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Complaints of violations of the UC San Diego Sex Offense Policy or the UC San Diego Student Conduct Code Section VII(I) (Harassment or Discrimination) are initially referred to the Office for the Prevention of Harassment & Discrimination (OPHD), where they may be informally resolved or formally investigated, resulting in an investigative report. Once an investigative report has been issued to the Office of Student Conduct and relevant Dean(s), these procedures are used for the further handling of these complaints.

I. Processing Investigative Reports and Complaints

A. Upon receipt of the investigative report from OPHD, the Director of Student Conduct and relevant Dean(s) will jointly review the report to determine whether there is reasonable cause to believe the UC San Diego Sex Offense Policy (Sex Offense Policy) or Section VII(I) (Harassment or Discrimination) of the UC San Diego Student Conduct Code was violated. In the case of non-undergraduate students, the Director of Student Conduct will review the investigative report with the following individual(s):

1. Reports involving graduate students will be reviewed with and referred to the Assistant Dean of Graduate Studies.
2. Reports involving medical students will be reviewed with and referred to the Director of Student Life for Medical Education.
3. Reports involving pharmacy students will be reviewed with and referred to the Director of Student Affairs and Admissions for the Skaggs School of Pharmacy.
4. Reports involving Extension students will be reviewed with and referred to the Student Affairs Manager of UC San Diego Extension.

B. If there is reasonable cause to believe the Sex Offense Policy or Section VII(I) (Harassment or Discrimination) of the UC San Diego Student Conduct Code was violated, the Dean will notify the complainant and the student accused in writing within 20 business days from the date of receiving the investigative report, unless circumstances make this unreasonable. This notification letter, as described below, will be sent in writing to the accused student’s UCSD email address and/or by U.S. Mail sent to the student’s current address of record.
C. If there is not reasonable cause to believe the *Sex Offense Policy* or Section VII(I) (Harassment or Discrimination) of the UC San Diego *Student Conduct Code* was violated, the Director of Student Conduct will notify the complainant and student accused in writing within 20 business days of receiving the report that the complaint has been dismissed.

D. All deadlines and time requirements in these *Hearing Procedures* involving the student conduct process may be extended for good cause as determined by the Director of Student Conduct. Requests for extensions of deadlines must be made in writing to the Director or Student Conduct, who will determine, based on the totality of the circumstances, whether or not the extension is granted. If an extension is granted, the Director of Student Conduct will specify the date of the new deadline or event.

II. **Administrative Resolution**

An Administrative Resolution is a meeting between the relevant Dean and the student accused to discuss the incident, hear and receive the accused student’s information and perspective, meet with applicable witnesses (e.g. complainant), and if the student accused accepts responsibility, impose fair and appropriate sanctions. Formal hearing procedures will be used when the student accused and relevant Dean are unable to come to an agreed-upon resolution to the alleged violations. The following provisions apply to Administrative Resolution meetings.

A. If there is reasonable cause to believe the *Sex Offense Policy* or Section VII(I) (Harassment or Discrimination) of the UC San Diego *Student Conduct Code* was violated, the Dean will provide the student accused with the following information in writing:

1. Notification of the alleged violations;
2. Summary of the evidence relating to the alleged violations;
3. Notice that the student accused has five days from the notice to contact the Dean to schedule an Administrative Resolution meeting;
4. Information about how to review case materials prior to the meeting (*e.g.* investigative report, police report, etc.);
5. Information about how to request the presence of a witness(es); and
6. Information about how to request assistance from the A.S. Office of Student Advocacy and the Office of Student Legal Services.

B. If the student accused cannot attend the scheduled Administrative Resolution meeting, he/she must contact the Dean to request a new date and/or time for the meeting. It is at the discretion of the Dean if the meeting will be rescheduled. If, after proper notice, the student accused does not appear at the scheduled date and/or time, the Dean may determine the accused student’s responsibility for the alleged violations and may assign sanctions based on the information in his/her possession without the accused student’s participation.

C. The Dean will also meet separately with the complainant to discuss the report and receive information related to the alleged violations.
D. Administrative Resolution meetings will be closed to the public. Recording devices (audio and/or video) of any kind are not permitted for use by the student accused, complainant, witnesses, or advisors.

E. Respondents and complainants are entitled to be assisted by an advisor during an Administrative Resolution meeting. A student advocate serving as an advisor may speak on behalf of their advisee. UC San Diego students, faculty, and staff or attorneys serving as an advisor are allowed to be present at the meeting but only to confer with their advisee. Students electing to be accompanied by an advisor must notify the Dean at least two business days prior to the meeting.

