

# Rules of Conduct

For Participants in the University of California's  
Sexual Violence and Sexual Harassment  
Resolution Processes

August 2020

## Sexual Violence and Sexual Harassment

The University of California (“University”) is committed to maintaining a community dedicated to the advancement, application and transmission of knowledge and creative endeavors through academic excellence, where all people who participate in University programs and activities can work and learn together in an atmosphere free of harassment, exploitation, or intimidation.

Sexual violence, sexual harassment, retaliation, and other behavior prohibited by the [Sexual Violence and Sexual Harassment \(“SVSH”\) Policy](#) interfere with those goals. This behavior is referred to as “Prohibited Conduct.” The University will respond promptly and effectively to reports of Prohibited Conduct, including action to stop, prevent, correct, and when necessary, discipline, behavior that violates the SVSH Policy.

## SVSH Resolution Processes

As described in the SVSH Policy Section V.A.5, a report of Prohibited Conduct may be resolved through Alternative Resolution, Formal Investigation, a Department of Education (DOE) Grievance Process, or Other Inquiry. The Rules of Conduct described in this document apply throughout all of these resolution processes. Details on each resolution process can be found in the following procedures.\*

- For student respondents: [Appendix E](#): SVSH Student Investigation and Adjudication Framework of the Policies Applying to Campus Activities, Organizations, and Students (PACAOS), except that when the conduct is DOE-Covered Conduct the procedures are in Interim PACAOS Appendix F: Investigation and Adjudication Framework for DOE-Covered Conduct.
- For staff and non-faculty academic personnel respondents: [Interim SVSH Investigation and Adjudication Framework for Staff and Non-Faculty Academic Personnel](#)
- For faculty respondents: [Interim SVSH Investigation and Adjudication Framework for Senate and Non-Senate Faculty](#)
- For Regent respondents: [Regents Policy 1112](#): Policy on Review of Allegations of Board Member Misconduct

\*Note that the procedure that applies depends on whether the respondent (the person alleged to have engaged in Prohibited Conduct) is a student, staff/non-faculty academic personnel, or faculty member. This is because the specific steps that must be followed in the disciplinary process vary for each group.

# Rights and Rules of Conduct

Complainants and Respondents in the University's SVSH resolution processes have the right to:

- Be treated fairly and respectfully by University employees
- Be provided with information about the SVSH resolution processes and resources in accordance with the SVSH Policy
- Be referred to by their lived name and pronouns
- Request disability-related accommodations and language interpretation
- Have all University policies and procedures applied in a nondiscriminatory manner

All participants in the University's SVSH resolution processes are expected to:

- When participating in a resolution process, follow the University's investigation and adjudication procedures
- Respect the instructions provided by University employees administering the SVSH resolution process, and raise questions or concerns in a respectful and non-harassing manner
- Not engage in retaliatory behavior towards the other party, any witness, or others
- Not deliberately delay or disrupt the proceedings without good cause

## Standards of Ethical Conduct

The University's Standards of Ethical Conduct affirm our commitment to the principle of treating each community member with respect and dignity. Members of the University community are expected to conduct themselves ethically, honestly, and with integrity in all dealings. These principles are paramount when the University conducts resolution processes under the SVSH Policy. The University expects all participants in a SVSH resolution process—including parties, their advisors and support persons, witnesses, University employees, and others responsible for administering the resolution process—to uphold these principles as well as the General Rules of Conduct through their own behavior.

## Right to Advisor and Support Person

As described in the SVSH Policy Section V.A.5.b.iii, parties have the right to an advisor of their choosing in the SVSH resolution process. The advisor may be any person (including an advocate, attorney, friend, or parent). Other witnesses may have a representative present at the discretion of the Title IX Officer or as required by University policy or a collective bargaining agreement. The right to a support person depends on whether you are a student or a University employee. Complainants and respondents in a process under the student adjudication frameworks have the right to a support person of their choosing throughout the process. Complainants and respondents in a process under the faculty, staff or non-faculty academic personnel framework have the right to a support person during the hearing in a DOE Grievance Process.

- A party's advisor's primary role is to provide guidance through the process and, as discussed in more detail in the hearing section below, to ask questions of the other party and witnesses in a hearing.
- A party's support person's primary role is to provide emotional support.

Advisors and support persons must follow the Rules of Conduct throughout the SVSH resolution process. Other than the advisor's role reading a party's prepared questions, discussed in more detail in the hearing section below, the advisor and/or the support person may not speak on behalf of a party, nor may they disrupt any meetings or proceedings in any manner. Advisors and support persons who fail to follow the Rules of Conduct may be removed from an SVSH resolution process.

