INTRODUCTION

Consistent with the UC Policy on Sexual Violence and Sexual Harassment ("SVSH Policy"), the following describes the University's process for investigating and adjudicating alleged violations of the SVSH Policy in instances where the Respondent is a University faculty member whose conduct is governed by Section 015 of the Academic Personnel Manual (APM-015), The Faculty Code of Conduct ("Code of Conduct").

The Title IX regulations issued by the US Department of Education ("DOE") that went into effect August 14, 2020, require the University to follow a specific grievance process ("DOE Grievance Process") in response to conduct covered by the regulations ("DOE-Covered Conduct"). The Title IX Officer will determine during their initial assessment of a report whether it alleges DOE-Covered Conduct and, if so, whether to open a DOE Grievance Process. Alleged conduct is DOE-Covered Conduct if it is a type of misconduct covered by the regulations ("DOE Sex-Based Misconduct") that occurred in a University program or activity while the Complainant was in the United States. This assessment is described in detail in Appendix IV of the SVSH Policy. The following, read with the attached DOE Addendum, describes the process for investigating and adjudicating alleged violations of the SVSH Policy that include DOE-Covered Conduct.

A flow chart illustrating the processes for complaints against Academic Senate faculty can be found in Attachments 1 and 1.A. A flow chart illustrating the processes for complaints against non-Senate faculty can be found in Attachments 2 and 2.A.

These documents should be read in conjunction with the SVSH Policy, as well as applicable APM provisions, including APM-015, APM-016 (University Policy on Faculty Conduct and the Administration of Discipline), and APM-150 (Non-Senate Appointees/Corrective Action and Dismissal), and applicable Senate Bylaws, including Senate Bylaw 336 (procedures for disciplinary hearings) and Senate Bylaw 335 (procedures for considering grievances). The documents also incorporate recommendations issued by the Joint Committee of the Administration and the Senate.

Applicable definitions can be found in the SVSH Policy and are incorporated herein. Other definitions can be found in applicable APMs and Senate Bylaws and are incorporated herein.

For more information, see the SVSH Policy, the Faculty Code of Conduct (APM-015), APM-016, APM-150, and all provisions of the APM.

I. REPORTING OPTIONS AND RESOURCES (Stage 0)

These reporting options and resources are available for any conduct prohibited by the SVSH Policy ("Prohibited Conduct"), including DOE-Covered Conduct.

A. Reporting Options

Any person may make a report, including anonymously, of Prohibited Conduct to the Title IX Office. The Title IX Office 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 University by contacting their location's Title IX Officer or designee.

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

A Complainant may choose to make a report to the University and may also choose to make a report to law enforcement. A Complainant may pursue either or both of these options at the same time. Anyone who wishes to report to law enforcement can contact the UC Police Department.

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. Confidential Resources are defined pursuant to the SVSH Policy and include individuals who receive reports in their confidential capacity such as advocates in the CARE Office, as well as licensed counselors (e.g., Employee Assistance Program (EAP) and Counseling and Psychological Services (CAPS)), and Ombuds.

These employees can provide confidential advice and counseling without that information being disclosed to the Title IX Office or law enforcement, unless there is a threat of serious harm to the individual or others or a legal obligation that requires disclosure (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 shall include making an immediate assessment concerning the health and safety of the Complainant and the campus community.

The Title IX Officer will also determine:

- whether the alleged conduct is DOE-Covered Conduct, other Prohibited Conduct, or a combination, and
- if the alleged conduct is DOE-Covered Conduct, whether it arose outside the University's postsecondary program, meaning in the context of: (i) the Respondent providing patient care to the Complainant or a person in the Complainant's charge, (ii) a program or activity provided for the benefit of minors, including elementary and secondary schools, and the Complainant is a beneficiary, (iii) a program or activity provided for the benefit of people with intellectual disabilities (such as the UC Davis SEED Scholar program), and the Complainant is a beneficiary, or (iv) a program or activity of Agricultural and Natural Resources or Lawrence Berkeley National Laboratory ("No-Title IX Hearing" DOE-Covered Conduct).

These determinations affect the steps in the adjudication process that precedes

decisions on sanctions, if there is one. The process for Prohibited Conduct that is not DOE-Covered Conduct does not include a hearing or appeal, the process for No-Title IX Hearing DOE-Covered Conduct does not include a hearing but may include an appeal, and the process for all other DOE-Covered Conduct may include both a hearing and an appeal.

The initial assessment process described below is for all reports of Prohibited Conduct, including DOE-Covered Conduct. A special dismissal provision that applies specifically to complaints of DOE-Covered Conduct is in the DOE Addendum.

A. Supportive Measures

The University will also consider and implement Supportive Measures, including Interim Measures, as appropriate to protect the safety of the parties or the University community; to restore or preserve a party's access to a University program or activity; or to deter Prohibited Conduct per the SVSH Policy.

Involuntary leave of a Senate faculty Respondent may be imposed in accordance with APM-016. Investigatory leave of a non-Senate faculty Respondent may be imposed in accordance with APM-150.

B. Written Rights & Options

The Title IX Officer will ensure that the Complainant, if their identity is known, is provided a written explanation of rights and available options as outlined in the SVSH Policy, including:

1. How and to whom to report alleged violations;
2. Options for reporting to and/or notifying law enforcement and campus authorities;
3. Information regarding confidential resources;
4. The rights of Complainants regarding orders of protection, no contact orders, restraining orders, or similar lawful orders issued by criminal or civil courts;
5. The importance of preserving evidence that may assist in proving that a criminal offense occurred or in obtaining a protection order;
6. Counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, and other services available both within the institution and the community;
7. Options for, and available assistance to, a change to academic, living, transportation, and working situations, if the Complainant requests and if such options are reasonably available—regardless of whether the Complainant chooses to report alleged conduct to law enforcement; and
8. The range of possible outcomes of the report, including Supportive and Remedial Measures and disciplinary actions, the procedures leading to such outcomes, and their right to make a DOE Formal Complaint.

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

The below provisions for investigation and resolution of reports cover investigations of DOE-Covered Conduct and other Prohibited Conduct. Provided the University has sufficient information to respond, and in accordance with the SVSH Policy, the University may resolve reports of alleged Prohibited Conduct by Respondents covered by this Framework through Alternative Resolution, Formal Investigation, or a DOE Grievance Process. Throughout the resolution process, the Complainant and the Respondent may be accompanied by an advisor.

In addition, the University will offer to provide support services for the Complainants and for the Respondents. The Title IX Office will consider requests from parties and witnesses for language interpretation and, in consultation with the campus disability management office when appropriate, for disability-related accommodations.

A. Alternative Resolution

After a preliminary inquiry into the facts, if the Complainant and Respondent agree in writing, the Title IX Officer may initiate an Alternative Resolution in accordance with the SVSH Policy. Alternative Resolution is not available when the Complainant is a student or patient and the Respondent is an employee. Alternative Resolution is also not available where an employee Respondent is alleged to have engaged in sexual violence as defined in the SVSH Policy (with the exception of Sexual Exploitation).

B. Investigation

In cases where Alternative Resolution is inappropriate or unsuccessful, the Title IX Officer may conduct an investigation per the Formal Investigation or DOE Grievance Process provisions in the SVSH Policy.