F. At the meeting, the Dean will explain the Administrative Resolution process to the student accused. The Dean will provide the student accused an opportunity to review the applicable investigative and other report(s) (e.g., police report), explain the student accused’s rights, and describe the alleged violations. Reports may be redacted to comply with federal and state privacy laws. The student accused will then have the opportunity to present his or her version of the incident, including providing witnesses for the Dean to meet. The Dean will meet separately with the complainant, who will likewise be provided the opportunity to present his or her version of the incident, including providing witnesses for the Dean to meet. At the conclusion of the process, the student accused will have the opportunity to accept responsibility for the alleged violations and the Dean will explain the potential sanctions.

G. If the student accused accepts responsibility for violating the Sex Offense Policy or Section VII(1) (Harassment or Discrimination) of the UC San Diego Student Conduct Code, the Dean will notify him or her in writing with a brief summary of the meeting and assigned sanctions within ten business days, unless circumstances warrant otherwise. To the extent the complainant is entitled to know the assigned sanctions, the complainant will also be notified in writing at the same time as the student accused.

H. If the student accused accepts the Administrative Resolution, but disagrees with the assigned sanction(s), he or she may submit a written request to alter or reduce the sanction(s) as described in Section V below. Conversely, to the extent the complainant is entitled to know the proposed sanctions, he or she may submit a request to alter or augment the sanction(s) per the requirements of Section V below.

I. If the student accused does not accept responsibility for all alleged violations, the Dean will refer the matter to a hearing as described in Section III below. Where there is more than one alleged violation and the student accused does not accept responsibility for all alleged violations, the student may request a formal hearing only for the alleged violations for which he/she did not accept responsibility in the meeting.

J. K. If OPHD has provided the complainant with any interim remedies, the Dean will discuss any decision to change such remedies with OPHD prior to making such change.

III. Formal Hearing Process
If the student accused does not accept responsibility for all alleged violations at the Administrative Resolution meeting, he/she has the right to a formal hearing. During the hearing, the Hearing Panel or Hearing Officer will hear and receive the accused student’s and complainant’s information about the incident, meet with relevant witnesses, determine the responsibility of the student accused, and recommend appropriate sanctions. During the hearing, the student accused and complainant will both have the opportunity to suggest questions to be asked by the Hearing Panel or Hearing Officer to the other party and witnesses.

The Director of Student Conduct will manage the formal hearing process. He or she will be responsible for selecting the Hearing Panel members or Hearing Officer, notifying the parties about essential hearing information (including date/time/location, witnesses, reports), and coordinating communication about the Hearing Panel or Hearing Officer’s decision and the sanctions imposed by the Dean.

A. If the student accused does not accept responsibility at the Administrative Resolution meeting for all alleged violations, the Director of Student Conduct, in consultation with the relevant Dean, will appoint a panel of three Hearing Officers or a single staff or faculty Hearing Officer. The Director of Student Conduct will make this decision based on the totality of the circumstances.

1. If the Director of Student Conduct appoints a panel, it will be composed of one student and two staff or faculty members. The Chair of the panel will be one of the staff or faculty members.

2. If a panel member or Hearing Officer is unable to participate in the hearing, the Director of Student Conduct will select another Hearing Officer to replace the unavailable member or Hearing Officer.

3. Prior to the hearing, all Hearing Panel members and Hearing Officers will be jointly trained by the Office of Student Conduct, Sexual Assault and Violence Prevention Resource Center (SARC) and OPHD regarding issues specific to sex offense, harassment or discrimination cases.

B. The Director of Student Conduct will select a University Official to serve as the University Representative for the case. The role of the University Representative will be to present information from the investigative report and other relevant documents supporting the alleged violations. The University Representative will also coordinate the appearance of witnesses, including the complainant, supporting the alleged violations.

C. The Director of Student Conduct will provide the student accused with the following information in writing at least ten business days prior to the hearing:

1. Notification of the alleged violations;
2. Summary of the evidence relating to the alleged violations;
3. The date, time, place, and location of the hearing;
4. The name(s) of the Hearing Panel members/Hearing Officer and University Representative;
5. Information about how to review case materials prior to the hearing (e.g. investigative report, police report, etc);
6. Information about how to request the presence of witnesses;
7. Information about how to request assistance from the A.S. Office of Student
Advocacy and the Office of Student Legal Services; and
8. Contact information for the Director of Student Conduct.

