23.00 Student Grievance Procedures

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Revised UCSD Student Conduct Regulations; Approved for Implementation; Date of Last Revision Sept. 15, 2012

23.10. Background: These Student Grievance Procedures ("Procedures") are adopted in response to the University requirement for Chancellors to develop procedures to resolve grievances by students claiming to have been the subject of specified University action, and to submit them for approval to the Student Academic Services in the Office of the President, in consultation with the Office of the General Counsel.

23.10.10. Jurisdiction: Except as provided in Sections 23.10.10.14. through 23.10.10.17., these Procedures are intended to resolve grievances from students claiming to have been the subject of any of the following types of non-academic action by the University/UCSD.

23.10.10.10. Discrimination Based Upon Sex And Under Title IX: Discrimination based upon sex, under Title IX of the Education Amendments of 1972 or applicable federal or state laws, or under the UCSD Policy Applying to Nondiscrimination on the Basis of Sex and UC sexual harassment policies and procedures, provided that, investigations into alleged violations of the UCSD sexual harassment policy shall be subject to the UCSD Student Conduct Code and UCSD PPM 200-10.

23.10.10.11. Discrimination Based Upon Disability: Discrimination based upon disability under section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act of 1990 or the University of California Guidelines Applying to Nondiscrimination on the Basis of Disability except that disputes relating to accommodations requested for the completion of academic requirements of any course or academic program shall be processed in accordance with the San Diego Division of The Academic Senate Policy on Appeals for Accommodation of Students with Disabilities or similar policies in the UCSD School of Medicine and the Skaggs School of Pharmacy and Pharmaceutical Sciences.

23.10.10.12. Discrimination Based Upon Race, Color or National Origin: Discrimination based upon race, color or national origin, under Title VI of the Civil Rights Act of 1964.

23.10.10.13. Applicability to Other Actions: Except as excluded by these Procedures or other policies, other actions alleged to violate UCSD or University policies, including but not limited to policies against discrimination on the basis of sexual orientation, age, or marital status.

23.10.10.14. Privacy Rights Violations: Violation of the privacy rights accorded to students by
the Federal Family Educational Rights and Privacy Act of 1974, portions of the State of California Education Code, and the University of California Policies Applying to the Disclosure of Information from Student Records shall be processed only in accordance with UCSD policy on the administration of student records, UCSD PPM 160-2.

23.10.15. Academic Related Grievances: Assignment of grades to students enrolled in UCSD courses is the exclusive prerogative of the UCSD faculty. Grade-related and other academic grievances are covered under separate policies established by the San Diego Division of The Academic Senate in consultation with representatives from the UCSD student governments. Academic related student grievances shall be referred to the Academic Senate for processing in accordance with the applicable Academic Senate policies.

23.10.16. Grievances by School of Medicine Students: Disputes involving students enrolled at the School of Medicine (SOM) shall be reported to the SOM Associate Dean for Admissions and Student Affairs in accordance with the student grievance procedures set forth in the SOM Advisor and Student Handbook, available in the SOM Student Affairs Office.

23.10.17. Grievances by Skaggs School of Pharmacy and Pharmaceutical Sciences Students: Disputes involving students enrolled at the Skaggs School of Pharmacy and Pharmaceutical Sciences (SSPPS) shall be reported to the SSPPS Associate Dean for Student Affairs in accordance with the student grievance procedures set forth in the SSPPS Student Handbook, available in the SSPPS Student Affairs Office.

23.10.11. External/Administrative Remedies: These Procedures are internal to UCSD and are not intended to replace other complaint procedures such as those available with the U.S. Department of Education, Office of Civil Rights. Participation in this internal process does not extend external filing deadlines. The grievant has the responsibility of complying with all non-University/UCSD judicial and administrative filing deadlines.

23.10.12. Other External Remedies: Civil or criminal law remedies, including injunctions, restraining or other court orders, and monetary damages, also may be available to complainants.

23.11. Student Consultation: These Procedures were developed with student consultation as described in UCSD Policies and Procedures Applying to Student Activities, Section 12.

23.12. Informal Resolution Process: The grievant should first attempt to resolve the grievance or complaint informally with the UCSD employee involved in the dispute and/or the employee's supervisor or, if the grievance involves the action of a student governmental body, with the advisor for the student governmental body. If such informal discussions are unsuccessful, the grievant is encouraged to consult, as appropriate, with the head of the administrative or academic department or organized research unit involved in the grievance or, in the case of a student governmental body, the Assistant Vice Chancellor for Student Life at UCSD (each referred to as the "Administrative Representative" for purposes of these Procedures) to request informal mediation as an alternative form of dispute resolution before submitting a request for the Formal Resolution Process. In cases where the Administrative Representative is the party against whom the grievance is lodged, the Administrative Representative shall be the Dean, Vice Chancellor or other official of UCSD with oversight over the department or program involved in the dispute.

