

Office of Academic Affairs

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University of California  
San Francisco

# **Interim Procedure: Disposition Process for Faculty and Other Non-represented Academic Appointees in Cases Involving Sexual Violence and Sexual Harassment**

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## INTRODUCTION

**Authority:** In October 2015, President Napolitano initiated a comprehensive review of the University of California’s response to allegations of sexual violence and sexual harassment committed at the University. On June 27, 2017, President Napolitano issued The University of California Sexual Violence and Sexual Harassment Investigation and Adjudication Frameworks for [Senate and Non-Senate Faculty](#) and The University of California Sexual Violence and Sexual Harassment Investigation and Adjudication Framework for Staff and [Non-Faculty Academic Personnel](#) (the Systemwide Frameworks). The Systemwide Frameworks outline the University’s general process for investigating and adjudicating alleged violations of the University’s Sexual Violence and Sexual Harassment Policy (“SVSH Policy”) by University faculty members or non-represented non-faculty academic appointees. The Policy and Systemwide Frameworks were revised effective July 31, 2019.

President Napolitano charged the Chancellors of each University of California (“UC”) campus to develop a process for implementing the SVSH Policy and the Systemwide Frameworks. This *Interim Procedure* implements the Systemwide Frameworks for faculty and non-faculty academic appointees who are alleged to have violated the SVSH Policy. In addition, the University of California, San Francisco (UCSF) has elected to apply the Systemwide Frameworks in cases involving alleged violations of the UC Policy on Discrimination, Harassment and Affirmative Action in the Workplace (the Nondiscrimination Policy”) by faculty and non-faculty academic appointees where there is also an alleged violation(s) of the SVSH Policy.

**Policies:** The [University of California Sexual Violence and Sexual Harassment Policy](#) (“SVSH Policy”) states:

“The University is committed to maintaining a community free of sexual violence, sexual harassment, retaliation, and other behavior prohibited by the Policy (together “Prohibited Conduct”). Prohibited Conduct violates this Policy and may violate [the] law. Any person can report conduct that may be Prohibited Conduct. The University will respond promptly and equitably to such reports. This includes appropriate action to stop, prevent, and remedy the Prohibited Conduct and, when necessary, to discipline the Respondent.

Discrimination based on sex (including gender, gender identity, gender expression, sex-or gender-stereotyping, or sexual orientation) violates law and other University policies even when it is not Prohibited Conduct. The University will respond promptly and equitably to reports of such behavior. Such conduct may contribute to the creation of a hostile work or academic environment based on sex. So, when determining whether a Complainant experienced a hostile work environment as defined in this Policy, the Title IX Office will consider other sex-based discrimination in combination with incidents of sexual harassment.”

The [University of California Policy on Discrimination, Harassment and Affirmative Action in the Workplace](#) (“Nondiscrimination Policy”) states:

“The University prohibits discrimination against any person employed; seeking employment; or applying for or engaged in a paid or unpaid internship or training

program leading to employment with the University of California on the basis of race, color, national origin, religion, sex, gender, gender expression, gender identity, pregnancy, physical or mental disability, medical condition (cancer-related or genetic characteristics), genetic information (including family medical history), ancestry, marital status, age, sexual orientation, citizenship, or service in the uniformed services, including protected veterans.<sup>1</sup> This policy applies to all employment practices, including recruitment, selection, promotion, transfer, merit increase, salary, training and development, demotion, and separation. “

In addition, the University prohibits harassment based on the above protected characteristics of an employee, applicant, paid or unpaid intern, volunteer, person participating in a program leading to employment or person providing services pursuant to a contract.

If the harassment is sexual in nature, the University’s Sexual Violence and Sexual Harassment (SVSH) policy will apply.

This policy is intended to be consistent with applicable state and federal laws and University policies.”

The University of California’s Faculty Code of Conduct is set forth in [Academic Personnel Manual \(APM\) 015](#). This system-wide policy sets out the rights, privileges and professional responsibilities of all faculty at the University. Part II of APM 015 presents the professional responsibilities of faculty, the ethical principles governing faculty, and examples of types of unacceptable conduct for faculty.

[APM 016](#) outlines the types of formal discipline that may be imposed on Academic Senate faculty for violating the Faculty Code of Conduct. APM 016 states that the Faculty Code of Conduct “is the official basis for imposing discipline on members of the faculty for professional misconduct.” The disciplinary sanctions described in APM 016 “may not be imposed on faculty members other than through the procedures pursuant to APM 015 and 016.”

The Chancellor is responsible for establishing procedures for the administration of discipline on the campus in accordance with APM 016.

[APM 150](#) outlines the standards and procedures for instituting discipline<sup>2</sup> of non-Senate faculty and non-faculty academic appointees.<sup>3</sup> Discipline may be imposed for good cause, including but not limited to misconduct or violation of University policy.

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<sup>1</sup> The list of the bases for discrimination is referred to in this *Interim Procedure* as discrimination based on a “protected class.” Protected class refers to one or more of the bases listed in the Nondiscrimination Policy. All references to violations of the Nondiscrimination Policy refer to harassment and/or discrimination based on one or more protected classes.

<sup>2</sup> In this *Interim Procedure*, when used in reference to a non-Senate faculty member or non-faculty academic appointee, the term “discipline” refers to corrective action/dismissal as defined in APM 150.

<sup>3</sup> All references to non-faculty academic appointees in this *Interim Procedure* refer only to non-represented non-faculty academic appointees.

