

UCSF SCHOOL OF DENTISTRY

Final Interim Student Conduct

Procedures

October 2015

I. Investigation by the University

The UCSF Campus Title IX Officer, designee of the Sexual Violence Prevention & Response team in the Office of Diversity and Outreach or the Chancellor's designee will initiate investigations of alleged violations of University of California Sexual Harassment and Sexual Violence Policy, UC San Francisco Sexual Harassment Policy, Number 150-13, UC San Francisco Sexual Violence in the Workplace Policy, Number 150-29, and UCSF Policy on Student Conduct and Discipline, Number 100.00. Investigations will incorporate the following:

1. The Investigator will meet separately with the parties to discuss the complaint, gather evidence, and receive information related to the alleged violations.
2. An interim suspension or other interim protections and remedies may be imposed pursuant to the UCSF Policy on Student Conduct and Discipline during investigation of a Sexual Misconduct Complaint and/or prior to completion of the conduct process.
3. Upon the completion of the investigation, UCSF Title IX Officer or designee will notify Complainant and Respondent in writing whether or not the Investigator determined that it was more likely than not that University Policy was violated.

II. Report of Findings

Investigation by the Sexual Violence Prevention & Response team or designee and any disciplinary procedures will typically be completed as promptly as possible and within 60 days from the date of the formal written request for investigation. Generally, an investigation will result in a "Report of Findings" that includes a statement of allegations, a summary of the evidence, findings of fact, and a determination by

the investigator as to whether it is more likely than not that University policy has been violated. The standard of proof for the purposes of the investigation is preponderance of the evidence (whether it is more likely than not that the facts occurred as alleged).

The report will be submitted to the Dean (or designee).

III. Grounds for Discipline and Remedies Imposed

The Chancellor (or designee) may impose discipline for the commission or attempted commission of the violations specified in the policy on student conduct and discipline. The conduct process shall proceed in accordance with the requirements of the UCSF Policy on Student Conduct and Discipline, except to the extent that those requirements are specifically modified by this Interim Policy.

IV. Retaliation

The campus does not permit retaliation against any person for bringing a sexual misconduct complaint. Students may be disciplined for retaliating in any fashion against any person who makes a sexual misconduct complaint. Retaliation includes, but is not limited to, harassment, threats, intimidation, reprisals, and/or adverse actions committed or instigated by the person who is the subject of the complaint or persons acting on behalf of that person directed toward the Complainant or anyone providing emotional or material support to the Complainant. Any student who participates in retaliation may be subject to the disciplinary process as outlined policy on student conduct and discipline.

V. Student Conduct Process

Upon receipt of the Report of Findings from the Sexual Violence Prevention & Response team Investigator, the Dean (or designee) will review the report.

1. If the investigative findings demonstrate that it was more likely than not that a University policy was violated, the Dean (or designee) will notify the Respondent and Complainant of the initiation of the University disciplinary process. This notification letter will be sent to both parties by UCSF email address and by U.S. Mail to the parties' current address of record. The notification letter will provide the Complainant and Respondent with notice that each party has seven business days from the date of the notice to contact the Dean (or designee) to schedule an Administrative Meeting.

2. Even if misconduct is not found to have occurred, the Dean (or designee) must consider the effects of alleged misconduct and any finding of a hostile environment on campus. The Dean (or designee) shall address the environment in an effort to eliminate any continuing effects of misconduct on education programs or activities and take reasonable steps to protect the community.
3. All deadlines and time requirements in these procedures may be extended for good cause as determined by the Dean (or designee) and with notice to both the Complainant and Respondent. Requests for extensions of deadlines must be made in writing to the Dean (or designee), who will determine, based on the totality of the circumstances, whether the extension is granted. If an extension is granted, the Dean (or designee) will specify the date of the new deadline or event and inform the parties.

