual harassment. Confidential resources also are available both before and after a person communicates with the Title IX Office about potential violations of the Sexual Violence and Sexual Harassment policy. Confidential resources include CARE advocates, Ombuds, and licensed counselors in student counseling centers. These resources can provide confidential advice and counseling without that information being disclosed to the Title IX Office or law enforcement without the student's consent, unless there is a threat of serious harm to the individual or others or a legal obligation that requires disclosure (such as suspected abuse of a minor).

- A. Services from the CARE advocate, Ombuds, or licensed counselors are available whether or not a student chooses to pursue an investigation through the Title IX office, or report to law enforcement.
- B. In addition, the University has a Respondent Services Coordinator available for students reported for alleged sexual violence and sexual harassment.
- C. The following campus resources are available:
 - 1. Center for Advocacy Resources and Education (CARE), 530-752-3299,
<http://care.ucdavis.edu/>: CARE provides free, confidential crisis intervention, advocacy, and

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- accompaniment services to any survivor of sexual assault, intimate partner violence, or stalking. Designation as a “Confidential Resource” for purposes of this policy only exempts a person from reporting to the Title IX office but not from other mandatory reporting obligations under UC CANRA (Child Abuse and Reporting Act) Policy, the Clery Act as a Campus Security Authority (CSA), and other policies or laws that require reporting to campus or local law enforcement, or Child Protective Services.
2. Respondent Services, Office of Student Support and Judicial Affairs, 530-752-1128, <http://sexualviolence.ucdavis.edu/accused.html>: Respondent Services is a non-confidential resource for respondents. Respondent Support Coordinators can help respondents understand their rights, explain and help respondents navigate the investigation and adjudication processes, and refer respondents to campus and community resources, such as psychological counseling, legal services (including help understanding and complying with protection orders), alternative housing, academic changes, and other needs.
 3. Counseling Services, 530-752-2349, <https://shcs.ucdavis.edu/>: Counseling Services offers free, confidential, short-term individual counseling to all registered UC Davis students.
 4. Women’s Resources and Research Center (WRRC), 530-752-3372, <http://wrrc.ucdavis.edu/>: The WRRC offers confidential support and referrals on a wide range of topics, including sexual assault and dating violence.
 5. Lesbian, Gay, Bisexual, Transgender, Queer Intersex, Asexual resource Center (LGBTQIA), 530-752-2452, <http://lgbtqia.ucdavis.edu/>: The LGBTQIA Resource Center provides an open, safe, inclusive, and confidential space and community for all individuals.
 6. Office of the Ombuds, 530-219-6750, <http://ombuds.ucdavis.edu/>: The UC Davis Ombuds Office is a confidential, independent, impartial, and informal problem-solving and conflict-management resource for all members of the UC Davis campus community.
 7. UC Davis Family Protection and Legal Assistance Clinic (FPLAC): 530-752-6942, <https://law.ucdavis.edu/clinics/family-protection-clinic.html>: The FPLAC provides free legal representation to victims of domestic violence seeking restraining orders in Yolo County.
 8. ASUCD Legal Services, 530-752-1990, <https://asucd.ucdavis.edu/units/legal-services/>: ASUCD legal services provide each UC Davis undergraduate student a free fifteen-minute consultation with an attorney.
 9. UC Davis Harassment and Discrimination Assistance and Prevention Program (HDAPP), (530) 752-9255, <https://hdapp.ucdavis.edu/>: HDAPP at UC Davis supports the University's commitment to a discrimination-free work and learning environment.

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10. Title IX Officer, (530) 752-9466, wjdelmendo@ucdavis.edu: The Title IX Officer oversees the implementation of the sexual violence and sexual harassment prevention program at UC Davis and determines whether an investigation is necessary subject to this policy and the University of California policy on Sexual Violence and Sexual Harassment.

III. REPORT OF SEXUAL VIOLENCE AND SEXUAL HARASSMENT

- A. For purposes of this model, the University will consider any alleged victim of sexual violence or sexual harassment a “complainant,” whether or not he or she makes a report or participates in the investigation and resolution process.
- B. The University will strive to honor the stated wishes of the complainant concerning whether to move forward with an investigation. There may be circumstances, however, in which the University may need to move forward against the complainant’s wishes, or in which the University may determine that an investigation will not occur despite the complainant’s wish to pursue an investigation.
- C. Throughout the resolution process, the University will offer and provide support services for complainants through the CARE office, and for respondents through the Respondent Services Coordinator.
- D. The University will also consider and take interim measures 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, the following: 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.
 1. Interim Measures of Assistance.
 - a. The University will take interim measures as appropriate to address safety, well-being, and equal access concerns to university programs and activities. These measures include, but are not limited to, no contact orders, housing assistance, academic support and accommodations, and health and counseling services. For more information about interim measures, please contact CARE at 530-752-3299.
 2. Interim Measures Restricting Privileges.
 - a. Grounds and Scope. A student may be placed on Interim Suspension of Privileges when there is reasonable cause to believe that the student's participation in University activities or presence at specified areas of the campus will lead to physical abuse, threats of

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violence, or conduct that threatens the health or safety of any person, or other disruptive activity incompatible with the orderly operation of the campus. An order of Interim Suspension of Privileges shall be narrowly tailored to restrictions reasonably necessary for avoiding the potential harm that is the basis of the order.

