

## ADMINISTRATION OF STUDENT DISCIPLINE

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## **INTRODUCTION**

The student disciplinary system at the University of California, Davis, has been established to support the mission of the campus by upholding standards of academic excellence, promoting integrity and fairness, and confronting behaviors that impair the teaching and learning environment.

### **UC Davis Tradition**

Honesty, fairness and respect are essential to learning, teaching, and research, as well as maintaining a productive and safe campus environment. As members of our academic community and of society at large, UC Davis students are held to the high standards of conduct set by the University and the campus, as well as to general requirements of law. UC Davis students are expected to uphold these standards in all their academic and extracurricular activities.

UC Davis has a strong tradition of student involvement in campus efforts to encourage academic integrity, promote responsible behavior, and enforce standards of student conduct. For example, the UC Davis *Code of Academic Conduct*, adopted in 1976, builds upon a previous student-run honor system first created in 1911. Our *Code* describes mutual expectations for students and faculty to maintain academic integrity. Students must "take group as well as individual responsibility for honorable behavior," and "make every effort to prevent and avoid academic misconduct."

### **Student Discipline**

At UC Davis, the Office of Student Judicial Affairs oversees the student disciplinary system for reports of suspected student misconduct, both academic (e.g., cheating, plagiarism, and unauthorized collaboration) and social (e.g., computer misuse, alcohol and other residence hall violations, theft, and conduct that threatens health and safety).

Most reports of suspected misconduct are resolved by agreement, with the student accepting responsibility and sanctions for his/her actions. Sanctions imposed as part of this informal process range from Warning or disciplinary Probation to Suspension or Dismissal from the University, depending upon the seriousness of the violation and whether the student has any prior disciplinary history. Emphasis is placed on holding students accountable for their actions, promoting their ethical development, upholding standards of academic excellence and responsible conduct, and protecting the welfare of members of the UC Davis community.

In the rare case that a fact-finding hearing becomes necessary, it is held before a neutral student-faculty panel or hearing officer. Each party speaks on her/his own behalf, and the goal is finding the truth through a fair process in which both sides are given a full opportunity to be heard. Formal court procedures and evidentiary rules do not apply to student discipline matters.

### **Educational Purposes of the Disciplinary Process**

UC Davis campus disciplinary procedures are intended to promote reasoned, fair, and impartial consideration of suspected student misconduct, with respect for the rights and interests of all concerned: the accused student, the reporting party, and the University. The discipline process itself is a meaningful educational experience: students learn from admitting their errors and accepting the consequences of their actions. In addition, honest students are protected when those who violate the rules are sanctioned. Student discipline is thus a shared responsibility that is integral to the University's mission and helps to fulfill the aspirations of our academic community.

## **1.00 STUDENT JUDICIAL AFFAIRS AND THE ADMINISTRATION OF THE STUDENT DISCIPLINE SYSTEM**

**1.10 The Office of Student Judicial Affairs ("SJA").** UC Davis has designated SJA to administer the student disciplinary system for academic and social misconduct, recognizing that centralized authority, responsibility and record-keeping are essential to a balanced and impartial student discipline process. SJA reviews and resolves reports of suspected violations of standards of student<sup>1</sup> conduct (Appendix A) and academic integrity (Appendix C). SJA determines jurisdiction, maintains confidential discipline records, and administers the informal disposition and formal fact-finding hearing processes.

**1.20 Delegation of Authority.** Authority for student discipline at UC Davis is delegated from the Chancellor to the Vice Chancellor for Student Affairs ("the VC"), the Assistant Vice Chancellor for Student Affairs ("the AVC") and/or the Executive Director for Judicial Affairs ("the Executive Director"), and the Director of Student Judicial Affairs ("the Director"). The Director, and under the Director's supervision, the SJA staff, have authority to impose disciplinary sanctions (Appendix B). All disciplinary action taken by the Director, other SJA staff, or any hearing body or hearing officer, operates by delegation of the Chancellor's authority.<sup>2</sup>

**1.30 Overview of Process.** Most cases are resolved through an informal process in which professional SJA staff meet with the accused student, consult with the reporting party, and, if appropriate, enter a written disciplinary contract specifying agreed sanctions for any admitted violations of conduct standards. Students are advised of their rights provided by UC Davis disciplinary procedures, including the right to request a formal fact-finding hearing if they do not admit the conduct, and also to consult and be accompanied by an advisor during the informal and/or formal processes. Cases that cannot be resolved informally are heard by a student-faculty or student-staff panel, normally the Campus Judicial Board, or by a hearing officer, in accordance with procedures described below and with requirements set forth in University policy.<sup>3</sup>

### **1.40 Cases involving Sexual Harassment and/or Sexual Violence**

Cases involving sexual harassment and/or sexual violence are adjudicated under *Appendix F: UC Davis Procedures for Student Cases of Sexual Harassment/Sexual Violence* : These procedures may also be used to adjudicate other charges of misconduct (UC PACAOS 102.01 through 102.25) in connection with a case involving sexual violence or sexual harassment.

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<sup>1</sup> *The Student Programs and Activities Center ("SPAC") has primary responsibility for administrative oversight and action with respect to registered student organizations (see <http://spac.ucdavis.edu/registration.htm/>). SPAC coordinates with SJA in conducting any formal review of proposed suspension or revocation of a student organization's registration.*

<sup>2</sup> *Misconduct by students in the residence halls may be resolved through the student discipline system, by using housing contract remedies, or both. The Residential Education Office staff includes SJA Officers who report jointly to Student Housing and SJA, and have authority to resolve cases under both processes. In addition, student members of the Campus Judicial Board and SJA student employees may be designated to perform assigned functions on behalf of SJA, including student disciplinary meetings.*

<sup>3</sup> *See University of California Policy on Student Conduct and Discipline, Section 103.10: "Procedural due process is basic to the proper enforcement of University policies and campus regulations. ... [S]tudent conduct cases ... [shall be handled] in accordance with basic standards of procedural due process. Consistent with this requirement, procedures specified in [campus] regulations shall be appropriate to the nature of the case and the severity of the potential discipline." Section 103.11 provides "When a formal hearing is deemed to be appropriate, campus implementing regulations shall provide the following minimum procedural standards to assure the accused student a fair hearing:*

- a. "Written notice, including a brief statement of the factual basis of the charges, the University policies or campus regulations allegedly violated, and the time and place of the hearing, within a reasonable time before the hearing;*
- b. "The opportunity for a prompt and fair hearing where the University shall bear the burden of proof, and at which the student shall have the opportunity to present documents and witnesses and to confront and cross-examine witnesses presented by the University; no inference shall be drawn from the silence of the accused;*
- c. "A record of the hearing; an expeditious written decision based upon the preponderance of evidence, that shall be accompanied by a written summary of the findings of fact; and*
- d. "An appeals process." UC Policy on Student Conduct and Discipline <http://www.ucop.edu/ucophome/coordrev/ucpolicies/aos/uc100.html>*

## **2.00 REPORTING SUSPECTED STUDENT MISCONDUCT.**

**2.10 Reporting Suspected Misconduct to SJA.** Suspected student misconduct falling within SJA's jurisdiction (see Sections 9.00 to 9.60) should be reported in writing to SJA. Reports should include the following, if known: the accused student's name and identifying information, the nature of the suspected violation, a description of the circumstances, including the date of the incident, names of witnesses, copies of supporting documents, and how to reach the reporting party (report forms are available on-line).

**A. Reporting parties.** Reports of suspected misconduct may be made to SJA by faculty, students, staff, or others (including parties not affiliated with the University). The reporting party may be the person directly affected by the behavior, or someone acting on his/her behalf.<sup>4</sup> Where the reporting party is different from the affected party, the affected party may have the same rights as the reporting party under these policies,<sup>5</sup> if authorized by SJA.

**B. Student Request for Disciplinary Review.** A student who has been assigned a "Y" grade or subject to other adverse action, but who has not been reported to SJA, may bring the matter to SJA and elect to have his/her case reviewed through the disciplinary process.

**2.20 Preliminary Review by SJA.** Upon receiving a written report or a request for review, SJA will evaluate the matter. If SJA determines that, in its judgment, no further action is warranted, the person reporting the case or requesting the review will be so informed. SJA may decline further action if the report is untimely; if there is no substantial evidence to support the report; if the suspected behavior does not constitute a violation of student conduct standards; or if the suspected incident should be addressed through other policies or procedures.

**2.30 Initiating a Discipline Case.** If SJA determines that further inquiry is appropriate, SJA will notify the accused student and reporting party that a disciplinary case has been opened. SJA sends written notice (by email) to the student of the report of suspected misconduct, and directs the student to schedule a meeting with SJA.<sup>6</sup>

## **3.00 INFORMAL PROCESS**

**3.10 Informal Disposition (Definition).** "Informal disposition" means resolution without a formal fact-finding hearing, usually by agreement between the student and SJA. Informal disposition can also include unilateral disciplinary action if a student fails to participate in the disciplinary process, or when a sanction is imposed as specified in a prior deferred sanction agreement (see Section 3.40(D)). In cases that cannot be resolved informally, a fact-finding hearing is held (see Section 4.00).

### **3.20 Procedures for Informal Disposition.**

**A. Meetings/communications with accused student.** If the accused student participates in informal disposition, the process usually includes one or more meetings or other communications (e.g., phone calls, emails) between the student and SJA to discuss the facts of the case, possible outcomes (including sanctions), and terms of agreement. At the first meeting with the accused student, the SJA staff member describes disciplinary procedures, and provides details regarding the information supporting the report of misconduct. The accused student is afforded an opportunity to respond, to ask questions, and to discuss possible options for resolving the case.

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<sup>4</sup> In cases such as alleged sexual or other physical assault, it is common for the reporting party to be a campus official such as a police officer, Resident Advisor, or Victim Advocate. This assures University representation, and means the victim is not necessarily the reporting party.

<sup>5</sup> For example, a party directly affected by the behavior may have the same rights to attend a formal hearing and to be accompanied by an advisor as the accused student or the reporting party.

<sup>6</sup> In most cases, the reporting party receives an email copy of the notice to the student.

- B. *Information Provided by Accused Student.*** While the accused student is required to respond to SJA, he/she may choose not to provide information in response to the charges (remain silent regarding the allegations) and request a formal hearing. Any information provided by the student in the informal disposition process (whether at a meeting, during a phone call, or in an email or other writing) must be truthful. This information may be shared with the reporting party, and may become evidence in a later formal process.
- C. *Advisors.*** An accused student may consult and/or be accompanied by an advisor of his/her choice at any point during the informal process.
- D. *Consultation with Reporting Party.*** SJA normally consults with the reporting party before reaching an agreement with the student or otherwise resolving the case informally, and may advise the referring party if the accused student has a disciplinary history.
- E. *Resolution by Another.*** Rather than reach agreement regarding the facts and/or sanction, the student and SJA may agree to have the case resolved by another, such as a mediator.

**3.30 Informal Disposition by Agreement.** SJA may offer to resolve the case informally by agreement between the student and SJA. If an agreement is reached, it should be stated in writing and signed by the student, and should contain the following terms, as appropriate:

- A. *Violation Admitted.*** The agreement should state whether a violation is acknowledged, and, if so, describe the agreed facts of the incident and the nature of the admitted violation.
- B. *Terms of Agreed Sanction(s).*** If the student and SJA agree on the appropriate sanction(s), the agreement should describe the terms of the sanction(s) to be imposed.

**3.40 Informal Disposition by Unilateral Action.** SJA may resolve a report of suspected misconduct unilaterally by taking administrative action or imposing sanctions under the conditions listed below, depending upon the circumstances of the case, including factors such as the seriousness of the violation, whether the student has a prior disciplinary history and/or has signed a deferred sanction agreement, and the length of time the student has delayed in responding:

- A. *Failure to Respond.*** If the student has failed or refused to respond within 30 days after SJA's first attempt to contact him or her, or has failed or refused to participate in or cooperate with the disciplinary process, despite reasonable efforts by SJA to contact him/her;
- B. *Break in Enrollment.*** If the student has withdrawn or failed to re-register while discipline is pending, and the student fails to respond and participate in the disciplinary process;
- C. *Failure to Comply with Previous Disciplinary Agreement.*** If the student fails to complete community service hours, submit a paper, or comply with other requirements of a disciplinary agreement, including, but not limited to, violating a prior agreement that the student will not contact certain individuals or enter certain areas of campus.
- D. *Previous Deferred Sanction Agreement.*** If the student previously agreed to a deferred sanction and subsequently violates the disciplinary contract.

**3.50 Types of Unilateral Action SJA May Take.** SJA has discretion to take any of the following unilateral actions:

- A. *Administrative actions.*** (See Appendix B.) Administrative actions are not disciplinary sanctions, and do not constitute a disciplinary record.
  - 1. *Administrative Holds.*** SJA may place holds on a student's registration, graduation, diploma, and transcripts; or
  - 2. *Administrative Notice.*** SJA may issue administrative notices regarding University standards and policies (See page 21, and University of California *Policies* Section 104.80).
- B. *Sanctions:***

1. SJA may impose sanctions unilaterally, including Censure, Probation, Suspension, Interim Suspension, or Dismissal, as long as the student is provided notice and an opportunity to be heard through the informal disposition process either before the sanctions are imposed, or, if the student fails to respond or cooperate, when the student appeals the unilateral sanctions.
2. If the student has previously agreed to a deferred sanction, SJA may impose the agreed deferred sanction or a lesser sanction.