When the University opens an investigation of allegations of DOE-Covered Conduct and other Prohibited Conduct that arise out of the same facts or circumstances, it will address all allegations together through the DOE Grievance Process procedures. When the investigation includes allegations of both No-Title IX Hearing DOE-Covered Conduct and other DOE-Covered Conduct that arise out of the same facts or circumstances, the University will address all allegations together through the full DOE Grievance Process, including reaching preliminary determinations and providing parties the right to a hearing.

1. Notification to Chancellor

The Title IX Officer will notify the Chancellor and the Chancellor's designee when a Formal Investigation or DOE Grievance Process is commenced against a faculty Respondent. The Title IX Officer will be sensitive in their communication to protect the neutrality of the Chancellor and the Chancellor's designee, as well as the privacy of the

Complainant and the Respondent.

Thereafter, the Title IX Officer will regularly communicate with the Chancellor and the Chancellor's designee regarding the status of the Formal Investigation or DOE Grievance Process.

2. Notice of Investigation

When a Formal Investigation or DOE Grievance Process will be conducted, the Title IX Office will send written notice of the charges to the Complainant and Respondent.

The written notice will be sent at least three business days before a party's requested interview date, to allow sufficient time for the party to prepare for the interview. The notice will include:

a. A summary of the allegations and potential violations of the SVSH Policy;

b. The identities of the parties involved;

c. The date, time, and location of the reported incident(s) (to the extent known);

d. The specific provisions of the SVSH Policy potentially violated;

e. A statement that the investigative report, when issued, will make factual findings and a determination (in a Formal Investigation or DOE Grievance Process for No- Title IX Hearing DOE-Covered Conduct) or preliminary determination (in any other DOE Grievance Process) whether there has been a violation of the SVSH Policy;

f. A statement that the parties will each have an opportunity during the investigation to propose questions for the investigator to ask of the other party and witnesses;

g. A statement that the parties will each have an opportunity, before the completion of the investigation, to review all the evidence submitted that is directly related – a standard broader than relevance - to whether a policy violation occurred;

h. A statement that the findings under the SVSH Policy will be based on the preponderance of the evidence standard and that a finding of a violation of the SVSH Policy will establish probable cause under APM-015;

i. A statement that a determination of whether a policy violation has occurred will only be made after an investigation or hearing (if required) and therefore there is, at the outset, no presumption that the Respondent is responsible for a policy violation;

j. When applicable, a statement that if it is determined or preliminarily determined that a DOE-Covered Conduct violation did not occur, the investigator will still make a determination or preliminary determination of whether other violations of the SVSH Policy occurred;

k. A summary of the Title IX and faculty discipline process, including the expected timeline;

l. A summary of the rights of the Complainant and Respondent, including the right to an advisor of their choosing, who may be any person, including an attorney, who is not otherwise a party;

m. A description of the resources available to Complainant and Respondent; and

n. An admonition against intimidation or retaliation.

At any point during the investigation, the Title IX Officer may amend the notice to add additional charges identified during the investigation. Any amended notice should include all the information described above.

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 the Respondent will be provided an equal opportunity to meet with the investigator, submit information, identify witnesses who may have relevant information, and propose questions for the investigator to ask the other party and witnesses. Any evidence available to but not disclosed by a party during the investigation might not be considered at a subsequent hearing.

The investigator will meet separately with the Complainant, the Respondent, and the third-party witnesses who may have relevant information and will gather other available and relevant information. The investigator may follow up with the Complainant or the Respondent as needed to clarify any inconsistencies or new information gathered during the course of the investigation. The investigator will generally consider, that is rely on, all evidence they determine to be relevant and reliable, including evidence that weighs in favor of and against a determination that a policy violation occurred. The investigator may determine the relevance and weigh the value of any witness or other evidence to the findings and may exclude evidence that is irrelevant or immaterial.

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 counseled about keeping information private to protect the integrity of the investigation.

The Complainant or the Respondent may have an advisor 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.

b. Coordination with Law Enforcement:

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

c. Specific Types of Evidence:

Sexual history of Complainant. The investigator will not, as a general rule, consider the Complainant's sexual history. However, in limited circumstances, the Complainant's sexual history may be directly relevant to the investigation. While the investigator will never assume that a past sexual relationship between the parties means the Complainant consented to the specific conduct under investigation, evidence of how the parties communicated consent in past consensual encounters may help the investigator understand whether the Respondent reasonably believed consent was given during the encounter under investigation. Further, evidence of specific past sexual encounters may be relevant to whether someone other than Respondent was the source of relevant physical evidence. Sexual history evidence that shows a party's reputation or character will never be considered relevant on its own. The investigator will consider proffered evidence of sexual history and provide it to the parties for review under Section 3.d. below, only if the investigator determines it is directly relevant. The investigator will inform the parties of this determination. If the investigator does allow sexual history evidence to be presented, they will provide a written explanation to the parties as to why consideration of the evidence is consistent with the principles in this section.

Expert Evidence. The parties may present evidence from expert witnesses if it would be relevant to the determination of whether a policy violation occurred. If a party wishes for such evidence to be considered, they will make a written request to the Title IX Officer, indicating the person(s) they wish to present as, and who has agreed to be, their expert witness; the issue(s) on which the person(s) would provide expert evidence; why they believe that the issue(s) require an expert opinion for resolution; and any prior relationship, including personal and business relationships, between the party and the person(s).

The Title IX Officer will grant the request for the proposed expert to provide evidence if the alleged evidence is relevant and will deny

the request if the proposed evidence is not relevant. Proposed expert evidence is not relevant if it is not pertinent to proving whether the facts material to the allegations under investigation are more or less likely to be true. For example, proposed expert evidence is not relevant if it offers opinions about the Title IX regulations or the DOE Grievance Process; if it offers opinions that do not require expertise to form; or if the proposed expert has a bias or conflict of interest so strong that their opinion would not assist the factfinder in determining whether the facts material to the allegations under investigation are more or less likely to be true.

If the Title IX Officer grants a request for proposed expert evidence, they will notify both parties. The other party may then request to present a proposed expert on the same issue (as well as to present their own expert evidence on other relevant issues). The Title IX Office may also retain its own expert on any issue on which one or both parties will be presenting expert evidence; the Title IX Office will ensure that any such expert does not have bias or conflict of interest and will notify the parties of any expert it intends to retain.

As part of the evidence they present, any expert witness will provide the investigator information about their qualifications; the factual bases for their assertions; and their principles and methods and the reliability thereof. These factors will contribute to the assessment of the weight and credibility of the expert witness's evidence.

In general, parties may not later request proposed expert witnesses to testify at the hearing unless those witnesses have provided evidence during the investigation.

Clinical records. The investigator will not during the investigation access, review, consider, disclose, or otherwise use a Complainant's or Respondent's medical or behavioral health records that are made in connection with treatment without the party's voluntary written consent.