**Applicability:** This *Interim Procedure* applies in cases where a Senate faculty member, a non-Senate faculty member, or a non-faculty academic appointee is alleged to have violated the SVSH Policy, unless this *Interim Procedure* is superseded by a memorandum of understanding or collective bargaining agreement. This *Interim Procedure* also applies in cases where a faculty or non-faculty academic appointee is alleged to have violated the SVSH Policy in conjunction with the Nondiscrimination Policy; in such cases this *Interim Procedure* also applies to violations of the Nondiscrimination Policy.

Any perceived conflict between the provisions of APM 015, APM 016, APM 150, the SVSH Policy, the Nondiscrimination Policy and this *Interim Procedure* is unintended, and the provisions of APM 015, APM 016, APM 150, the SVSH Policy and the Nondiscrimination Policy are controlling. This *Interim Procedure* implements APM 015, APM 016 and APM 150 with respect to the imposition of discipline on faculty and non-faculty academic appointees in these cases.

1. Faculty Respondent:<sup>4</sup> In cases where a faculty member is alleged to have violated APM 015 by engaging in conduct that does not fall within the purview of the SVSH Policy or the Nondiscrimination Policy (when applicable) under this *Interim Procedure*, the investigation of the alleged misconduct is governed by UCSF's [Procedure for Investigation of Faculty Misconduct and the Administration of Discipline](#) (*Faculty Misconduct Investigation Procedure*). In cases where a faculty member is alleged to have violated the Nondiscrimination Policy, but no violation of the SVSH Policy is alleged, the investigation of the alleged misconduct is governed by the *Faculty Misconduct Investigation Procedure*.
  - a. Allegations of Multiple Types of Policy Violations: In cases where a faculty member is alleged to have violated the SVSH Policy, either by itself or in conjunction with the Nondiscrimination Policy, as well as other University policies, this *Interim Procedure* applies to the investigation and imposition of discipline relating to the alleged violations of the SVSH Policy and the Nondiscrimination Policy, and the *Faculty Misconduct Investigation Procedure* applies to the investigation and imposition of discipline with regard to the remaining allegations, including allegations of harassment and/or discrimination for arbitrary and personal reasons, i.e., harassment and/or discrimination that is not based on a protected class.<sup>5</sup> See APM 015, Part II-A-2, Part II-C-5, and Part II-D-2.
  - b. Other Types of Possible Misconduct: The Title IX/OPHD<sup>6</sup> investigation may result in a finding that neither the SVSH Policy nor the Nondiscrimination Policy (when applicable) were violated by the Respondent, but that the alleged conduct may violate other University policies. In this case, the Title IX/OPHD investigator shall make the appropriate findings as to the SVSH Policy and the Nondiscrimination Policy (when applicable), and will note in the investigation report that the conduct may also violate other University policies.  
The Vice Provost of Academic Affairs shall be provided with the Title IX/OPHD investigation report, and shall ensure that the conduct is reviewed and/or investigated by the appropriate

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<sup>4</sup> See Section I-A-2 below for the definition of "Respondent."

<sup>5</sup> Cases that present alleged violations of the SVSH Policy and the Nondiscrimination Policy as well as another University policy, may result in investigations that are conducted according to different procedures and conclude at different times. These cases may have findings that are made at different times, and different types of discipline may be proposed or imposed at different times in accordance with this *Interim Procedure* and the *Faculty Misconduct Investigation Procedure*.

<sup>6</sup> At UCSF, the Title IX Office is known as the Office of the Prevention of Harassment and Discrimination (OPHD).

campus unit(s). It is possible that the conduct noted in the investigation report may require a Faculty Code of Conduct investigation by and *ad hoc committee* under the *Faculty Misconduct Investigation Procedure*.

- c. Findings of Probable Cause:<sup>7</sup> When the Title IX/OPHD investigator makes a finding based on a preponderance of the evidence standard that a faculty member violated the SVSH Policy and/or the Nondiscrimination Policy (when applicable) under this *Interim Procedure*, the findings shall be sufficient to constitute a finding of probable cause that the Faculty Code of Conduct was violated.
2. Non-Faculty Academic Respondents: In cases where a non-faculty academic appointee is alleged to have violated a University policy by engaging in conduct that does not fall within the purview of the SVSH Policy, either by itself or in conjunction with the Nondiscrimination Policy (when applicable) under this *Interim Procedure*, the alleged misconduct shall be addressed in accord with APM 150.
    - a. Allegations of Multiple Types of Policy Violations: In cases where a non-faculty academic appointee is alleged to have violated the SVSH Policy, either by itself or in conjunction with the Nondiscrimination Policy, as well as other University policies, this Interim Procedure applies to the investigation and imposition of discipline relating to the alleged violations of the SVSH Policy and the Nondiscrimination Policy (when applicable), and APM 150 applies to the corrective action/dismissal process with regard to the remaining allegations.
    - b. Other Types of Possible Misconduct: The Title IX/OPHD investigation may result in a finding that neither the SVSH Policy nor the Nondiscrimination (when applicable) were violated by the Respondent, but that the alleged conduct may violate other University policies. In this case, the Title IX/OPHD investigator shall make the appropriate findings as to the SVSH Policy and the Nondiscrimination Policy (when applicable), and will note in the investigation report that the conduct may violate other University policies. It is possible that the conduct noted in the investigation report may require further handling in accord with APM 150.
    - c. Good Cause: In cases involving alleged violations of the SVSH Policy either by itself or in conjunction with the Nondiscrimination Policy (when applicable), a finding by the Title IX/OPHD investigator that a non-faculty academic appointee has violated the SVSH Policy and/or the Nondiscrimination Policy (when applicable) under this *Interim Procedure*, shall be sufficient to constitute a finding of good cause under APM 150.