- b. Types of Suspensions. The University may impose one or more of the following suspensions of privileges on an interim basis:
 - i. Exclusion from the campus;
 - ii. Exclusion from one or more classes;
 - iii. Exclusion from campus housing units, campus dining units, and other areas of campus;
 - iv. Exclusion from events and functions on campus or otherwise affiliated with the University;
 - v. Limitations on participation in classes, such as restrictions on attending class sessions in person, and taking examinations offsite; and
 - vi. Other measures designed to avoid the potential harm that is the basis of the order.
- c. Procedures.
 - i. The Interim Suspension of Privileges may be imposed without a pre-suspension hearing.
 - ii. The Chancellor or designee will review the Interim Suspension of Privileges within 24 hours of its imposition, and may vacate, uphold, or modify it.
 - iii. The student subjected to the Interim Suspension of Privileges shall be given prompt notice of the charges on which it is based and the opportunity for a hearing on the Interim Suspension as soon as practicable.
 - iv. The hearing on the Interim Suspension of Privileges will give the student an opportunity to respond to the Interim Suspension of Privileges in a meeting with the university official imposing the suspension. It will not be an evidentiary hearing, rather an informal give-and-take between the student and the university official.
 - v. Promptly after the hearing, the university will notify the complainant and the respondent, in writing, whether the suspension is vacated, upheld, or modified.
 - vi. At any time during which the Interim Suspension of Privileges is in place, the subject student may request the university to reconsider the terms of the suspension. The university may vacate, uphold, or modify the suspension in response to the request or on its own initiative.

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- vii. If a student is found to have been unjustifiably placed on Interim Suspension of Privileges, the university will make reasonable efforts to assist the individual in redressing any resulting disadvantages related to employment or academic status.
- E. At all stages of the process, the complainant and respondent have the right to an advisor and a support person of their choosing.
 - 1. An advisor (which may be legal counsel) may assist the complainant or respondent, however, individuals are expected to speak for themselves. Prior to the issuance of the investigative report, neither the advisor nor the support person may speak on behalf of a student or otherwise actively participate in, or in any manner disrupt, any meetings or proceedings. After the report is issued, an advisor may actively participate in a meeting or proceeding at the discretion of the university official conducting the meeting or proceeding. The advisor may not testify as a witness at the appeal hearing.
 - 2. A support person provides emotional support but does not take an active role in the process.
 - 3. While there is no limit as to the number of advisors and support persons a party may have, only one advisor and one support person may attend any formal meeting, including meetings with the Title IX investigator, meetings with Student Conduct, and the formal appeal hearing.
- F. Neither the complainant nor the respondent is required to participate in the resolution process. 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, decision-maker, or appeal body will reach findings and conclusions based on the information available. An investigator, decision-maker, or appeal body may draw adverse inferences when a student selectively participates in the process, such as choosing to answer some but not all questions posed.
- G. The campus Case Management Team (CMT) will track all stages of the resolution process – from receipt of the report through the investigation and, if applicable, the University student discipline process.
 - 1. The campus Adjudication Coordinator will assist with all stages of the resolution process and will serve as the Hearing Coordinator for the appeal body.
- H. All University officials involved in the resolution process will be trained to carry out their roles in an impartial manner in keeping with trauma-informed practices.
- I. The standard of proof at all stages of the process is preponderance of the evidence. Preponderance of the evidence is a standard of proof that requires the weight of the evidence on one side to outweigh that of the other side.

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- J. The University will complete the process, including all appeals, within 120 business days from the date of Title IX's receipt of a report. This deadline and all deadlines contained herein may be extended for good cause shown and documented. The complainant and respondent will be notified in writing of any extension.
 - 1. "Good cause," as determined by the Title IX Officer during the investigation and the Student Conduct Office after the investigation, may include illness, serious personal problems, an accident, a death in the immediate family, a large and necessary increase in working hours, or other situations deemed to be of equal gravity. The determination of good cause will be made considering the strict time deadlines set forth in UC Office of the President's policies and their goal of speedy resolution, taking into consideration the availability of the witnesses and evidence. The parties should select their advisors and support persons in view of these deadlines.
 - 2. There is a "receipt of report" when the Title IX Officer receives sufficient information to charge an investigation.
 - 3. The 120 business day deadline begins to run once there is a "receipt of report."
- K. Complainants and witnesses, who are students, and who participate in an investigation of sexual violence will not be subject to disciplinary sanctions for a violation of the University's student conduct policy at or near the time of the incident, unless the institution determines that the violation was egregious, including, but not limited to, an action that places the health or safety of any other person at risk or involves plagiarism, cheating, or academic dishonesty.
- L. As authorized by UC Davis Policy and Procedure Manual Section 310-19 (Email for Official Communications with Students), e-mail is a method for official communications from UC Davis to undergraduate, graduate, and professional students. Unless requested otherwise, all communication from the University to the complainant and respondent or will occur through email.