Privileged Records. During the investigation, the investigator will not access, review, consider, disclose, or otherwise use evidence that constitutes, or seeks disclosure of, information protected under a legally recognized privilege without the party's voluntary written consent.

d. Evidence Review:

Before the investigator concludes the investigation and finalizes a written report, both Complainant and Respondent will have an equal opportunity to review and respond in writing to the evidence that the investigator has deemed directly related, including evidence that weighs against finding a policy violation(s) and evidence on which the investigator does not intend to rely, whether obtained from a

party or another source. This is true regardless of whether a party has participated in the investigation. This review will also include a summary of directly related statements made by the parties and any witnesses. The Title IX Officer will ensure that this review occurs in a manner designed to protect the privacy of both parties. The Title IX Officer will designate a reasonable time for this review and response by the parties of, absent good cause found by the Title IX Officer, at least ten business days.

In investigations of No-Title IX Hearing DOE-Covered Conduct, because there will not be a Title IX hearing, the investigator will more specifically: provide parties the opportunity to submit written questions they propose the investigator ask the other party and witnesses, share the responses to their submitted questions, and allow them to propose limited follow-up questions. The investigator will decline to ask questions that are not relevant or unduly repetitive, and will rephrase any questions that violate the rules of conduct. If the investigator declines to ask a question, they will explain their reasoning.

4. Investigation Report and Determination or Preliminary Determination

Following conclusion of the investigation, the Title IX investigator will prepare a written report. The written investigation report will include a statement of the allegations and issues, statements of the parties and witnesses, and a summary of the evidence the investigator considered. The investigation report will include findings of fact and a determination (in a Formal Investigation or DOE Grievance Process for No-Title IX Hearing DOE-Covered Conduct) and a preliminary determination (in any other DOE Grievance Process) regarding whether, applying the preponderance of the evidence standard, there is sufficient evidence to conclude that the Respondent violated the SVSH Policy.

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 also indicate when and how the parties were given an opportunity to review and respond to the evidence (see Section 3.d. above).

In investigations of No-Title IX Hearing DOE-Covered Conduct, the investigator will provide both Complainant and Respondent an opportunity to review and respond in writing to the investigation report before it becomes final. The investigator has discretion to revise the written report to reflect the parties' responses. The investigation report will become final no sooner than ten business days from the date it is shared with parties for their review and response.

If the findings of fact indicate that DOE-Covered Conduct occurred, but was not charged as such in the notice of investigation, then the investigator will reach determinations (for No-Title IX Hearing DOE-

Covered Conduct) or preliminary determinations (for all other DOE-Covered Conduct) regarding whether a policy violation occurred and the Title IX Officer will notify the parties that the case will now proceed per the DOE Grievance Process.

If, instead, the investigator preliminarily determines that conduct charged as DOE- Covered Conduct does not meet that definition, the report will include (if indicated in the Notice of Investigation) analyses and preliminary determinations of both whether Respondent engaged in DOE-Covered Conduct and other Prohibited Conduct.

A determination following a Formal Investigation or DOE Grievance Process (including any appeal) for No-Title IX Hearing DOE-Covered Conduct that the Respondent violated the SVSH Policy will establish probable cause as defined in the Code of Conduct. (APM-015 at III.A.4.)

5. Notice of Investigation Outcome

Upon finalization of the investigation report, the Title IX Officer or designee will send to the Complainant and the Respondent a written notice of investigation outcome regarding the investigator's preliminary determination or determination (whichever applies) of whether there was a violation of the SVSH Policy. 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 designee will also send the notice of investigation outcome and accompanying investigation report to the Chancellor or Chancellor's designee.

a. In all cases, the notice of investigation outcome will include:

- A summary statement of the factual findings and determinations or preliminary determination (whichever applies) regarding whether Respondent violated the SVSH Policy;
- An admonition against intimidation or retaliation;
- An explanation of any Supportive Measures that will remain in place;
- A statement that the Complainant and Respondent have an opportunity to respond in writing and/or in person to the Chancellor or Chancellor's designee;
- A statement of the anticipated timeline and a statement that both Complainant and Respondent will be informed of the final resolution of the matter; and
- A statement of whether it appears that further investigation by the Chancellor or Chancellor's designee or other appropriate body may be necessary to determine whether other violations of the Code of Conduct occurred, separate from any allegations of

Prohibited Conduct that were investigated under the SVSH Policy.

b. If in a Formal Investigation process or DOE Grievance Process for No-Title IX Hearing DOE-Covered Conduct the investigator determined that the faculty Respondent violated the SVSH Policy, the notice of investigation outcome will also include:

- A statement that the finding that Respondent violated the SVSH Policy (which is final after the investigation in a Formal Investigation and after exhaustion of appeal rights in a DOE Grievance Process for No-Title IX Hearing DOE- Covered Conduct) constitutes a finding of probable cause as defined in APM- 015;
- For matters involving Senate faculty Respondents, a description of the process for deciding whether and what discipline to impose, including a statement that the Chancellor or Chancellor's designee will engage the Peer Review Committee to advise on appropriate resolution, which may include pursuing discipline in accordance with APM-016;
- For matters involving non-Senate faculty Respondents, a description of the process for deciding whether and what discipline to impose, including a statement that the Chancellor or Chancellor's designee will engage the Peer Review Committee or consult with the Academic Personnel Office to advise on appropriate resolution, which may include corrective action or termination in accordance APM-150; and
- A statement of the anticipated timeline and a statement that both Complainant and Respondent will be informed of the final resolution of the matter.

c. In a DOE Grievance Process for No-Title IX Hearing DOE-Covered Conduct, the notice of investigation will also include a statement that both parties have the right to appeal the investigator's determination per Section IV.C of the DOE Addendum, and the determination will not be considered final or constitute a finding of probable cause as defined in APM-015 until any appeal is final or the period for submitting an appeal has lapsed.

d. In any other DOE Grievance Process, the notice of investigation outcome will also include:

- If the investigator preliminarily determined that the Respondent violated the SVSH Policy, a statement that the Chancellor or Chancellor's designee will propose a resolution after engaging the Peer Review Committee or consulting with the Academic Personnel Office (depending on whether the Respondent is a

Senate or Non-Senate faculty member, and the process the campus has chosen);

- A statement that, unless both parties accept the preliminary determination and any proposed resolution, there will be a fact-finding hearing to determine whether the SVSH Policy has been violated, after which the Chancellor or Chancellor's designee will determine the resolution; and
- An explanation of the procedures and timeline for accepting the preliminary determination (see the DOE Addendum).

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 60 to 90 business days of initiation of the Formal Investigation or DOE Grievance Process, 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 will update parties on the status of the investigation at the request of a Complainant or a Respondent and every 30 business days until the final outcome of the complaint, unless a party communicates in writing to the Title IX Office that they choose to opt out of receiving such updates.

IV. ASSESSMENT AND CONSULTATION (Stage 2)

The steps outlined below for assessment and consultation apply to investigations of DOE- Covered Conduct and other Prohibited Conduct. An additional notice requirement that applies specifically to investigations of DOE-Covered Conduct is in the DOE Addendum.

After this assessment and consultation, matters investigated through Formal Investigation will go to Stage 3 (Decision on Sanctions), below. Matters investigated under the DOE Grievance Process that alleged No-Title IX Hearing DOE-Covered Conduct will go to Stage 2.C. (Appeal of the Determination) in the DOE Addendum. All other matters investigated under the DOE Grievance Process will go to Stage 2.a (Opportunity to Accept the Preliminary Determination) in the DOE Addendum.