**Effective Date:** This Interim Procedure is effective as of November 12, 2019, and applies to all allegations that the SVSH Policy, either by itself or in conjunction with the Nondiscrimination Policy (when applicable), was violated by a faculty member and/or a non-faculty academic appointee received by the UCSF Title IX Office/OPHD and/or the Vice Provost of Academic Affairs on or after November 12, 2019.

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<sup>7</sup> APM 015, Part III-A-4 states that for faculty: “The Chancellor may not initiate notice of proposed disciplinary action unless there has been a finding of probable cause. The probable cause standard means that the facts as alleged in the complaint, if true, justify the imposition of discipline for a violation of the Faculty Code of Conduct and that the Chancellor is satisfied that the University can produce credible evidence to support the claim.”

## INVESTIGATORY LEAVE

Pursuant to APM 016, Section II-6, the Chancellor may place a Respondent who is a member of the Academic Senate on paid involuntary leave.<sup>8</sup> Pursuant to APM 150-32-b, a non-Senate faculty or non-faculty academic Respondent may be placed on immediate paid investigatory leave.<sup>9</sup>

## RESOURCES

Questions about relevant policies and/or this Interim Procedure may be directed to the Academic Employee Relations Manager, or an Academic Employee Relations Specialist. See [Contact Information](#).

## OVERVIEW: Investigation, Disposition and Adjudication Phases

### 1. Investigation Phase

The Title IX Office/OPHD is responsible for assessing and/or investigating all alleged violations of the SVSH Policy and the Nondiscrimination Policy. If the Office of the Vice Provost receives such allegations, they will immediately be referred to the Title IX Office/OPHD.

The Title IX/OPHD investigation shall be conducted in accord with the provisions of the SVSH Policy, the Systemwide Frameworks, and when applicable, the Nondiscrimination Policy. In accord with the Systemwide Frameworks, the Title IX/OPHD investigation shall constitute the single investigation to establish whether the SVSH Policy was violated.

The investigation of alleged SVSH Policy violations shall be completed promptly, typically within 60 business days of its initiation, unless extended by the Title IX/OPHD Officer for good cause, followed by written notice to the Complainant and Respondent stating the reason for the extension and the projected new timeframe. Notifications required by applicable University Policy, the Systemwide Frameworks and/or the law shall be given.

At the time the Title IX Office/OPHD initiates a formal investigation of allegations that a faculty member or a non-faculty academic appointee violated the SVSH Policy, either by itself or in conjunction with the Nondiscrimination Policy, the Title IX Office/OPHD will notify the Office of the Vice Provost, which will place any academic action or advancement packet for that individual on hold due to the initiation of the investigation. The faculty member or non-faculty academic appointee will be notified of the hold.

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<sup>8</sup> APM 016, Section II-6 states: "A Chancellor is authorized to initiate involuntary leave with pay prior to the initiation of a disciplinary action if it is found that there is a strong risk that the accused faculty member's continued assignment to regular duties or presence on campus will cause immediate and serious harm to the University community or impede the investigation of his or her wrongdoing, or in situations where the faculty member's conduct represents a serious crime or felony that is the subject of investigation by a law enforcement agency."

<sup>9</sup> APM 150-32-b states: "An appointee may be placed on immediate investigatory leave with pay, without prior written notice, for the purpose of reviewing or investigating conduct which in the judgment of the Chancellor requires removing the appointee from University premises. While on such leave, the appointee's return to University premises without written permission may create independent grounds for dismissal. Such investigatory leave must be documented in writing after it is instituted."

## 2. Disposition Phase

The Disposition Phase is administered by the Chancellor's Designee and shall take no more than 40 business days from the date the Chancellor and/or Chancellor's Designee receives the Title IX/OPHD investigation report.

Extensions to the timeframe for the Disposition Phase may be granted by the Chancellor for good cause, with written notice to the Complainant and the Respondent stating the reason for the extension and the projected new timeframe. Detailed information on the Disposition Phase is provided in Sections I and II below. During the Disposition Phase:

1. The Complainant and the Respondent will have an opportunity to meet with the Chancellor's Designee and/or to comment in writing on the Title IX/OPHD investigation report.
2. A Peer Review Committee, as defined below, will make a recommendation to the Chancellor/Chancellor's Designee regarding discipline or early resolution in cases involving violations of the SVSH Policy, either by themselves or in conjunction with violations of the Nondiscrimination Policy.
3. The Chancellor/Chancellor's Designee shall decide on appropriate discipline or early resolution,<sup>10</sup> which shall be proposed to the faculty member or non-faculty academic appointee in writing.
4. The Chancellor and/or Chancellor's Designee will, when appropriate, either close the case or propose discipline or early resolution to the Respondent.

## 3. Adjudication Phase

The Adjudication Phase follows the Disposition Phase only when the Respondent and the Chancellor do not reach agreement regarding discipline or early resolution. See Section III below.

# I. DISPOSITION PHASE – GENERAL INFORMATION

## A. PARTICIPANTS

### 1. Complainant

The Complainant is any person alleged, in a report to the Title IX Officer, to have experienced Prohibited Conduct. There may be more than one Complainant. As used in this *Interim Procedure*, the term "Complainant" may refer to one or more Complainants.