D. The Director of Student Conduct will provide the complainant with the following information in writing at least ten business days prior to the hearing:

1. The date, time, place, and location of the hearing;
2. The name(s) of the Hearing Panel members or Hearing Officer;
3. Information about how to review case materials prior to the hearing (e.g. investigative report, police report, etc);
4. Information about how to request the presence of witnesses;
5. Information about how to request assistance from the A.S. Office of Student Advocacy and the Office of Student Legal Services; and
6. Contact information for the Director of Student Conduct.

E. The hearing process is confidential and hearings will be closed to the public. Documents prepared in anticipation of the hearing (e.g. the investigation report, the Formal Hearing Letter, and the pre-hearing submissions referenced below); documents, testimony, or other information introduced at the hearing; or any transcript of the hearing itself may not be disclosed except as required or authorized by law.

F. If circumstances warrant, the hearing may be held at any time, including, but not limited to, during the summer session(s), between academic terms, or during a University holiday period.

G. Requests to change the time, date, or place of the hearing must be made in writing by the complainant or the student accused to the Director of Student Conduct no later than five business days prior to the date of the hearing.

H. Both the complainant and the student accused may be present at the entire hearing or may elect not to appear at the hearing. Additionally, the student accused may remain silent throughout the hearing process and his or her silence will not be taken as an inference of responsibility for the alleged violations. 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.

I. The complainant and student accused may have advisors present to support and assist them during all stages of the hearing process, including pre-hearing meetings. Potential advisors include an A.S. Student Advocate, a UCSD student, staff, or faculty member, or an attorney. However, only A.S. Student Advocates may speak on behalf of their advisee.

1. Notice that a secondary advisor will be present must be provided to the Director of Student Conduct at least five business days prior to the date of the hearing.

2. The Director of Student Conduct may disallow a particular advisor in cases where an advisor might be a witness or where the advisor’s presence, in the Director of Student Conduct’s sole judgment, would be, or at any time becomes, obstructive to the process or other good cause.
3. An advisor may not direct questions to the panel or to witnesses at the hearing, but may suggest questions in writing to the Panel and may consult with the student that he or she is assisting. The Hearing Board Chair will not allow an advisor’s presence to inhibit the parties’ sharing of information or the conduct of the hearing.

J. The complainant or student accused may request, in writing, that a Hearing Panel member or Hearing Officer be disqualified from participating in a hearing. The request must be made to the Director of Student Conduct at least five business days before the scheduled hearing and must include an explanation as to why the person is unable to make an impartial and unbiased decision.

   1. In responding to such requests, the Director of Student Conduct will disqualify any Hearing Panel member or Hearing Officer who is not able, in his/her judgment, to make an impartial and unbiased decision.

   2. If the Director of Student grants a disqualification request, he/she, in consultation with the relevant Dean, will select another Hearing Panel member or Hearing Officer to replace the disqualified panel member or Hearing Officer and notify the respondent and complainant at least one day prior to the hearing.

K. Either party may request a pre-hearing meeting in writing to the Director of Student Conduct, at least five business days prior to the date of the hearing. The Director of Student Conduct may also schedule a pre-hearing meeting on the request of the Hearing Panel Chair, Hearing Officer, or University Representative. Typically, pre-hearing meetings are held separately for the student accused and complainant.

   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 Hearing Panel Chair or Hearing Officer may request a list of witnesses and specific information witnesses will discuss during the hearing. Additionally, the parties may be accompanied by their advisor(s).

   2. During the pre-hearing meeting, the Hearing Panel Chair or Hearing Officer may exclude from the hearing information that he/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.

L. Either party may suggest witnesses for the Hearing Panel or Hearing Officer to meet with during the hearing. Witness lists must be submitted to the Director of Student Conduct at least five business days prior to the hearing. The Hearing Panel Chair or Hearing Officer may take steps to prevent the harassment or intimidation of any of complainant, student accused or witnesses.

   1. If a witness is not available to attend the hearing, the Hearing Panel Chair or Hearing Officer, in consultation with the Director of Student Conduct, may allow witness participation by video conferencing (e.g. Skype). Witness statements will generally not be allowed.

   2. Witnesses other than the parties will be excluded from the hearing, except when they are providing information to the Hearing Panel or Hearing Officer.
M. During the hearing, the Hearing Panel Chair or Hearing Officer will explain the hearing process to all participants. The Hearing Panel or Hearing Officer will hear and receive information about the incident from the University Representative and student accused, review the applicable report(s) and other evidence, and ask questions of the parties and witnesses. The Hearing Panel Chair or Hearing Officer will conclude the hearing by explaining the next steps in the process.

N. The Director of Student Conduct will arrange for an audio recording of the hearing. This recording will be kept by the Director of Student Conduct and a copy will be provided to either party upon request. 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. Recording devices (audio and/or video) of any kind are not permitted for use by the student accused, complainant, witnesses, or advisors.