## Rules of Conduct in Investigations

As described in SVSH Policy Section V.A.5.b, the Title IX Officer may initiate an investigation as part of a Formal Investigation or DOE Grievance Process (collectively, "investigations"). The specific investigation procedures for student, faculty, and staff respondents are further described in the applicable frameworks (linked above).

Investigations involve several steps in which understanding and following the Rules of Conduct are particularly important. These steps include, for example, communications between a party and the Title IX office when the investigation is initiated, scheduling and participating in interviews, providing and reviewing evidence, and any meetings with the University staff, such as Student Conduct, Human Resources, or Academic Personnel offices, or meeting with the Chancellor's designee following the outcome of an

investigation. Throughout an investigation, it is important for parties to be responsive to the University's inquiries – including informing the University if a party chooses not to participate in a resolution process – and to not unnecessarily delay the proceedings without good cause.

Advisors and support persons who fail to follow the Rules of Conduct may be removed from participating in the investigation. The removal of a party's advisor or support person during the investigation will not be held against the party, nor will it play any factor in the investigator's or Title IX Officer's assessment of the allegations that are the subject of the investigation.

## Rules of Conduct in Hearings

As described in the SVSH Policy Section V.A.6, following an investigation a hearing may be held to determine whether there is a SVSH Policy violation. The specific hearing procedures for student, faculty, and staff respondents are further described in the applicable frameworks (linked above).

Hearings involve several steps in which understanding and following the Rules of Conduct are particularly important. This includes, but is not limited to, communications between a party and the Hearing Coordinator to schedule the pre-hearing meeting, participation in the pre-hearing meeting and hearing, and communicating with the University regarding any appeal. Throughout the hearing process, it is important for parties to be responsive to the University's inquiries – including informing the University if a party chooses not to participate – and to not unnecessarily delay the proceedings without good cause.

### Role of Advisors in Hearings

A party may have an advisor present during hearing. If a party's advisor plans on attending the hearing, the advisor is expected to attend the pre-hearing meeting. In general, the advisor may not speak on the party's behalf during the hearing. For example, the advisor may not answer for the party when the party is being questioned by the Hearing Officer or the other party's advisor. An advisor may not interrupt questioning by the Hearing Officer and may not provide their party with answers to questions through written, electronic or other third party means. An advisor is free to communicate with their party during breaks or when the hearing is adjourned.

In a DOE Grievance Process hearing, the party's advisor has the role of asking questions of the other party and witnesses. In this questioning process, the advisor:

- Will read the questions prepared by the party, including questions the party prepares during the hearing, such as followup questions written in real time
- Must read the questions as the party has provided them
- May not ask questions or follow up questions that they developed without their party
- May request a brief break to discuss additional or follow-up questions with their party.

A party's advisor may not speak on the party's behalf, other than asking questions prepared by the party. A party's advisor must follow the Rules of Conduct and instructions of the Hearing Officer during the hearing, and may be removed for failing to do so. If a party's advisor is removed during a hearing or otherwise becomes unavailable, that advisor will be replaced with a University-provided Reader who will ask any remaining questions on the party's behalf. The removal of a party's representative from the hearing will not be held against the party, nor will it play any factor in the Hearing Officer's assessment of the allegations that are the subject of the hearing.

### Role of Readers in DOE Grievance Process Hearings

In a DOE Grievance Process, if a party does not have an advisor available at the hearing to ask their questions for them, the University will assign a person to ask the party's questions ("Reader"), without cost to the party. The party should inform the University as early as possible if they need a Reader. Whenever possible, the Hearing Coordinator will notify the party of the identity of the Reader in advance of the hearing. The party may inform the Hearing Officer if they believe the Reader has a conflict of interest or bias against the party. The Reader will not attend the prehearing meeting with the party, and will not assist the party in developing questions prior to the hearing.

In the questioning process, the Reader:

- May only read questions and follow up questions prepared by the party. This includes reading written questions the party provides to the Reader during the hearing, such as followup questions written in real time.
- May not ask questions or follow up questions that have not been prepared by the party.
- May request a brief break in order to receive additional or follow up questions prepared by the party.

A Reader may not speak on the party's behalf, other than asking questions prepared by the party. The Reader must follow the Rules of Conduct and instructions of the Hearing Officer during the hearing.

### Questioning of Parties and Witnesses in DOE Grievance Process

In all hearings, the Hearing Officer has oversight over the questioning of parties and witnesses. This includes overseeing questions read by a party's advisor or Reader in a DOE Grievance Process.

As described above, in a DOE Grievance Process the party's advisor or Reader asks questions for the party. So, it is particularly important that parties and their advisors or Readers understand the rules that apply in the questioning process. In a DOE Grievance Process hearing, the Hearing Officer will ask questions of each party and witness first. Following the Hearing Officer's questions of the party or witness, the other party's advisor or Reader will read the questions the party has prepared. A party will never question the other party or witness directly. The parties and witnesses will address only the Hearing Officer, and not each other.