IV. INVESTIGATION OF ALLEGATION OF SEXUAL VIOLENCE AND SEXUAL HARASSMENT

- A. Upon receipt of a report of or information about alleged sexual violence and/or sexual harassment, the Title IX Officer for the campus will determine, consistent with the University's policy on Sexual Violence and Sexual Harassment, whether an investigation should be initiated.
- B. If an investigation will not be conducted, the Title IX Officer will notify the complainant in writing and explain the rationale for the determination.

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- C. If an investigation will be conducted, the Title IX Officer and Student Conduct office will jointly send written notice of the charges to the complainant and respondent. The written notice will include:
1. A summary of the allegations and potential policy violations;
 2. The purpose of the investigation;
 3. A statement that the investigative report, when issued, will make factual findings and a recommendation regarding whether there has been a violation of University policy;
 4. A statement that the findings and recommendation will be based on a preponderance of the evidence standard;
 5. A summary of the process, including the expected timeline;
 6. A summary of the rights of the complainant and respondent; and
 7. A statement of the right to remain silent.
- D. The Title IX Officer will oversee the investigation and will designate an investigator to conduct a fair, thorough, and impartial investigation.
- E. During the investigation, the complainant and respondent will be provided an equal opportunity to meet with the investigator, submit information, and identify witnesses who may have relevant information.
- F. The investigator will meet separately with the complainant, respondent, and third party witnesses who may have relevant information, and will gather other available and relevant evidence and information. The investigator may follow up with the complainant or the respondent as needed to clarify any inconsistencies or new information gathered during the course of the investigation.
1. The parties will be presented with a summary of the material evidence that contradicts or otherwise undermines their contentions sufficient to allow them to respond.
- G. The investigator may determine the relevance of any witness or other evidence to the findings and may exclude certain types of evidence or information that is irrelevant or immaterial.
- H. When a law enforcement agency is conducting its own investigation, the investigator should coordinate his or her fact-finding efforts with the law enforcement investigation. At the request of law enforcement, the investigation may be delayed as needed to meet any specific needs of the criminal investigation. Such a delay may be cause for extending the timelines to complete the process and delay will be communicated and documented.
- I. The investigator will prepare a written report that includes a statement of the allegations and issues, the positions of the parties, a summary of the evidence, findings of fact, and a recommendation regarding whether there are any policy violations. If the complainant or

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respondent offered witnesses or other evidence that was not considered by the investigator, the investigation report will include an explanation why it was not considered.

1. The investigation report is final when the report has been accepted by the Title IX Officer.
2. At close of the investigation, the investigator should review the written and electronic case file to ensure:
 - a. All evidence that supports, refutes, or otherwise materially relates to the charges is stated in the report or attached as exhibits to the report.
 - b. The substance of all handwritten, typed, or recorded notes of witness interviews will be included in the report to the extent they support, refute, or otherwise materially relate to the charges. Once included, they should be shredded, and electronic copies (including recordings and email attachments) should be deleted.
 - c. Draft investigation reports have not been retained. Hard copies should be shredded and electronic copies, including those sent via email, should be deleted.
 - d. Correspondence between the investigator and parties or witnesses will ordinarily be retained, except that non-substantive communications may be disposed of at the investigator's discretion.
- J. The investigation file must be retained and made available to the parties on request, and may be redacted as necessary to protect student privacy rights.
- K. The investigation file is composed of the paper and electronic documents related to the investigation. The investigation file typically contains the following:
 1. Charge letter to investigator;
 2. Final investigation report, with copies of any attached exhibits;
 3. Original copies of exhibits;
 4. Signed witness statements, if obtained; and
 5. Correspondence to and from the parties regarding the investigation process, including communications regarding deadlines. If these communications take place via email, these communications should be maintained in a separate email folder.

V. DECISION ON RESPONSIBILITY AND DISCIPLINARY SANCTIONS

- A. Upon completion of the Title IX investigation, the Title IX Officer and Student Conduct office will jointly send to the complainant and the respondent: (a) written notice of the investigation findings and the investigator's recommended determinations, and (b) will provide a copy of the

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investigation report. The investigation report may be redacted if necessary to protect student privacy rights.