At the conclusion of a Formal Investigation, the Chancellor or Chancellor's designee has the authority and responsibility to decide what action to take in response to the findings of the investigation report. The Chancellor or Chancellor's designee may determine that additional investigation is required to determine whether other Code of Conduct violations occurred, but will not reinvestigate the allegations of Prohibited Conduct investigated by the Title IX Office.

At the conclusion of a DOE Grievance Process investigation of No-Title IX Hearing DOE- Covered Conduct, the parties have the opportunity to appeal.

Once any appeal is final or the period for submitting an appeal has lapsed, the Chancellor or Chancellor's designee has the authority and responsibility to decide what action to take. See Stages 2.C (Appeal of Determination) and 2.D (Additional Assessment and Consultation) of the DOE Addendum.

At the conclusion of any other DOE Grievance Process investigation, the parties have the opportunity to accept or not accept the preliminary determination. When the preliminary determination is that the Respondent engaged in DOE-Covered Conduct, or both DOE- Covered Conduct and other Prohibited Conduct, the Chancellor or Chancellor's designee will propose a resolution after engaging the Peer Review Committee or consulting with the Academic Personnel Office (depending on whether the Respondent is a Senate or non-Senate faculty member, and the process the campus has chosen), as described below, and the parties will decide whether to accept the preliminary determination and the proposed resolution.

The Chancellor or Chancellor's designee may consult with the Title IX Office, the Academic Personnel Office, or other appropriate entities at any time during the decision-making process.

A. Opportunity to Respond

The Chancellor or Chancellor's designee will offer the Complainant and the Respondent an opportunity to respond to the notice of investigation outcome and accompanying investigation report, either through an in-person meeting with the Chancellor or Chancellor's designee, a written statement to the Chancellor or Chancellor's designee, or both. The parties will have five business days after the Title IX Officer sends the investigation report to respond.

The purpose of this response is not to challenge the factual findings in the 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.

B. Peer Review Committee for Senate Faculty

In the event that the investigation determines or preliminarily determines that a Senate faculty Respondent is responsible for violating the SVSH Policy, the Chancellor or

Chancellor's designee will engage the campus Peer Review Committee to advise on appropriate resolution.

The Peer Review Committee, composed on each campus at the direction of the President, will advise the Chancellor or Chancellor's designee regarding how to resolve the matter. At the conclusion of a Formal Investigation or DOE Grievance Process investigation of No-Title IX Hearing DOE-Covered Conduct, this will include advising on whether the Chancellor or Chancellor's designee should pursue a formal charge for violation of the Code of Conduct or pursue an early resolution. In all cases, the Peer Review Committee should provide advice on the appropriate discipline or other

corrective or remedial measures.

The Peer Review Committee will be engaged in all cases where the Title IX investigator has determined or preliminarily determined a Senate faculty Respondent has violated the SVSH Policy.

C. Peer Review Committee or Consultation with Academic Personnel for Non-Senate Faculty

In the event that the investigation determines or preliminarily determines that a non- Senate faculty Respondent is responsible for violating the SVSH Policy, the Chancellor or Chancellor's designee will engage the Peer Review Committee or consult with the Academic Personnel Office, depending on what form of consultation the campus decided to employ. Such consultation, as decided by the campus, will occur in all cases where the investigation has determined or preliminarily determined the non-Senate faculty Respondent has violated the SVSH Policy. The advisory role of the Peer Review Committee is described in Section IV.B above.

D. Title IX Officer Consultation for Senate and Non-Senate Faculty

In all cases where the investigation determines or preliminarily determines a Senate or non-Senate faculty Respondent is responsible for violating the SVSH Policy, the Chancellor or Chancellor's designee will consult with the campus Title IX Officer on how to resolve the matter, including the appropriate discipline or other corrective measures.

V. DECISION ON SANCTIONS FOR SENATE FACULTY (Stage 3)

The steps outlined below apply when a Senate faculty Respondent is found in violation of the SVSH Policy following a Formal Investigation, following an investigation and any appeal (per Section IV.C of the DOE Addendum) in a DOE Grievance Process addressing No-Title IX Hearing DOE-Covered Conduct, or following a hearing and any appeal (per Sections IV.B and IV.C of the DOE Addendum) in any other DOE Grievance Process. The parties will be notified in writing within five business days of any decision regarding disciplinary action.

A. Decision by Chancellor or Chancellor's Designee

Following consultation with the Peer Review Committee and Title IX Officer, in accordance with APM-016, the Chancellor or Chancellor's designee will decide what action to take to resolve the matter.

As stated in APM-015, "The Chancellor must initiate related disciplinary action by delivering notice of proposed action to the Respondent no later than three years after the Chancellor is deemed to have known about the alleged violation." As further stated in APM-015, "[f]or an allegation of sexual violence or sexual harassment, the Chancellor is deemed to know about an alleged violation of the Faculty Code of Conduct when the allegation is first reported to any academic administrator at the level of department chair or above or the campus Title IX Officer." (APM-015, Part III, A.3.)

1. **No Formal Discipline**

   In the event the Chancellor or Chancellor's designee determines to resolve the matter without taking any formal disciplinary action, the Chancellor or Chancellor's designee will communicate this decision and its rationale to both the Complainant and the Respondent within five business days of the decision.

2. **Early Resolution**

   The Chancellor or Chancellor's designee can enter into an early resolution with the Respondent in accordance with APM-016. An early resolution can be achieved at any time prior to the final imposition of discipline. The proposed early resolution and its terms will be reviewed by the Chancellor for approval. The Chancellor may not delegate the review of and approval of terms. Early Resolution is not available when the Complainant is a student and the Respondent is an employee. Early resolution is also not available where an employee Respondent is found to have engaged in sexual violence as defined in the SVSH Policy (with the exception of Sexual Exploitation) or when the proposed terms include a nondisclosure agreement.

   Subsequent to the Respondent agreeing to the terms of the early resolution, the Chancellor or Chancellor's designee will inform Complainant of those terms, including any discipline or other corrective or remedial measures, and the rationale for these terms within five business days of the agreement being reached.

3. **Charge Filed with Academic Senate Committee on Privilege & Tenure**

   The Chancellor or Chancellor's designee can take steps to propose discipline and file a charge with the Academic Senate's Committee on Privilege & Tenure without first pursuing early resolution, or if Respondent does not agree to early resolution.

   The Chancellor or Chancellor's designee will promptly inform Complainant that the charge has been filed.

B. Timeframe for Decision; Extension for Good Cause

The Chancellor or Chancellor's designee should implement their decision promptly, typically within 40 business days of receipt of the notice of investigation outcome and accompanying investigation report. If the matter has not been otherwise resolved within 40 business days, a charge will be filed with the Academic Senate's Committee on Privilege & Tenure. A charge will not be held in abeyance or suspended while an early resolution is being pursued or finalized.

Extensions to this timeline may be granted by the Chancellor or Chancellor's designee for good cause with written notice to the Complainant and Respondent stating the reason for the extension and the projected new timeline.