VI. Student Conduct Process: Administrative Meeting

The Administrative Meeting is an in person meeting between the Dean (or designee) and the Complainant and Respondent separately, to review and discuss the findings in the report from the Title IX Officer, hear and receive the parties' information and perspective and provide information regarding University policies. The following provisions apply to Administrative Meetings:

1. If the Complainant or Respondent cannot attend his or her scheduled Administrative Meeting, he or she must contact the Dean (or designee) to request a new date and/or time for the meeting. Rescheduling the Administrative Meeting is at the discretion of the Dean (or designee) and will not prevent the imposition of interim measures. If, after proper notice, the Complainant or Respondent does not appear in person at the scheduled date and/or time, the Dean (or designee) may determine the Respondent's responsibility for the alleged violation(s) without input from the absent party and may assign sanctions based on the information in his or her possession without the Complainant's and/or Respondent's participation. Requests for exceptions to being physically present at the in person meeting, such as via phone or other technology, will be considered within the same timeline, by the Dean (or designee) on a case-by-case basis for extenuating circumstances that such presence would create severe hardship for the party.
2. Administrative Meetings are closed to the public. Respondent, Complainant, witnesses, or advisors are not permitted to use a recording device (audio and/or video) of any kind during the meeting.
3. Respondents and Complainants are entitled to be assisted by no more than two advisors (UCSF student, faculty, or staff, or an attorney or any other person) during the Administrative Meeting. Advisors are allowed to be present at the meeting, but only to confer with their advisee. Advisors cannot speak on behalf

of a party. Each party may choose to have either one non-legal participant advisor, in addition to legal counsel or two non-legal advisors. If the Respondent or Complainant is accompanied by an attorney, the Dean (or designee) may be accompanied by an attorney as well. The Respondent and Complainant must notify the Dean (or designee) if they choose to be assisted by legal and/or non-legal participant advisor(s) at least five (5) business days prior to the Administrative Meeting. The cost of legal counsel is the responsibility of the party involved.

4. At the meeting and separately, the Dean (or designee) will explain the Administrative Meeting process to the Complainant and Respondent. The Dean (or designee) will provide each party an opportunity to review their Report of Findings provided by the Investigator and explain the parties' rights under these procedures. The Respondent and Complainant will then have the opportunity to present his or her version of the incident. At the conclusion of the meeting, the Dean (or designee) will explain the potential sanctions.

5. The Respondent will have the opportunity to respond to allegations and be asked to enter a response of "no contest", "admit responsibility", or "deny responsibility" in writing within 10 days of the Administrative Meeting.

6. If the written response is "no contest" or "admit responsibility" the Dean (or designee) shall impose appropriate sanction(s). The determination of the sanction(s) will be final, and the Dean (or designee) shall impose an appropriate sanction, subject to appeal in accordance with these procedures.

7. If the written response is "deny responsibility", either party or the Dean (or designee) may request a hearing. Refer to section VIII for the formal hearing procedures.

8. If no hearing is requested, the Dean (or designee) shall make a determination of the (a) sanction(s), (b) remedies or (c) sanctions and remedies based on the investigative finding(s) and any other information provided by the parties. The determination of the sanction(s) are subject to appeal as provided in section XI.

VII. Special Procedures for Informal Resolution

The parties may choose to resolve the case through informal resolution (prior to Respondent entering a response of "no contest," "admit responsibility," or "deny responsibility"). Prior to agreeing to an Informal Resolution of a Sexual Misconduct Complaint, the Dean (or designee) shall consult with the parties regarding any proposed Informal Resolution.

VIII. Procedures for the Formal Hearing (Formal Disciplinary Procedures)

If the Respondent denies responsibility for violating the campus Policy or a hearing is requested in accordance with these procedures, the case will be heard by a hearing panel (the “Hearing Panel”). During the hearing, the Hearing Panel will hear and receive the Respondent’s and Complainant’s information about the incident, review the investigative report, hear from relevant witnesses, determine the responsibility of the Respondent, and recommend appropriate sanction(s), if applicable. During the hearing, the Respondent and Complainant will both have the opportunity to suggest questions to be asked by the Hearing Panel to the other party and a reasonable opportunity to ask questions directly of other witnesses.