- B. The written notice of the findings and recommended determinations will include the following:
1. A statement of the factual findings and recommendations regarding whether the charge(s) have been substantiated, including whether policies have been violated;
 2. An admonition against intimidation or retaliation;
 3. An explanation of any interim measures that will remain in place;
 4. A statement of the right to appeal that will be explained further in the notice of decision;
 5. A statement that the Student Conduct office will determine whether the charges have been substantiated and policies have been violated and, if so, assess the disciplinary sanctions and inform the complainant and respondent of the sanctions within ten (10) business days of the notice of findings; and
 6. A statement that the complainant and/or respondent may schedule a meeting with the Student Conduct office and/or submit a statement in writing to be heard on the question of the findings of any policy violations and the discipline prior to the decision and the imposition of sanctions.
 - a. The complainant and/or respondent may schedule a meeting and/or submit a statement in writing within seven business days of receiving the written notice of the findings and recommended determinations.
 - i. The purpose of the ten-business-day period, including the meeting, is not to conduct further investigation or fact-finding. During this period, Student Conduct will review the investigation report and determine whether to accept the recommendations of the investigator.
 - ii. The complainant and respondent may meet with Student Conduct and submit a written statement to Student Conduct to comment on the investigation report, recommended findings, and potential disciplinary sanctions, if any.
 - iii. No new evidence may be submitted or considered at the meeting with Student Conduct other than what is contained in the investigation report, except on the issue of sanctions. Therefore, all evidence, documentation, or suggestions of witnesses should be offered to the investigator prior to the conclusion of the investigation.
- C. If the Student Conduct office determines that disciplinary sanctions are appropriate, the sanctions will be determined in accordance with the sanctioning guidelines that are included in this policy.

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1. Disciplinary sanctions for sexual assault, domestic/dating violence, or stalking in which one or more of the following factors are present will result in a minimum sanction of Suspension for at least two years, up to dismissal:
 - a. force, violence, menace, or duress;
 - b. deliberately causing a person to become incapacitated or deliberately taking advantage of a person's incapacitation; or
 - c. recording, photographing, transmitting, viewing, or distributing intimate or sexual images without consent.
 2. Disciplinary sanctions for sexual assault involving penetration, domestic/dating violence, or stalking will, absent exceptional circumstances, result in a minimum sanction of Suspension for two years, up to dismissal.
 3. Disciplinary sanctions for other sexual contact in violation of policy will, absent exceptional circumstances, result in a minimum sanction of Suspension for one year.
- D. The Student Conduct office may consult with the Title IX office at any point in the decision-making process.
- E. Within ten (10) business days of the notice of findings and recommended determinations, the Student Conduct office will send written notice to the complainant and respondent setting forth the decision on whether the charges have been substantiated and any policies have been violated, and any sanctions to be imposed. The written notice will include the following:
1. A description of the determinations on whether the charges have been substantiated and any policies have been violated, and if so, a description of the sanctions;
 2. The rationale for the determinations¹ and the sanctions;
 3. A statement of the right to appeal, the procedure that will be followed in hearing the appeal, the grounds upon which the appeal may be based, and the office to which the appeal may be submitted;
 4. An explanation that both the complainant and respondent will receive a copy of any appeal prior to a hearing;
 5. A copy of the Appeal Form that must be used in submitting an appeal.

¹ If the Student Conduct office adopts the investigator's recommended determinations, the notice may incorporate the investigation report by reference as the rationale for the decision. If the determinations differ from the investigator's recommendations, then the notice will explain the rationale for that decision.

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- F. The Title IX investigation and the Student Conduct office’s determination of responsibility and sanctions will be completed within 60 business days from Title IX’s receipt of a report absent an extension for good cause.
 - 1. The investigation will be completed within 50 business days.
- G. Student Conduct will decide that the charges against a respondent are substantiated and policies are violated only if Student Conduct, upon complete review of the investigative report and consideration of the parties’ comments on the report, determines that the preponderance of the evidence standard shows the recommendation by the investigator should be accepted, and that the policies have been violated.

VI. APPEAL PROCESS

- A. The complainant and respondent may contest the decision and/or the sanctions by submitting an appeal. The appeal should identify the reason(s) why the party is challenging the outcome under one or more of the following grounds:
 - 1. There was procedural error in the process that materially affected the outcome, such as the investigation was not fair, thorough or impartial;
 - a. The nature and scope of issues supporting this ground include:
 - i. The procedures set forth in the UC Office of the President rules and these UC D rules were not followed;
 - ii. The procedures followed were unfair to the appealing party, such as lack of adequate notice of the charges, improper interview questioning and techniques, unduly prejudicial avenues of investigation, or omission from the report of material evidence provided to the investigator without explanation;
 - iii. The procedures followed were not thoroughly carried out, such as the failure of the investigator to interview an available material witness, the failure to ask questions of witnesses necessary to elicit material information, or the failure to review material information; and
 - iv. The processes followed were biased, such as the presence of conflicts of interest or personal biases on the part of the investigator, the Title IX Officer, or Student Conduct officials making the decision.
 - b. The person filing the appeal (called “the appellant) will need to:
 - i. Identify and produce evidence that shows there was procedural error in the process that materially affected the outcome;

