



# PACAOS-Appendix-E: Sexual Violence and Sexual Harassment Student Adjudication Framework – INTERIM Revisions

<b>Responsible Officer:</b>	VP - Student Affairs
<b>Responsible Office:</b>	SA - Student Affairs
<b>Issuance Date:</b>	3/1/2019
<b>Effective Date:</b>	3/1/2019
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<b>Scope:</b>	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)*, 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 discipline of students found in violation of the *SVSH Policy*.

In accordance with local procedures, campuses may also apply these procedures to resolve reports of other violations of the applicable policy on student conduct that occur in connection with violations of the *SVSH Policy*.

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## II. DEFINITIONS

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Applicable definitions for the [\*SVSH Policy\*](http://policy.ucop.edu/doc/4000385/SHSV) 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.

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## III. POLICY TEXT

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### 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 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 prevent, to correct, 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. 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 Formal Investigation procedures for resolving complaints of Prohibited Conduct under the *SVSH Policy* where the responding parties (“Respondents” as defined in the *SVSH Policy*) are students, including the discipline of students found in violation of the *SVSH Policy*. An attachment illustrating the Student Adjudication Model - Process Flow Chart can be found in Attachment 1.

## II. RESOURCES RELATING TO SEXUAL VIOLENCE AND SEXUAL HARASSMENT (FLOWCHART STAGE 0)

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 both before and after a person communicates with the Title IX office about potential violations of the *SVSH Policy*. These Confidential Resources are not required to report Sexual Violence, Sexual Harassment or other Prohibited Behavior to the Title IX office.

## III. REPORT OF AND RESPONSE TO PROHIBITED CONDUCT (FLOWCHART STAGE 1)

- A. Consistent with the *SVSH Policy*, the University may consider any reported victim of Prohibited Conduct a “Complainant,” whether or not they make a report or participate 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. In accordance with *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 and provide support services for Complainants (through the CARE Advocate) and Respondents (through the Respondent Services Coordinator).
- D. The University will consider and take 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, 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 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, 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 Respondent 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 under these procedures.
- H.** 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.
- I.** The standard of proof 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 codes unless there is sufficient evidence, by a Preponderance of Evidence, to support a finding that the Respondent violated the *SVSH Policy*.
- J.** The University will complete the process set forth in these procedures, including all appeals, promptly, typically within 135 business days from the date the written notice of the charges is issued. This deadline and all deadlines contained herein may be extended 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.

#### **IV. FORMAL INVESTIGATION OF REPORT OF PROHIBITED CONDUCT (FLOWCHART STAGE 1)**

- A. Commencing a Formal Investigation.** 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 *SVSH Policy*, whether a Formal Investigation should be initiated.
- B. Notice of Charges.** If a Formal 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. To the extent practicable, the written notice will include:
  - 1. A summary of the reported conduct that potentially violated the *SVSH Policy* and/or 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 student conduct policy potentially violated;
  - 2. The purpose of the investigation and a statement that the investigation is the part of the process where all known and/or available evidence and information must be introduced and considered;
  - 3. A statement that the investigative report, when issued, will make factual findings and a recommendation regarding whether there has been a violation of the *SVSH Policy* and/or student conduct policy;

4. A statement that the findings and recommendation will be based on a Preponderance of Evidence standard;
5. A summary of the process, including the expected timeline;
6. An admonition against Retaliation; and
7. A summary of rights and resources available to the Complainant and Respondent.