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<sup>10</sup> For information about early resolution, see Section I-D below.



Anyone may make a complaint alleging that a faculty member or a non-faculty academic appointee has violated the SVSH Policy, including, but not limited to: students, staff, trainees, non-faculty academics, faculty, and members of the community.

## **2. Respondent**

For purposes of this *Interim Procedure*, the Respondent is a faculty member and/or a non-faculty academic appointee alleged, in a report to the Title IX Officer, to have engaged in Prohibited Conduct as defined by the SVSH Policy. There may be more than one Respondent. As used in this *Interim Procedure*, the term “Respondent” may refer to one or more faculty and/or non-faculty academic Respondents.

## **3. Title IX/OPHD Investigator**

The UCSF Title IX Officer/OPHD is responsible for the Investigation Phase, including conducting the investigation. The Title IX Office/OPHD will provide required notifications during the Investigation Phase as required by the SVSH Policy, the Systemwide Frameworks, when applicable the Nondiscrimination Policy, and/or the law. The Title IX Office/OPHD will assign an investigator to handle each report of alleged conduct within the purview of the SVSH Policy, either by itself or in conjunction with the Nondiscrimination Policy, including investigating allegations when deemed appropriate.

## **4. Chancellor**

The Chancellor makes the final decision regarding discipline for faculty. For non-faculty academic appointees, the Chancellor may make the final decision regarding discipline or may delegate that authority to the Chancellor’s Designee. The Chancellor may grant extensions relating to the Disposition Phase for good cause provided that written notice and a revised timeline are provided to the Complainant and the Respondent.

## **5. Chancellor’s Designee**

The Chancellor has designated the Vice Provost, Academic Affairs as the Chancellor’s Designee for purposes of this *Interim Procedure*. The Executive Vice Chancellor and Provost is the alternate Chancellor’s Designee. The Chancellor’s Designee is responsible for the administration of the Disposition Phase for faculty and non-faculty academic appointees.

## **6. Peer Review Committee (PRC)**

The Peer Review Committee is a standing campus committee, comprised of at least 15 faculty members. The PRC is charged with advising the Chancellor/Chancellor’s Designee during the Disposition Phase on early resolution and/or discipline in cases where a faculty and/or a non-faculty academic Respondent has been found to have violated the University’s SVSH Policy

and/or when applicable, the Nondiscrimination Policy. The Chancellor may, at his/her discretion, appoint suitable administrators or others to the PRC.

## **B. TIMEFRAMES**

1. The time for the entire Disposition Phase in cases with allegations that the SVSH Policy has been violated shall not exceed 40 business days from the date the Chancellor/Chancellor's Designee receives the Title IX/OPHD investigation report, unless an extension is granted by the Chancellor. Extension requests must be made in writing, supported by good cause and submitted as soon as the need for an extension arises. If an extension is granted, the Complainant and Respondent will be provided with written notification stating the reason for the extension and the projected new timeframe.
2. Any deadline that falls on a weekend or University, state or national holiday shall automatically be extended to the next business day.
3. For faculty, APM 015, Part III-A-3 states: "The Chancellor is deemed to know about an alleged violation of the Faculty Code of Conduct when it is reported to any academic administrator at the level of department chair or above. Additionally, for an allegation of sexual violence or sexual harassment, the Chancellor is deemed to know about an alleged violation of the Faculty Code of Conduct when the allegation is first reported to any academic administrator at the level of department chair or above or the campus Title IX Officer. The Chancellor must initiate related disciplinary action by delivering notice of proposed action to the Respondent no later than three years after the Chancellor is deemed to have known about the alleged violation. There is no limit on the time within which a Complainant may report an alleged violation."

## **C. CONFIDENTIALITY**

All information received or developed during the Disposition Phase is confidential to the maximum extent permitted by policy and law. Information received directly by the Chancellor/Chancellor's Designee through a meeting with the Complainant and/or Respondent (see Section II-A below) may be shared in confidence with the PRC for the purpose of assisting the PRC in making its recommendation. See Appendix D for additional information.

The University will strive to keep information confidential, however, University policy, federal law, and/or state law may require the disclosure of certain information.

## **D. EARLY RESOLUTION**

Early resolution is the process leading to the acceptance of discipline and/or agreement on a negotiated resolution between the Chancellor/Chancellor's Designee and the faculty or non-faculty academic Respondent after the Title IX/OPHD investigation report is submitted. The

Chancellor/Chancellor's Designee may seek to resolve potential or actual disciplinary charges informally through negotiations or mediation when acceptable to the administration and the Respondent. The Complainant shall be informed of the outcome of any such agreement, including the rationale.

## **E. UNFOUNDED ALLEGATIONS**

If it is determined that the Complainant or anyone else was involved in intentionally or maliciously bringing unfounded allegations of violations of the SVSH Policy, either by itself or in conjunction with the Nondiscrimination Policy against a faculty member or non-faculty academic appointee, the Chancellor/Chancellor's Designee may take appropriate action.

## **II. DISPOSITION PHASE – PROCESS**

The Disposition Phase begins when the Chancellor and/or Chancellor's Designee receive(s) a Title IX/OPHD investigation report relating to a faculty or a non-faculty academic Respondent. The Chancellor and/or Chancellor's Designee shall review the Title IX/OPHD investigation report. The Chancellor/Chancellor's Designee may consult with each other and/or with the Title IX Office/OPHD.