C. *Submit the case for formal fact-finding hearing* in the student's absence (see Sections 4.00 and 5.00, and specifically Section 5.50.A).

**3.60 Effect of Withdrawal or Failure to Register on Discipline Process.** If the student has withdrawn or failed to re-register, the sanctions will take effect immediately upon re-admission, or sooner if appropriate, as determined by SJA.

**3.70 Appeal of Administrative Action or Unilateral Discipline.** The student who is subject to holds or to sanctions imposed under section 3.40 may appeal SJA's decision as follows:

A. *Release of holds.* SJA may place administrative holds on a student's registration, graduation, diploma, and/or transcripts. Such holds may be placed because a student has failed to respond to SJA, has failed to complete community service or other requirements of a prior discipline contract, or is not currently enrolled at UC Davis. Generally, administrative holds are promptly removed as soon as the student contacts SJA and meets with SJA staff, but in certain cases the holds will not be released until the student resolves the matter, and/or complies with the prior requirements. A student may contact SJA to request that administrative holds be released. If SJA declines to release the holds, the student may appeal as described in (B), below.

B. *Appeals from Unilateral Discipline Imposed for Failure or Refusal to Respond.* Appeals from unilateral discipline must be submitted to the Director in writing and must state reasonable grounds for the student's non-cooperation or failure to respond during the original process. The Director may sustain the original unilateral discipline, or may reopen the discipline process for informal disposition or formal hearing. If the Director sustains the original action, the student may appeal under section 3.70 (C), below.

C. *Appeals from Discipline Imposed under A Previous Deferred Sanction Contract.* An appeal of sanctions imposed by SJA under a deferred sanction contract must be submitted to the AVC or the Executive Director in writing within 10 business days after the student receives written notice of SJA's decision, and must be based on one or more of the grounds stated in Section 7.30. The AVC or the Executive Director, or her or his designee, may take any of the following actions:

1. *Modify the Sanction.* Affirm, increase, reduce, or rescind the original sanction;
2. *Return the Case to SJA.* Return the case to SJA for the accused to present evidence under these procedures; or
3. *Refer the Case for Formal Hearing.* When appropriate, refer the matter for a new formal hearing. If a formal hearing has been held in the student's absence, University witnesses will not be required to appear again nor must the University repeat its presentation, but may re-present the same evidence or present new evidence at its discretion.

#### **4.00 FORMAL FACT-FINDING HEARINGS**

**4.10 Setting a Formal Hearing.** If SJA is unable to resolve a matter informally after a reasonable time for review, and if attempts at informal disposition are unsuccessful because issues remain in dispute, SJA may refer the case to an appropriate body for a formal fact-finding hearing.

A. *Nature of the Hearing.* A formal disciplinary hearing, consistent with the University's educational mission, is a process whereby members of our academic community – students, faculty, and staff –



meet to make determinations of fact. It is not a court proceeding. The goal is to find the truth through a fair, prompt, and effective process, respecting and preserving the rights of the accused student, the University community, the reporting party, and any witnesses.

1. *Purpose of Hearing.* These procedures are intended to implement the University's educational goals while providing the student notice and an opportunity to be heard, which includes questioning witnesses and presenting his/her own evidence and witnesses.
  2. *Self-Representation.* In general, students and reporting parties speak on their own behalf, but may each be assisted in preparing and accompanied at any informal or formal hearing by an advisor of his/her choice (Section 4.50).
- B. Subject of the Hearing.** Issues in dispute may involve the nature and facts of the suspected misconduct, whether there has been a violation of University policy or campus regulations, and/or evaluating and recommending appropriate sanctions for the violation.
- C. Recommended Sanction.** SJA may consult with the reporting party in determining a recommended sanction and in deciding whether to refer a case for formal hearing.
- 4.20 Hearing Authorities.** A matter may be referred for a fact-finding hearing to a hearing body or to a hearing officer as described below.

**A.** The role of the hearing panel or hearing officer is to determine the facts and whether or not a preponderance of the evidence establishes a violation of conduct standards. If a violation is found, the hearing authority may receive information and recommend appropriate sanctions.

**B. Types of Hearing Authorities:**

1. The Campus Judicial Board (may conduct fact-finding hearings or sanction hearings).
2. Hearing Officers and Ad Hoc Hearing Panels.
3. Graduate and Professional School Hearing Panels.

**4.30 The Campus Judicial Board (“CJB”).** The Campus Judicial Board is a panel, normally comprised of students and faculty, that has primary responsibility for hearing disputed cases of suspected academic misconduct. CJB panels comprised of students and staff may hear social misconduct cases as assigned and appropriate.

**A. Student Members of the CJB.** The Vice Chancellor for Student Affairs (“VC”) may appoint up to 15 students to the Campus Judicial Board, and may appoint a student chair or co-chairs from among the student members of the CJB. If the appointed chair is unavailable to serve at a hearing, another student member may serve as ad hoc chair without special appointment. Student CJB members serve one-year terms and may be reappointed. For information about the CJB, including the selection process and criteria membership, see <http://sja.ucdavis.edu/cjb.html>.

1. *Student CJB Educational Outreach Programs.* In addition to serving on hearing panels, CJB student members develop, implement, and present outreach programs and educational materials, such as the Campus Judicial Report and other publications, to encourage academic integrity and responsible and ethical conduct in the campus community.
2. *Other Student CJB responsibilities.* Student CJB members hold office hours and provide information and advising to students with questions about the discipline process or grievances. Student CJB members who are not serving on the designated panel for a specific hearing may serve as advisors to the accused student or reporting parties for that hearing. CJB student members may also meet with accused students as part of the informal disposition process or to follow up with a student who has completed an educational task or community service.

**B. Faculty Members of the CJB.** The VC may appoint up to 15 faculty (Academic Senate and Academic Federation members) to the Campus Judicial Board. Any faculty member may serve as

chair or a hearing officer without special appointment. Faculty CJB members will normally serve two-year terms and may be reappointed. Faculty normally serve as hearing panel members or hearing officers only in academic misconduct cases.

- C. *Staff Members of the CJB.* The VC may appoint staff to serve as hearing officers or as CJB panel members. Staff will normally serve two year terms and may be reappointed. Staff serve on student-staff panels or as hearing officers only in social misconduct cases.
- D. *CJB Hearing Panels.* Normally, a CJB hearing panel will consist of an odd number of students and faculty (or staff). A CJB hearing panel may be chaired by a student or a faculty member, as appropriate. A quorum is three panel members, including at least one student and one faculty member, and the maximum membership of a panel is five individuals.

#### **4.40 Other Types of Hearings and Hearing Authorities.**

- A. *Sanction Hearings.* If a student has admitted the offense, but SJA and the student are unable to reach an agreement regarding the appropriate sanction, the matter may be submitted to a sanction panel or hearing officer (unless there is a pre-existing deferred sanction agreement). An agreed statement of facts should be put in writing and approved by the student and SJA to serve as the basis for the sanction hearing. A sanction panel is comprised of no more than three individuals (student, staff, or faculty) from the CJB or separately appointed by the VC. The panel will consider and make recommendations on the appropriate sanction as set forth in Section 6.00.
- B. *Hearing Officers or Ad Hoc Hearing Panels.* Hearing Officers or members of Ad Hoc Hearing Panels are University faculty, students, or staff members, generally with prior hearing experience and/or training, appointed by the VC to hear student disciplinary cases. They may serve in appropriate cases, for example, during academic break periods and summer sessions, in campus emergencies, or at times when the CJB cannot meet. An appointed student, faculty, or staff member of the CJB may serve on ad hoc hearing panels, or as a hearing officer or advisor in disciplinary matters as long as such service is documented in the VC's original letter of appointment. The VC may make additional ad hoc appointments as necessary.
- C. *Graduate Studies, Graduate School of Management, Law School, or School of Education Hearing Panels.* If the accused student is a graduate student or a student in the Graduate School of Management, the Law School, or the School of Education, and a formal hearing becomes necessary, an Ad Hoc Hearing Panel may be appointed including at least one graduate-level student and one faculty member with graduate-level teaching and research experience, preferably from the Division or School in question.
- D. *School of Medicine and School of Veterinary Medicine Hearing Panels.* The UC Davis Schools of Medicine and Veterinary Medicine have established their own hearing bodies and written procedures for resolving student discipline cases involving their own students. Disciplinary records for students at the Schools of Medicine or Veterinary Medicine are kept by the school in question, and SJA is notified of any disciplinary action taken against such students.

#### **4.50 Preparation and Presentation of Cases.**

- A. *Parties represent themselves.* In keeping with the University's educational purposes, accused students and reporting parties speak on their own behalf and present their own case at the hearing. See Section 4.10 (A) (1) and (2).
- B. *Advisors.* The accused student and the reporting party may each have an advisor of their choice to help with preparation for the hearing and who may accompany them at the hearing.
  - 1. Student members of the CJB may serve as advisors.
  - 2. The accused student and the reporting party are each responsible for preparing and presenting their own evidence and witnesses at a formal hearing. Advisors may provide assistance to the parties prior to and at a hearing, but advisors do not prepare or present the case for the parties.

3. Generally, advisors will not take a direct part in hearings without the approval of the panel or hearing officer. With approval, advisors may ask questions of those who testify, and if the party so chooses, present the summarizing statement for the party at the close of the hearing.
4. The role of the advisor may be expanded in exceptional cases at the discretion of the Director if a party will be unfairly disadvantaged in the absence of such additional assistance, such as where the party is a non-native English speaker or wishes to exercise the right to remain silent.
5. The panel or hearing officer may exclude an advisor from the hearing if the advisor fails to comply with the hearing procedures, becomes disruptive, or impedes or interferes with the hearing process.

## **5.00 HEARING PROCEDURES**

**5.10 Applicability.** These procedures apply to all disciplinary hearings unless specifically waived by the accused student or reporting party. Additional procedures specific to cases involving allegations of sexual violence and sexual harassment are set forth in Appendix F.

- A. Hearing panels and officers may adopt other procedures consistent with these procedures as necessary in exceptional cases, if reasonable notice is given before the hearing.
- B. An SJA representative attends all hearings to ensure compliance with these procedures and facilitate the hearing process.

**5.20 Scheduling the Hearing.** Hearings are scheduled and concluded (a) with reasonable speed to avoid unnecessary hardship for the student, reporting party, or witnesses; and (b) to permit the parties reasonable time to prepare. Hearings may be held during summer sessions or academic break periods.

**5.25 Notice of the Hearing.** Once it is determined that a formal hearing is necessary to resolve the matter, SJA sends the student written notice within a reasonable time before the hearing.

- A. *Delivery of Notice.* The notice of hearing may be emailed, sent by U.S. mail, and/or picked up by the accused student in person from SJA. Normally, the notice must be picked up by the student, e-mailed, and/or postmarked at least ten days before the scheduled hearing date, unless the student agrees to a shorter period.
- B. *Presumption of Delivery.* It is presumed that the accused student has received notice if the student has picked up the notice from SJA, or if the notice has been sent to the student by (1) email at the student's primary UC Davis email address; and/or (2) regular U.S. mail at the local address provided by the student to SJA, or the local address and/or email addresses most recently filed with the Registrar's Office; or, if undeliverable at a local address, at the permanent address of record.
- C. *Contents of Notice.* The notice should include the following information:
  1. The time, date, and place of the hearing, or notice that the hearing will be held at a time and place to be specified in a later notice;
  2. A brief description of the factual basis of the suspected violation, a list of the University policies or campus regulations reportedly violated, and a summary of the information (documents or other evidence and names of witnesses) to be provided at the hearing;
  3. A statement that the student is entitled to be accompanied/assisted by an advisor; and
  4. An outline of the hearing process.
  5. Either in the notice of hearing, or as soon as possible afterwards, the student is provided with the name(s) of the hearing panel members or hearing officer so that he or she may, if there is good cause, submit a challenge (Section 5.35)

**5.30 Access to Information to be Provided at the Hearing.** The accused student may request and receive information in the possession of the University which will be provided at the hearing and other non-confidential information which the chair finds to be relevant and necessary to a fair hearing.

- A. *Submitted in advance.* Any information to be provided at the hearing must be submitted in advance to SJA, including (1) copies of documents and other evidence and (2) lists of the names of witness who will be called with a brief description of the subject of each witness's testimony.
- B. *Deadline for submission.* The accused student and reporting party will each submit copies of their documents and witness lists at least two days before the hearing so that SJA may make copies for the panel. Anything submitted after this deadline will be considered as evidence only with the approval of the chair and the agreement of both parties.