**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 information, and identify witnesses who may have relevant information, and propose questions for the investigator to ask the Complainant, Respondent and/or other witnesses. The investigator retains discretion to determine what proposed 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 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, the Respondent and witnesses as needed to clarify any inconsistencies or new information gathered during the course of the investigation.
3. The investigator may determine and weigh the relevance of any witness or other evidence to the findings and may exclude certain types of evidence or information that are irrelevant or immaterial.
  - a. In general, the investigator will consider only direct observations or reasonable inferences from the facts, as opposed to statements of personal opinion as to anyone's general reputation or any character trait.
  - b. Prior or subsequent conduct of the Respondent may be considered in determining pattern, knowledge, intent, motive, or absence of mistake. For example, evidence of a pattern of Prohibited Conduct by the Respondent, either before or after the incident in question, regardless of whether there has been a prior finding of an *SVSH Policy* violation, may be deemed relevant to the determination of responsibility for the Prohibited Conduct under investigation.
  - c. As a general rule, the sexual history of a Complainant or Respondent will not be considered. However, in limited circumstances, sexual history may be directly relevant to the investigation. 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 consent was given, or reasonably believed to be given, during the encounter under investigation. Sexual history might also be relevant to explain an injury, show a pattern of behavior in accordance with Section IV.C.3.b, or resolve another issue of importance in the investigation. Sexual history evidence that is offered to prove a party's reputation or character will never be considered for that purpose. When evidence of sexual history is proffered, the investigator will consider it 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 fact-finding efforts with the law enforcement investigation in accordance with the *SVSH Policy*. A delay resulting from such coordination may be cause for extending the timelines to complete the process and 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 information that the investigator has deemed relevant. Before the investigator concludes the fact finding and finalizes a written report, the investigator will ensure that both Complainant and Respondent have had an opportunity to review and respond to the information that the investigator has deemed relevant, including a summary of relevant statements made by the parties and any witnesses and any relevant documentary evidence. 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 and Recommendations.** 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, an explanation why any proffered evidence was not investigated, findings of fact, credibility determinations when appropriate, an analysis of whether a violation has occurred, and a recommendation regarding whether there are any policy violations. 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.
- G. Investigation File.** After issuance of the investigator's written report, the investigation file, consisting of the written report and any documentary evidence relied upon by the investigator, must be retained by the Title IX Office and made available to the parties for inspection upon request. It may be redacted as necessary to protect privacy rights.

## V. FINDINGS AND SANCTIONS (FLOWCHART STAGE 2)

- A. Issuance of Notice and Report.** Upon completion of the Title IX Investigation, the Title IX Officer will send to the Complainant and the Respondent (a) written notice of the investigation findings and the investigator's recommendations, and (b) will provide a copy of the investigation report. The investigation report may be redacted if necessary to protect privacy rights. The Title IX Officer will provide the Student Conduct office with copies of the written notice and an unredacted copy of the investigation report.
- B. Notice of Findings and Recommendations.** The written notice of the findings and recommendations will include the following:
1. A statement of the factual findings and recommendations regarding whether the charge(s) have been substantiated, including whether the *SVSH Policy* or other student conduct code provisions 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 the *SVSH Policy* or other student conduct code provisions or policies have been violated and, if so, assess the disciplinary sanctions and inform the Complainant and Respondent of the sanctions within fifteen (15) 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 investigator's recommendations and, if applicable, the issue of discipline prior to the Student Conduct office's decision and potential imposition of sanctions.
- C. Opportunity to Respond to Report and Recommendations.** The Complainant and/or Respondent have an opportunity to meet with the Student Conduct office and/or submit a statement in writing to the Student Conduct office. The meeting or written statement should be scheduled and/or submitted promptly. The meeting and/or written statement is not an opportunity to present new evidence with respect to either the factual findings or a policy violation determination, but is an opportunity to comment on whether the facts, as found, constitute a policy violation and, if applicable, to comment on the imposition of sanctions.
- D. Decision by Student Conduct Office.** Following the receipt of any written or in-person statement(s) by Complainant and/or Respondent, the Student Conduct office will, based on the facts found in the investigation report, determine whether the charged violation(s) of the *SVSH Policy* and/or other relevant student conduct policies occurred, and determine whether the investigation report's recommendation(s) should be accepted.

1. If a violation is found, the Student Conduct office will determine what, if any, disciplinary sanctions are appropriate in accordance with the sanctioning guidelines provided in Section VII. Disciplinary Process for Student Sanctions.
2. The Student Conduct office may consult with the Title IX office at any point in the decision-making process.