C. Process Following the Filing of a Senate Charge

The procedures following the filing of a charge with the Academic Senate's Committee on Privilege & Tenure are set forth in the APM-015 and APM-016, Senate Bylaw 336 and other applicable Senate bylaws, as well as divisional bylaws on each campus.

The investigation report and hearing officer's notice of determination (if any) will be accepted as evidence in the Privilege & Tenure hearing. The Chancellor or Chancellor's designee will ensure that Complainant and Respondent receive regular updates regarding the status of the proceedings.

Within 14 calendar days of receiving the recommendation from the Academic Senate's Committee on Privilege & Tenure, in accordance with APM-016 and other applicable procedures, the Chancellor will make a final decision regarding discipline, unless the decision involves dismissal for a faculty who has tenure or security of employment. As stated in APM-016, "Authority for dismissal of a faculty member who has tenure or security of employment rests with The Regents, on recommendation of the President, following consultation with the Chancellor." (APM-016, Section II.6.) Extensions to this timeline may be granted for good cause with written notice to the Complainant and Respondent stating the reason for the extension and the projected new timeline.

The Complainant and the Respondent will be informed of the decision regarding discipline and its rationale within five business days of the decision.

VI. DECISION ON SANCTIONS FOR NON-SENATE FACULTY (Stage 3)

The below provisions apply when a non-Senate faculty Respondent is found in violation of the SVSH Policy following a Formal Investigation, following an investigation and any appeal (per Section IV.C of the DOE Addendum) in a DOE Grievance Process addressing No-Title IX Hearing DOE-Covered Conduct, or following a hearing and any appeal (per Sections IV.B and IV.C of the DOE Addendum) in any other DOE Grievance Process. The parties will be notified in writing within five business days of any decision regarding disciplinary action.

A. Decision by Chancellor or Chancellor's Designee

Following consultation with the Title IX Officer and Peer Review Committee or Academic Personnel Office, and in accordance with APM-150, the Chancellor or Chancellor's designee shall decide what action to take to resolve the matter.

As stated in APM-015, "The Chancellor must initiate related disciplinary action by delivering notice of proposed action to the Respondent no later than three years after the Chancellor is deemed to have known about the alleged violation." As further stated in APM-015, "[f]or an allegation of sexual violence or sexual harassment, the Chancellor is deemed to know about an alleged violation of the Faculty Code of Conduct when the

allegation is first reported to any academic administrator at the level of department chair or above or the campus Title IX Officer." (APM-015, Part III, A.3.)

1. No Disciplinary Action

In the event the Chancellor or Chancellor's designee determines to resolve the matter without taking any disciplinary or corrective action, the Chancellor or Chancellor's designee will communicate this decision and its rationale to both the Complainant and Respondent within five business days of the decision.

2. Informal Resolution

The Chancellor or Chancellor's designee can pursue an informal resolution in accordance with APM-150, which may include discipline and/or other corrective or remedial measures. Informal resolution can be achieved at any time prior to the final imposition of dismissal or corrective action. The proposed informal resolution and its terms will be reviewed by the Chancellor for approval. The Chancellor may not delegate the review of and approval of terms. Informal resolution is not available when the Complainant is a student and the Respondent is an employee. Informal resolution is also not available where an employee Respondent is found to have engaged in sexual violence as defined in the SVSH Policy (with the exception of Sexual Exploitation) or when the proposed terms include a nondisclosure agreement.

Subsequent to Respondent agreeing to the terms of an informal resolution, the Chancellor or Chancellor's designee will inform Complainant of those terms, including any discipline or other corrective or remedial measures, and the rationale for these terms within five business days of the Respondent's agreement to the terms.

3. Notice of Intent

The Chancellor or Chancellor's designee can issue a notice of intent instituting dismissal or other corrective action in accordance with APM-150.

B. Timeframe for Decision; Extension for Good Cause

The Chancellor or Chancellor's designee should implement their decision promptly, typically within 40 business days of receipt of the notice of investigation outcome and accompanying investigation report. If the matter has not been otherwise resolved within 40 business days, a notice of intent shall be issued.

Extensions to this timeline may be granted by the Chancellor for good cause with written notice to the Complainant and Respondent stating the reason for the extension and the projected new timeline.

C. Process Following the Provision of a Written Notice of Intent.

The procedures following the provision of a notice of intent are set forth in APM-150.

Should the Respondent submit a grievance under APM-140 alleging a violation of APM- 150 or otherwise challenging an administrative decision described in this process, the Chancellor's designee will ensure that both the Complainant and Respondent receive regular updates regarding the status of the grievance.

As stated in APM-140, "When a non-Senate faculty member receives notice of termination before the expiration of his or her appointment, he or she may select as a grievance mechanism either APM-140, as described in this policy, or Section 103.9 of the Standing Orders of the Regents (S.O. 103.9), the procedures of which are described in Academic Senate Bylaw 337. In selecting either APM-140 or S.O. 103.9, the non-Senate faculty member waives the right to invoke the other mechanism to review the same grievance." (APM-140-14e.)

Subsequent to any final decision, the Chancellor or Chancellor's designee will inform the Complainant and the Respondent of the decision, including any final decision on discipline and its rationale, within five business days of the decision.

DOE ADDENDUM TO INVESTIGATION AND ADJUDICATION FRAMEWORK FOR SENATE AND NON-SENATE FACULTY

INTRODUCTION

In general, the Senate and Non-Senate Faculty Framework ("Framework") applies to both DOE- Covered Conduct and other Prohibited Conduct. Special provisions that apply specifically to DOE-Covered Conduct are described below.

I. REPORTING AND RESOURCES (Stage 0)

Reporting options and resources are as described in the corresponding numbered section in the Framework.

II. INITIAL ASSESSMENT (Stage 1)

The initial assessment, including Supportive Measures and written rights and options are as described in the corresponding numbered section of the Framework. The additional provision below on Dismissal of Formal Complaints is specific to DOE-Covered Conduct.

A. Supportive Measures

Supportive Measures are as described in the corresponding section of the Framework.

B. Written Rights and Options

Written rights and options are as described in the corresponding section of the Framework.

C. Required Dismissal

The Title IX Officer must "dismiss" allegations in a DOE Formal Complaint if:

- they determine during the Initial Assessment that the alleged conduct, even if true, is not DOE-Covered Conduct, as defined in the SVSH Policy, or
- they determine during the investigation that the alleged conduct, even if true, did not occur in a University program or activity or that the Complainant was not in the United States at the time.

The Title IX Officer will then proceed as described in the SVSH Policy Appendix IV, Section C. Dismissal means the Title IX Officer will no longer consider the allegations DOE-Covered Conduct; it does not necessarily mean the Title IX Officer will close the matter. Rather, the Title IX Officer will decide whether and how to continue resolution of the dismissed allegations. See SVSH Policy, Appendix IV, Section C.

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

The investigation and resolution of reports, including Alternative Resolution and Investigation, are as described in the corresponding numbered section of the

Framework.

If the Title IX Officer determines during the investigation that they must dismiss any allegations in a DOE Formal Complaint per Section II.C., above, they will proceed as described in the SVSH Policy Appendix IV, Section C.

IV. ASSESSMENT AND CONSULTATION (Stage 2)

The assessment and consultation is as described in the corresponding numbered section of the Framework.