**5.35 Disqualification of a Panel Member.** Members of a panel should have no prior involvement in the case, and should disqualify themselves if they believe they cannot render a fair decision.

- A. *Challenge for cause.* Either party may challenge a panel member for stated reasons. A challenge should be made to SJA within three days after receiving notice of the names of the panel members.
- B. *Disqualification.* SJA or the chair may disqualify the challenged panel member upon a finding that he or she is unable to make an impartial decision, or may overrule the challenge.
- C. *Reasons.* SJA or the chair should provide a brief statement of reasons if a challenge is denied.
- D. *Lack of quorum.* If disqualification of a panel member prevents a quorum, an alternate panel member will be assigned to the hearing.

**5.40 Pre-Hearing Conference.** If several witnesses will be presented, the issues are complex, or if otherwise deemed useful, a pre-hearing conference may be scheduled at the discretion of the hearing panel chair, hearing officer, or SJA. At the pre-hearing conference, the parties will submit documents and lists of witnesses and the general facts to which they will testify. The chair or hearing officer may decide any procedural issues and may exclude proposed testimony that is irrelevant, unduly repetitive, or unreasonably time consuming, or may reserve such determinations until the hearing. The chair or hearing officer may also ask for and decide any challenges under Section 5.35.

**5.45 Closed and Open Hearings.** Hearings will normally be "closed," but the accused student may request that the hearing be "open" if the request is submitted no later than three days after receiving the notice of hearing. SJA will deny the request if an open hearing would invade the privacy rights of others; if it might reasonably be expected to result in threats to or intimidation of witnesses; or for other substantial reasons. If SJA determines that the hearing may be open, it should be scheduled in a room that provides reasonable space for spectators to be present. If there is interference with the orderly progress of an open hearing, the hearing panel may adjourn and reconvene as a closed hearing. If the hearing is open to the press/public, notice of the decision may be made public.

**5.50 Who May Be Present at the Hearing.**

- A. *The accused student and the reporting party* are both entitled to be present throughout the hearing, with their advisors, if any, but may choose not to appear. The accused student's failure to appear shall not be construed as proof of culpability.
- B. *Multiple accused students.* Where more than one student is reported in connection with a single incident or set of facts, SJA will usually schedule a joint hearing for all of the accused students in order to conduct a full and fair consideration of the case. All of the accused students may be present at the joint hearing. SJA may, at its discretion, schedule and conduct separate hearings.
- C. *Witnesses wait outside the hearing room when not testifying.* Witnesses are excused upon completion of their testimony, unless the chair determines that a witness should remain. Other individuals (e.g., family or friends of the accused or reporting party), may be permitted to attend only at the discretion of the chair and/or SJA.

**D. *Deliberations*** are always conducted in closed session, with only members of the panel present.

### **5.60 Evidence and Testimony.**

**A. *Formal rules of evidence or court procedures are not used and do not apply in the student disciplinary process.*** Student discipline hearings are not court proceedings; the procedures used in civil or criminal trials, motions, or other proceedings before a court or administrative agency do not apply. For example, discovery procedures, requirements for pleadings, and the hearsay rule do not apply in student disciplinary hearings.

**B. *Information and Evidence that May Be Considered at Hearings.*** The hearing panel may receive and consider spoken, written, or other evidence of the kind on which reasonable persons are accustomed to rely in serious matters, as described below.

1. The accused student and the reporting party shall each have the opportunity to testify themselves and present witnesses and other evidence regarding the facts of the suspected violation and whether or not a violation occurred. Parties may also present evidence on the issue of an appropriate sanction.
2. An SJA staff member may present evidence regarding an appropriate sanction, considering the nature of the violation admitted or found to have occurred, aggravating or mitigating circumstances, and SJA policies and practices regarding sanctions imposed in similar cases.
3. Eyewitness testimony and circumstantial evidence in any form (e.g., documents, pictures, electronic, and/or physical evidence) may be presented to the panel.
4. One person's report of another's statements (hearsay) may be received by the panel. The hearing panel may discount hearsay evidence in part or in whole as appropriate.
5. A criminal plea, trial, and/or conviction, including a court order, opinion, transcript of sworn testimony, or other official record may be received as evidence.
6. The panel may weigh credibility and make findings based on the testimony of one witness against another or against other evidence.
7. The panel may exclude irrelevant or unduly repetitious evidence.

**C. *Testimony and Questioning of Witnesses.***

1. *Testimony must be truthful.* All parties and witnesses must specifically agree before testifying that their testimony will be truthful. Individuals may be subject to disciplinary action if they provide false information in the hearing process.
2. *No student witness may be compelled to incriminate him/herself.* The accused student may remain silent and his/her silence should not be taken as inference of culpability.
3. *The panel initiates questioning of parties and other witnesses.* Parties (and, with approval of the panel, their advisors) may ask questions of each other and witnesses in the order determined by the chair.
4. *Both the accused student and the reporting party may request that specified witnesses attend the hearing and testify.* If a witness is unavailable to testify at a hearing, SJA may arrange for testimony to be taken at an alternate time under conditions providing an opportunity for oral or written questioning by both parties and the panel members, with the consent of the parties.

**5.70 Introductory and Summary Statements.** At the beginning of the hearing, the accused student and reporting party may each make a brief introductory statement. After all evidence has been heard, the accused and the reporting party, or, if either so chooses, his/her advisor, may make a brief summary.

**5.80 Burden of Proof.** At any formal hearing, no violation can be found unless it has been shown by a preponderance of the evidence that the accused committed the reported offense.

- A. *Findings of fact must be based on a determination that it is more likely than not that the accused student committed the violation (preponderance of the evidence).*<sup>7</sup>
- B. *Findings and determinations whether or not a violation occurred may be based only upon evidence received at the hearings.*

**5.90 Hearing Records.** An audio recording of the hearing (but not the deliberations) will be made.

- A. A written log/index of the timing of each witness's testimony may be kept, but is not required.
- B. After the hearing, the accused student and the reporting party may each have access to review the hearing recording and index and take notes.
- C. The audio recording is retained as part of the record for as long as the discipline record is retained.
- D. Other than for the purpose of the official record as provided above, mechanical or electronic devices for recording or broadcasting are excluded from the hearing.

## **6.00 REPORT BY HEARING PANEL OR OFFICER**

**6.10 Findings of Fact and Recommendations.** The hearing panel or officer will prepare a brief written report summarizing the findings of fact and recommendations for sanctions, if any.

**6.20 Submission of Reports.** The report should normally be submitted within 21 days after the panel or hearing officer concludes all deliberations.

- A. Reports from decisions of the CJB, ad hoc hearing panels, sanction panels, or hearing officers are normally submitted to the Director.
- B. If the recommended sanction is Suspension or Delay of Graduation for more than one calendar year, or for Dismissal, the report is submitted to the AVC or Executive Director.
- C. If the hearing concerns a graduate student, law student, Graduate School of Management student, or School of Education Student, the Director, the AVC, or the Executive Director will normally consult with the designated Assistant or Associate Dean before acting on the report.
- D. If the report is from a School of Medicine or School of Veterinary Medicine hearing, it is submitted to the designated Assistant or Associate Dean for that school.

**6.30 Contents of Report.** The report will include findings of fact as to each specified charge, and whether the conduct as found does or does not violate the policies or regulations as reported. If the decision is not unanimous, both a majority and a minority report may be submitted. Where appropriate, the report shall make recommendations as to the sanction to be imposed. (For list of sanctions, see Appendix B.)

**6.40 Action on the Report.**

- A. *Finding of No Violation.* If the finding is that no violation occurred, the accused student is notified of the decision and informed that the reporting party has 10 business days to appeal the decision. If there is no appeal, the decision is final.
- B. *Finding of Violation.* If the accused is found in violation, the official reviewing the report may
  1. approve the report and impose the recommended sanction;
  2. approve the findings of fact and impose either a more serious or a mitigated sanction if warranted by the circumstances [taking into consideration aggravating and mitigating factors, sanctions imposed by SJA and hearing panels in comparable cases, etc.]; or

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<sup>7</sup> The standards of "beyond a reasonable doubt" (used in criminal prosecutions) and "clear and convincing evidence" (used, for example, in cases of involuntary civil commitment for psychiatric treatment) do not apply to UC Davis student disciplinary proceedings.

3. return the report for reconsideration or clarification. If a report is returned for reconsideration, the issues/evidence to be considered should be specified.

**6.50 Notice of the Decision.** A written notice of the decision is provided to the accused student and to reporting parties who are campus officials, in accord with legitimate educational interest criteria, together with a copy of the panel's findings and recommendations. See Appendix E, "Confidentiality of Student Disciplinary Records." The notice of decision may be sent to the UC Davis email address of record for that individual, and should specify the due date of any appeal, and the name and address of the official to whom the appeal must be submitted (see Section 7.40). In addition, notice of the decision may be provided as follows:

- A. *To the alleged victim of a sex offense.* If the report involved an alleged forcible or non-forcible sex offense, the alleged victim will be informed of the results of the disciplinary action and appeal (see P&PM Section 320-21).
- B. *To alleged victims of sexual harassment.* If the report involved an alleged incident of sexual harassment, the alleged victim may be informed of the results of the disciplinary action and appeal when required by policy. See P&PM Section 380-12).
- C. *To Members of the Press/Public:* The decision is made public only if the hearing was open or if the student(s) named in the decision give(s) written consent (P&PM Section 320-21).

## **7.00 APPEALS**

**7.10 Time for Appeal.** Appeals must be filed within the time set in the Notice of Decision, generally ten business days after the Notice of Decision is emailed or postmarked.

**7.20 Who May Appeal.** Either the accused student or the reporting party may appeal a decision of the Director on one or more of the grounds specified below. Each party has the right to make one appeal. Unless the matter is referred for a re-hearing or a new hearing, or the panel is directed to receive additional evidence, there is no further appeal.

**7.30 Grounds for Appeal.** The appeal must be in writing, and may request that the decision and/or sanction be amended or overruled on the following grounds:

- A. *The decision lacks substantial basis in fact to support the findings.*
  1. On appeal, the appellant has the burden of proving that there is no substantial evidence to support the decision. It is not enough to assert that the hearing panel made an incorrect decision on the issue of whether a preponderance of evidence supports the finding of violation.
  2. A reporting party may not appeal a finding of "no violation" on this ground, as the panel has already determined that the preponderance of the evidence does not support a finding of violation.
- B. *There is incongruity between the proposed sanction and findings;*
- C. *There has been unfairness in the hearing proceedings; or*
- D. *There is newly discovered important evidence not known at the time of the hearing or decision.*

## **7.40 Where Appeal Must Be Filed.**

- A. Appeals from a decision by the Director must be filed with the AVC or the Executive Director.
- B. Appeals from a decision by the AVC or the Executive Director must be filed with the VC.
- C. Appeals from a student disciplinary panel decision at the School of Medicine or the School of Veterinary Medicine must be filed with the designated Dean (or Assistant/Associate Dean) of the school.

- 7.50 Decision on Appeal.** The official to whom the appeal is submitted may deny the appeal; grant the appeal in whole or part; or direct such other relief as he/she deems appropriate.
- A. For example, if the appeal is based on a claim of newly discovered evidence, the decision may be returned to the hearing panel for presentation of new evidence and reconsideration in light of that evidence.
  - B. If the appeal is from the reporting party (for example, on the grounds that there is an incongruity between the proposed sanction and findings), the appeal may be denied, the sanction may be increased, or other appropriate relief may be granted.
- 7.60 Notice of Decision on Appeal.** Notice regarding the appeal shall be provided as provided in Section 6.50. The student may prepare a statement in response to the decision to be kept on file in his/her disciplinary record.

## 8.00 TIMELINESS OF COMPLAINTS

- 8.10 Academic Misconduct Reports.** Reports to SJA for suspected *academic* misconduct must be sent to SJA within 60 days after the end of the quarter in which the suspected misconduct occurred or was discovered, or reasonably should have been discovered, or within 30 days after the end of an official investigation (e.g. an investigation of alleged Research Misconduct under P & PM Section 210-25).
- 8.20 Social Misconduct Reports.** Reports of suspected *social* misconduct must be sent to SJA within 60 days of when the suspected conduct occurred or was discovered, or reasonably should have been discovered, or within 30 days after the end of an official investigation (e.g. an investigation of alleged sexual harassment under P & PM Section 380-12), unless SJA determines that law or policy provides for a longer reporting period.
- 8.30 Late Reports.** Late reports may be addressed through the informal disposition process by agreement, but may not be the subject of unilateral discipline or a formal hearing, unless the complaining party provides proof of substantial hardship or justifiable excuse for the delay. If the delay is excused or justified, the Director has discretion to refer the matter to a formal hearing, with concern for the impact of the delay in reporting upon the accused student including availability of witnesses or evidence.

## 9.00 JURISDICTION OF SJA

SJA has jurisdiction over various types of disciplinary violations, over students and student organizations, and over on- and off-campus incidents, as described below.