O. The Hearing Panel or Hearing Officer will receive and consider all information and evidence for the alleged violations at issue in the case that he or she deems relevant and useful. The investigative report produced by OPHD serves as the primary fact-finding document for the incident. Formal rules of evidence (e.g. California Evidence Code) do not apply.

P. The Hearing Panel or Hearing Officer will be responsible for asking questions to parties and witnesses during the hearing. Parties may provide questions in writing to the Hearing Panel Chair or Hearing Officer to be asked of the other party or witnesses at the Chair’s or Hearing Officer’s discretion. The Chair or Hearing Officer may exclude any unduly repetitious or irrelevant questions or information. Formal hearing participants are not required to provide information that would incriminate him or her.

Q. The Hearing Panel Chair or Hearing Officer may allow the complainant or any witness to be visually or physically separated from the student accused. 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 Director of Student Conduct at least three business days prior to the hearing.

R. After conducting a hearing, the Hearing Panel or Hearing Officer will deliberate privately. The determination(s) of the Panel will be made by majority vote.

1. Based on the information in the investigative report and the information presented at the hearing, the Panel or Hearing Officer will first determine whether there is a preponderance of the evidence that the student accused is responsible for the alleged violation(s). If there is not a preponderance of the evidence, the student accused will be found not responsible for all alleged violations, the matter will be dismissed and concluded without any further proceedings.

2. In determining whether or not the student accused is responsible for the violations, the Board will base its determination(s) of responsibility on the preponderance of the evidence standard, with the University bearing the burden of proof.

3. Preponderance of the evidence means that “more likely than not” that a student accused violated the Sex Offense Policy or Section VII(I) (Harassment or Discrimination) of the UC San Diego Student Conduct Code. In this context, the student accused will be found to be responsible for the alleged violations if the Hearing Panel (by a majority vote) or Hearing Officer concludes that the alleged
violations more likely than not occurred based on careful review of all information presented. The burden of proof rests with the University.

4. If the student accused is found responsible for one or more of the alleged violation(s), the Hearing Panel or Hearing Officer will make fair and appropriate sanction recommendations to the relevant Dean. In such cases, the Director of Student Conduct will verbally notify the Hearing Panel or Hearing Officer of the accused student’s previous student conduct history, if any, before the Hearing Panel or Hearing Officer determines its sanction recommendations.

5. Previous student conduct history will be limited to student conduct cases where the student accused accepted responsibility, was found responsible for violating the Sex Offense Policy or the UC San Diego Student Conduct Code or was issued a Notice of Inappropriate Conduct. Cases where a student accused was found not responsible for violating this Policy or the UC San Diego Student Conduct Code or all charges were dismissed will not be introduced.

6. In notifying the Hearing Panel or Hearing Officer of the student conduct history for the student accused, the Director of Student Conduct will provide the date of the incident, a description of the violations, and the assessed sanctions. However, the Director of the Student Conduct has the discretion to exclude information which implicates federal privacy laws or is protected by disclosure (e.g. FERPA, HIPAA).

IV. HEARING REPORT AND SANCTIONS

A. Within 10 days after the conclusion of deliberations, the Hearing Panel Chair or Hearing Officer will submit a Formal Hearing Report to the Director of Student Conduct summarizing the alleged violations, the Hearing Panel or Hearing Officer’s findings as to each alleged violation, and sanction recommendations.

B. If the student accused is found responsible for a violation, the Director of Student Conduct will provide the student accused and relevant Dean with a copy of the Formal Hearing Report within 10 business days after receiving the report. The complainant will likewise be provided a copy of the Formal Hearing Report, which will be redacted to the extent required by University policy.

C. The complainant will have five business days from the date of notification of the Formal Hearing decision to submit an impact statement to the Director of Student Conduct for review by the relevant Dean. At the same time, a student found responsible for violating the Sex Offense Policy or Section VII(I) (Harassment or Discrimination) of the UC San Diego Student Conduct Code will also have five business days to submit a statement to the Director of Student Conduct for review by the relevant Dean describing any circumstances he or she believes the Dean should take into account when imposing sanctions.

D. Once both parties have the opportunity to submit their respective statement(s), the Director of Student Conduct will forward the statements to the relevant Dean for review. The relevant Dean will not be bound by these statements in determining sanctions and neither party will be entitled to view and/or respond to statements submitted by the other party.
E. Notice of sanctions assigned by the relevant Dean will be provided to both parties by the Director of Student Conduct within 10 business days from the receipt of both parties' statements. The notice to the complainant will include the name of the student accused, any violations found to have been committed and, when permitted by law and UC San Diego policy, any sanctions imposed.²

F. Potential sanctions for students found responsible for violating the Sex Offense Policy or Section VII(I) (Harassment or Discrimination) of the UC San Diego Student Conduct Code include, but are not limited to, loss of privileges, restrictions, exclusion from campus, suspension, or dismissal.