23.12.10. Assessment/Investigation of the Dispute: The Administrative Representative should assess the dispute to determine the appropriate course of action. The assessment may include, in the sole judgment of the Administrative Representative, the appointment of an investigator to assist in the assessment process.
23.13. Formal Resolution Process:

23.13.10. Level I: Administrative Review

23.13.10.10. Time for Initiating Review: When either the grievant or the other party involved in the dispute provides written notice to the other that he/she no longer wishes to participate in the Informal Resolution Process, the grievant must deliver to the Administrative Representative within 120 business days from the date the incident was discovered or reasonably should have been discovered, by the grievant, a written grievance for review and disposition in accordance with the following sections of these Procedures.

23.13.10.11. Administrative Action: Within 15 business days from the date of receipt of the grievance, the Administrative Representative shall review the grievance and respond to the grievant in writing, listing the issues raised by the grievance and indicating a recommended course of action to be taken to resolve/dispose of the grievance. In this response, the grievant shall also be informed about the option of Level II Resolution as described in Section 23.13.11 below.

23.13.10.12. Time for Initiating Level II Resolution Process:

Within fifteen (15) business days after receipt of the request for formal resolution, the Administrative Representative shall determine whether the complaint should be referred to formal hearing, mediation, or fact-finding. The Administrative Representative shall make this determination in his or her sole discretion, based on the nature of the grievance and of any potential remedy. The determination of the Administrative Representative as to whether a grievant shall be afforded a formal hearing is final and binding.

23.13.11. Level II: Formal Resolution Process

23.13.11.10. Initiation of Formal Process: In the event that the grievant disagrees with Level I action by the Administrative Representative, she/he may submit a written request for a formal resolution in the form of a hearing, mediation or fact-finding as described in Section 23.13.11.12 below, to the Administrative Representative within thirty (30) business days from the date of the written response referred to in Section 23.13.10.11 above. The request for Level II Resolution shall include a copy of the grievance and the requested remedy.

23.13.11.11. Choice of Form of Formal Resolution: Within fifteen (15) business days after receipt of the request for formal resolution, the Administrative Representative shall determine whether the complaint should be referred to formal hearing, mediation, or fact-finding. The Administrative Representative shall make this determination in his or her sole discretion, based on the nature of the grievance and of any potential remedy. The determination of the Administrative Representative as to whether a grievant shall be afforded a formal hearing is final and binding.

23.13.11.12. Formal Resolution in the Form of Fact-Finding: Fact-finding shall, at a minimum, include a review of the investigator's report if an investigator was appointed and all other documentation relating to the dispute that is in the possession of the Administrative Representative. At the sole discretion of the designated finder of fact, hereinafter referred to as "the Fact Finder," the fact-finding may include informal interviews with the parties or other individuals who have direct and personal knowledge that is relevant and important to the dispute at issue. The Fact Finder's report must be completed and submitted to the Administrative Representative within 20 business days from the date of the notice to the grievant that the matter will be referred to fact-finding. Upon receipt of the Fact Finder's report, the Administrative Representative shall notify the grievant of disposition of the matter via written notice sent to the grievant by US mail at the address of record for the grievant at the UCSD Registrar's Office. The Administrative Representative shall also notify the grievant of his/her appeal rights via this notice.

23.13.11.13. Formal Resolution in the Form of Hearing or Mediation: If the matter is referred to formal hearing or mediation, such hearing or mediation shall begin within thirty (30) business days from the date of the Administrative Representative's determination to refer the matter to a formal hearing or mediation. The grievant and the respondent administrative unit involved in the hearing or mediation shall be provided with notice of the time, date and location of the hearing or mediation at least ten (10) business days prior to the date of the hearing or mediation.
23.13.11.14. **Hearing Officer:** The hearing or mediation shall be conducted either by an impartial hearing officer or mediator, who may be a UCSD official and who shall be appointed by the Director of the **Office of Student Conduct.** The hearing officer or mediator shall review the evidence and submit the findings along with any recommendations for the resolution of the grievance to the Administrative Representative.