- 9.10 Types of Cases.** Cases involving reported misconduct under the following categories of rules governing student conduct shall be referred to SJA:
- A. *University-wide policies*, including the University of California *Standards of Conduct for Students*, Sections 102.00 to 102.23;<sup>8</sup>
  - B. *Campus-wide rules*, such as the UC Davis *Code of Academic Conduct*; UC Davis PPM Section 270-21, "Consumption of Alcoholic Beverages;"<sup>9</sup> and PPM Section 380-12, "Sexual Harassment;"<sup>10</sup>
  - C. *Rules established by campus entities* (such as departments, residence units, education abroad programs, and professional schools) applying to students within such schools, departments, programs, or residence units.

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<sup>8</sup> <http://www.ucop.edu/ucophome/unnews/aospol/uc100.html>

<sup>9</sup> <http://manuals.ucdavis.edu/ppm/270/270-21.htm>

<sup>10</sup> <http://manuals.ucdavis.edu/ppm/380/380-12.htm>



## 9.20 Individuals and Organizations Subject to Student Disciplinary Action.

- A. *Definition of "Student."* The UC *Standards of Conduct* apply to all current UC Davis students, including individuals who are enrolled in or registered with any academic program of UC Davis; who have completed the preceding term and are eligible for reenrollment (e.g., during the recess periods between academic terms); or who are on an approved educational leave or other approved leave status, or on filing-fee status.
- B. *Applicants, former students, and registered student organizations.* The UC *Standards of Conduct* also apply to
1. *Applicants who become students*, for offenses committed as part of the application process; on a University of California campus and/or while participating in University-related events or activities; or following submittal of the application through his or her official enrollment, if off-campus jurisdiction would otherwise apply;
  2. *Former students (including graduates)* for offenses committed while a student and for offenses involving forgery or misuse of University transcripts, diplomas, or records; and
  3. *Registered Student Organizations.* In general, the Student Programs and Activities Center oversees administrative and/or disciplinary action against registered student organizations, including Greek-letter organizations. Under University Policies and campus procedures, registered student organizations are not subject to the same disciplinary process nor guaranteed the same procedural rights as individual students.

## 9.30 Geographic (On and Off-Campus) Jurisdiction.

SJA has jurisdiction over academic or social misconduct by students that occurs on UC Davis property or in connection with campus functions, activities, equipment or facilities; SJA also has jurisdiction over off-campus conduct and alleged crimes, as described below.

- A. *Off-campus conduct.* SJA has discretion to exercise jurisdiction over off-campus conduct when the suspected misconduct indicates either that the student may be a threat to the safety or security of members of the campus community or to campus property, functions, activities, equipment, or facilities, or involves academic work or University records, documents, or identification.
- B. *Factors weighed in determining whether to exercise off-campus jurisdiction.* SJA will consider the seriousness of the suspected offense, the injury, damage, and/or risk of harm involved, whether the complainant(s) and/or witnesses are members of the campus community, whether the off-campus conduct occurred at, or in connection with activities of, a registered student organization, or whether the conduct is part of a series of actions which occurred both on- and off-campus.
- C. *Discretionary SJA jurisdiction over off-campus conduct.* SJA may choose to exercise jurisdiction over off-campus conduct for reasons of safety or security where the suspected conduct involves matters including but not limited to
1. rape, sexual assault, other physical assault; threats of violence; or conduct that threatens the health or safety of any person;
  2. stalking or sexual harassment;
  3. manufacture, possession or use of weapons, explosives, or destructive devices;
  4. manufacture, sale, consumption or distribution of controlled substances (alcohol and other drugs), driving under the influence, or similar offenses;
  5. hate crimes;
  6. hazing; and
  7. other serious misconduct jeopardizing the safety or security of the campus (e.g., conduct which would constitute burglary, robbery, theft, including identity theft, or credit card fraud).

**D. Student organizations are subject to off-campus jurisdiction.** Registered student organizations may be disciplined for off-campus conduct by SJA and SPAC under these same factors.

**9.40 Effect of Health Condition on Student Disciplinary Process.** If a student's behavior violates conduct standards, the student is subject to disciplinary action and sanctions under these procedures.

**A. A health condition does not excuse a violation of student conduct standards,** and the campus may use the student disciplinary process and impose sanctions, unless the behavior was committed involuntarily or under duress, or unless the student or the University demonstrates that the student lacks the capacity to respond, to participate in the disciplinary process, or to comprehend his or her actions. (See Appendix D.)

**B. Interim Suspension, threat assessment, or other emergency actions.** If there is reason to believe that a student has engaged, or threatens to engage, in behavior which poses a significant danger to the student or to the safety or property of others, or other disruptive activity incompatible with the orderly operation of the campus, SJA may place the student on Interim Suspension (see Appendix B) and may, in addition, refer the student for a mental health evaluation and/or threat assessment.

#### **9.50 Disciplinary Reports Related To Alleged Crimes<sup>11</sup>**

**A. The same act may be both criminally prosecuted and subject to student discipline.** Discipline may be imposed for violations of University policies or campus regulations whether or not such violations are also violations of law, and whether or not proceedings are or have been pending in the courts involving the same acts.

1. If a student has been convicted after trial, has entered a plea of "guilty" or "no contest" to a crime, or has entered a diversion or other program under which the entry of judgment is delayed and the case is then resolved with a lesser charge or with dismissal of the charges, the conviction, plea, or other court orders or records, as well as any evidence introduced or transcripts of court proceedings, may be used as evidence in the student disciplinary case.
2. Even if criminal charges are dismissed or reduced against a student, or the defendant is acquitted or permitted to enter a diversion program, the campus may proceed with a disciplinary hearing and impose student discipline if the student admits a violation of student conduct standards or is found in violation after a hearing.

**B. SJA discretion.** If a reported incident of misconduct results in criminal investigation and/or prosecution as well as student disciplinary action, SJA has discretion to take the following actions:

1. Impose an interim Suspension if the student's presence on campus poses a threat to campus security;
2. Enter an interim agreement with stated conditions (e.g., permitting the student to remain enrolled while criminal charges are pending but limiting the student's entrance to campus or participation in campus activities);
3. Delay the disciplinary process pending resolution of the criminal charges; and/or
4. Proceed with the disciplinary process.

**9.60 Disciplinary Reports Related To Student Employment.** Student employees (including student academic appointees) may be disciplined for violating the *Standards of Conduct* and may also be subject to personnel action by their employer (e.g., reprimand or release from employment) in accordance with applicable contract or policy.<sup>12</sup>

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<sup>11</sup> UC *Policies* Section 104.10 provides: "Chancellors may impose discipline for violations of University policies or campus regulations whether or not such violations are also violations of law, and whether or not proceedings are or have been pending in the courts involving the same acts."

<sup>12</sup> UC *Policies* Section 104.40

## 10.00 CONFIDENTIALITY OF SJA RECORDS

**10.10 SJA Records Are Confidential Student Records.** SJA records containing personally identifiable information about students relating to any disciplinary action or proceeding are confidential student records. Disciplinary actions or proceedings include investigation, informal and/or formal hearings, and/or imposition of sanctions for violation(s) of the University of California *Standards of Conduct for Students*, the UC Davis *Code of Academic Conduct*, or campus regulations. (See P&PM 320-21, Section II. F., and UC *Policies* Section 130.00)

**10.20 SJA Records Are Protected from Disclosure.** Confidential SJA student records are protected from disclosure under the Federal Educational and Privacy Rights Act (FERPA), as well as privacy provisions of the California Information Practices Act and the California State Constitution. (See Appendix E.)

## 11.00 REVISION OF STUDENT CONDUCT POLICIES AND PROCEDURES

**11.10 Review and Revision of the Administration of Student Discipline.** This policy is subject to review and revision in accordance with University and campus policies.<sup>13</sup> Revisions to UC Davis student conduct policies and procedures are coordinated and published by SJA.

**A. Recommendations for revision or amendment to these procedures:**

1. SJA periodically reviews and proposes revisions to student conduct policies and procedures.
2. Any hearing authority, in addition to making recommendations on a particular discipline case, may recommend to SJA that identified University policies and/or campus regulations (including these procedures) be modified for stated reasons.
3. The Campus Judicial Board, Student Faculty Relationships Committee of the Academic Senate, the ASUCD, or other constituencies, related advisory committees, or affected units may recommend revisions or amendments to student conduct policies and procedures.

**B. Prior consultation regarding substantive revisions.** In general, SJA consults with constituencies, related advisory committees, and affected departments (e.g., the CJB, the ASUCD and GSA, the Academic Senate and Academic Federation, and Student Housing) regarding proposed substantive revisions to student conduct policies and procedures.

**C. Revision resulting from changes in University policy required by law.** If a substantive revision results from a change of University-wide policy that has been specifically mandated by law, no consultation is required.

**11.20 Review by Vice Chancellor, Chancellor, and Office of the President.** Before adoption, proposed substantive revisions to UC Davis student conduct policies and procedures (e.g., the Administration of Student Discipline) are submitted to the Vice Chancellor of Student Affairs, the Chancellor, and the UC Office of the President for review.

**11.30 Publication of Revised Policies and Procedures.** After final review and revision, the revised policies and procedures are published and made available on the Internet.

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<sup>13</sup> "Development and Review of University-wide Policies and Campus Implementing Regulations" and "Preface to UC Davis Policy and Procedure Manual" <http://www.ucop.edu/ucophome/coordrev/ucpolicies/aos/uc13.html> and <http://manuals.ucdavis.edu/ppm/preface.htm>  
01/2016

## APPENDIX A

### UNIVERSITY OF CALIFORNIA STANDARDS OF CONDUCT FOR STUDENTS

<http://sja.ucdavis.edu/scs.html> (Revised October 12, 2005)

**Students may be disciplined for violating or attempting to violate the following standards:**

- 102.01 Academic Misconduct.** All forms of academic misconduct such as cheating, fabrication, plagiarism, or facilitating academic dishonesty (see UC Davis [Code of Academic Conduct](#)).
- 102.02 Other Dishonest Acts.** Other forms of dishonesty such as fabricating information, furnishing false information, or reporting a false emergency to the University.
- 102.03 Forgery, Alteration, or Misuse.** Forgery, alteration, or misuse of any University document, record, key, electronic device, or identification.
- 102.04 Theft, Misappropriation, Possession of Stolen Property, or Vandalism.** Theft of, conversion of, destruction of, or damage to any property of the University of others, or possession of any property when the student knew or reasonably should have known that it was stolen.
- 102.05 Computer and/or Electronic Resource Theft, Misuse, or Abuse.** Theft or abuse of University electronic communications resources such as computer and electronic communications facilities, systems, and services. Examples of abuses include unauthorized entry, use, transfer, or tampering with the communications or accounts of others, or interference with the work of others or with operation of computer/electronic communications facilities, systems, and services. Use of University computer and electronic communications facilities, systems, or services that violates other University policies or campus regulations (see UC Davis [Policy on Acceptable Use of Electronic Communications Resources](#))
- 102.06 Unauthorized Entry, Use, or Possession.** Unauthorized entry to, possession of, receipt of, or use of any University services, equipment, resources, or properties, including the University's name, insignia, or seal.
- 102.07 Violation of Residence Hall or Housing Policies.** Violation of policies, regulations, or rules governing University housing facilities or other housing facilities located on University property (see UC Davis [Guide to Residence Hall Life](#) (13 MB)).
- 102.08 Assault, Threats of Violence, or Conduct Threatening Health or Safety.** Physical assault including but not limited to rape and other sexual assault; threats of violence; or other conduct that threatens the health or safety of any person.
- 102.09 Sexual Harassment.** Sexual harassment is unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when submission to or rejection of this conduct explicitly or implicitly affects a person's employment or education, unreasonably interferes with a person's work or educational performance, or creates an intimidating, hostile or offensive working or learning environment. The University responds to reports of any such conduct (see [University Policy on Sexual Harassment and Complaint Resolution Procedures](#) and [UC Davis Sexual Harassment Policy](#)).
- 102.10 Stalking.** Stalking behavior in which a student repeatedly engages in conduct directed at another person and makes a credible threat with the intent to place that person in reasonable fear for his/her safety, or that of his/her family; where the threat is reasonably determined by the University to seriously alarm, torment, or terrorize the person and to serve no legitimate purpose.
- 102.11 Other Harassment.** Harassment by a student of any person by a) using, displaying, or making other demonstrations of words, gestures, imagery, or physical materials, or engaging in any form of bodily conduct, on the basis of race, color, national or ethnic origin, alienage, sex, religion, age, sexual orientation, or physical or mental disability, that has the effect of creating a hostile and intimidating

environment sufficiently severe or pervasive to substantially impair a reasonable person's participation in University programs or activities, or use of University facilities. The conduct must target a specific person(s) and must be addressed directly to that person(s). Before applying this policy, the campus must consult with the Office of General Counsel regarding its interpretation and application in light of the specific circumstances.