**E. Notice of Decision.** Within fifteen (15) business days of the notice of findings and recommended determinations, the Student Conduct office will send written notice to the Complainant and Respondent (with a copy to the Title IX office) setting forth the decision on whether the charges have been substantiated and if the *SVSH Policy* and/or student conduct policy 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 if the *SVSH Policy* and/or student conduct policy have been violated, and if so, a description of the sanctions;
2. The rationale for the determination of each charge and the sanctions;
3. A statement of the right to appeal, the procedure that will be followed in requesting and hearing the appeal, the grounds upon which the appeal may be based, the office to which the request for the appeal may be submitted and the timeframe for submitting such a request; and
4. An explanation that both the Complainant and Respondent will receive a copy of any appeal granted in accordance with these procedures. Absent an extension for good cause, the Title IX investigation will be completed within 60 business days from the issuance of the notice of charges, and the Student Conduct office will issue its determination of responsibility and sanctions within 15 business days thereafter. The Complainant and Respondent will be informed in writing of the specific reason(s) for the extension and the projected new timeline.

## VI. APPEAL PROCESS (FLOWCHART STAGE 3)

The procedures for appeal depend on whether a case involves a sanction of suspension or dismissal (“Suspension/Dismissal Cases”).

**A. Equal Opportunity to Appeal.** The Complainant and Respondent have an equal opportunity to appeal the decision and/or the sanctions. The University administers the appeal process, but is not a party and does not advocate for or against any appeal.

**B. Opportunity to Appeal.**

1. For “Suspension/Dismissal Cases,” the Complainant or Respondent may commence the appeal process by submitting an appeal and may **appeal any case in which they seek to change the finding or sanction, for any reason.**



2. For all other cases, a party may only commence the appeal process by submitting a request for an appeal on the grounds below. The request for an appeal should identify the reason(s) why the party is challenging the outcome under one or more of the following grounds:
  - a. There was procedural error in the process that materially affected the outcome, such as the investigation was not fair, thorough or impartial;
  - b. The decision was unreasonable based on the evidence considered by the investigator;
  - c. There is new, material information that was unknown and/or unavailable to the appealing party at the time of the investigation that should affect the outcome;
  - d. The disciplinary sanctions were disproportionate to the findings;

**C. Commencing an Appeal.** An appeal in a Suspension/Dismissal Case, or a request for an appeal in other cases (see B.2.), must be submitted in writing to the designated campus office within ten (10) business days following issuance of the written notice of the decision and, if imposed, the disciplinary sanctions. An appeal in a Suspension/Dismissal Case should explain the reason for the appeal, and what the appealing party seeks to change. A request for an appeal in other cases (see B.2.) must identify the ground(s) for appeal and contain a brief statement supporting each ground for appeal.

**D. Sanctions and Interim Measures.** If a request for an appeal is submitted, any disciplinary sanctions ordinarily will not be imposed until the appeal, and review process is completed. Interim measures, such as no contact orders, academic accommodations, etc. will ordinarily remain in effect during the appeal process, but may be modified as appropriate.

**E. Appeal Body – Composition and Training.** If the request for an appeal is granted, 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 administrative law judges or experienced investigators. The Appeal Body will be appropriately trained, with such training coordinated by the Title IX Officer. A Hearing Coordinator may assist the Appeal Body with the administration of the process.

**F. Standards for Review and Grant of Request for Appeal.**

For Suspension/Dismissal Cases (B.1.), a party must commence an appeal for there to be one. The Appeal Body may request clarification of the reason for the appeal or what the appealing party seeks to change, but will allow any appeal to proceed.

For cases that are not Suspension/Dismissal Cases (see B.2.), a request for appeal is required and the Appeal Body will review the request and the Student Conduct office's notice of decision and sanctions and decide whether the request contains a sufficient statement concerning the grounds for appeal and

the reasons related to those grounds. Depending on the grounds stated in the request for appeal, the Appeal Body may review the investigation report and recommendation before deciding whether to grant the request for appeal. However, the purpose of the Appeal Body's review is not to decide the merits of the appeal, but only to decide whether the request adequately states ground(s) for appeal, and, if so, to identify the nature and scope of the issues to be addressed in the hearing. If the request for appeal is defective or incomplete (e.g., failing to identify a specific procedural error that materially affected the outcome), the appealing party should be given one opportunity to correct and resubmit the request for appeal within five (5) business days from the date of being informed of the defect. Additional opportunities to correct and resubmit the request for appeal may be granted at the discretion of the Appeal Body.