In DOE-Covered Conduct cases, after the assessment and consultation described in Stage 2 of the Framework, the Chancellor or Chancellor's designee will inform the Academic Personnel Office and Title IX Officer of any proposed resolution and its rationale, and the Academic Personnel Office or Title IX Officer (whichever the campus designates) will notify the parties. The parties will receive this notice within 15 business days of the notice of investigative findings and determination or preliminary determination.

Sections IV.A. (Opportunity to Accept the Preliminary Determination) and IV.B (Prehearing and Hearing), below, apply to all DOE Grievance Process cases except those alleging No- Title IX Hearing DOE-Covered Conduct. Section IV.C (Appeal of Determination) applies to all DOE Grievance Process cases, including those alleging No-Title IX Hearing DOE- Covered Conduct.

IV.A. OPPORTUNITY TO ACCEPT THE PRELIMINARY DETERMINATION (Stage 2.A)

Unless both parties accept the preliminary determination and any proposed resolution, there will be a fact-finding hearing to determine whether the SVSH Policy was violated.

A. Accepting the Preliminary Determination and Proposed Resolution

1. Timeline

Either party may accept the preliminary determination and any proposed resolution within 20 business days of the notice of investigative findings and preliminary determination. Unless both parties accept the preliminary determination and any proposed resolution within this time period, then the matter will proceed to a hearing to determine if a policy violation occurred.

2. Written Acceptance

A party may accept the preliminary determination and any proposed resolution by providing the Academic Personnel Office or Title IX Officer (whichever the campus designates) with a written acknowledgment stating that the party accepts the preliminary determination and any proposed resolution, and wishes not to proceed with a hearing.

3. Final Decision Following Acceptance

If both parties provide the written acceptance during the 20 business days, then the preliminary determination regarding policy violation(s) becomes final and the Chancellor or Chancellor's designee will impose the proposed resolution, including any discipline or other corrective measures.

B. Notice of Hearing or No Hearing

1. Notice of Hearing

Unless both parties accept the preliminary determination and any proposed resolution by the end of the 20 business days, the Academic Personnel Office or Title IX Officer (whichever the campus designates) will notify the parties that there will be a hearing. The notice of hearing will include a summary of the hearing procedures described in Section IV.B.D.

2. Notice of No Hearing

If both parties accept the preliminary determination and any proposed resolution, the Academic Personnel Office or Title IX Officer (whichever the campus designates) will notify the parties that there will be no hearing. This notice will indicate that the investigator's preliminary determination as to policy violation(s) is final, and that the Chancellor or Chancellor's designee is imposing the proposed resolution (if any).

IV.B. PREHEARING AND HEARING (Stage 2.B)

A. Fact-finding Hearing

Unless both parties accept the investigator's preliminary determinations, there will be a fact-finding hearing before a single hearing officer. The hearing is to determine whether a violation of the SVSH Policy occurred. The University's role in the hearing is neutral.

The University will consider the relevant evidence available, including relevant evidence presented by the parties, in order to make factual findings and determine whether a policy violation occurred.

B. Hearing Officer

1. Overview

The hearing officer may be a University employee or outside contractor and may not be the same person as the Title IX Officer or the investigator. Regardless, they will be appropriately trained, with such training coordinated by the Title IX Officer.

2. Bias and Conflict of Interest

The hearing coordinator will inform the parties of the hearing officer's identity. Within five business days after the notification, the parties may request the hearing officer's disqualification on the basis of bias or

conflict of interest.

a. For example, involvement in the case or knowledge of the allegations at issue prior to being selected as the hearing officer, or a close personal relationship with a party or expected witness in the proceeding could, depending on the circumstances, warrant disqualification of the hearing officer.

b. Employment by the University, or prior work for the University as a contractor, on its own, does not warrant disqualification.

c. The hearing officer's gender, gender identity, race, ethnicity, religion, sexual orientation or similar identifying characteristic, or the fact that they differ from those of any party, do not, on their own, warrant disqualification.

3. Disqualification Decision

The Academic Personnel Office will decide any request for disqualification of the hearing officer and inform both parties of their decision and, if they determine to change hearing officers, the name of the new hearing officer.

C. Hearing Coordinator

Each hearing will have a hearing coordinator, distinct from the hearing officer, who will manage the administrative and procedural aspects of the hearing.

D. Pre-Hearing Procedures

1. Meeting with Parties

The hearing officer and hearing coordinator will hold a separate meeting (in person or remotely) with each party to explain the hearing process, address questions, begin to define the scope of the hearing, and address other issues to promote an orderly, productive and fair hearing.

a. The hearing coordinator will provide written notice to each party of their prehearing meeting, including time, location (or if remote, call instructions), and purpose of the meeting, at least ten business days before the pre-hearing meeting.

b. No later than five business days before the pre-hearing meeting, each party will submit to the hearing officer a preliminary statement of what issues, if any, each considers to be disputed and relevant to the determination of whether a policy violation occurred, and the evidence they intend to present on each issue, including all documents to be presented, the names of all requested witnesses, and a brief summary of such witnesses' expected testimony. The parties will later have an additional opportunity to submit proposed evidence, see Section 3 below.

c. At the pre-hearing meeting, the hearing officer and party will discuss

the evidence the party has provided, to help identify and refine the issues to be decided at the hearing, which will inform the hearing officer's determination of the scope of the hearing.

d. Each party should also come to the pre-hearing meeting prepared to schedule dates for the hearing.

e. The hearing officer and/or coordinator will explain what to expect at the hearing, see Section E below.

f. The hearing officer and/or coordinator will also discuss measures available to protect the well-being of parties and witnesses at the hearing, as appropriate. These may include, for example, use of lived names and pronouns during the hearing, including in screen names; a party's right to have their support person available to them at all times during the hearing; a hearing participant's ability to request a break during the hearing, except when a question is pending.

g. The hearing officer and/or coordinator will inform the parties that the hearing will be conducted remotely. If a party believes that they need a University-provided physical space or technological equipment or assistance to participate remotely – for example because of safety or privacy concerns, or a disability - they may request such resources of the hearing coordinator during the prehearing meeting. The hearing coordinator will respond to any such request in writing within five business days of the prehearing meeting.

h. The parties and their advisors, if they have one at this stage of the process, are expected to participate in the pre-hearing meeting.

i. If a party does not participate in the pre-hearing meeting (or does not let the hearing coordinator know they need to reschedule in advance), the hearing coordinator will notify the party that they have two business days to contact the hearing coordinator to reschedule. Absent extenuating circumstances, if the party does not contact the hearing coordinator within the two business days, the hearing will proceed but the non-participating party will be presumed to agree with the hearing officer's definition of the scope of the hearing.

2. Scope of Hearing

Within five business days after concluding meetings with both parties (or determining that a party has decided not to participate in the pre-hearing process), the hearing officer will determine what issues are disputed and relevant to the determination of whether a policy violation(s) occurred, and will notify the parties of the scope of the issues to be addressed at the hearing and the expected witnesses. The

hearing officer has discretion to grant or deny, in whole or part, the parties' requests for witnesses on the basis of relevance. The hearing officer's determination of scope may include issues, evidence, and witnesses that the parties themselves have not provided.