- 102.12 Hazing.** Participation in hazing or any method of initiation or pre-initiation into a campus organization or other activity engaged in by the organization or members of the organization at any time that causes, or is likely to cause, physical injury or personal degradation or disgrace resulting in psychological harm to any student or other person (see UC Davis [Definition of Hazing](#)).
- 102.13 Obstruction or Disruption.** Obstruction or disruption of teaching, research, administration, disciplinary procedures, or other University activities.
- 102.14 Disorderly or lewd conduct.**
- 102.15 Disturbing the Peace.** Participation in a disturbance of the peace or unlawful assembly.
- 102.16 Failure to Comply with Directions of Official, or Resisting or Obstructing Official.** Failure to identify oneself to, or comply with the directions of, a University official or other public official acting in the performance of his/her duties while on University property or at official University functions; or resisting or obstructing such officials in the performance of or the attempt to perform their duties.
- 102.17 Unlawful Possession, Use or Distribution of Controlled Substances.** Unlawful manufacture, distribution, dispensing, possession, use, or sale of, or the attempted manufacture, distribution, dispensing, or sale of controlled substances, identified in federal and state law or regulations.
- 102.18 Possession, Use or Distribution of Alcohol in Violation of Policy.** Manufacture, distribution, dispensing, possession, use, or sale of, or the attempted manufacture, distribution, dispensing, or sale of alcohol that is unlawful or otherwise prohibited by, or not in compliance with, University policy or campus regulations. (See UC Davis [Guide to Residence Hall Life](#).)
- 102.19 Possession, Use or Manufacture of Explosives or Destructive Devices.** Possession, use, storage, or manufacture of explosives, firebombs, or other destructive devices.
- 102.20 Possession, Use or Manufacture of Prohibited Weapons.** Possession, use, or manufacture of a firearm or other weapon as prohibited by campus regulations.
- 102.21 Violation of Disciplinary Action.** Violation of the conditions contained in the terms of a disciplinary action imposed under these Policies or campus regulations.
- 102.22 Violation of Emergency Order or Suspension.** Violation of the conditions contained in a written Notice of Emergency Suspension or violation of orders issued during a declared state of emergency (See [University of California Policy on Campus Emergencies](#)).
- 102.23 Unauthorized Preparation, Sale, or Distribution of Notes or Recordings of University Courses, or Copying of Course Materials.** Selling, preparing, or distributing for any commercial purpose course lecture notes or video or audio recordings of any course unless authorized by the University in advance and explicitly permitted by the course instructor in writing. The unauthorized sale or commercial distribution of course notes or recordings by a student is a violation of these Policies whether or not it was the student or someone else who prepared the notes or recordings. Copying for any commercial purpose handouts, readers or other course materials provided by an instructor as part of a University of California course unless authorized by the University in advance and explicitly permitted by the course instructor or the copyright holder in writing (if the instructor is not the copyright holder).

## APPENDIX B

### DISCIPLINARY SANCTIONS AND ADMINISTRATIVE ACTIONS

The following disciplinary sanctions and administrative actions may be applied at UC Davis. Sanctions may be imposed, and administrative actions may be taken, separately or in combination. (See *UC Policies, Section 105.00* <http://www.ucop.edu/ucophome/coordrev/ucpolicies/aos/uc100.html>):

**DISCIPLINARY SANCTIONS** (*sanctions can only be imposed in accord with campus procedures; records of disciplinary sanctions are retained for one or more years, or indefinitely, depending on the sanction*)

#### DISMISSAL

**Defined as “termination of student status for an indefinite period.”** A Dismissed student may not re-enroll in any academic program at UC Davis or any other UC campus unless and until his or her readmission is specifically approved by the Chancellor of that campus. Readmission after dismissal may be granted only under exceptional circumstances. (*Section 105.06 UC Policies*)

#### REVOCAION OF DEGREE

Subject to the concurrence of the Academic Senate, a student's degree may be revoked if it was obtained by fraud. A student whose degree is revoked is barred from enrolling in any academic program at any UC campus unless the Chancellor of the campus specifically approves readmission. Readmission after a degree is revoked may be granted only under exceptional circumstances. (*Section 105.10 UC Policies*)

#### SUSPENSION

**Defined as “termination of student status at the campus for a specified period of time ... .”** A student who is Suspended may not enroll as a student during the period of Suspension. Reinstatement after a Suspension is assured, provided that the student has complied with all conditions imposed as part of the suspension and is otherwise qualified for reinstatement. Violation of the conditions of Suspension or of University policies or campus regulations during the period of Suspension may be cause for further disciplinary action, normally in the form of Dismissal. (*Section 105.05 UC Policies.*)

#### INTERIM SUSPENSION

**Defined as “[exclusion of a] student from classes, or from other specified activities or areas of the campus, before final determination of an alleged violation.”** A student may be placed on Interim Suspension when there is reasonable cause to believe that the student's participation in University activities or presence at specified areas of the campus will lead to physical abuse, threats of violence, or conduct that threatens the health or safety of any person, or other disruptive activity incompatible with the orderly operation of the campus. A student on Interim Suspension shall be restricted only to the minimum extent necessary and shall be given prompt notice of the charges, the duration of the Suspension, and the opportunity for a prompt hearing on the Interim Suspension. The Chancellor shall review the Interim Suspension within 24 hours. If a student is found to have been unjustifiably placed on Interim Suspension, the University's policy is to take reasonable efforts to assist an individual who has been disadvantaged with respect to employment or academic status. (*Section 105.08 UC Policies.*)

#### DELAY OF GRADUATION

**Defined as delaying the award of a degree, after the student has completed all academic requirements, until the end of the specified period of delay.** Once the period of delay has elapsed, the degree will be awarded as of that date, provided that the student has complied with all conditions imposed as part of the delay of graduation and that he/she is otherwise qualified to graduate under degree requirements applicable at the time the delay was imposed. During the delay, the student may not enroll in any classes at UC Davis. Violation of University policies or campus regulations during the delay may be cause for further disciplinary action, normally in the form of dismissal.

**Posting Suspension or Dismissal on Transcripts:** *Suspension and Dismissal must be posted on the student's academic transcript for the duration of the sanction. Suspensions are annotated on student transcripts with the statement "Readmission Prior to [quarter in which student may re-enroll in UC Davis] Subject to Approval of Director of Student Judicial Affairs." Transcripts of Dismissed students bear the statement "Readmission to the University of California Subject to Approval of the Chancellor." Notations of Suspension are removed at the end of the Suspension; notation of Dismissal is removed if the student is readmitted to UC Davis. (Section 106.00 UC Policies) No other disciplinary actions appear on transcripts.*

#### **Restrictions on University Employment and Surrender of University Identification and Property**

If Suspension or Dismissal arises from employment-related conduct, the student may be barred from University employment. While loss of University employment is not a form of student discipline, the student's employer may release the student through applicable employment/job action processes. If student status is a condition of employment, a student's Suspension, Dismissal, or other loss of student status (for any reason) will result in termination of the student's employment. A student who is no longer employed or eligible for employment may be required to return all University identification (e.g., registration card), keys, or other University property at the time of the Suspension or Dismissal.

#### **DEFERRED SEPARATION, DEFERRED SUSPENSION AND/OR DEFERRED DISMISSAL**

**Defined as a delay in imposing a Suspension or Dismissal**, which means that a Suspended or Dismissed student may be permitted to remain in school on condition that he/she agrees to waive the right to a formal fact-finding hearing. If the student whose Suspension/Dismissal has been deferred is later reported again, and admits or is found in violation by an SJA officer of having committed a subsequent violation of specified conduct standards, the deferred Suspension or Dismissal may be implemented at that time. "Deferred Separation" means that SJA officer may impose any appropriate sanction, including Dismissal, after determining that violation has occurred.

#### **EXCLUSION FROM AREAS OF THE CAMPUS OR OFFICIAL UNIVERSITY FUNCTIONS**

**As part of a disciplinary sanction, a student may be excluded from specified areas of the campus or other University facilities, or from official University functions**, when there is reasonable cause to believe that the student's presence there will lead to physical abuse, threats of violence, or conduct that threatens the health or safety of any person on University property or at official University functions, or other disruptive activity incompatible with the orderly operation of the campus.

#### **DISCIPLINARY PROBATION**

**Defined as "a status imposed for a specified period of time during which a student must demonstrate conduct that conforms to University standards of conduct."** The Probation may include conditions and restrictions on the student's privileges or eligibility for activities. Misconduct during the probationary period or violation of any conditions of the probation may result in further disciplinary action, normally in the form of Suspension or Dismissal. *(Section 105.03 UC Policies)*

#### **LOSS OF PRIVILEGES AND EXCLUSION FROM ACTIVITIES**

**Defined as "exclusion from participation in designated privileges and activities for a specified period of time."** Violation of any conditions in the written Notice of Loss of Privileges and Exclusion from Activities, or violation of University policies or campus regulations during the sanction, may result in further discipline, normally Probation, Suspension or Dismissal. *(Section 105.04 UC Policies)*

#### **CENSURE OR WARNING:**

**Defined as a written notice or reprimand issued to a student after a meeting between that student and SJA.** The Warning or Censure is notice that the student has violated specified University policies or campus regulations and that additional violations may result in further disciplinary action, normally Probation, Suspension, or Dismissal. *(UC Policies 105.01)*

**NAME ON FILE:**

01/2016

**Defined as a written record of a student violation reported to SJA by other campus officials.** The student's name is reported to SJA after another campus official (e.g., faculty, Resident Advisor, or Bookstore staff) has met with the student regarding the misconduct. A "Name on File" is equivalent to a written Warning or Censure. The student is notified of the report and given an opportunity to respond. If the student does not respond, or if, after a response, SJA determines the report is supported by the evidence, the violation may be considered in assessing a sanction for any later similar offense.

## **RESTITUTION**

**Defined as "reimbursement ... for expenses incurred by the University or other parties resulting from a violation of these policies."** Reimbursement may be by monetary payment or appropriate service to repair or otherwise compensate for damages. Restitution may be imposed on students who alone or through group activities participate in causing damages or costs. (*Section 105.09 UC Policies*)

## **SPECIAL ASSIGNMENT**

**Defined as assignment of costs, labor, duties, educational projects, or other responsibilities** that are appropriate in light of the violation, or relevant to the student's role on campus or living area.

**Educational Projects --** As part of a disciplinary contract or hearing panel decision, a student may be assigned to complete a specific educational task or project. The purpose of such assignments is to help the student build skills and coping strategies so the misconduct is not repeated, to help restore the community and repair the harm arising from the misconduct, and to give students the opportunity to help prevent academic misconduct, by developing ways to reach and warn other students so they do not make similar mistakes. Educational assignments may include a requirement that the student write a paper, perform community service, or meet with the Learning Skills Center or the Alcohol and Drug Abuse Prevention program (ADAPT) for assessment, follow-up workshops and/or training.

**Research Paper/Personal Essay --** A student may be assigned to research a topic related to ethics, read assigned books, and write a paper. Another project may require the student to write a personal code of conduct. The purpose of these writing assignments is to help the student reflect on and learn from what has happened.

**Workshop/Training --** A student who violates drug/alcohol policies may be assigned to attend educational workshops such as those offered by ADAPT; a student who plagiarizes from the Internet may be assigned to work with the Learning Skills Center to improve writing skills.

**Community Service --** A student may be assigned to complete a specified number of hours of community service, usually arranged through the UCD Human Corps Office.

**Sanction Payment --** A student may agree to design/draft an educational outreach project about the importance of ethical behavior and pay for publication to the campus community.

## **DE-REGISTRATION**

**Applies to registered student organizations. Defined as "forfeit ...[of] registered status with the accompanying loss of rights and privileges."** Such forfeiture shall remain in effect for the period of time specified in the Notice of De-registration. (*See SPAC website.*)

**ADMINISTRATIVE ACTIONS** (*these are not sanctions and do not result in a disciplinary record*)

**Administrative Holds -** Administrative holds may be placed on students' registration, transcript, diploma, or graduation to ensure that they respond to SJA, and to enforce certain sanctions. Holds prevent students from registering or graduating, or from receiving copies of diplomas or transcripts, while a disciplinary matter is pending or while a sanction of suspension, dismissal, revocation of degree, or delay of graduation is in force.

**Administrative Notice -** An administrative notice provides official notice of University standards and policies, but does not imply a finding that the student has committed a violation, and does not constitute disciplinary action. If the student is referred subsequently for similar misconduct, the notice may be relevant



to the student's knowledge of University and campus standards, policies, and regulations.

## APPENDIX C

### ACADEMIC INTEGRITY AT UC DAVIS: *THE CODE OF ACADEMIC CONDUCT*

#### History of the Code

The first student Honor Council was created at UC Davis in 1911, and the campus had a student-run honor for 65 years. The Code of Academic Conduct was approved and issued by the Chancellor, with the support of the Academic Senate and a student referendum, in November 1976. University policy grants the Chancellor authority and responsibility for establishing student conduct regulations; the Code was established pursuant to this authority.