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- ii. Produce any evidence that should properly have been considered or presented absent the identified procedural error, such as the production of a witness who was not interviewed or the reexamination of a witness who was subjected to unfair questioning; and
 - iii. Persuade that, when applying the preponderance of the evidence standard, the decision is unreasonable considering all of the evidence (i.e., investigative report and new information presented during the hearing).
- 2. The decision was unreasonable based on the evidence;
 - a. Appeals brought under this ground are limited to the fixed record contained in the investigative report, and new evidence will not be considered in reviewing this ground for appeal. The appellant has the burden of persuading that, when applying the preponderance of the evidence standard, the decision was unreasonable considering the evidence set forth in the investigative report.
- 3. There is new, material information that was unknown and/or unavailable at the time the decision was made that should affect the outcome;
 - a. The appellant will need to:
 - i. Identify material information that was unknown or unavailable to the appellant, despite appellant's diligent efforts, at the time of the decision that should affect the outcome;
 - ii. Identify material information that was unknown or unavailable to the appellant at the time of completion of the investigative report, despite appellant's diligent efforts;
 - iii. Persuade that, when applying the preponderance of the evidence standard, the decision is unreasonable considering all of the evidence (i.e., evidence included in the investigative report and any new information presented during the hearing).
- 4. The disciplinary sanctions were disproportionate to the findings;
 - a. Appeals brought under this ground can be either a fixed record based on the investigative report, or the appellant may identify and produce more evidence during the appeal hearing. There are two forms this appeal may take:
 - i. The appellant successfully contests the underlying determination of a policy violation based on grounds 1, 2, or 3 and contends that considering the new decision, the disciplinary sanction imposed previously is disproportionate to the findings. In this case the appellant has the burden of prevailing on grounds 1, 2, or

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- 3, and then persuading that the disciplinary sanction imposed is disproportionate to the decision on appeal; and
- ii. The challenge is not predicated on a successful challenge under grounds 1, 2, or 3, and the appellant has the burden of persuading that the disciplinary sanction imposed was unreasonable considering the evidence and that the disciplinary sanction imposed is disproportionate to the findings. If the appellant seeks to augment the record with information relevant to this argument, the appellant will have the burden of producing that information at the appeal hearing.
 - b. There is no opportunity for remand on appeal to direct the Title IX investigator to reconsider new or existing evidence.
- B. An appeal must be submitted in writing to the designated campus office within ten (10) business days following written notice of the decision and disciplinary sanctions, if imposed. The appeal must identify the grounds for appealing and contain a brief statement of the reasons supporting each ground for appeal.
- 1. The designated campus office is Student Conduct. An appeal must be submitted to Student Conduct within 10 business days. Absent exceptional circumstances, the appeal must be submitted in writing on the Appeal Form.
 - a. If an appeal is submitted, the University will assign an Appeal Hearing Officer and inform the parties.
 - b. An Adjudication Coordinator will forward a copy of the appeal to the other party.
 - c. If either party objects to the assigned Appeal Hearing Officer based on personal bias or conflict of interest, that party will promptly submit any such objection in writing with supporting detail.
 - d. The Appeal Hearing Officer will review any objection based on personal bias or conflict of interest and has the discretion to recuse themselves from hearing the appeal.
- C. If an appeal is submitted, any disciplinary sanctions ordinarily will not be imposed until the appeal process is completed. Interim measures, such as no contact orders, academic accommodations, etc. will remain in effect during the appeal process.
- 1. If withholding imposition of disciplinary sanctions would materially affect the sanction, Student Conduct may, at its sole discretion, retain the sanction during the appeal process.
- D. The appeal will be decided at a hearing by an Appeal Body composed of one to three individuals who may be University staff or academic appointees, or non-University officials, such as

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administrative law judges or experienced investigators. The Appeal Body will be appropriately trained. A Hearing Coordinator may assist the Appeal Body with the administration of the process.