The Dean (or designee) will appoint a Coordinator to manage the formal hearing process. The Coordinator, with guidance from the Dean (or designee), will be responsible for selecting the Hearing Panel members, including the Chair of the Hearing Panel. The Coordinator will notify the parties about essential hearing information (including date/time/location, witnesses, reports). Once the hearing is completed all communication about the decision and sanctions is handled by the Dean (or designee).

- A. If the Dean (or designee) or parties request a hearing, pre-hearing meetings will be scheduled at least five (5) business days prior to the date of the hearing. The meetings will be held separately.
 1. The purpose of the pre-hearing meeting is to address any procedural questions pertaining to the formal hearing process. For example, either party or the Chair may request a list of witnesses and specific information witnesses will discuss during the hearing.
 2. During the pre-hearing meeting, the Chair may exclude from the hearing information that he or she deems irrelevant, or unnecessarily repetitive, and may make other rulings, as he or she deems necessary, to assure that the hearing is conducted fairly and efficiently. Information regarding the Complainant or Respondent’s past sexual history will not be admissible unless the Chair makes a specific finding of relevance after an offer of proof has been submitted. The offer of proof must be submitted to and resolved by the Chair prior to the Complainant addressing the Hearing Panel (written statement or in person).
- B. If the Dean (or designee) or parties request a hearing, the Dean (or designee) will convene a Hearing Panel consisting of two students and three staff or faculty members and one alternate. Either the Complainant or Respondent may, for good cause, challenge the assignment of a particular Panel Member. The Coordinator, in consultation with the Dean (or designee), will make the determination on the challenge.

1. The Chair of the Hearing Panel will be a faculty member. The Chair shall rule on all questions of procedure, the admission or exclusion of evidence, and the relevance of testimony.
2. If a Hearing Panel member is unable to participate in the hearing, the Coordinator, in consultation with the Dean (or designee) will select another Hearing Panel member for replacement.
3. Prior to the hearing, all Hearing Panel members will be trained in handling sexual violence complaints, and in the operation of these procedures.
4. A University Representative may attend to present information from the investigative report and other relevant documents supporting the alleged violation(s).
5. The parties will present information and other relevant documents supporting his or her case. The parties will also coordinate the appearance of his or her witnesses and advisor(s) with the Coordinator.
6. The Coordinator will provide the Respondent and Complainant with the following information in writing at least ten (10) business days prior to the hearing:
 - a. Notification of the alleged violation(s);
 - b. Summary of the evidence relating to the alleged violation(s);
 - c. The date, time, place, and location of the hearing;
 - d. Information about how to request the presence of witnesses and advisors;
 - e. The name of the Chair and Hearing Panel members;
 - f. Information about review of evidence;
 - g. Contact information for the Coordinator and,
 - h. List of witnesses.
7. The hearing will be closed to the public. The Coordinator will handle documents prepared in anticipation of the hearing (e.g. the Report of Findings, the Notification Letter, and the pre-hearing submissions referenced below); documents, testimony, or other information introduced at the hearing; or any transcript of the hearing itself as required or authorized by law.
8. If circumstances warrant, the hearing may be held at any time, including, but not limited to, during the summer session(s), or between academic terms.
9. Requests to change the time, date, or place of the hearing must be made in writing by the Complainant or the Respondent to the Coordinator no later than five (5) business days prior to the date of the hearing. The Chair will grant or deny the request.
10. Both the Complainant and the Respondent may be present at the entire hearing or may elect not to appear at the hearing. Additionally, the Respondent may remain silent throughout the hearing process and his or her silence will not be taken as an inference of responsibility for the alleged violation(s). Failure to appear at the hearing will not be cause to cancel, postpone, or reschedule the hearing and the hearing will be conducted in accordance with these procedures.
11. Respondents and Complainants are entitled to be assisted by no more than two advisors

(UCSF student, faculty, or staff, or an attorney or any other person) during the formal hearing. Each party may choose to have either one non-legal participant advisor, in addition to legal counsel or two non-legal advisors. Advisors are allowed to be present at the hearing, but only to confer with their advisee. Advisors cannot speak on behalf of a party. If the Respondent or Complainant is accompanied by an attorney, the University Representative may be accompanied by an attorney as well. The Respondent and Complainant must notify the Coordinator if they choose to be assisted by legal and/or non-legal participant advisor(s) at least five (5) business days prior to the hearing. The cost of legal counsel is the responsibility of the party involved.