23.13.11.15. **Procedural Rules for Hearings:** If the matter goes to a formal hearing, the grievant and the UCSD representative shall have the right to present evidence and witnesses. The hearing officer shall determine the admissibility of evidence and consider other rulings such as, but not limited to:

a. Admissible evidence shall be of the sort upon which reasonable persons are accustomed to rely in the conduct of serious affairs.

b. At the request of either party, witnesses may be excluded by the hearing officer, except during their testimony.

c. The hearing shall be closed unless all parties and all student participants to the grievance consent, in advance, to an open (public) hearing.

d. The finding shall be based on preponderance of evidence, as defined in UCSD Student Policies and Procedures Applying to Student Activities, effective January 1, 2004, Section 22.19.16.16.m. relating to formal hearing procedures of a complaint of student misconduct.

e. Deliberations of the hearing shall always be confidential and conducted in private and out of the presence of the public, grievant and UCSD official(s) presenting the case.

f. The participation of advocates, representatives and attorneys is provided in Section 23.13.11.20.

23.13.11.16. **Record of Proceeding:** Any formal hearing shall be recorded and, at the option of the grievant or UCSD, a stenographer may be provided at the expense of the party initiating the request. The grievant shall have access to a copy of the recording and may have a copy of the recording for the cost of reproduction. However, all records pertaining to the hearing, including but not limited to the transcript, shall be considered to be UCSD records and they shall be retained and administered by the Administrative Representative in accordance with the applicable UCSD records policy, such as but not limited to, PPM 160-2 and PPM 480.

23.13.11.17. **Findings and Report:** The hearing officer or the mediator shall submit a report to the Administrative Representative fifteen (15) business days from the close of the hearing. The report shall contain a summary of the evidence, findings of fact, other proceedings and, when requested by the Administrative Representative, recommendations for a remedy.

23.13.11.18. **Notice:** The parties to the hearing shall be notified in writing of the final disposition of the grievance by the administrative representative within ten (10) business days from the date of the receipt of the hearing officer's report. The grievant shall also be advised of his/her appeal rights.

23.13.11.19. **Finality:** The report of the outcome of the hearing submitted by the hearing officer is final, except for review on appeal per Section 23.14 below. In the interest of finality of the findings of the grievance at issue, the facts, findings or issues addressed in the report of the hearing outcome may not be presented as the sole consideration for a subsequent grievance.

23.13.11.20. **Role of Representatives in Proceedings:**

a. The grievant may be represented at the formal hearing, mediation, or fact-finding only by a
student advocate appointed by the AS Advocate from a pool of student advocates trained jointly by the UCSD Student Legal Services Director and the Director of Student Conduct. The grievant may be assisted by anyone, including a student advocate, but only the student advocate may speak on behalf of the grievant. If the grievant is assisted by an attorney or anyone other than a student advocate, the administrative unit may be assisted by Campus Counsel or other representative it selects provided no attorney or non-student advocate shall participate directly in the proceedings.

b. The grievant shall inform the Administrative Representative, at least five (5) business days prior to the date of the hearing, of his/her intent to have an attorney or anyone other than the designated student advocate be present at the hearing, mediation, or fact-finding.

c. Grievants assisted by a student advocate, or anyone else, must provide a signed release authorizing those third parties to receive relevant information from the grievant student's records as required by UCSD PPM 160-2.

23.14. Appeal:

23.14.10. Grounds for Appeal: The grievant(s) may file a written appeal of a hearing, unsuccessful mediation, or fact-finding with the Vice Chancellor-Student Affairs (VCSA), if the grievant is an undergraduate student, or with the Dean of the Graduate Division (DGD), if the grievant is a student in a graduate or professional program or professional school. The appeal shall be made to the Dean of the student's professional school. The appeal must be submitted within twenty (20) business days from the date of the notice of final disposition of the Administrative Representative's decision, and shall be based only on the following criteria:

a. That the outcome is not supported by the findings;

b. There is incongruity between a proposed sanction and the findings;

c. There was unfairness in the proceedings which prejudiced the result; or,

d. There is newly discovered important evidence not known by the grievant at the time of the hearing, mediation or fact-finding.

23.14.11. Final Decision: The VCSA, if the grievant is an undergraduate student, or the DGD, if the grievant is a student in a graduate or professional program or professional school, shall render a final decision on the appeal within twenty (20) business days from date of receipt of said appeal.

23.14.12. Finality: A decision by the VCSA or DGD shall be final and constitutes the exhaustion of all UCSD administrative remedies relating to the grievance at issue.

23.14.13. Extension of Timeliness: The Director of the Office of Student Conduct may extend any timelines in these grievance procedures when practical exigencies so dictate. If an extension is granted, the affected individuals will be notified.