1. At UC Davis, the Appeal Body shall be one individual who will serve as the Appeal Hearing Officer (referred to herein as the “Appeal Body” or the “Appeal Hearing Officer”).
 2. The Student Conduct Office will select the Appeal Hearing Officer at its discretion.
 3. The Hearing Coordinator (identified as Adjudication Coordinator at UC Davis and referred to herein as the “Hearing Coordinator” or “Adjudication Coordinator”) will perform all administrative tasks for the Appeal Hearing Officer and coordinate the appeal process.
 4. In addition to the general training that all campus conduct officials receive on the adjudication of student disciplinary cases, the Appeal Hearing Officer and Adjudication Coordinator are required to receive specific training every calendar year that will include:
 - a. the definitions of sexual assault, sexual harassment, domestic or dating violence, and stalking;
 - b. the definition of what constitutes affirmative consent in situations involving sexual assault;
 - c. understanding victim dynamics and how to conduct trauma-informed interviews;
 - d. information on the applicable confidentiality requirements surrounding a sexual violence or sexual harassment hearing; and
 - e. other topics as required by law, University policy, or otherwise required to fairly address and adjudicate these cases.
- E. The Appeal Body will review the information and decide whether it contains sufficient information concerning the grounds for appeal and the reasons related to those grounds. The purpose of this review is not to decide the merits of the appeal, but to identify the nature and scope of the issues to be addressed in the hearing. If the written appeal is defective or incomplete, the appealing party should be given an opportunity to correct and resubmit the appeal.
1. The Adjudication Coordinator may schedule a conference to provide an opportunity for the appealing party to discuss the submitted appeal with the Appeal Hearing Officer and the Adjudication Coordinator.
 2. If the submitted appeal form is defective or incomplete, the Adjudication Coordinator will notify the appellant. The appellant will have three (3) business days to correct and resubmit

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the appeal. The Adjudication Coordinator may communicate with the appellant to provide technical guidance on how to comply with this rule.

3. After the Appeal Hearing Officer determines the nature and scope of the issues to be heard at the appeal hearing, the Adjudication Coordinator will send written notice to the complainant and respondent.

F. Conducting the Appeal Hearing

1. Pre-Hearing Procedures

- a. Not less than ten (10) business days before the appeal hearing, the Hearing Coordinator will send written notice to the complainant and respondent of the hearing date, time, location and procedures. The notice will include a copy of the appeal(s) to be considered at the hearing.
 - i. The notice will contain the Appeal Hearing Officer's final decision as to the nature and scope of the issues that have been accepted on appeal and will be heard in the appeal hearing. If the appellant was given an opportunity to correct the appeal, the notice will contain a copy of the last statement of appeal the appellant submitted.
 - ii. The notice will also include a Scheduling Calendar regarding deadlines for the submission of evidence and the identification of witness information, scheduling of pre-hearing conferences, the date of the appeal hearing, and any other procedural matters.
- b. Prior to the hearing, the complainant and respondent will submit to the Appeal Body the information they intend to present at the appeal, including all documents to be presented, the names of all witnesses, and a brief summary of all witnesses' expected testimony.
 - i. At UC Davis, the information must be submitted no later than five (5) business days prior to the hearing.
 - ii. The complainant and respondent will submit their respective information through electronic means to the Adjudication Coordinator who, upon receipt of the information, shall exchange it between the parties.
 - iii. The information submitted shall be limited to the nature and the scope of the issues accepted for appeal.
 - iv. The complainant and the respondent may request one or more pre-hearing conferences, scheduled at the discretion of the Adjudication Coordinator, the last to occur no later than two business days prior to the appeal hearing.

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- v. As with other meetings or proceedings, the complainant and respondent may be accompanied by an advisor and support person.
 - vi. The Appeal Hearing Officer has sole discretion to decide whether pre-hearing conferences are held separately or jointly.
 - vii. The purpose of pre-hearing conferences is to further define the issues and the evidence, and to address any matter necessary to ensure an orderly, productive, and procedurally proper appeal.
- c. At least two days prior to the appeal hearing, the complainant and respondent will receive copies of all the information that will be considered at the appeal hearing, including the names of potential witnesses and a summary of the information they are expected to provide.
- i. Prior to the hearing, the complainant and respondent may submit questions to be asked of all individuals, if any, who may testify at the hearing. The questions shall be submitted to the Appeal Hearing Officer through the Adjudication Coordinator.
- d. Prior to the appeal hearing and/or during the hearing, the Appeal Body may:
- i. Exclude information and/or witness testimony that is irrelevant in light of the grounds for appeal, not in dispute, or unduly repetitive.
 - ii. Decide any procedural issues for the appeal hearing.
 - iii. Make any other determinations necessary to ensure an orderly, productive, and procedurally proper appeal hearing.
2. Appeal Hearing Procedures:
- a. The Title IX investigator will be present at the appeal hearing. The Appeal Body may question the investigator, the complainant, and/or the respondent. The investigation report and any supporting documents or materials will be entered as evidence at the appeal hearing.
 - b. The Appeal Body may allow the complainant, respondent, and/or witnesses to be visually or physically separated during the appeal 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. The Appeal Body must be able to see the complainant, respondent and any witnesses when they are presenting information.
 - c. The complainant and respondent will have the opportunity to present the information they submitted pursuant to Section VI.F.1.b (unless excluded by the Appeal Body pursuant to Section VI.F.1.d.).