Throughout the pre-hearing process, including in the notice of scope of hearing, the hearing officer will:

a. Exclude evidence including witness testimony that is, for example, irrelevant in light of the policy violation(s) charged, or relevant only to issues not in dispute, or unduly repetitive, and implement the evidentiary principles and procedural requirements in Section III.B.3. of the Framework;

b. Decide any procedural issues for the hearing; and/or

c. Make any other determinations necessary to promote an orderly, productive, and fair hearing that complies with the rules of conduct.

3. Submission of Additional Information

Within five business days after receiving the hearing officer's definition of scope, the parties may then submit additional information about the evidence, including witness testimony, that they would like to present.

4. Notice of Hearing

Not less than ten business days before the hearing, the hearing coordinator will send a written notice to the parties informing them of the hearing date, time, location, and procedures.

5. Witness Participation

The hearing coordinator will ensure that the Title IX investigator (or if not available, a representative from that office) will be available to testify during the hearing.

Testimony by the Title IX investigator may be appropriate to help resolve disputes about the authenticity of evidence summarized in the investigation report and at issue at the hearing, or whether the investigator accurately memorialized a party's or witness's statement in the investigation. The Title IX investigator should not be questioned about their assessment of party or witness credibility, nor the investigative process generally, nor their preliminary determination of whether policy violations occurred, because the hearing officer will make their own credibility determinations and determination of policy violation(s) so this information would not be relevant.

Based on the hearing officer's determination, the hearing coordinator will request the attendance of all witnesses whose testimony is determined to be within the scope of the hearing.

6. Confirmation of Scope, Evidence, and Witnesses

At least two business days prior to the hearing, the parties will receive the hearing officer's confirmation of scope and evidence; copies of all the evidence that will be considered at the hearing that the hearing officer has received, including the investigation file (consisting of the investigation report and any evidence deemed directly related by the investigator, as documented in the investigation report) and any other documents that will be considered; the names of expected witnesses and a summary of their expected testimony. If the hearing officer has excluded evidence (including witness testimony) that a party has requested to present, they will explain why that evidence was not relevant. The hearing officer will also notify the parties of any procedural determinations they have made regarding the hearing. This material will also be provided to the Title IX Officer.

7. Submission of Questions

The parties are encouraged to submit any questions for the other party and any expected witnesses to the hearing coordinator and hearing officer before the hearing, but will not be limited to those questions at the hearing. These questions will not be shared with the other party or witnesses.

8. Advisor Participation and Provision by University

At any point before the hearing, if a party anticipates that they will not have an advisor available at the hearing to ask their questions for them, they should let the hearing coordinator know, to allow the University to plan for assigning the party a person to ask the party's questions at the hearing ("Reader"). Even without notice or during a hearing in progress, however, the University will provide such a resource if a party does not have one. If any party does not have an advisor available at the hearing for the purpose of asking their questions for them, the hearing coordinator will assign a person to fulfill the sole and specific function of asking the party's questions (and not of serving as their advisor more generally), without cost to the party.

E. Hearing Procedures

1. Advisors and Support Persons

The parties may have their advisors present throughout the hearing. They may also have a support person present throughout the hearing.

2. Rules of Conduct

The hearing will be conducted in a respectful manner that promotes fairness and accurate fact-finding and that complies with the rules of conduct. The parties and witnesses will address only the hearing officer, and not each other. Only the hearing officer and the parties' advisors (or Readers if they do not have advisors), consistent with paragraph 6 below, may question witnesses and parties.

3. Virtual Hearing

The hearing will be conducted remotely, with any modifications the hearing coordinator has made in response to a party's request for assistance, see Section D.1.g. above.

4. Hearing Evidence and Procedures

Courtroom rules of evidence and procedure will not apply. The hearing officer will generally consider, that is rely on, all evidence they determine to be relevant and reliable. The hearing officer may determine the relevance and weigh the value of any witness testimony or other evidence to the findings, subject to Section F.2. below.

The hearing officer will also follow the evidentiary principles and procedural requirements in Section III.B.3. of the Framework. Throughout the hearing, the hearing officer will:

a. Exclude evidence including witness testimony that is, for example, irrelevant in light of the policy violation(s) charged, or relevant only to issues not in dispute, or unduly repetitive, and require rephrasing of questions that violate the rules of conduct,

b. Decide any procedural issues for the hearing, and/or

c. Make any other determinations necessary to promote an orderly, productive, and fair hearing that complies with the rules of conduct.

5. Access to Witnesses

Parties will be able to see and hear (or, if deaf or hard of hearing, to access through auxiliary aids for services) all questioning and testimony at the hearing, if they choose to. Witnesses (other than the parties) will attend the hearing only for their own testimony.

6. Questioning at the Hearing

The hearing officer may ask questions of all parties and witnesses that are relevant, including those that are relevant to assessing credibility. Each party's advisor may ask questions of the other party (not their party) and witnesses that are relevant, including those that are relevant to assessing credibility. As noted in Section D.8. above, the University will assign a person to ask a party's questions whenever a party does not have an advisor at the hearing.

The hearing officer will determine the order of questioning of the parties and witnesses. For each party or witness, the hearing officer will ask their own questions first.

Each party will prepare their questions, including any follow-up questions, for the other party and witnesses, and will provide them to their advisor. The advisor will ask the questions as the party has provided them and may not ask questions that the advisor themselves

have developed without their party.

If a party does not attend the hearing, the hearing will still proceed, and they may still have their advisor - or if they do not have one, a University-assigned Reader – ask the questions that they have prepared.

When a party's advisor is asking questions of the other party or a witness, the hearing officer will determine whether each question is relevant before the party or witness answers it and will exclude any that are not relevant or unduly repetitive, and will require rephrasing of any questions that violate the rules of conduct. If the hearing officer determines that a question should be excluded as not relevant, they will explain their reasoning.

At any time, the hearing officer may ask follow-up questions of the parties and witnesses.

Parties are allowed to note, in writing only, any objections to questions posed at the hearing: they will do so by keeping a running written record of any objections during the hearing, and they may not object to questions by speaking. Only at the conclusion of the hearing will parties provide the record of their objections, if any, to the hearing officer, for inclusion in the record.

Any expert witnesses identified during the investigation, see Section III.B.3.c. of the Framework, will be subject to these same questioning procedures.

7. Investigation File

The investigation file will be entered as evidence at the hearing. The hearing officer generally will rely on any finding in the report that is not disputed.

8. Impact of Selective and Non-Participation

The hearing officer will not draw adverse inferences from a party's decision to not participate in the hearing, or to remain silent during the hearing. However, they may consider a party's selective participation – such as choosing to answer some but not all questions posed, or choosing to provide a statement only after reviewing the other evidence gathered in the investigation – when assessing credibility.

9. Well-Being Measures

The hearing officer will implement measures they deem appropriate to protect the well-being of parties and witnesses. For example, the hearing officer will allow separation of the parties, breaks, and the attendance of support persons in accordance with these procedures.

10. Visual Separation

The hearing officer will allow the parties and/or witnesses to be visually separated during the hearing except as noted in paragraph 5 above. This

may include but is not limited to videoconference and/or any other appropriate technology. To assess credibility, the hearing officer must have sufficient access to the Complainant, Respondent, and any witnesses presenting information; if the hearing officer is sighted, then the hearing officer must be able to see them.

