

**UCSF CAMPUS AND HEALTH LOCAL IMPLEMENTING PROCEDURES FOR SVSH POLICY
INVESTIGATION AND ADJUDICATION FRAMEWORK FOR STAFF (NON-REPRESENTED)**

October 5, 2017

INTRODUCTION

Consistent with the UC Policy on Sexual Violence and Sexual Harassment (“SVSH Policy”), the following describes the University of California, San Francisco’s (“UCSF”) process for investigating and adjudicating alleged violations of the SVSH Policy in instances where the respondent is a University employee whose conduct is governed by Personnel Policies for Staff Members (“PPSMs”) and is subject to disciplinary and termination procedures set forth in [PPSM 62](#) (Corrective Action – Professional and Support Staff) and [PPSM 64](#) (Termination and Job Abandonment). A flow chart illustrating the process for complaints against PPSM covered employees can be found in Attachment 1.

This document should be read in conjunction with the SVSH Policy, as well as applicable PPSMs, including [PPSM 62](#), [PPSM 63](#) (Investigatory Leave) and [PPSM 64](#).

Applicable definitions from the SVSH Policy are incorporated herein. Other definitions are found in the applicable PPSMs and are incorporated herein.

The SVSH Policy is available at <http://policy.ucop.edu/doc/4000385/SVSH>. The PPSM manual is available at <http://policy.ucop.edu/manuals/personnel-policies-for-staff-members.html>.

I. REPORTING OPTIONS AND RESOURCES (Stage 0)

A. Reporting Options

Any person may make a report, including anonymously, of conduct prohibited under the SVSH Policy (“Prohibited Conduct”) to the Title IX Office/Office for the Prevention of Harassment and Discrimination (“OPHD”). The Title IX Office/OPHD is responsible for receiving and responding to reports of Prohibited Conduct.

A person may also make a report to a Responsible Employee as defined by the SVSH Policy. The SVSH Policy requires a Responsible Employee who becomes aware of an incident of Prohibited Conduct to report it to the Title IX Office/OPHD via electronic mail to: ophd@ucsf.edu; via telephone to: 415.502.3400; or via mail to: UCSF Office for the Prevention of Harassment and Discrimination, 3333 California Street, Sublevel 1, Suite 16, San Francisco, CA 94143-2149.

While there is no time limit for reporting, reports of Prohibited Conduct should be brought forward as soon as possible.

A complainant may make a report to UCSF and to law enforcement. A complainant may concurrently pursue these options. Anyone who wishes to report to law enforcement can contact the [UCSF Police Department](#) or any local law enforcement agency.

B. Confidential Resources

The University offers access to confidential resources for individuals who have experienced Prohibited Conduct and are seeking counseling, emotional support, or confidential information about how to make a report to the University and/or law enforcement. University Confidential Resources are defined pursuant to the SVSH Policy and include individuals who receive reports in their confidential capacity such as the [UCSF CARE Advocate](#), counselors and staff in the [Faculty and Staff Assistance Program \("FSAP"\)](#) and representatives in the [Office of the Ombuds](#).

These individuals can provide confidential advice and counseling without that information being disclosed to the Title IX Office/OPHD or law enforcement, unless there is a threat of serious harm to the individual or others or a legal obligation that requires disclosures (such as suspected abuse of a minor).

II. INITIAL ASSESSMENT (Stage 1)

Upon receipt of a report of or information about alleged Prohibited Conduct, the Title IX Officer will make an initial assessment in accordance with the SVSH Policy, which will include making an immediate assessment concerning the health and safety of the complainant and the campus community.

A. Interim Measures

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 and employees. Interim measures include, but are not limited to, the following: no contact orders; security support; schedule or work location modifications; and counseling.

Investigatory leave of a PPSM-covered respondent may be imposed in accordance with PPSM 63.

B. Written Rights & Options

The Title IX Office/OPHD will provide the complainant, if his or her identity is known, a written explanation of rights and available options as outlined in the SVSH Policy.

III. INVESTIGATING AND RESOLVING REPORTS OF PROHIBITED CONDUCT (Stage 1-continued)

Provided the University has sufficient information to respond, and in accordance with the SVSH Policy, the University may resolve reports of Prohibited Conduct by Alternative Resolution or Formal Investigation. Throughout the resolution process, the complainant and the respondent may be accompanied by a support person and/or an advisor/representative of their choosing. The support person/advisor may be any person who is not otherwise a party or witness involved in the investigation

A. Alternative Resolution

After the Title IX Office/OPHD conducts a preliminary inquiry into the facts, the Title IX Officer may authorize an Alternative Resolution in accordance with the [SVSH Policy](#).

B. Formal Investigation

In cases where Alternative Resolution is inappropriate or unsuccessful, the Title IX Officer may authorize and oversee a Formal Investigation as contemplated in the SVSH Policy.