G. The imposition of sanctions may be deferred during the appeals process at the discretion of the relevant Dean, in consultation with the Director of Student Conduct.

H. If the Hearing Panel or Hearing Officer finds the student accused not responsible for all alleged violations, the Director of Student Conduct will provide the student accused and relevant Dean with a copy of the Formal Hearing Report within 10 business days after receiving the report. Notice to the complainant will include the name of the student accused and result of the hearing.³

V. APPEALS

A. Either party may appeal the determination of responsibility or sanction(s) (for the complainant, to the extent disclosure of sanctions to him or her is permissible under law and UC San Diego policy) in writing (email is acceptable) to the Director of Student Conduct within ten business days after the notice of sanctions from the Dean has been received. All appeals will be reviewed in the following manner:

1. Appeals submitted by an undergraduate student will be reviewed by the Council of Provosts.

2. Appeals submitted by a graduate student will be reviewed by the Dean of Graduate Studies.

3. Appeals submitted by a medical or pharmacy student will be reviewed by the relevant Dean of his/her school.

4. Appeals submitted by an Extension student will be reviewed by the Dean of UC San Diego Extension.

B. Consistent with federal law, the complainant may appeal only the parts of the determination of responsibility or sanctions directly related to him or her.

C. An advisor or any other person may assist the complainant or student accused in preparing an appeal.

D. Appeals must be based only upon one or more of the following grounds:

1. The decision is not supported by the findings;

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² See Family Educational Rights and Privacy Act 34 C.F.R. 99.31(a)(13)
³ Id.
2. There was unfairness in the proceedings that prejudiced the result (e.g. the denial of due process);

3. There is newly discovered evidence not known at the time of the hearing, and which could not reasonably have been known through the exercise of reasonable diligence, that would have affected the result; or

4. The sanction(s) imposed was grossly disproportionate to the violation committed.

E. Once an appeal is submitted, the following protocol will normally apply:

1. The Director of Student Conduct will forward the appeal request to the appropriate Provost or Dean who will make the final determination of the appeal. The Director of Student Conduct will also notify the non-appealing party via email of the appeal. In considering an appeal, the Provost or Dean may consult with any person or make any inquiries he or she deems appropriate for a fair resolution of the appeal.

2. The Provost or Dean reviewing the appeal may do any of the following:
   a. Deny the appeal;
   b. Grant all or part of the appeal and, if appropriate, send the case back for rehearing or modify the sanction(s).
   c. Dismiss the case in its entirety; or
   d. Take other actions as deemed appropriate.

F. Notice of the decision on the appeal will be provided to both parties by the Director of Student Conduct within 30 business days from the request for appeal. The decision on appeal will be final.

VI. STUDENT CONDUCT RECORDS

The referral of a sex offense, harassment or discrimination investigative report to the Director of Student Conduct may result in the development of a student conduct record in the name of the student accused.

A. Student conduct records will generally contain the applicable investigative report(s), incident report(s) and/or police report(s), meeting and decision letters, and other documents related to the incident.

B. In pending student conduct actions that could result in the suspension or dismissal of the student accused, a temporary hold will normally be placed on the student accused’s account by the Director of Student Conduct.

C. The student conduct record of a student found responsible of any allegation(s) against him/her will normally be retained by the Director of Student Conduct as a student conduct record for not longer than seven years from the date of the incident. If a student leaves UC San Diego without graduating, his or her student conduct record will normally be retained by the Director of Student Conduct for not longer than seven years from the date
of the incident. However, the record of a disciplinary matter resulting in a student’s suspension or dismissal will be retained permanently.

D. Student conduct records of a student found not responsible for all violations of this Policy will be retained for seven years from the date of the incident to comply with Clery Act requirements. However, such records will not be considered while determining sanctions in a given case.

E. Whenever any information is included by the Director of Student Conduct or any University Official in a student conduct record, the student will be allowed to include in the record a brief written statement or response concerning the student conduct action. The student may not request a change in the underlying decision or sanction(s) through this process.

F. The Director of Student Conduct will forward the final results of sex offense cases to OPHD once the appeals process has concluded. The notice will include the names of the student accused and complainant, determination(s) of responsibility, assessed sanctions (if any), and decision on appeal.