## **G. Conducting the Appeal Hearing**

### **1. Pre-Hearing Procedures**

- a. Upon receiving an appeal in a Suspension/Dismissal Case, or upon granting a request for appeal in other cases (B.2.), not less than ten (10) business days before the appeal hearing, the Hearing Coordinator will send a written notice to the Complainant and the Respondent informing them of the hearing date, time, location and procedures. The notice will be accompanied by a copy of the request(s) for appeal(s) that were granted for consideration at the appeal hearing.
- b. Prior to the hearing, the Complainant and the 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 requested witnesses, and a brief summary of such witnesses' expected testimony.
- c. At least two days prior to the appeal hearing, the Complainant and the Respondent will receive copies of all the information that will be considered at the appeal hearing, including, consistent with the grounds for appeal, the investigation file and any other documents that will be considered, the names of potential witnesses and a summary of the information they are expected to provide. Such documents will also be provided to the Title IX office and the Student Conduct office.
- d. Prior to the appeal hearing and/or during the appeal 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 and the Student Conduct Officer will both be available to appear as witnesses at the appeal hearing. The Appeal Body has discretion to request the Title IX investigator, the Student Conduct Officer, or other witnesses at the hearing and to grant or deny requests from the Complainant or Respondent to have such witnesses appear. The Appeal Body may question the Title IX investigator, the Student Conduct Officer or any other witness, as well as the Complainant, and/or the Respondent.
- b. The investigation file will be entered as evidence at the appeal hearing.
- c. 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. To assess credibility, the Appeal Body must be able to have sufficient access to the Complainant, Respondent, and any witnesses presenting information.
- d. The Complainant and Respondent will have the opportunity to present the information they submitted pursuant to Section VI.G.1.b. (unless excluded by the Appeal Body pursuant to Section VI.G.1.d.). The Appeal Body has discretion to accept or exclude additional information presented at the appeal hearing.
- e. The Complainant and Respondent have the right to be present to hear (or, if deaf or hard of hearing, to access through auxiliary aids for services) testimony 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 shall propose questions by submitting them to the Appeal Body.
- f. 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, harassing, or unduly time consuming.
- g. The appeal hearing will be audio recorded.
- h. 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 at the hearing, in weighing the information and reaching its decision.

## H. Appeal Decision

1. **Standards for Deliberation.** The Appeal Body will deliberate in private and reach a decision based on a Preponderance of 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. Information Considered.** The Appeal Body shall take into account the record developed by the investigator and the evidence presented at the hearing. Consistent with the basis or grounds for appeal, the Appeal Body may make its own findings and credibility determinations based on all of the evidence before it.
- 3. Decision by Appeal Body.** The Appeal Body may:
  - a. Uphold the findings and disciplinary sanctions;
  - b. Overturn the findings or sanctions;
  - c. Modify the findings or sanctions; or
  - d. Set aside the findings and remand to the Title IX office for further investigation.
- 4. Written Report.** The Appeal Body will summarize its decision in a written report that includes the following:
  - a. A statement of the grounds heard on 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, or how the procedural error or new information materially affected the outcome, either at the time they were made or in light of the evidence considered by the Appeal Body.
- 5. Distribution of Written Decision.** As soon as practicable following the hearing, the Hearing Coordinator will send the Appeal Body's written decision to Complainant and Respondent (with copies sent to the Title IX office and the Student Conduct office).
  - a. If the Appeal Body upholds the findings and the sanctions, the Hearing Coordinator will inform the Respondent and the Complainant that the matter is closed with no further right to appeal.
  - b. If the Appeal Body remands the matter, it will specify what further investigation should occur or what additional information should be considered.
  - c. If the Appeal Body overturns or modifies the findings or sanctions, the Hearing Coordinator will inform the Respondent and Complainant of the right to submit a written request for review to the Chancellor's designee within five (5) business days of issuance of the Appeal Body's decision.