Parties and witnesses may be asked relevant questions, including those that are relevant to assessing credibility. Before the party or witness answers, the question will be screened for relevance by the Hearing Officer. The Hearing Officer will exclude a question that is, for example, irrelevant in light of the policy violation(s) charged, or relevant only to issues not in dispute, or unduly repetitive. If a question is relevant but violates the Rules of Conduct, the Hearing Officer will require rephrasing of question. The procedure for screening questions is as follows:

- The party's advisor or Reader asks the question.
- There is a pause.
- If the Hearing Officer determines the question is relevant, the Hearing Officer will instruct the party or witness to answer.
- If the Hearing Officer determines the question is irrelevant, the Hearing Officer will instruct the party or witness not to answer, and will explain on the record why the question is irrelevant.

Several types of questions and evidence are categorically excluded as irrelevant and will be screened out by the Hearing Officer if asked. These types of questions include: duplicative questions; questions and evidence about the complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence fall under the exceptions discussed in SVSH Policy procedures; and questions about a party's clinical or privileged records, unless the party has provided voluntary written consent.

## Training and Instruction

To ensure all hearings proceed in accordance with the rights and Rules of Conduct discussed above, all parties, advisors, and Readers will be provided training and instruction prior to the hearing.

The training may include:

- SVSH Hearing Procedures
- Rights and these Rules of Conduct
- Role of Advisors, Support Persons, and Readers
- Trauma-Informed Questioning
- University Resources and Availability of Supportive Measures
- University Prohibition Against Retaliation

The Hearing Coordinator will communicate with the parties, their advisors, and Readers (if applicable) regarding the training expectations and timeframe for completing the training. An advisor or Reader who participates in multiple hearings – for example, an advisor who serves multiple parties at the same campus, or an advisor who serves parties throughout the UC system, is only required to take the training once each academic year.

The Hearing Officer will instruct the parties, advisors, and support persons at the outset of the hearing on the procedures and Rules of Conduct that will apply, including the questioning of parties and witnesses. The parties, advisors, and support persons will be informed of the importance of following the Rules of Conduct and instructions of the Hearing Officer.

The parties, advisors and support persons will also be informed that advisors or support persons who do not follow the Rules of Conduct may be removed by the University pursuant to the procedures outlined below.

## Examples of Violations of the Rules of Conduct

- Directing abusive language towards any participant in the hearing process
- Intimidating or harassing behavior toward a party or a witness
- An advisor repeatedly asking a party irrelevant questions regarding their sexual history during an SVSH hearing
- An advisor repeatedly misgendering the other party during questioning in an SVSH hearing
- Engaging in obstructionist tactics to prevent or unreasonably delay an interview or hearing

## Removal

As stated above, the University may remove any person who is not a party from an SVSH Resolution Process for violating the Rules of Conduct. In general:

- As a first step, a University staff person or official, such as the Title IX Officer or Hearing Officer, will bring the concerning conduct to the individual's attention through a reminder of the applicable Rules of Conduct and procedures.
- If the conduct continues, the meeting or proceeding may be paused in order to address the conduct with the individual. The length of such a pause is at the discretion of the University staff person or official who has convened the meeting or proceeding.
- If an advisor or support person continues to violate the Rules of Conduct, the University staff person or official may remove the individual from the meeting or proceeding. If the removal occurs during a hearing, the Hearing Officer may appoint a Reader to ask the remainder of the party's questions, if any.
- If a party continues to violate the Rules of Conduct, the University staff person or official may recess the meeting or proceeding for an appropriate period in order to remedy the conduct at issue, including requiring the party to receive additional instruction or training.

The University staff person or official may, but is not required to, proceed through each of the steps outlined above before arriving at the next. The University takes the wellbeing of all participants and integrity of the University's resolution processes as paramount. When imposing any of the steps above, the University will ensure that the record includes a clear and specific description of the nature of the conduct and the steps taken in response. The Hearing Coordinator will notify the campus or location Title IX Office and the Systemwide Title IX Office if an advisor, support person, or Reader is removed from an SVSH hearing for failing to follow the Rules of Conduct. **Advisors who violate the Rules of Conduct may be prohibited from representing a party in the University's SVSH resolution process at the campus or location in which the conduct violation occurred and systemwide.**

# Questions about the Rules of Conduct?

If you have questions about the Rules of Conduct,  
please contact OPHD at [ask\\_ophd@berkeley.edu](mailto:ask_ophd@berkeley.edu)  
<https://ophd.berkeley.edu/>