#### The Code and Academic Integrity

Integrity means being honest and living up to moral and ethical principles. It is an essential ingredient of a successful college career. The UC Davis *Code of Academic Conduct* reflects a campus tradition of integrity and honor extending over 90 years. Under the *Code*, students and faculty share responsibility for upholding this tradition. UC Davis students are expected to behave honestly, fairly, and with respect for others. The *Code* maintains our high standards, and ensures all students a fair opportunity to pursue academic excellence.

#### Examples of Academic Misconduct

##### Cheating, including

- \* receiving or providing unpermitted help on an exam; copying or sharing test answers; unauthorized communication during or about an exam; giving test questions to one who hasn't taken the exam
- \* using unauthorized material during an exam
- \* submitting an altered exam for regrading
- \* taking a test for another or having a "ringer" take a test
- \* continuing to work on an exam when time is up
- \* stealing others' work

**Plagiarism**, including using others' work (e.g., words, ideas, pictures, or data) from any source (Internet, books, articles, etc.) without giving credit. Others' words must be put in quotation marks and cited, and others' ideas must be cited even if paraphrased in the student's own words.

**Fabrication**, including fabricating or falsifying data, results, or references, e.g., in reports or papers submitted for class or in a thesis or dissertation.

**Providing False Information**, including giving forged excuses to postpone or avoid assignments or add or drop classes, or signing another's name or having another sign in to a class.

**Unauthorized Collaboration** or assistance, including working with others on graded work in-class or take-home tests, papers, labs, or assignments) without the instructor's permission.

**Re-Using Work Without Permission**, e.g., submitting the same work in more than one course or re-using work submitted in another course or for a different purpose, without instructor's permission.

##### Unfair or Disruptive Exam Conduct, e.g.,

- \* talking or "wandering eyes" (not keeping eyes on one's own paper)
- \* leaving unauthorized notes, books, or other materials out or visible
- \* having an unauthorized device (e.g., cell phone, PDA, computer) on or out
- \* exiting the exam room without permission

#### Student Responsibilities under the Code:

- **Be honest at all times, and do their own work** to help them develop their skills, knowledge, and abilities.
- **Act fairly and treat others with respect.** If students have problems or concerns, they must ask for help.
- **Know the rules.** Ignorance is no defense. Students who violate the rules are subject to discipline.
- **Uphold campus standards.** Students who witness or learn of academic misconduct should report it to faculty, staff, or Student Judicial Affairs. Reports may be made confidentially.

## APPENDIX D

### EFFECT OF HEALTH CONDITION ON STUDENT DISCIPLINARY PROCESS (Section 9.40 of the *Administration of Student Discipline*)

In accord with the Americans with Disabilities Act, UC Davis makes reasonable accommodations to enable otherwise qualified disabled individuals to participate successfully in the education program of the University. Accommodations are made for identified and documented disabilities, if recommended and approved through the Student Disability Center.

Disabled students are held to the same behavioral standards as other students; a health condition does not excuse a violation of student conduct standards. The campus may use the student disciplinary process and impose sanctions unless the behavior in question was committed involuntarily or under duress,<sup>14</sup> defined below, or unless the student or the University demonstrates that the student lacks the capacity to respond, to participate in the disciplinary process, or to comprehend his or her actions.<sup>15</sup> (See "*Guidelines for Administration of Withdrawals for Health Reasons*," copy available from Student Judicial Affairs.)

An action is "**involuntary**" if it is entirely without volition, will, or power of choice (e.g., disruption, injury or property damage resulting from a seizure). Violations committed under the influence of drugs, alcohol, or other controlled substances are not involuntary and are subject to discipline. An action is taken "**under duress**" if the individual is compelled to act by injury or explicit threat of physical harm.

If information presented to SJA or to a hearing panel is sufficient to establish that, as a result of a health condition, the student is incapable of responding to pending disciplinary charges; is incapable of participating in the disciplinary process; or could not comprehend the nature or wrongfulness of the conduct at the time of the offense, then such incapacity constitutes sufficient basis for involuntary administrative withdrawal from the University for psychological reasons, and for the imposition of conditions on his/her return to campus.

A student who is accused of violating conduct standards may provide documentation of a health condition that may have affected the student's behavior, but must execute releases authorizing the disclosure of medical records pertaining to the health condition. A student who wishes to provide such documentation must inform SJA in writing as soon as possible, but not less than seven days prior to the date of the formal hearing.

If the student lacks capacity as defined above, the disciplinary action may be stayed until the student is no longer incapacitated. A student found to lack capacity under the *Guidelines for the Administration of Withdrawals for Health Reasons* on the grounds that he/she could not comprehend the nature of the act constituting the offense/violation is subject to withdrawal with conditions placed on his/her return to the campus.

If there is reason to believe that a student has engaged, or threatens to engage, in behavior which poses a significant danger to the student or to the safety or property of others, or other disruptive activity incompatible with the orderly operation of the campus, SJA may refer the student for a psychological/psychiatric evaluation and/or threat assessment under the *Withdrawal Guidelines*, and/or place the student on Interim Suspension. If the behavior violates student conduct standards, the student may be subject to disciplinary sanctions in accord with these procedures.

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<sup>14</sup> Section 171.11 of the UC *Policies* provides that students have the right, "To the extent appropriate to the circumstances, to be free from University discipline for actions committed involuntarily or under duress. However, violations committed under the influence of drugs, alcohol, or illegal substances will be subject to student disciplinary procedures."

<sup>15</sup> See *Guidelines for Administration of Withdrawals for Health Reasons*, copy available from Student Judicial Affairs.

## APPENDIX E

### CONFIDENTIALITY OF STUDENT DISCIPLINARY RECORDS

SJA records containing personally identifiable information about students relating to any disciplinary action or proceeding are confidential student records within the meaning of the Federal Educational and Privacy Rights Act of 1974 (FERPA). Such records are subject to protection under FERPA, as well as the privacy provisions of the California Information Practices Act of 1977 (Civil Code Section 1798 et seq.) and the California State Constitution. Disciplinary actions or proceedings include investigation, informal and/or formal hearings, and/or imposition of sanctions for violation(s) of the University of California *Standards of Conduct for Students*, the UC Davis *Code of Academic Conduct*, or campus regulations.

### DISCLOSURE OF SJA RECORDS REGARDING DISCIPLINARY MATTERS.

**I. SJA disciplinary records may be disclosed under the following specific circumstances** (See P&PM 320-21, Section II. F, and University of California *Policies Applying to ... Students* Section 130.70:

- A. *With the student's written consent*, discipline records may be disclosed to designated recipients.
- B. *To campus officials in connection with the discipline of a student*, and to *campus officials having a legitimate educational interest* in the records.

1. Disclosures of Records in Connection with Disciplinary Action.

If the reporting party is a campus official, he/she may be informed of the progress and disposition of the case as such information is "relevant and necessary to perform ... task[s] that [are] specifically related to the discipline of the student." In general, campus officials who are reporting parties will be provided with a copy of the agreement resolving the disciplinary case, in accordance with legitimate educational interest criteria (see below).

- a. In addition, SJA may receive information from, and make disclosures to, referring parties or others in connection with performing tasks related to a student's disciplinary referral.
- b. Information regarding a student's disciplinary record may be disclosed to other appropriate University officials if that information may be reasonably construed to have bearing on the student's suitability for a specific employment situation. (*Section 104.40 UC Policies*)

2. Disclosures to and Receipt of Information from Other UC Davis Campus Officials Having a Legitimate Educational Interest in the Record.

- a. **"Legitimate educational interest"** means the information or record is relevant and necessary to accomplishing some task or determination, and the task or determination is an employment responsibility for the inquirer or is a properly assigned subject matter for the inquirer. UC Davis defines a campus official to have a "legitimate educational interest" in a particular record if the information requested is relevant and necessary for that official to (i) perform a task or make a determination that is an employment responsibility or is a properly assigned subject matter for the inquirer; (ii) perform a task that is specifically related to the official's participation in the student's education; (iii) perform a task that is specifically related to the discipline of the student; or (iv) provide a service or benefit relating to the student or student's family, such as health care, counseling, job placement, or financial aid.
- b. A **"campus official"** is any individual designated by UC Davis to perform an assigned function on behalf of the campus, including (i) a person employed by the University in an administrative, supervisory, academic, research, support staff, or student assistant position; (ii) a person serving on a campus governing body; (iii) a person employed by, under contract with, or having entered into an agreement with the University to perform a special task, such

as an attorney, an auditor, or a volunteer; or (iv) a student serving on an official committee, such as a disciplinary or grievance committee, or assisting another University official in performing his or her tasks. Students having access to student records by virtue of their employment with SJA or service on the Campus Judicial Board sign a confidentiality agreement.

- C. *To appropriate parties in an emergency*, when the information is necessary to protect the health or safety of the student or other persons. Student records may be disclosed without prior consent to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health and safety of the student or others. Appropriate parties are those whose knowledge of the information is necessary to provide immediate protection of the health and safety of the student or other individuals. An emergency is a situation that presents imminent danger to a student, or other students, or members of the school community, or that requires an immediate need for information from education records in order to avert or defuse serious threats to the safety or health of a student or other individuals.
- D. *To the reporting party [and affected party, see Section 2.10.A] where there is an alleged sex offense*, SJA may disclose the following information from student discipline records: the final determination regarding the alleged sex offense, and any sanction that is imposed against the alleged offender. The reporting party shall be advised that the results of any disciplinary action or appeal are confidential and may not be disclosed without the consent of the student to whom the disciplinary record pertains but shall not be required to sign an agreement not to disclose the information. Certain disclosures may also be made in cases of alleged sexual harassment.
- E. *To other educational institutions*. SJA may forward disciplinary records to other UC campuses in connection with a UC Davis student who commits a violation at another UC campus, or in connection with a student from another UC who commits a violation at UC Davis. SJA may also forward disciplinary records to other educational institutions (a) in which a student seeks or intends to enroll if the institution has requested the records or (b) if the student is enrolled in or receives services from that institution.
- F. *To comply with a judicial order or subpoena*. Student disciplinary records will be disclosed pursuant to subpoena or other court or administrative order, after reasonable attempt to notify the student of the order unless the subpoena or order directs otherwise.
- G. *To the court in connection with a lawsuit* by a student or parent against the University, or by the campus against the student or parent.

**II. Public Disclosure of Student Information.** Information regarding specific student disciplinary cases may not be disclosed to the press or public except in the case of an open hearing or where the affected students have signed written releases authorizing such disclosures, unless otherwise authorized by law.

**APPENDIX F**  
**UC DAVIS PROCEDURES FOR STUDENT CASES OF**  
**SEXUAL HARASSMENT/SEXUAL VIOLENCE**

**I. PREFACE**

The University of California is committed to creating and maintaining a community where all individuals who participate in University programs and activities can work and learn together in an atmosphere free of sexual violence and sexual harassment. Consistent with its legal obligations under Title IX of the Education Amendments of 1972, the Violence Against Women Reauthorization Act of 2013, and California Education Code section 67386, the University responds promptly and effectively to reports of sexual violence and sexual harassment, and takes appropriate action to prevent, to correct, and when necessary, to discipline behavior that violates the University's policy on Sexual Violence and Sexual Harassment.

The University's student disciplinary procedures emphasize education, personal growth, accountability, and ethical behavior -- upholding standards of responsible conduct to protect the welfare of the University community. When formal fact-finding procedures are used, the procedures are designed to provide a prompt, fair, and impartial resolution of the matter.

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

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

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

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

**II. RESOURCES RELATING TO SEXUAL VIOLENCE AND SEXUAL HARASSMENT**

- A. The University has a Title IX Office at each campus that is responsible for receiving and responding to reports of sexual violence and sexual harassment. Confidential resources also are available both before and after a person communicates with the Title IX Office about potential violations of the Sexual Violence and Sexual Harassment policy. Confidential resources include CARE advocates, Ombuds, and licensed counselors in student counseling centers. These resources can provide confidential advice and counseling without that information being disclosed to the Title IX Office or law enforcement without the student's consent, unless there is a threat of serious harm to the individual or others or a legal obligation that requires disclosure (such as suspected abuse of a minor).
  - 1. Services from the CARE advocate, Ombuds, or licensed counselors are available whether or not a student chooses to pursue an investigation through the Title IX office, or report to law enforcement.
  - 2. In addition, the University has a Respondent Services Coordinator available for students reported for alleged sexual violence and sexual harassment.
  - 3. The following campus resources are available:

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- a. Center for Advocacy Resources and Education (CARE), 530-752-3299, <http://care.ucdavis.edu/>: CARE provides free, confidential crisis intervention, advocacy, and accompaniment services to any survivor of sexual assault, intimate partner violence, or stalking. Designation as a “Confidential Resource” for purposes of this policy only exempts a person from reporting to the Title IX office but not from other mandatory reporting obligations under UC CANRA (Child Abuse and Reporting Act) Policy, the Clery Act as a Campus Security Authority (CSA), and other policies or laws that require reporting to campus or local law enforcement, or Child Protective Services.
- b. Respondent Services, Office of Student Support and Judicial Affairs, 530-752-1128, <http://sexualviolence.ucdavis.edu/accused.html>: Respondent Services is a non-confidential resource for respondents. Respondent Support Coordinators can help respondents understand their rights, explain and help respondents navigate the investigation and adjudication processes, and refer respondents to campus and community resources, such as psychological counseling, legal services (including help understanding and complying with protection orders), alternative housing, academic changes, and other needs.
- c. Counseling Services, 530-752-2349, <https://shcs.ucdavis.edu/>: Counseling Services offers free, confidential, short-term individual counseling to all registered UC Davis students.
- d. Women’s Resources and Research Center (WRRC), 530-752-3372, <http://wrrc.ucdavis.edu/>: The WRRC offers confidential support and referrals on a wide range of topics, including sexual assault and dating violence.
- e. Lesbian, Gay, Bisexual, Transgender, Queer Intersex, Asexual resource Center (LGBTQIA), 530-752-2452, <http://lgbtqia.ucdavis.edu/>: The LGBTQIA Resource Center provides an open, safe, inclusive, and confidential space and community for all individuals.
- f. Office of the Ombuds, 530-219-6750, <http://ombuds.ucdavis.edu/>: The UC Davis Ombuds Office is a confidential, independent, impartial, and informal problem-solving and conflict-management resource for all members of the UC Davis campus community.
- g. UC Davis Family Protection and Legal Assistance Clinic (FPLAC): 530-752-6942, <https://law.ucdavis.edu/clinics/family-protection-clinic.html>: The FPLAC provides free legal representation to victims of domestic violence seeking restraining orders in Yolo County.