### **A. Opportunity for Complainants and Respondents to Respond to the Title IX/OPHD Investigation Report**

- 1.** The Complainant and the faculty and/or non-faculty academic Respondent will be notified by the Title IX Office/OPHD of the opportunity to meet individually with the Chancellor's Designee and/or to submit comments on the Title IX/OPHD investigation report in writing to the Chancellor's Designee. The purpose of this response is not to challenge the factual findings in the Title IX/OPHD investigation report or present new evidence, but to provide the Complainant and the Respondent with an opportunity to express their perspectives and address what outcome they wish to see.
  - a. The Complainant and the Respondent must respond to the meeting opportunity notification within 5 calendar days after the date the notification was sent. If no response is received by the deadline, the non-responding party will forfeit his/her opportunity to meet, but may still submit comments in writing as provided in Section II-A-1.
  - b. The meeting shall take place no later than 10 calendar days after the acceptance of the meeting opportunity unless the Chancellor's Designee approves a later date.
  - c. Written comments from the Complainant and Respondent must be received by the Chancellor's Designee no later than 15 calendar days from the date they are notified of the opportunity.

## **B. Closure of Case Where No Policy Violations are Found**

1. When the Title IX/OPHD investigation report does not find any violation of the SVSH Policy and when applicable, the Nondiscrimination Policy, the Chancellor/Chancellor's Designee shall close the case after the Complaint and the Respondent have had the opportunity to meet with the Chancellor's Designee and/or comment in writing on the Title IX/OPHD investigation report.
2. Notifications: The Complainant and Respondent shall receive the appropriate notifications, as provided by University Policy, the Systemwide Frameworks and/or the law.
3. Release of Hold on Academic Action Packet: The Office of the Vice Provost will ensure that the hold on any academic action or advancement packet for a faculty or non-faculty academic Respondent is immediately released so that any pending academic action can proceed. Any proposed academic action subsequently approved shall be effective as of the original proposed effective date.
4. Restoration of Reputation: If the allegations are not substantiated, a Respondent may ask the Chancellor and/or Chancellor's Designee to undertake reasonable efforts to restore his/her reputation.

## **C. Title IX/OPHD Findings of Policy Violations**

If the Title IX/OPHD investigation results in a finding that a violation of the SVSH Policy, either by itself or in conjunction with the Nondiscrimination Policy<sup>11</sup> occurred, the Chancellor's Designee shall engage the Peer Review Committee (PRC).

## **D. Peer Review Committee (PRC)**

The Chancellor shall appoint the PRC. The names of the PRC members shall be available online.

1. Charge: The PRC is charged with providing a recommendation regarding discipline or early resolution to the Chancellor and Chancellor's Designee when a Title IX/OPHD investigation report results in a finding that a faculty member or non-faculty academic appointee violated the SVSH Policy, either by itself or in conjunction with a finding that the faculty member or non-faculty academic appointee violated the Nondiscrimination Policy.

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<sup>11</sup> In cases where a Complainant alleges violations of the SVSH Policy in conjunction with the Nondiscrimination Policy, and the Title IX/OPHD investigation results in a finding that the Nondiscrimination Policy was violated but the SVSH Policy was not violated, the Chancellor's Designee shall engage the PRC.

2. Possible Conflict of Interest: PRC members must be unbiased and impartial. The Chancellor's Designee shall notify the PRC of the identity of the Complainant and Respondent when the PRC is convened. PRC members shall immediately advise the Chancellor's Designee if they believe they have a conflict of interest or otherwise cannot be impartial in any given case. See Appendix C.
  - a. Complainants and Respondents may object to a PRC member(s) on the basis of a conflict of interest. Any objection must be (1) in writing, (2) set out facts to support the objection, and (3) submitted to the Chancellor's Designee no later than 5 calendar days after receipt of the notification of the opportunity to meet with the Chancellor/Chancellor's Designee and/or comment on the Title IX/OPHD investigation report, as described in Section II-A above. Objections that are not timely submitted shall be deemed to be waived.
  - b. The Chancellor's Designee shall review the information provided by any PRC member, the Complainant and/or Respondent, and shall determine whether a PRC member should not serve on a particular case due to a conflict of interest.
3. The Chancellor's Designee may appoint PRC members to serve as "leads" with primary responsibility for reviewing the case, leading discussions and submitting the recommendations. The expectation is that the PRC members who are not recused shall participate in the discussions and recommendations to the maximum extent possible. It is possible that not all PRC members will be able to participate in a particular case, but all members shall be notified of all recommendations.
4. The PRC shall review the Title IX/OPHD investigation report and any attachments and/or any written comments to the report submitted by the Complainant and/or Respondent. The PRC shall not interview any witnesses.
5. The PRC may use any reasonable means to conduct its deliberations, including but not limited to: meeting in person, meeting via phone, WebEx or other conferencing mechanism, discussion via email, or any combination.
6. A representative from the UCSF Office of Legal Affairs and PRC staff may attend the PRC meeting(s).
7. PRC members shall keep all information confidential to the maximum extent permitted by policy and law. See Appendix D for confidentiality guidelines for the PRC.
8. Before submitting its recommendations to the Chancellor/Chancellor's Designee, the Chancellor's Designee shall meet with the PRC at least once. This meeting may be held via any reasonable means. The Chancellor's Designee may share with the PRC any information received from his/her meetings with the Complainant and/or Respondent. The PRC may also consult with the Title IX/OPHD Officer or investigator at its discretion.