1. Notification

When a Formal Investigation is commenced, the Title IX Officer or a representative from OPHD will notify the Chief Human Resources Officer (CHRO), or the CHRO's back-up designee, the respondent's Labor and Employee Relations (LER) Representative, and the respondent's Department Head or Director. The Title IX Officer and/or representative from OPHD will be sensitive when providing this notification and make efforts to protect the privacy of the parties and the neutrality of those being notified. Thereafter, the Title IX Officer or a representative from OPHD will ensure that these individuals are regularly updated regarding the status of the Formal Investigation.

2. Notice of Formal Investigation

When a Formal Investigation will be conducted, the Title IX Office/OPHD will send written notice of the allegations to the complainant and the respondent.

The written notice will include:

- a. A summary of the allegations and potential violations of the SVSH Policy;
- b. The purpose of the investigation;
- c. A statement that the investigative report, when issued, will make factual findings and a determination whether there has been a violation of the SVSH Policy;
- d. A statement that the findings under the SVSH Policy will be based on the preponderance of the evidence standard;
- e. A summary of the investigation and discipline processes, including the expected timeline;
- f. A summary of the rights of the complainant and respondent, including the right to an advisor/representative;
- g. A description of the resources available to the complainant and respondent; and an admonition against intimidation or retaliation.

3. Investigative Process

The Title IX Officer will designate an investigator to conduct a fair, thorough, and impartial investigation.

a. Overview:

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.

The investigator will meet and/or speak separately with the complainant, the respondent and third-party witnesses who may have relevant information, and will collect and review other available and relevant information. The investigator may follow up with the complainant or the respondent as needed.

Disclosure of facts to persons interviewed will be limited to what is reasonably necessary to conduct a fair and thorough investigation. Participants in an investigation may be asked to maintain confidentiality when essential to protect the integrity of the investigation.

The complainant or the respondent may have an advisor/representative present when personally interviewed and at any related meeting. Other witnesses may have a representative present at the discretion of the investigator or as required by University policy or collective bargaining agreement. The respondent's right to an advisor/representative ensures the respondent's Weingarten rights in the event there is a reasonable expectation the investigation findings may lead to disciplinary action.

b. Coordination with Law Enforcement:

When a law enforcement agency is conducting its own investigation into the alleged conduct, the Title IX/OPHD investigator will make every effort to coordinate his or her fact-finding efforts with the law enforcement agency. At the request of a law enforcement agency, the Title IX Office/OPHD investigation may be delayed temporarily to meet specific needs of the criminal investigation.

4. Investigation Report and Finding

Following conclusion of the investigation, the Title IX/OPHD investigator will prepare a written report. The written investigation report will include a statement of the allegations and issues, the positions of the parties, and a summary of the evidence.

If the complainant or the respondent offered witnesses or other evidence that was not relied upon by the investigator, the investigation report will explain why it was not relied upon.

The investigation report will include findings of fact and a determination whether there is a preponderance of the evidence to support a finding that the SVSH Policy was violated.

5. Notice of Investigation Outcome

Upon completion of the Title IX Office/OPHD investigation report, the Title IX Officer or OPHD representative will send to the complainant and the respondent a written notice of investigation outcome regarding whether a violation of the SVSH Policy was found. The notice of investigation outcome will generally be accompanied by a copy of the investigation report, which may be redacted as necessary to protect privacy rights.

The Title IX Officer or OPHD representative will also send the notice of investigation outcome and accompanying investigation report to the CHRO or the CHRO's back-up designee, the respondent's LER Representative, and the respondent's Department Head or Director.

- a. The notice of investigation outcome will include:
 - i. A statement of whether a preponderance of the evidence demonstrated that respondent violated the SVSH Policy;
 - ii. An admonition against intimidation or retaliation;
 - iii. An explanation of any interim measures that will remain in place;
 - iv. A statement that the complainant and respondent have an opportunity to respond in writing to the CHRO and the respondent's Department Head or Director; and
 - v. A statement indicating whether it appears that further investigation by another appropriate body may be necessary to determine whether violations of other policies occurred, separate from any allegations of Prohibited Conduct that were investigated under the SVSH Policy.
 - b. In addition, if the investigation determined that respondent violated the SVSH Policy, the notice of investigation outcome will also include:
 - i. For matters involving PPSM-covered respondents, a description of the process for deciding whether and what discipline to impose, including a statement that the respondent's Department Head or Director, in consultation with LER, will propose a resolution, which may include corrective action as defined by PPSM-62 or termination in accordance with PPSM-64, and that the proposal will be subject to review and approval by the CHRO or the CHRO's back-up designee.
 - ii. A statement that the complainant and the respondent will be informed of the final resolution of the matter, including any discipline imposed, and a statement of the anticipated timeline.
6. Timeframe for Completion of Investigation; Extension for Good Cause
The notice of investigation outcome and accompanying investigation report will be issued promptly, typically within sixty (60) business days of initiation of the Formal Investigation, unless extended by the Title IX Officer for good cause, with written notice to the complainant and the respondent of the reason for the extension and the projected new timeline.

The Title IX Officer or OPHD representative will keep the complainant and respondent regularly informed concerning the status of the investigation.