## I. Request for Review by Chancellor’s Designee.

1. **Basis for Request.** When the Appeal Body overturns or modifies the findings or sanctions, the Respondent and Complainant have an equal right to request that the Chancellor’s designee review the Appeal Body’s decision based on the following grounds:
  - a. Procedural error in the Appeal Body proceedings that materially affected the outcome, or
  - b. The sanction decided by the Appeal Body is disproportionate to the findings.
2. **Opportunity to Respond.** If a request for review is submitted, the other party will receive a copy of the written request for review and may submit a written response within five (5) business days after receiving the written request.
3. **Review and Decision by Chancellor’s Designee.** The Chancellor’s designee will issue a written decision, including an explanation of their rationale, to the Complainant and Respondent, normally within ten (10) business days after the request for review is received. Following such consideration, the Chancellor’s designee may:
  - a. Uphold the Appeal Body’s findings and sanction if any,
  - b. Overturn the Appeal Body’s findings and reinstate the original decision issued by the Student Conduct office, or
  - c. Modify the Appeal Body’s findings or sanctions if any.

There is no further right to appeal.

The appeal process described above in Part VI, 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 Student Conduct office’s notice of decision and sanctions (where imposed).

## VII. DISCIPLINARY PROCESS FOR 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)*.<sup>1</sup> The following describes the

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<sup>1</sup> 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.

University of California – Policy PACAOS-Appendix-E  
PACAOS-Appendix-E: Sexual Violence and Sexual Harassment Student Adjudication  
Framework

University's procedures for assigning disciplinary sanctions when the Respondent is a student.

**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 the student conduct policy, the University will assign disciplinary sanctions that are proportionate and appropriate to the violation, taking into consideration the context and seriousness of the violation.
3. When a student is found not responsible for violating the University's *SVSH Policy* or student conduct policy, 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. 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 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 the student conduct code.

**C. Disciplinary Sanctions**

1. University disciplinary 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 disciplinary 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 disciplinary 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. Process**

1. 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.
2. Disciplinary 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 below.
3. 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 regular basis. The report is to ensure a reasonable level of consistency from campus to campus.

#### **E. Factors Considered In Determining Disciplinary 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; presence of weapons, use of force, violence, physical injury.
  - 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; 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 *PACAOS* Section 104.90 of the *Policy on Student Conduct and Discipline*.

- c. 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.
- d. Disciplinary history: prior violations unrelated, prior violations related.
- e. Impact on others: input from the Complainant, protection or safety of the community.

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#### **IV. COMPLIANCE/RESPONSIBILITIES**

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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 on-line publication of these Policies and their respective campus implementing regulations. (See also Section 13.20 of these Policies.)

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#### **V. PROCEDURES**

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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.)

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#### **VI. RELATED INFORMATION**

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[Sexual Harassment and Sexual Violence](#)

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



## VII. FREQUENTLY ASKED QUESTIONS

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Not Applicable

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## VIII. REVISION HISTORY

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**March 1, 2019:** Interim revisions and this Policy was remediated to meet Web Content Accessibility Guidelines (WCAG) 2.0.