9. The PRC shall deliberate and submit its written recommendation to the Chancellor/Chancellor's Designee.
10. The PRC recommendation in each case shall be approved by a simple majority of PRC leads plus any other PRC members who participate.
11. The PRC may recommend appropriate discipline, early resolution, or no discipline. APM 016 authorizes imposition of more than one form of discipline. The Peer Review Committee may also provide advice on the other corrective or remedial measures as deemed appropriate.
12. The PRC's recommendation shall be submitted to the Chancellor and Chancellor's Designee in writing, shall be signed by the participating PRC members and shall provide the following information at a minimum:
  - The identity of the PRC members who participated in the recommendation and any PRC members who were recused
  - The identity of any PRC members who served as "leads" for the particular case
  - A list of all information and documents reviewed and/or relied on by the PRC in forming its recommendation. These documents are not required to be attached to the recommendation.
  - The PRC's recommendation
  - The rationale for the PRC's recommendation

## **E. Proposal of Discipline or Early Resolution**

1. Faculty Respondents: Upon receipt of the PRC's recommendation, the Chancellor shall make a determination regarding the proposed discipline and/or early resolution. In all cases where the Title IX investigation finds a Senate or non-Senate faculty Respondent responsible for violating the SVSH Policy, the Chancellor or Chancellor's Designee will consult with the campus Title IX Officer on how to resolve the matter, including the appropriate discipline or other corrective measures. The Chancellor and the Chancellor's Designee may also consult with each other and/or with other appropriate advisors in making this determination. In addition, the Chancellor and/or Chancellor's Designee may recommend remedial measures.
2. Non-Faculty Academic Respondents: Upon receipt of the PRC's recommendation, the Chancellor or the Chancellor's Designee shall make a determination regarding the proposed discipline and/or early resolution. In all cases where the Title IX investigation finds a non-faculty academic Respondent responsible for violating the SVSH Policy, the Chancellor or Chancellor's Designee will consult with the campus Title IX Officer on how to resolve the matter, including the appropriate discipline or other corrective measures. The

Chancellor and the Chancellor's Designee may also consult with each other and/or with other appropriate advisors, in making this determination. In addition, the Chancellor and/or Chancellor's Designee may recommend remedial measures.

3. Written Notice of Discipline/Early Resolution Proposal: The Chancellor or Chancellor's Designee shall communicate the proposed discipline and/or early resolution to the Respondent in writing.
  - a. Faculty Respondents who are Members of the Academic Senate: The proposed discipline and/or early resolution terms shall be communicated in a letter. The Complainant shall be contemporaneously notified of the proposed discipline.
  - b. Non-Senate Faculty and Non-Faculty Academic Respondents: The proposed discipline/early resolution shall be communicated to the Respondent in a letter that meets the requirements of a Notice of Intent as specified in APM 150-31-c. Per the Systemwide Frameworks, the Complainant is not required to receive notice of the proposed discipline, but will be informed of any final resolution.

## **F. Response to Proposed Discipline or Early Resolution**

Response Time: All Respondents shall have 14 calendar days to respond to the Chancellor's written proposal/Notice of Intent. The Respondent may accept or decline the proposal.

Non-Response Indicates Acceptance of the Proposed Discipline or Early Resolution: If the Respondent does not respond to the Chancellor's proposal by the stated deadline, the Respondent will be deemed to have accepted the proposal. The Respondent's response may include any other information s/he wishes to present.

1. Acceptance of Discipline: If the Respondent accepts the proposed discipline affirmatively or through non-response, the agreed-upon discipline shall be imposed as soon as reasonably possible after the notification of acceptance is received or the response deadline passes without response.
  - a. Respondent who are Members of the Academic Senate who accept the proposed discipline shall receive a final discipline letter.
  - b. Non-Senate Faculty and Non-Faculty Academic Respondents who accept the proposed discipline shall receive a Notice of Action that meets the requirements of APM 150-32-e.
  - c. The Vice Provost shall be notified of the discipline imposed and shall ensure that the hold on any academic action or advancement packet of a Respondent is released as soon as possible after the discipline is imposed.
  - d. The Complainant shall receive the appropriate notifications per SVSH Policy and

Systemwide Frameworks and/or the law.

2. Early Resolution: If the Chancellor/Chancellor's Designee and the Respondent reach agreement on early resolution before the end of the Disposition Phase, the terms of the agreement shall be documented in writing and signed by the Respondent and the Chancellor or Chancellor's Designee; the terms shall be implemented as soon as reasonably possible after agreement is reached.
  - a. The Vice Provost shall be notified of the discipline imposed and shall ensure that the hold on any academic action or advancement packet of a Respondent is released as soon as possible after the discipline is imposed.
  - b. The Complainant shall receive the appropriate notifications per the SVSH Policy, the Systemwide Frameworks and/or the law.
3. Rejection of Proposed Discipline or Early Resolution: If the Respondent declines the proposed discipline and/or early resolution:
  - a. For Respondents Who are Members of the Academic Senate: The Chancellor or Chancellor's Designee shall file charges with the Academic Senate Committee on Privilege and Tenure (P&T Committee) at or before the end of the Disposition Phase, regardless of whether discussions are in progress. The filing of charges ends the Disposition Phase and initiates the Adjudication Phase for these Respondents.
  - b. For Non-Senate Faculty and Non-Faculty Academic Respondents: Rejection of the propose discipline or early resolution ends the Disposition Phase, and initiates the Adjudication Phase for these Respondents.
  - c. The Vice Provost shall be notified of the discipline imposed and shall ensure that the hold on any academic action or advancement packet of a Respondent is released as soon as possible after the discipline is imposed.
  - d. The Complainant shall receive the appropriate notifications per University Policy, the Systemwide Frameworks and/or the law.