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- h. ASUCD Legal Services, 530-752-1990, <https://asucd.ucdavis.edu/units/legal-services/>: ASUCD legal services provide each UC Davis undergraduate student a free fifteen-minute consultation with an attorney.
- i. UC Davis Harassment and Discrimination Assistance and Prevention Program (HDAPP), (530) 752-9255, <https://hdapp.ucdavis.edu/>: HDAPP at UC Davis supports the University's commitment to a discrimination-free work and learning environment.
- j. Title IX Officer, (530) 752-9466, [wjdelmendo@ucdavis.edu](mailto:wjdelmendo@ucdavis.edu): The Title IX Officer determines whether an investigation is necessary subject to this policy and the University of California policy on Sexual Violence and Sexual Harassment.

**III. REPORT OF SEXUAL VIOLENCE AND SEXUAL HARASSMENT**

- A. For purposes of this model, the University will consider any alleged victim of sexual violence or sexual harassment a “complainant,” whether or not he or she makes a report or participates in the investigation and resolution process.
- B. The University will strive to honor the stated wishes of the complainant concerning whether to move forward with an investigation. There may be circumstances, however, in which the University may need to move forward against the complainant’s wishes, or in which the University may determine that an investigation will not occur despite the complainant’s wish to pursue an investigation.
- C. Throughout the resolution process, the University will offer and provide support services for complainants through the CARE office, and for respondents through the Respondent Services Coordinator.
- D. The University will also consider and take interim measures as appropriate to ensure the safety, well-being, and equal access to University programs and activities of its students. Interim measures include, but are not limited to, the following: no contact orders; housing assistance; academic support and accommodations; and counseling. The University may place the respondent on an Interim Suspension as appropriate and consistent with the *Policies Applying to Campus Activities, Organizations and Students (PACAOS)* - 105.08.
  - 1. Interim Measures of Assistance.
    - a. The University will take interim measures as appropriate to address safety, well-being, and equal access concerns to university programs and activities. These measures include, but are not limited to, no contact orders, housing assistance, academic support and

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accommodations, and health and counseling services. For more information about interim measures, please contact CARE at 530-752-3299.

2. Interim Measures Restricting Privileges.

- a. Grounds and Scope. A student may be placed on Interim Suspension of Privileges when there is reasonable cause to believe that the student's participation in University activities or presence at specified areas of the campus will lead to physical abuse, threats of violence, or conduct that threatens the health or safety of any person, or other disruptive activity incompatible with the orderly operation of the campus. An order of Interim Suspension of Privileges shall be narrowly tailored to restrictions reasonably necessary for avoiding the potential harm that is the basis of the order.
- b. Types of Suspensions. The University may impose one or more of the following suspensions of privileges on an interim basis:
  - i. Exclusion from the campus;
  - ii. Exclusion from one or more classes;
  - iii. Exclusion from campus housing units, campus dining units, and other areas of campus;
  - iv. Exclusion from events and functions on campus or otherwise affiliated with the University;
  - v. Limitations on participation in classes, such as restrictions on attending class sessions in person, and taking examinations offsite; and
  - vi. Other measures designed to avoid the potential harm that is the basis of the order.
- c. Procedures.
  - i. The Interim Suspension of Privileges may be imposed without a pre-suspension hearing.
  - ii. The Chancellor or her designee will review the Interim Suspension of Privileges within 24 hours of its imposition, and she may vacate, uphold, or modify it.
  - iii. The student subjected to the Interim Suspension of Privileges shall be given prompt notice of the charges on which it is based and the opportunity for a hearing on the Interim Suspension as soon as practicable.
  - iv. The hearing on the Interim Suspension of Privileges will give the student an opportunity to respond to the Interim Suspension of Privileges in a meeting with the university official imposing the suspension. It will not be an evidentiary hearing, rather an informal give-and-take between the student and the university official.

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- v. Promptly after the hearing, the university will notify the complainant and the respondent, in writing, whether the suspension is vacated, upheld, or modified.
  - vi. At any time during which the Interim Suspension of Privileges is in place, the subject student may request the university to reconsider the terms of the suspension. The university may vacate, uphold, or modify the suspension in response to the request or on its own initiative.
  - vii. If a student is found to have been unjustifiably placed on Interim Suspension of Privileges, the university will make reasonable efforts to assist the individual in redressing any resulting disadvantages related to employment or academic status.
- E. At all stages of the process, the complainant and respondent have the right to an advisor and a support person of their choosing.
- 1. An advisor (which may be legal counsel) may assist the complainant or respondent, however, individuals are expected to speak for themselves. Prior to the issuance of the investigative report, neither the advisor nor the support person may speak on behalf of a student or otherwise actively participate in, or in any manner disrupt, any meetings or proceedings. Subsequent to the issuance of the report, an advisor may actively participate in a meeting or proceeding at the discretion of the university official conducting the meeting or proceeding. The advisor may not testify as a witness at the appeal hearing.
  - 2. A support person provides emotional support but does not take an active role in the process.
  - 3. While there is no limit as to the number of advisors and support persons a party may have, only one advisor and one support person may attend any formal meeting, including the meeting with the Title IX investigator, meeting with Student Conduct, and the formal appeal hearing.
  - 4. Neither the complainant nor the respondent is required to participate in the adjudication process. The University will not draw any adverse inferences from a complainant or respondent's decision not to participate or to remain silent during the process. An investigator, decision-maker, or Appeal Body will reach findings and conclusions based on the information available. An investigator, decision-maker, and Appeal Body may draw adverse inferences when a student selectively participates in the process, such as choosing to answer some but not all questions posed.
- F. The campus Case Management Team (CMT) will track all stages of the resolution process – from receipt of the report through the investigation and, if applicable, the University student discipline process.

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

**IV. INVESTIGATION OF ALLEGATION OF SEXUAL VIOLENCE AND SEXUAL HARASSMENT**

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- A. Upon receipt of a report of or information about alleged sexual violence and/or sexual harassment, the Title IX Officer for the campus will determine, consistent with the University's policy on Sexual Violence and Sexual Harassment, whether an investigation should be initiated.
- B. If an investigation will not be conducted, the Title IX Officer will notify the complainant in writing and explain the rationale for the determination.
- C. If an investigation will be conducted, the Title IX Officer and Student Conduct office will jointly send written notice of the charges to the complainant and respondent. The written notice will include:
  - 1. A summary of the allegations and potential policy violations;
  - 2. The purpose of the investigation;
  - 3. A statement that the investigative report, when issued, will make factual findings and a recommendation regarding whether there has been a violation of University policy;
  - 4. A statement that the findings and recommendation will be based on a preponderance of the evidence standard;
  - 5. A summary of the process, including the expected timeline;
  - 6. A summary of the rights of the complainant and respondent; and
  - 7. A statement of the right to remain silent.
- D. The Title IX Officer will oversee the investigation and will designate an investigator to conduct a fair, thorough, and impartial investigation.
- E. During the investigation, the complainant and respondent will be provided an equal opportunity to meet with the investigator, submit information, and identify witnesses who may have relevant information.
- F. The investigator will meet separately with the complainant, respondent, and third party witnesses who may have relevant information, and will gather other available and relevant evidence and information. The investigator may follow up with the complainant or the respondent as needed to clarify any inconsistencies or new information gathered during the course of the investigation.
  - 1. The parties will be presented with a summary of the material evidence that contradicts or otherwise undermines their contentions sufficient to allow them to respond.
- G. The investigator may determine the relevance of any witness or other evidence to the findings and may exclude certain types of evidence or information that is irrelevant or immaterial.
- H. When a law enforcement agency is conducting its own investigation, the investigator should coordinate his or her fact-finding efforts with the law enforcement investigation. At the request of law enforcement, the investigation may be delayed as needed to meet any specific needs of the

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criminal investigation. Such a delay may be cause for extending the timelines to complete the process and delay will be communicated and documented.

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

**V. DECISION ON RESPONSIBILITY AND DISCIPLINARY SANCTIONS**

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- A. Upon completion of the Title IX Investigation, the Title IX Officer and Student Conduct office will jointly send to the complainant and the respondent: (a) written notice of the investigation findings and the investigator's recommended determinations, and (b) will provide a copy of the investigation report. The investigation report may be redacted if necessary to protect student privacy rights.
1. The written notice of the findings and recommended determinations will include the following:
    - a. A statement of the factual findings and recommendations regarding whether the charge(s) have been substantiated, including whether policies have been violated;
    - b. An admonition against intimidation or retaliation;
    - c. An explanation of any interim measures that will remain in place;
    - d. A statement of the right to appeal that will be explained further in the notice of decision;
    - e. A statement that the Student Conduct office will determine whether the charges have been substantiated and policies have been violated and, if so, assess the disciplinary sanctions and inform the complainant and respondent of the sanctions within ten (10) business days of the notice of findings; and
    - f. A statement that the complainant and/or respondent may schedule a meeting with the Student Conduct office and/or submit a statement in writing to be heard on the question of the findings of any policy violations and the discipline prior to the decision and the imposition of sanctions.
- B. The complainant and/or respondent may schedule a meeting and/or submit a statement in writing within seven business days of receiving the written notice of the findings and recommended determinations.
1. The purpose of the ten-business-day period, including the meeting, is not to conduct further investigation or fact-finding. During this period, Student Conduct will review the investigation report and determine whether to accept the recommendations of the investigator.
  2. The complainant and respondent may meet with Student Conduct and submit a written statement to Student Conduct to comment on the investigation report, recommended findings, and potential disciplinary sanctions, if any.
  3. No new evidence may be submitted or considered at the meeting with Student Conduct other than what is contained in the investigation report, except on the issue of sanctions. Therefore all evidence, documentation, or suggestions of witnesses should be offered to the investigator

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

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



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4. An explanation that both the complainant and respondent will receive a copy of any appeal prior to a hearing; and
  5. A copy of the Appeal Form that must be used in submitting an appeal. (The form is also available at [URL].)
- F. The Title IX investigation and the Student Conduct office's determination of responsibility and sanctions will be completed within 60 business days from Title IX's receipt of a report absent an extension for good cause.
1. The investigation will be completed within 50 business days.
- G. Student Conduct will decide that the charges against a Respondent are substantiated and policies are violated only if Student Conduct, upon complete review of the investigative report and consideration of the parties' comments on the report, determines that the preponderance of the evidence standard shows the charges are substantiated and the policies are violated.