12. The Hearing Panel may, at its discretion, request that an attorney be appointed to provide independent legal counsel to the Committee. This attorney shall not vote in the Hearing Panel's deliberation process.

C. The parties must provide the name of any advisor(s) who will be present to the Coordinator at least five (5) business days prior to the date of the hearing.

1. The Chair may disallow a particular advisor in cases where an advisor might be a witness or where the advisor's presence, in the Chair's sole determination, would be obstructive to the process or for other good cause.

2. An advisor may not address the Hearing Panel or witnesses in the hearing, but may consult with the party whom he or she is assisting. The Chair will not allow an advisor's presence to inhibit the parties' sharing of information or the conduct of the hearing. In certain circumstances the Chair may allow an advisor to participate in the hearing.

D. Either party may suggest witnesses from whom the Hearing Panel should hear during the hearing. The Respondent, Complainant, and the University Representative must submit their witness lists to the Coordinator prior to the pre-hearing meeting and in the event of any changes, at least five (5) business days prior to the hearing. In the interests of expediency, hearings shall not be delayed due to the unavailability of an advisor, attorney, or witnesses. If the Complainant, Respondent, or any other witness is not available to attend the hearing, the Chair in consultation with the Dean (or designee) may allow witness participation by video conferencing (e.g. Skype) or other means of communication. Requests to appear virtually must be made at least five (5) business days prior to the hearing. Witnesses other than the parties will be excluded from the hearing, except when they are providing information to the Hearing Panel.

E. Students may be subject to the disciplinary process as outlined in the UCSF Policy on Student Conduct and Discipline for any attempt to intimidate any witness or otherwise attempt to prevent the testimony of any witness who has information relevant to a student conduct proceeding. The Chair may take steps to prevent the harassment or intimidation of the Complainant, Respondent or witnesses.

F. During the hearing, the Chair will explain the hearing process to all participants. The Hearing Panel will hear from and receive information about the incident from the University Representative, witnesses, Complainant and Respondent, review the applicable report(s) and other evidence, and hear statements (including impact statements) from and ask questions of the Complainant, the Respondent and any other witnesses. The Hearing Panel Chair will conclude the hearing by explaining the next steps in the process.

G. The Coordinator will arrange for an audio recording of the hearing. This recording will be kept by the Dean (or designee) and a copy will be provided to either party upon request and at their cost. The failure to record all or part of a hearing, such as a malfunctioning recorder, will not be grounds for invalidating the hearing or grounds for appeal. No recording device (audio and/or video) of any kind is permitted for use by the Respondent, Complainant, witnesses, or advisors.

H. The Hearing Panel will receive and consider all relevant information and evidence for the alleged violation(s) at issue in the case. Formal rules of evidence (e.g. California Evidence Code) do not apply. The Hearing Panel will determine whether evidence of previous student conduct history or sanctions is relevant and should be heard.

I. The Hearing Panel may ask questions to parties and witnesses during the hearing. Parties may provide questions in writing to the Chair to be asked of the other party at the Chair's discretion and may reasonably ask questions directly of other witnesses. The Chair may exclude any unduly repetitious or irrelevant questions or information. Formal hearing participants are not required to provide information that would incriminate them. The Complainant or Respondent may not personally question or cross-examine each other during the hearing.

J. The Chair may allow the Complainant or any witness to be visually or physically separated from the Respondent. This may include the use of a retractable wall or screen, television or computer monitor, or other appropriate technology. Requests for visual or physical separation should be made to the Chair at least two (2) business days prior to the hearing.