### III. ADJUDICATION PHASE

The Adjudication Phase follows the Disposition Phase only when the Respondent and the Chancellor do not reach agreement regarding discipline or early resolution.

#### A. Faculty Respondents who are Members of the Academic Senate



1. The process following the filing of charges with the P&T Committee is set forth in APM-015 and APM-016, and is governed by Senate Bylaw 336 and other applicable Senate bylaws, as well as UCSF divisional bylaws.
2. Following receipt of the recommendation from the P&T Committee, in accordance with APM-016 and other applicable procedures, the Chancellor will generally make a final decision regarding discipline.
  - a. Exception: If the decision involves dismissal for a faculty member who has tenure or security of employment, the authority for dismissal “rests with the Regents, on recommendation of the President, following consultation with the Chancellor.” See [APM-016, Section II-6](#).
3. The Complainant and the Respondent shall receive periodic updates on the status of the P&T proceedings.
4. The P&T Committee shall make a recommendation to the Chancellor, which the Chancellor shall review and consider. Within 14 calendar days of receiving the recommendation from P&T, in accordance with APM-016 and any other applicable procedures, the Chancellor shall make a final decision regarding discipline and shall impose the discipline he/she finds to be appropriate, unless the decision involves dismissal for a faculty member who has tenure.<sup>12</sup> In the case of a faculty member with tenure<sup>13</sup>, the process outlined in APM-016, Section II.6. shall apply... Extensions to this timeline may be granted for good cause with written notice to the Complainant and Respondent stating the reason necessitating an extension and the projected new timeline.
5. The Vice Provost shall ensure that the hold on any academic action or advancement packet of a Respondent continues until the Chancellor’s final decision is imposed.
6. The Complainant and the Respondent shall receive the appropriate notifications per University Policy, the Systemwide Frameworks and/or the law.

## **B. Faculty Respondents who are not Members of the Academic Senate**

1. The Adjudication Phase is governed by APM-150.
2. When a non-Senate faculty Respondent rejects the proposed discipline or early resolution, the Chancellor or Chancellor’s Designee shall issue a Notice of Action that meets the requirements of APM 150-32-e.

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<sup>12</sup> Or who has security of employment.

<sup>13</sup> Ibid.

3. The Respondent may file a grievance pursuant to APM-140. The time frames and all other provisions of APM-140 shall apply.
  - a. If the proposed discipline in a Notice of Intent includes dismissal that results in an early termination of a non-Senate faculty Respondent's academic appointment, the Respondent may request an Academic Senate hearing on the dismissal only, pursuant to [Standing Order of the Regents 103.9](#), APM-150 and Academic Senate [Bylaw 337](#). A non-Senate faculty appointee is entitled to select only one grievance review mechanism.
4. The Vice Provost shall ensure that the hold on any academic action or advancement packet of Respondent continues until (1) the time to file an APM-140 grievance passes without the filing of a grievance, (2) the grievance is resolved, or (3) if an Academic Senate hearing is requested, until the Chancellor's final decision is imposed.
5. The Complainant and the Respondent shall receive the appropriate notifications per University Policy, the Systemwide Frameworks and/or the law.

### **C. Non-Faculty Academic Respondents**

1. The adjudication Phase is governed by APM-150.
2. When a non-faculty academic Respondent rejects the proposed discipline, the Chancellor or Chancellor's Designee shall issue a Notice of Action that meets the requirements of APM 150-32-e.
3. The Respondent may file a grievance pursuant to APM-140. The time frames and all other provision of APM-140 shall apply.
4. The Vice Provost shall ensure that the hold on any academic action or advancement packet of a Respondent continues until (1) the time to file an APM-140 grievance passes without the filing of a grievance, or (2) the grievance is resolved.
5. The Complainant and the Respondent shall receive the appropriate notifications per University Policy, the Systemwide Frameworks and/or the law.

## APPENDIX A: DEFINITIONS

**Faculty Misconduct:** Behavior that violates the Faculty Code of Conduct (APM 015) by breaching an ethical principle in APM 015 and significantly impairing a central function of the University, as defined in the Preamble to APM 015.

Part II of APM 015 lists several specific examples of unacceptable conduct. These illustrate types of conduct that violate an ethical principle, significantly impair a central function of the University, and presumptively warrant the imposition of University discipline.

Serious violation of University policies other than APM 015 (including but not limited to the SVSH Policy, conflict of interest, clinical practices, or whistleblower protection) may constitute a violation of the Faculty Code of Conduct.

**Preponderance of the Evidence:** A “preponderance of the evidence” is a standard of proof that requires that a fact be found when its occurrence, based on evidence, is more likely than not. See SVSH Policy, II-D-4.

Under this *Interim Procedure*, if a preponderance of evidence in the Title IX/OPHD investigation shows that the SVSH Policy, or the Nondiscrimination Policy in conjunction with the SVSH Policy was violated by a faculty Respondent, this shall constitute a finding of probable cause that the Faculty Code of Conduct has been violated.