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- d. The complainant and respondent have the right to hear all individuals who testify at the hearing and to propose questions to be asked of all individuals who testify at the hearing.
- e. The Appeal Body will determine the order of questioning. Whenever possible, the Appeal Body will ask the questions as they are submitted by the complainant and respondent and will not rephrase or change them. The Appeal Body may, however, exclude questions that are unduly repetitive, clearly not relevant, or unduly time consuming.
- f. The appeal hearing will be audio recorded.
 - i. Other than for the purpose of the official record made at the direction of the Appeal Hearing Officer, mechanical or electronic devices for recording or broadcasting are excluded from the hearing.
- g. Formal rules of evidence will not apply. The Appeal Body may consider the form in which information is presented, as well as the credibility of any party or witness, in weighing the information and reaching findings.
- h. Hearsay evidence is admissible; however, the Appeal Hearing Officer may factor the nature of such evidence when assessing its weight and probative value.
- i. The prior sexual history of a complainant or respondent will not be used to prove character or reputation.
- j. Evidence related to the prior sexual history of the complainant or respondent will generally not be relevant and may be considered only in limited circumstances.² The investigator will determine the relevance of this information and inform both parties if evidence of prior sexual history is deemed relevant.
- k. Student adjudication proceedings are not court proceedings. The procedures used in civil or criminal trials, law and motion, and other proceedings before a court or administrative agency do not apply. For example, discovery procedures and requirements for pleadings do not apply.

² For example, if consent, as defined by the UC SVSH Policy, is at issue, prior sexual history between the complainant and the respondent may be relevant to understanding communications between the parties and the context of the relationship, which may have bearing on whether consent was sought and given during the incident in question. However, as stated in the UC SV Policy, consent to one sexual act does not, by itself, constitute consent to another sexual act, and consent on one occasion does not, by itself, constitute consent on a subsequent occasion. In addition, prior sexual history of the complainant or respondent may be relevant to explain the presence of a physical injury or to help resolve another question raised.

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1. Appeal hearings are closed hearings, meaning they are not open to the public.
- G. Appeal Decision:
1. The Appeal Body will deliberate in private and reach a decision based on a preponderance of the evidence standard. The Appeal Body shall attempt to reach consensus on a decision, but the majority shall make the decision if consensus cannot be reached.
 2. The Appeal Body shall take into account the record developed by the investigator and the evidence presented at the hearing, and may make its own findings and credibility determinations based on all of the evidence before it.
 3. The Appeal Body may:
 - a. Uphold the findings and disciplinary sanctions;
 - b. Overturn the findings or sanctions; or
 - c. Modify the findings or sanctions
 - i. The Appeal Hearing Officer may modify the sanctions consistent with the official University sanctioning guidelines according to the criteria and minimum sanctions established in this policy.
 4. The Appeal Body will summarize its decision in a written report that includes the following:
 - a. A statement of the grounds for the appeal;
 - b. A summary of the process undertaken by the Appeal Body;
 - c. A summary of the information considered by the Appeal Body; and
 - d. The decision of the Appeal Body 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, either at the time they were made or in light of the evidence considered by the Appeal Body.
 5. The Hearing Coordinator will send the Appeal Body's written decision to complainant and respondent.
 - a. If the findings and the sanctions are upheld, the Hearing Coordinator will inform the respondent and complainant that the matter is closed with no further right to appeal.
 - b. If the findings or sanctions are overturned or modified, the Hearing Coordinator will inform the respondent and complainant of the right to submit a written appeal to the Chancellor's designee within five (5) business days based on:
 - i. Procedural error that materially affected the outcome, or
 - (a) Under this ground, the appellant will need to persuade the Chancellor's Designee that, when applying the preponderance of the evidence standard, one or more of

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the following errors occurred during the Appeals Process that materially affected the outcome:

- (1) The procedures set forth in the UC Office of the President rules and these UC Davis rules pertaining to the Appeals Process were not followed;
 - (2) The procedures followed in the Appeals Process were unfair to the appealing party, such as unduly prejudicial exclusion of evidence or lack of substantial evidence in support of the Appeal Hearing Officer's written decision;
 - (3) The processes followed were biased, such as the presence of conflicts of interest or personal biases on the part of the Appeal Hearing Officer.
- ii. A sanction that is disproportionate to the findings.
 - (a) Under this ground, the appellant has the burden of persuading the Chancellor's Designee that, when applying the preponderance of the evidence standard, the sanction is disproportionate to the findings in light of the evidence and any procedural error found under VI.H.5.b.
 - c. If an appeal is submitted, the other party will receive a copy of the written appeal and may submit a written statement as well.
 - i. The written statement must be submitted within three (3) business days.
 - d. Appeals from the Appeal Hearing Officer's written decision are limited to the fixed record from the Appeal Hearing, which includes the investigative report. Additional evidence will not be considered. This appeal is documentary only; there are no in-person meetings and no hearing.
6. The Chancellor's designee will issue a written decision to the complainant and respondent, normally within ten (10) business days. There is no further right to appeal. The appeal process described above, including the appeal hearing and any appeal to the Chancellor's designee, will normally be completed within 60 business days of the date of the notice of decision and sanctions (where imposed).
 7. The Chancellor's Designee may modify the sanctions consistent with the official university sanctioning guidelines according to the criteria and minimum sanctions set as forth in this policy. The Chancellor's Designee's decision is final, meaning there is no further right to appeal.