**VI. APPEAL PROCESS**

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

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- b. The person filing the appeal (called “the appellant) will need to:
  - i. Identify and produce evidence that shows there was procedural error in the process that materially affected the outcome;
  - ii. Produce any evidence that should properly have been considered or presented absent the identified procedural error, such as the production of a witness who was not interviewed or the reexamination of a witness who was subjected to unfair questioning; and
  - iii. Persuade that, when applying the preponderance of the evidence standard, the decision is unreasonable in light of the all of the evidence (i.e., investigative report and new information presented during the hearing).
2. The decision was unreasonable based on the evidence;
  - a. Appeals brought under this ground are limited to the fixed record contained in the investigative report, and new evidence will not be considered in reviewing this ground for appeal. The appellant has the burden of persuading that, when applying the preponderance of the evidence standard, the decision was unreasonable in light of the evidence set forth in the investigative report.
3. There is new, material information that was unknown and/or unavailable at the time the decision was made that should affect the outcome;
  - a. The appellant will need to:
    - i. Identify material information that was unknown or unavailable to the appellant, despite appellant’s diligent efforts, at the time of the decision that should affect the outcome;
    - ii. Identify material information that was unknown or unavailable to the appellant at the time of completion of the investigative report, despite appellant’s diligent efforts;
    - iii. Persuade the Appeal Body that, when applying the preponderance of the evidence standard, the decision is unreasonable in light of the all of the evidence (i.e., evidence included in the investigative report and any new information presented during the hearing).
4. The disciplinary sanctions were disproportionate to the findings;
  - a. Appeals brought under this ground can be either a fixed record based on the investigative report, or the appellant may identify and produce more evidence during the appeal hearing. There are two forms this appeal may take:

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- i. The appellant successfully contests the underlying determination of a policy violation based on grounds 1, 2, or 3 and contends that in light of the new decision, the disciplinary sanction imposed previously is disproportionate to the findings. In this case the appellant has the burden of prevailing on grounds 1, 2, or 3, and then persuading the Appeal Body that the disciplinary sanction imposed is disproportionate to the decision on appeal; and
    - ii. The challenge is not predicated on a successful challenge under grounds 1, 2, or 3, and the appellant has the burden of persuading the Appeal Body that the disciplinary sanction imposed was unreasonable in light of the all of the evidence and that the disciplinary sanction imposed is disproportionate to the findings. If the appellant seeks to augment the record with information relevant to this argument, the appellant will have the burden of producing that information at the appeal hearing.
  - b. There is no opportunity for remand on appeal. The appeal body cannot direct the Title IX investigator to re-consider new or existing evidence.
- B. An appeal must be submitted in writing to the designated campus office within ten (10) business days following written notice of the decision and disciplinary sanctions, if imposed. The appeal must identify the grounds for appealing and contain a brief statement of the reasons supporting each ground for appeal.
- C. The designated campus office is Student Conduct. An appeal must be submitted to Student Conduct within 10 business days. Absent exceptional circumstances, the appeal must be submitted in writing on the Appeal Form [see, [url for form](#)].
1. If an appeal is submitted, the parties will be given a list of potential Appeal Hearing Officers, and if a party has any objection to any officer on the list based on personal bias or conflict of interest of the hearing officer, that party will promptly submit any such objection in writing with supporting detail.
- D. If an appeal is submitted, any disciplinary sanctions ordinarily will not be imposed until the appeal process is completed. Interim measures, such as no contact orders, academic accommodations, etc. will remain in effect during the appeal process.
- E. 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

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trained. A Hearing Coordinator may assist the Appeal Body with the administration of the process.

1. The Appeal Body shall be an individual who will serve as the Appeal Hearing Officer.
2. The Student Conduct Office will select the Appeal Hearing Officer at its discretion.
3. The Adjudication Coordinator will serve as the Hearing Coordinator for the Appeal Process. The Adjudication Coordinator will perform all administrative tasks for the Appeal Hearing Officer and coordinate the appeal process.
4. In addition to the general training that all campus conduct officials receive on the adjudication of student disciplinary cases, the Appeal Hearing Officer and Adjudication Coordinator are required to receive specific training every calendar year that will include:
  - a. the definitions of sexual assault, sexual harassment, domestic or dating violence, and stalking;
  - b. the definition of what constitutes affirmative consent in situations involving sexual assault;
  - c. understanding victim dynamics and how to conduct trauma-informed interviews;
  - d. information on the applicable confidentiality requirements surrounding a sexual violence or sexual harassment hearing; and
  - e. other topics as required by law, University policy, or otherwise required to fairly address and adjudicate these cases.

F. The Appeal Body will review the information and decide whether it contains sufficient information concerning the grounds for appeal and the reasons related to those grounds. The purpose of this review is not to decide the merits of the appeal, but to identify the nature and scope of the issues to be addressed in the hearing. If the written appeal is defective or incomplete, the appealing party should be given an opportunity to correct and resubmit the appeal.

1. If the submitted appeal form is defective or incomplete, the Adjudication Coordinator will notify appellant within two (2) business days. The appellant will have three (3) business days to correct and resubmit the appeal. The Adjudication Coordinator may communicate with appellant to provide technical guidance on how to comply with this rule.

G. Conducting the Appeal Hearing

1. Pre-Hearing Procedures
  - a. Not less than ten (10) business days before the appeal hearing, the Hearing Coordinator will send written notice to the complainant and respondent of the hearing date, time,

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location and procedures. The notice will include a copy of the appeal(s) to be considered at the hearing.

- i. The notice will contain the Appeal Hearing Officer's decision as to the nature and scope of the issues that have been accepted on appeal and will be heard in the appeal hearing. The notice will contain a copy of the last statement of appeal the appellant submitted.
  - ii. The notice will also include a Scheduling Calendar regarding deadlines for the submission of evidence and the identification of witness information, scheduling of pre-hearing conferences, the date of the Appeals Hearing, and any other procedural matters.
- b. Prior to the hearing, the complainant and respondent will submit to the Appeal Body the information they intend to present at the appeal, including all documents to be presented, the names of all witnesses, and a brief summary of all witnesses' expected testimony.
- i. The complainant and respondent will submit their respective information through electronic means to the Adjudication Coordinator who, upon receipt of the information, shall exchange it between the parties.
  - ii. The information submitted shall be limited to the nature and the scope of the issues accepted for appeal.
  - iii. The complainant and the respondent may request one or more prehearing conferences, scheduled at the discretion of the Adjudication Coordinator, the last to occur no later than four business days prior to the appeal hearing.
  - iv. As with other meetings or proceedings, the complainant and respondent may be accompanied by an advisor and support person.
  - v. Any pre-hearing conference will be held separately when at least one of the parties is not represented by an advisor.
  - vi. The purpose of the pre-hearing conference will be to further define the issues and the evidence, and to address any matter necessary to ensure an orderly, productive, and procedurally proper appeal.
- c. At least two days prior to the appeal hearing, the complainant and respondent will receive copies of all the information that will be considered at the appeal hearing, including the names of potential witnesses and a summary of the information they are expected to provide.

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- i. The complainant and respondent will receive a final notice of the redefined issues and evidence to be considered at least four days prior to the hearing. This notice will constitute the final draft of the nature and scope of the issues to be heard at the appeal hearing.
  - d. Prior to the appeal hearing and/or during the hearing, the Appeal Body may:
    - i. Exclude information and/or witness testimony that is irrelevant in light of the grounds for appeal, not in dispute, or unduly repetitive.
    - ii. Decide any procedural issues for the appeal hearing.
    - iii. Make any other determinations necessary to ensure an orderly, productive, and procedurally proper appeal hearing.
2. Appeal Hearing Procedures:
  - a. The Title IX investigator will be present at the appeal hearing. The Appeal Body may question the investigator, the complainant, and/or the respondent. The investigation report and any supporting documents or materials will be entered as evidence at the appeal hearing.
  - b. The Appeal Body may allow the complainant, respondent, and/or witnesses to be visually or physically separated during the appeal hearing. This may include, but is not limited to, the use of a physical partition, a separate physical location, videoconference and/or any other appropriate technology. The Appeal Body must be able to see the complainant, respondent and any witnesses when they are presenting information.
  - c. The complainant and respondent will have the opportunity to present the information they submitted pursuant to Section VI.G.1.b (unless excluded by the Appeal Body pursuant to Section VI.G.1.d.).
  - d. The complainant and respondent have the right to hear all individuals who testify at the hearing and to propose questions to be asked of all individuals who testify at the hearing.
  - e. The Appeal Body will determine the order of questioning. Whenever possible, the Appeal Body will ask the questions as they are submitted by the complainant and respondent and will not rephrase or change them. The Appeal Body may, however, exclude questions that are unduly repetitive, clearly not relevant, or unduly time consuming.
  - f. The appeal hearing will be audio recorded

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- i. Other than for the purpose of the official record made at the direction of the Appeal Hearing Officer, mechanical or electronic devices for recording or broadcasting are excluded from the hearing.
  - g. Formal rules of evidence will not apply. The Appeal Body may consider the form in which information is presented, as well as the credibility of any party or witness, in weighing the information and reaching findings.
  - h. Hearsay evidence is admissible; however, the Appeal Hearing Officer may factor the nature of such evidence when assessing its weight and probative value.
  - i. The prior sexual history of a complainant or respondent will never be used to prove character or reputation.
  - j. Evidence related to the prior sexual history of the complainant or respondent will generally not be relevant and may be considered only in limited circumstances.<sup>2</sup> The Investigator will determine the relevance of this information and inform both parties if evidence of prior sexual history is deemed relevant.
  - k. Student adjudication proceedings are not court proceedings. The procedures used in civil or criminal trials, law and motion, and other proceedings before a court or administrative agency do not apply. For example, discovery procedures and requirements for pleadings do not apply.
  - l. Appeal hearings are closed hearings, meaning they are private and not open to the public.
- H. Appeal Decision:
- 1. The Appeal Body will deliberate in private and reach a decision based on a preponderance of the evidence standard. The Appeal Body shall attempt to reach consensus on a decision, but the majority shall make the decision if consensus cannot be reached.

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

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2. The Appeal Body shall take into account the record developed by the investigator and the evidence presented at the hearing, and may make its own findings and credibility determinations based on all of the evidence before it.
3. The Appeal Body may:
  - a. Uphold the findings and disciplinary sanctions;
  - b. Overturn the findings or sanctions; or
  - c. Modify the findings or sanctions

The Appeal Hearing Officer may modify the sanctions consistent with the official University sanctioning guidelines according to the criteria and minimum sanctions set as forth in Appendix G..
4. The Appeal Body will summarize its decision in a written report that includes the following:
  - a. A statement of the grounds for the appeal;
  - b. A summary of the process undertaken by the Appeal Body;
  - c. A summary of the information considered by the Appeal Body; and
  - d. The decision of the Appeal Body and the rationale for the decision including, where the findings or sanctions are overturned or modified, an explanation of why the findings were not reasonable or the sanctions were disproportionate, either at the time they were made or in light of the evidence considered by the Appeal Body.
5. The Hearing Coordinator will send the Appeal Body's written decision to complainant and respondent.
  - a. If the findings and the sanctions are upheld, the Hearing Coordinator will inform the respondent and complainant that the matter is closed with no further right to appeal.
  - b. If the findings or sanctions are overturned or modified, the Hearing Coordinator will inform the respondent and complainant of the right to submit a written appeal to the Chancellor's designee within five (5) business days based on:
    - i. Procedural error that materially affected the outcome, or
      - (a) Under this ground, the appellant will need to persuade the Chancellor's Designee that, when applying the preponderance of the evidence standard, one or more of the following errors occurred during the Appeals Process that materially affected the outcome:
        - (1) The procedures set forth in the UCOP rules and these UCD rules pertaining to the Appeals Process were not followed;



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

**APPENDIX G:  
UC DAVIS PROCESS FOR DISCIPLINARY SANCTIONS  
FOR STUDENT CASES OF SEXUAL HARASSMENT/SEXUAL VIOLENCE**

**I. INTRODUCTION**

These standards are intended to ensure the consistent application of disciplinary sanctions by the University of California in responding to conduct that violates the University's *Policy on Sexual Violence and Sexual Harassment* and the University's *Policies Applying to Campus Activities, Organizations, and Students* (PACAOS) Section 100 (Policy on Student Conduct and Discipline).<sup>3</sup> The following describes the University's procedures for assigning disciplinary sanctions when the respondent is a student.

**II. PRINCIPLES**

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

**III. DISCIPLINARY SANCTIONS**

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<sup>3</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.

**APPENDIX G:  
UC DAVIS PROCESS FOR DISCIPLINARY SANCTIONS  
FOR STUDENT CASES OF SEXUAL HARASSMENT/SEXUAL VIOLENCE**

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

**IV. PROCESS**

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

**APPENDIX G:  
UC DAVIS PROCESS FOR DISCIPLINARY SANCTIONS  
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- C. Assigned disciplinary sanctions and the factors considered for each case will be documented and reported to the University of California Office of the President on a quarterly basis. The report is to ensure a reasonable level of consistency from campus to campus.

**V. FACTORS CONSIDERED IN DETERMINING DISCIPLINARY SANCTIONS**

- A. In determining the appropriate sanction, the following factors may be taken into account:
1. Seriousness of violation: location and extent of touching; duration of conduct; single or repeated acts; multiple policy violations in connection with the incident; verbal or physical intimidation; presence of weapons, use of force, violence, physical injury.
  2. Intent or motivation behind violation: no intent to cause harm; passive role in violation; pressured or induced by others to participate in the violation; use of authority to abuse trust or confidence; planned or predatory conduct; deliberately causing a person to become incapacitated or deliberately taking advantage of a person's incapacitation; recording, photographing, transmitting, viewing, or distributing intimate or sexual images without consent; hate or bias based on the complainant's membership or perceived membership in a protected group as defined in UC PACAOS Section 104.90.
  3. Response following violation: voluntarily acknowledged wrongdoing at early stage of the process; failure to follow no contact order; attempt to influence witnesses; obstructed or disrupted the process.
  4. Disciplinary history: prior violations unrelated, prior violations related.
  5. Impact on others: input from the complainant, protection or safety of the community.