IV. ASSESSMENT AND CONSULTATION (Stage 2)

The respondent's Department Head or Director in consultation with LER has the responsibility to propose and implement action in response to the findings of the Title IX Office/OPHD investigation report. The proposed decision by the respondent's Department Head or Director will be reviewed and approved by the CHRO or the CHRO's back-up designee. The Department Head or Director, in consultation with LER, may determine that additional investigation is required to determine whether violations of other policies occurred, but will not reinvestigate allegations of Prohibited Conduct investigated by the Title IX Office/OPHD. The CHRO or the CHRO's back-up designee as well as the respondent's Department Head or Director, may consult with the Title IX Office/OPHD, LER, or any other appropriate entities at any time during the decision-making process.

A. Opportunity to Respond

The complainant and the respondent will have an opportunity to respond to the notice of investigation outcome and accompanying investigation report through a written statement that will be submitted to the respondent's Department Head or Director and the CHRO or the CHRO's back-up designee.

The purpose of this response is not to challenge the factual findings in the Title IX Office/OPHD investigation report or present new evidence, but to provide the complainant and the respondent with an opportunity to express their perspectives and address what outcome they wish to see.

This response must be submitted within fourteen (14) calendar days to the LER Office for distribution to the Department Head or Director and the CHRO or the CHRO's back-up designee. It can be submitted via electronic mail to: ELR@ucsf.edu; via mail or personal delivery to 3360 Geary Blvd., Suite 301, San Francisco, CA 94118; or via fax to 415.353.4029.

B. Decision Proposal and Submission to Chancellor's Designee for Approval

In the event that the Title IX Office/OPHD investigation finds the respondent responsible for violating the SVSH Policy, the respondent's Department Head or Director, in consultation with LER, will propose a decision regarding how to resolve the matter. The written response(s), if any, and the proposed decision on how to resolve the matter must be submitted to the CHRO or the CHRO's back-up designee for review and approval.

In the event the CHRO or the CHRO's back-up designee does not approve the proposed decision, he or she will send it back to the respondent's Department Head or Director and LER, for reconsideration and submission of a revised proposed decision.

In the event the CHRO or the CHRO's back-up designee approves the proposed decision, he or she will inform the Department Head or Director and LER, who will take steps to implement the approved decision.

This proposal and approval process will occur in all cases where the Title IX Office/OPHD

investigation has found the respondent has violated the SVSH Policy. LER and other appropriate offices will be consulted throughout the process.

V. CORRECTIVE OR OTHER ACTIONS (Stage 3)

A. PPSM Covered Staff: Decision Approval and Implementation

Following approval by the CHRO or the CHRO's back-up designee, the respondent's Department Head or Director, in consultation with LER, will implement the approved decision in accordance with applicable PPSMs, including PPSM-62 and PPSM-64.

1. No Further Action

The respondent's Department Head or Director, in consultation with LER, may propose to resolve the matter without taking any further action. This proposal will be reviewed by the CHRO or the CHRO's back-up designee for approval. In the event it is approved, this decision and its rationale will be promptly communicated to both the complainant and the respondent.

2. Action Not Requiring Notice of Intent

The respondent's Department Head or Director, in consultation with LER, may propose corrective or remedial actions that do not amount to corrective action as defined by PPSM 62 or termination under PPSM 64. The proposed actions will be reviewed by the CHRO or the CHRO's back-up designee for approval.

In the event it is approved, the decision will be implemented by the respondent's Department Head or Director, in consultation with LER, and the decision and its terms and rationale will be promptly communicated to both the complainant and the respondent.

3. Notice of Intent

The respondent's Department Head or Director, in consultation with LER, may propose to issue a notice of intent to institute corrective action in accordance with PPSM-62 or notice of intent to terminate in accordance with PPSM-64.

The proposed terms of the notice of intent will be reviewed by the CHRO or the CHRO's back-up designee for approval. In the event it is approved, the decision will be implemented by the respondent's Department Head or Director and the notice of intent will be issued.

Following the provision of a notice of intent, corrective action will be taken in accordance with PPSM-62 and/or actions to terminate will be taken in accordance with PPSM-64. The terms of the implemented action and its rationale will be promptly communicated to both the complainant and the respondent.

B. Timeframe for Implementation of Decision; Extension for Good Cause

The respondent's Department Head or Director, in consultation with LER, should implement his or

her approved decision promptly, typically within forty (40) business days of receipt of the notice of investigation outcome and accompanying investigation report. Unless there is an extension granted or the matter has otherwise been resolved, an action will be issued within forty (40) business days.

Extensions to this timeline may be granted by the CHRO or the CHRO's back-up designee for good cause with written notice to the complainant and the respondent stating the reason for the extension and the projected new timeline.

VI. COMPLAINT/GRIEVANCE PROCESS FOLLOWING ACTION TAKEN

In the event that a PPSM-covered respondent submits a complaint under [PPSM-70](#), the CHRO or the CHRO's back-up designee will ensure that both the complainant and the respondent will receive regular updates regarding the status of the complaint or grievance.

Following any complaint or grievance processes, the complainant and the respondent will be promptly informed of the decision including any changes to prior outcome and decision including any changes to prior outcome and its rationale.