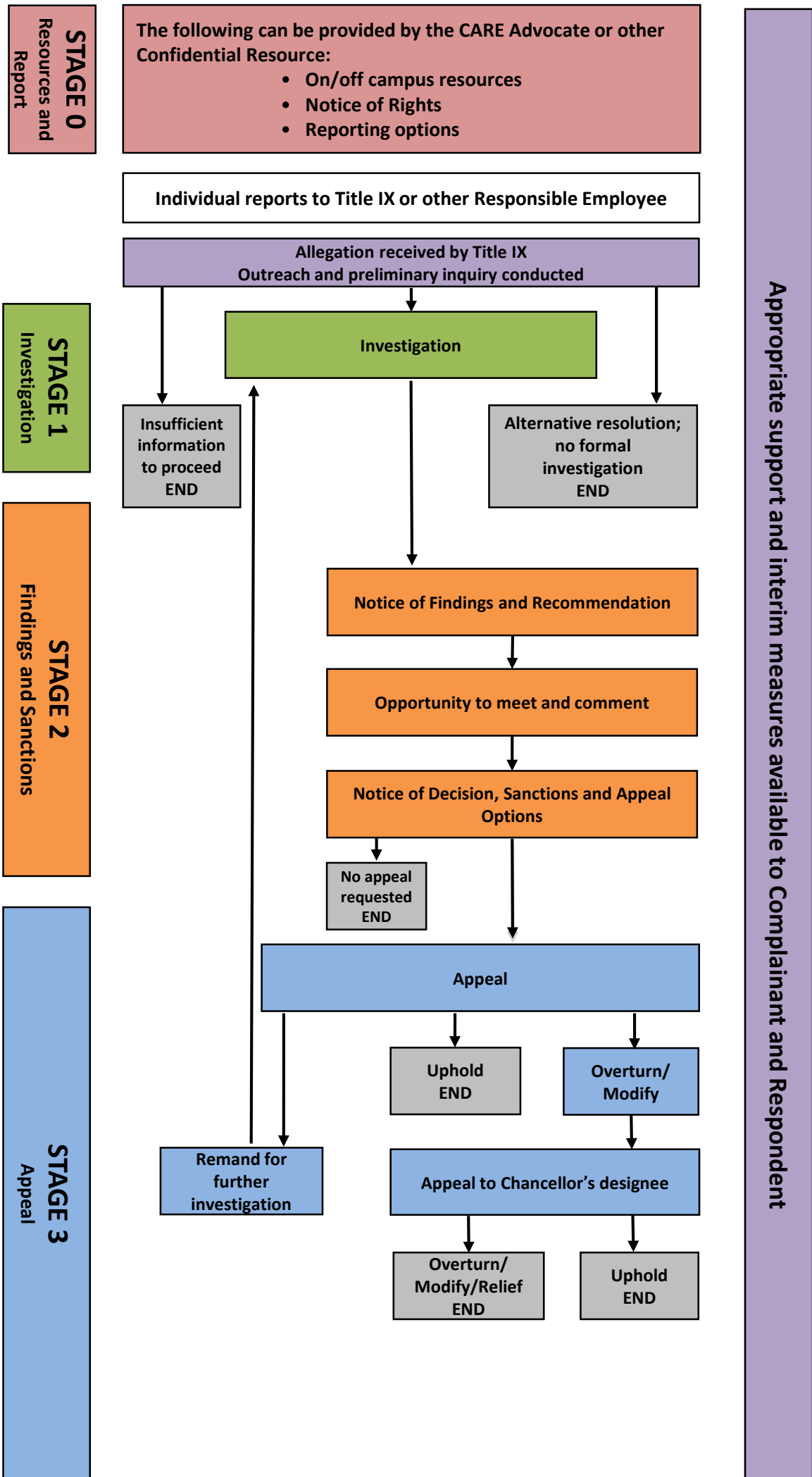
PACAOS Interim Appendix E Revisions include:

- General revisions and clarifications to the policy (e.g., addition of references between the policy and the corresponding sections of the Student Adjudication Model – Process Flow Chart);
- Clarification that campuses may apply Appendix E procedures to resolve reports of other student conduct violations that occur in connection with violations of the *SVSH Policy*;
- Clarifications to the Notice of Charges;
- Clarifications on the types of evidence the investigator may consider or exclude;
- Description of the opportunity, for both Complainant and Respondent, to review and respond the information the investigator has deemed relevant before the investigator concludes the fact-finding;
- Description of the opportunity, for the Complainant and/or Respondent, to meet with the Student Conduct office, to respond to the Title IX report and recommendations;
- Clarifications to the Appeal Process;
- Flowchart revised to reflect revisions to the framework process (see attached Student Adjudication Flowchart);
- Process timeline revised to 135 days, vs 120 days to allow additional time for broader hearings; and
- Addition of V.B.1 – Opportunity to Appeal for “Suspension/Dismissal Cases” with broader evidentiary appeal hearing.

The revised Appendix E, which addresses immediately-needed changes, will serve as the interim Sexual Violence and Sexual Harassment Student Adjudication Framework pending a more comprehensive revision of these procedures.

**January 1, 2016:** Initial issuance

Student Adjudication Model – Process Flow Chart\*



\*Procedures for Implementation of the Student Adjudication Model provides detailed explanation.