K. After conducting a hearing, the Hearing Panel will deliberate privately.

1. In determining whether or not the Respondent is responsible for the violation(s), the Hearing Panel will base its fact-finding determination(s) on the preponderance of the evidence standard. The burden of proof rests with the University.
2. The Hearing Panel will first determine whether or not there is a preponderance of the evidence that the Respondent is responsible for the alleged violation(s).
3. Preponderance of the evidence means that it is "more likely than not" that a Respondent is responsible for violation of the UC Sexual Violence policy.

4. If the Respondent is found responsible for one or more of the alleged violation(s), the Hearing Panel will make fair and appropriate sanction recommendations to the Dean (or designee). If the preponderance of the evidence indicates that the Respondent is not responsible for the alleged violation(s), the Respondent will be found not responsible and the matter will be dismissed and concluded without any further proceedings.

IX. Hearing Report, Sanctions and Remedies

A. Within ten (10) business days after the conclusion of deliberations, the Hearing Panel will submit a formal hearing report to the Dean (or designee) detailing the alleged violations, the Hearing Panel's findings as to each allegation and recommendations.

B. The Dean (or designee) will make a determination with respect to the Respondent's violation(s) and sanction(s) based on the Hearing Panel's formal hearing report.

C. Potential sanction(s) for students found responsible for violating the UCSF Policy on Student Conduct and Discipline include, but are not limited to Warnings, Disciplinary Probation, Suspension, Dismissal, Records Holds, Written Assignments, and other Required Participation in Educational Programs.

D. Within ten (10) business days after receiving the Hearing Panel's formal hearing report, the Dean (or designee) will notify the Respondent and Complainant in writing of the outcome, as permissible by applicable law, rules or regulations.

X. Sanctions and Remedies

Sanctions for cases where a student is found responsible for violating the UCSF Policy on Student Conduct and Discipline are intended to equitably address the offending behavior, prevent its recurrence and remediate its effects in an educational context. The Respondent and Complainant will be notified of the sanctions in writing. The types of disciplinary sanctions are listed in the UCSF Policy on Student Conduct and Discipline 105.00 – 106.10.

Sanctions shall not be effective until the appeal period has run and, if an appeal has been made, the appeal has been resolved.

XI. Appeal

A. Appeal of Sanctions Imposed After the Administrative Meeting.

Either party may appeal the determination of responsibility or sanction(s) arising from the administrative meeting or from an informal resolution.

B. Appeal of Determination of Formal Disciplinary Hearing

Either party may appeal the determination of responsibility or sanction(s) arising from the formal disciplinary hearing.

C. Appeal Procedures

1. The Complainant may appeal sanctions to the extent disclosure of sanctions to him or her is permissible under law and UCSF policy.
2. The Appeal must be in writing (email is acceptable) to the Chancellor within ten (10) business days after the notice of sanctions or resolution. All appeals will be reviewed as described in this section XI.
3. Appeals must be based only upon one or more of the following grounds:
 - a. Whether there is new evidence which could not be adduced at the time of the hearing which is likely to change the result;
 - b. Whether procedures, as described herein, were not followed and the failure to follow procedures resulted in a decision adverse to the student; or
 - c. Whether the imposed sanction was disproportionate to the findings of fact.
3. Once an appeal is submitted and accepted for meeting one of the above criteria, the following protocol will apply:
 - a. The Chancellor (or designee) will provide the non-appealing party via email with the appeal. The non-appealing party will have seven business days to submit a response to the appeal to the Chancellor (or designee), which response will be provided to the appealing party. Both parties may submit an impact statement as part of their appeal or response to appeal which will be provided to the other party.
 - b. Upon completion of review by the Chancellor, the Chancellor may affirm, modify, or reverse the sanction(s).
 - c. Sanction(s) may not become effective until completion of this appeal process unless otherwise indicated.
 - d. Notice of the decision of the appeal will be provided to both parties by the Chancellor (or designee) within fifteen (15) business days from the request for appeal.
 - e. The decision on appeal will be final.

Changes and amendments may be made to the Student Conduct Procedures for Discrimination, Harassment and Sexual Violence Offenses from time to time through periodic review by the Dean (or designee).