Under this *Interim Procedure*, if a preponderance of the evidence in the Title IX/OPHD investigation shows that the SVSH Policy, or the Nondiscrimination Policy in conjunction with the SVSH Policy was violated by a non-faculty academic Respondent, this shall constitute a finding of good cause for the imposition of discipline pursuant to APM 150.

**Probable Cause:** “The *probable cause* standard means that the facts, as alleged in the complaint, if true, justify the imposition of discipline for a violation of the Faculty Code of Conduct and that the Chancellor is satisfied that the University can produce credible evidence to support the claim.” See APM 015, Part III-A-4.

## APPENDIX B: DISCIPLINARY SANCTIONS FOR FACULTY AND NON-FACULTY ACADEMIC APPOINTEES

According to Part II of the University Policy on Faculty Conduct and the Administration of Discipline ([APM 016](#)), the types of discipline that may be imposed on a member of the faculty, in order of increasing severity, are:

1. **Written Censure:** A formal written expression of institutional rebuke that contains a brief description of the censured conduct, conveyed by the Chancellor.
2. **Reduction in Salary:** Reduction to lower salary without change in rank or step.

3. **Demotion:** Reduction to lower rank or step with corresponding reduction in salary.
4. **Suspension:** Suspension of a faculty member without pay for some stated period of time from the continuance of the appointment on its normal terms.
5. **Denial or Curtailment of Emeritus Status:** Denial or curtailment of current or future emeritus status of a faculty member, including the privileges associated with the emeritus status.
6. **Dismissal from the Employ of the University:** The Chancellor has authority to dismiss a faculty member who does not have tenure or security of employment.

According to the General University Policy Regarding Academic Appointees Non-Senate Academic Appointees/ Corrective Action and Dismissal ([APM 150](#)), the types of corrective action and dismissal are:

1. **Written Warning:** A communication that informs the appointee of the nature of the misconduct or deficiency, the method of correction, and the probable consequence of continued misconduct or deficiency.
2. **Written Censure:** A formal written expression of institutional rebuke that contains a brief description of the censured conduct, conveyed by the Chancellor.
3. **Suspension:** Debarment without pay from appointment responsibilities for a stated period of time.
4. **Reduction in Salary:** Reduction to lower salary without change in rank or step.
5. **Demotion:** Reduction to lower rank or step with corresponding reduction in salary.
6. **Dismissal:** Termination of an appointment for good cause initiated by the University prior to the ending date of appointment.

Additional information about University discipline, including information specific to each type of discipline, may be found in APM 016 and APM 150.

## APPENDIX C: CONFLICT OF INTEREST CRITERIA FOR THE PEER REVIEW COMMITTEE

PRC members must be unbiased and impartial. The following list identifies factors to guide the consideration of whether a PRC member may need to recuse him/herself, or be recused by the Chancellor's Designee. This list is not exhaustive. Recusal may be appropriate if:

- The PRC member is or was a family member, spouse/partner or significant other (current or past) of the Complainant and/or Respondent
- The PRC member has, or has had, a sexual and/or romantic relationship with the Complainant and/or Respondent
- The PRC member is/was a friend of the Complainant and/or Respondent
- The PRC member is/was a close colleague of the Complainant and/or Respondent
- The PRC member is/was collaborator or co-teacher with the Complainant and/or Respondent

- The PRC member is/was a supervisor or supervisee of the Complainant and/or Respondent
- The PRC member is/was a mentor or mentee of the Complainant and/or Respondent
- The PRC member is/was part of a prior case, complaint or grievance involving the Complainant and/or the Respondent
- The PRC member has participated in any prior aspect of the case
- The PRC member's recusal is necessary to preserve the real or perceived integrity of the PRC process
- The PRC member is currently serving on the Academic Senate Committee on Privilege & Tenure
- The PRC member is currently serving on the SVSH Case Management Team

## APPENDIX D: CONFIDENTIALITY AND INFORMATION SHARING GUIDELINES

During the course of PRC proceedings, PRC members may be exposed to highly sensitive and personal information about colleagues and/or other individuals. While the University cannot guarantee that information will remain confidential, all information about or relating to the Title IX/OPHD investigation and the work of the PRC will be protected and maintained as confidential to the maximum extent allowable by law and policy.

Information relevant to the work of the PRC may be shared only among members of the PRC, legal counsel, any University representatives charged with assisting in the PRC process and the Chancellor/Chancellor's Designee.

The following guidelines for confidentiality and information sharing apply to the PRC members and its work:

- A. PRC members are responsible for making all reasonable efforts to preserve the confidentiality of all information provided to them in the course of their work on the PRC, including but not limited to: the Title IX/OPHD investigation report and information contained therein, written and/or verbal comments from Complainants and/or Respondents, as well as any additional information or documents reviewed as a part of serving on the PRC. This includes preservation of the confidentiality of records related to the work of the PRC, and any information about Complainants and Respondents, any witnesses and/or third parties.
- B. PRC members shall not discuss or otherwise disclose information unless required to do so by law or policy. This includes a prohibition against communicating directly with the parties to a case, witnesses or anyone else other than authorized University representations as part of the PRC proceedings.
- C. PRC communications shall be maintained in strict confidence and, to the extent permitted by law or policy, may be accessed only by University representatives with a need to know for purposes of the proceeding or a related proceeding, or otherwise if required by law or policy.

Questions about confidentiality and/or information sharing should be directed to the PRC staff or Legal Affairs.