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I. INTRODUCTION

These standards are intended to ensure the consistent 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 University's *Policies Applying to Campus Activities, Organizations, and Students* (PACAOS) Section 100 (Policy on Student Conduct and Discipline).³ The following describes the University's procedures for assigning disciplinary sanctions when the respondent is a student.

II. PRINCIPLES

- A. The administration of student discipline will be consistent with the UC PACAOS Policy on Student Conduct and Discipline.
- B. When a student is found responsible for violating the University's Policy on Sexual Violence and Sexual Harassment and the UC PACAOS Policy on Student Conduct and Discipline, the University will assign disciplinary sanctions that are appropriate to the violation, taking into consideration the context and seriousness of the violation.
- C. When a student is found not responsible for violating the University's Policy on Sexual Violence and Sexual Harassment and the UC PACAOS Policy on Student Conduct, 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.
- D. Disciplinary sanctions are designed to hold a student accountable for violating University standards of conduct and to promote personal growth and development. Disciplinary sanctions also serve the purpose of stopping the behavior that violated this policy and preventing its recurrence.
- E. The University of California recognizes that acts of sexual violence and sexual harassment are contrary to its goals of providing an educational environment that is safe and equal for all students.
- F. University of California campuses are permitted to inform other UC campuses of a student's disciplinary record for violating the University's Sexual Violence and Sexual Harassment Policy and the UC PACAOS Policy on Student Conduct and Discipline.

³ 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.

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III. DISCIPLINARY SANCTIONS

- A. University disciplinary sanctions include, but are not limited to:
 - 1. Dismissal from the University of California,
 - 2. Suspension from the campus,
 - 3. Exclusion from Areas of the Campus or from Official University Functions,
 - 4. Loss of Privileges and Exclusion from Activities,
 - 5. Restitution,
 - 6. Probation
 - 7. Censure/Warning, and/or
 - 8. Other actions as set forth in University policy and campus regulations.
- B. The definitions of disciplinary sanctions are found in University of California PACAOS Section 105.00 (Types of Student Disciplinary Action) and local campus regulations.
- C. The posting of disciplinary sanctions on academic transcripts will follow University policy as defined in University of California PACAOS, Section 106.00.

IV. PROCESS

- A. When a respondent has been found in violation, the University will provide written notice of the assigned disciplinary sanctions and a brief rationale for the sanctions.
- B. Disciplinary sanctions will be assigned as follows:
 - 1. Sexual assault, domestic/dating violence, or stalking in which one or more of the following factors are present will result in a minimum sanction of Suspension for at least two years, up to dismissal:
 - a. force, violence, menace, or duress;
 - b. deliberately causing a person to become incapacitated or deliberately taking advantage of a person's incapacitation; or
 - c. recording, photographing, transmitting, viewing, or distributing intimate or sexual images without consent.
 - 2. Sexual assault involving penetration, domestic/dating violence, or stalking will, absent exceptional circumstances, result in a minimum sanction of Suspension for two years, up to dismissal.
 - 3. Other sexual contact in violation of policy will, absent exceptional circumstances, result in a minimum sanction of Suspension for one year.

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- C. Assigned disciplinary sanctions and the factors considered for each case will be documented and reported to the University of California Office of the President on a quarterly basis. The report is to ensure a reasonable level of consistency from campus to campus.

V. FACTORS CONSIDERED IN DETERMINING DISCIPLINARY SANCTIONS

- A. In determining the appropriate sanction, the following factors may be taken into account:
1. 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; presence of weapons, use of force, violence, physical injury.
 2. Intent or motivation behind violation: no intent to cause harm; passive role in violation; pressured or induced by others to participate in the violation; use of authority to abuse trust or confidence; planned or predatory conduct; deliberately causing a person to become incapacitated or deliberately taking advantage of a person's incapacitation; recording, photographing, transmitting, viewing, or distributing intimate or sexual images without consent; hate or bias based on the complainant's membership or perceived membership in a protected group as defined in UC PACAOS Section 104.90.
 3. 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.
 4. Disciplinary history: prior violations unrelated, prior violations related.
 5. Impact on others: input from the complainant, protection or safety of the community.