11. Presentation of Evidence

The parties will have the opportunity to present the evidence they submitted, subject to any exclusions determined by the hearing officer. Generally, the parties may not introduce evidence, including witness testimony, at the hearing that they did not identify during the pre-hearing process. However, the hearing officer has discretion to accept or exclude additional evidence presented at the hearing. The parties are expected not to spend time on undisputed facts or evidence that would be duplicative.

12. Recording

The University will audio record the hearing and make the recording available for the parties' review at their request.

13. Advisors and Support Persons

The parties may have their advisors and support persons available throughout the hearing.

F. Determination of Policy Violation

1. Standards for Deliberation

The hearing officer will decide whether a violation of the SVSH Policy occurred based on a Preponderance of Evidence standard.

2. Information Considered

The hearing officer will take into account the investigative file and the evidence presented and accepted at the hearing. The evidentiary principles in Section III.B.3.c. of the Framework also apply. On any disputed and material issue, the hearing officer should make their own findings and credibility determinations based on all of the evidence before them.

G. Notice of Determination

Within 15 business days of the hearing, the hearing coordinator will send simultaneous written notice to the Complainant and Respondent (with a copy to the Title IX Officer) setting forth the hearing officer's determination on whether the SVSH Policy has been violated. The written notice will include the following:

1. A summary of the allegations that would constitute a violation of the SVSH Policy;
2. The determinations of whether the SVSH Policy has been violated;

3. A statement that the Title IX Officer will determine whether the Complainant will be provided additional remedies, and will inform the Complainant of that determination;
4. A description of the procedural history of the complaint;
5. The findings on each disputed, material fact and an analysis of the evidence supporting the findings;
6. A summary of the facts found by the investigator that the parties did not dispute;
7. The rationale for the determination of each charge;
8. If the hearing officer determines that DOE-Covered Conduct did not occur, an analysis of whether other charged conduct, including other SVSH Policy violations, occurred;
9. An admonition against retaliation;
10. A statement of the right to appeal, grounds and timeframe for the appeal, the office to which the appeal must be submitted, and the procedure that the University will follow in deciding the appeal;
11. An explanation that both the parties will receive a copy of any appeal submitted in accordance with these procedures;
12. A description of the process for deciding whether and what discipline to impose if the final determination (following any appeal) is that the Respondent violated the SVSH Policy, and a statement that both parties will be informed of the final resolution of the matter;
13. A statement indicating the Chancellor or Chancellor's designee will determine whether further investigation by another body is necessary to determine whether violations of other policies occurred, separate from any allegations of Prohibited Conduct that were investigated under the SVSH Policy; and
14. A statement that a final determination (including exhaustion of any appeal rights) that the Respondent violated the SVSH Policy will establish probable cause as defined in the Code of Conduct. (APM-015 at III.A.4).

H. Documentation of Hearing

Throughout the pre-hearing and hearing process, the hearing coordinator will document the process's compliance with the procedures (including timeframes) in this section.

After the notice of policy violation determination has been finalized, the hearing coordinator will provide this documentation, along with all documents relating to the hearing, and the recording of the hearing, to the Title IX Officer.

IV.C. APPEAL OF DETERMINATION (Stage 2.C)

The Complainant and Respondent have an equal opportunity to appeal the policy violation determination(s). The University administers the appeal process but is not a party and does not advocate for or against any appeal.

A. Grounds for Appeal

A party may appeal only on the grounds described in this section.

1. In cases of No-Title IX Hearing DOE-Covered Conduct:
    a. There was procedural error in the investigation process that materially affected the outcome; procedural error refers to alleged deviations from University policy, and not challenges to policies or procedures themselves;
    b. There is new evidence that was not reasonably available at the time of the investigation that could have materially affected the outcome; and/or
    c. The investigator or Title IX Officer had a conflict of interest or bias that affected the outcome. The principles in Section IV.B.B.2. related to hearing officers apply here to investigators and Title IX Officers.
2. In all other cases:
    a. There was procedural error in the hearing process that materially affected the outcome; procedural error refers to alleged deviations from University policy, and not challenges to policies or procedures themselves;
    b. There is new evidence that was not reasonably available at the time of the hearing that could have materially affected the outcome; and/or
    c. The hearing officer had a conflict of interest or bias that affected the outcome. See also the principles in Section IV.B.B.2.

The appeal should identify the reason(s) why the party is challenging the outcome on one or more of the available grounds.

B. Commencing an Appeal

An appeal must be submitted to the hearing coordinator within 20 business days following issuance of the notice of the investigation outcome (in cases of No-Title IX Hearing DOE-Covered Conduct) or of the hearing officer's determination (in all other cases). The appeal must identify the ground(s) for appeal and contain specific arguments supporting each ground for appeal. The Title IX Officer will notify the other party of the basis for the appeal and that the other party can submit a written statement in response to the appeal within three business days, and supporting documentation from the other party as appropriate.

C. Standards for Deliberation

The appeal officer will decide whether the appealing party has proven the asserted ground(s) for appeal. They will only consider the evidence presented during the investigation (in No-Title IX Hearing DOE-Covered Conduct cases) or at the hearing (in all other cases), the investigation file, and the appeal statements of the parties. They will not make their own factual findings, nor any witness credibility determinations.

D. Decision by Appeal Officer

The appeal officer, who will be an unbiased person without prior involvement in the case or personal relationship with the parties, may:

1. Uphold the findings;
2. Overturn the findings;
3. Modify the findings; or
4. In appeals alleging material procedural error or new evidence, send the case back to the investigator (in No-Title IX Hearing cases) or hearing officer (in all other cases) for further fact-finding if needed, for example on the issue of whether the alleged error, new evidence, would have materially affected the outcome.

E. Written Report

The appeal officer will summarize their decision in a written report that includes the following:

1. A statement of the grounds identified on appeal;
2. A summary of the information considered by the appeal officer;
3. The decision of the appeal officer and the rationale for the decision including, where the findings are overturned or modified, an explanation of why the ground(s) for appeal were proven; and
4. If the final decision is that the Respondent violated the SVSH Policy, a statement that the decision constitutes a finding of probable cause as defined in APM-015.

F. Distribution of Written Decision

Within ten business days of receiving the appeal, the appeal officer will send their written decision to Complainant and Respondent, with a copy to the Title IX Officer.

1. Unless the appeal officer remands the matter, they will inform the Respondent and the Complainant that the matter is closed with no further right to appeal.
2. If the appeal officer remands the matter, they will specify what further fact-finding should occur or what additional information should be considered and request that the investigator or hearing officer report back to the appeal officer on their additional fact-finding. After

receiving the investigator or hearing officer's (whichever applies) additional factual findings, the appeal officer will issue their decision within ten business days. This decision will be final.

IV.D. ADDITIONAL ASSESSMENT AND CONSULTATION (Stage 2.D)

Once any appeal is final or the period for submitting an appeal has lapsed, the Title IX Officer will send the final findings and determination to the Chancellor or Chancellor's designee, with a summary explanation of any difference between the investigator's determination or preliminary determination (whichever applies) and the final determination and findings.

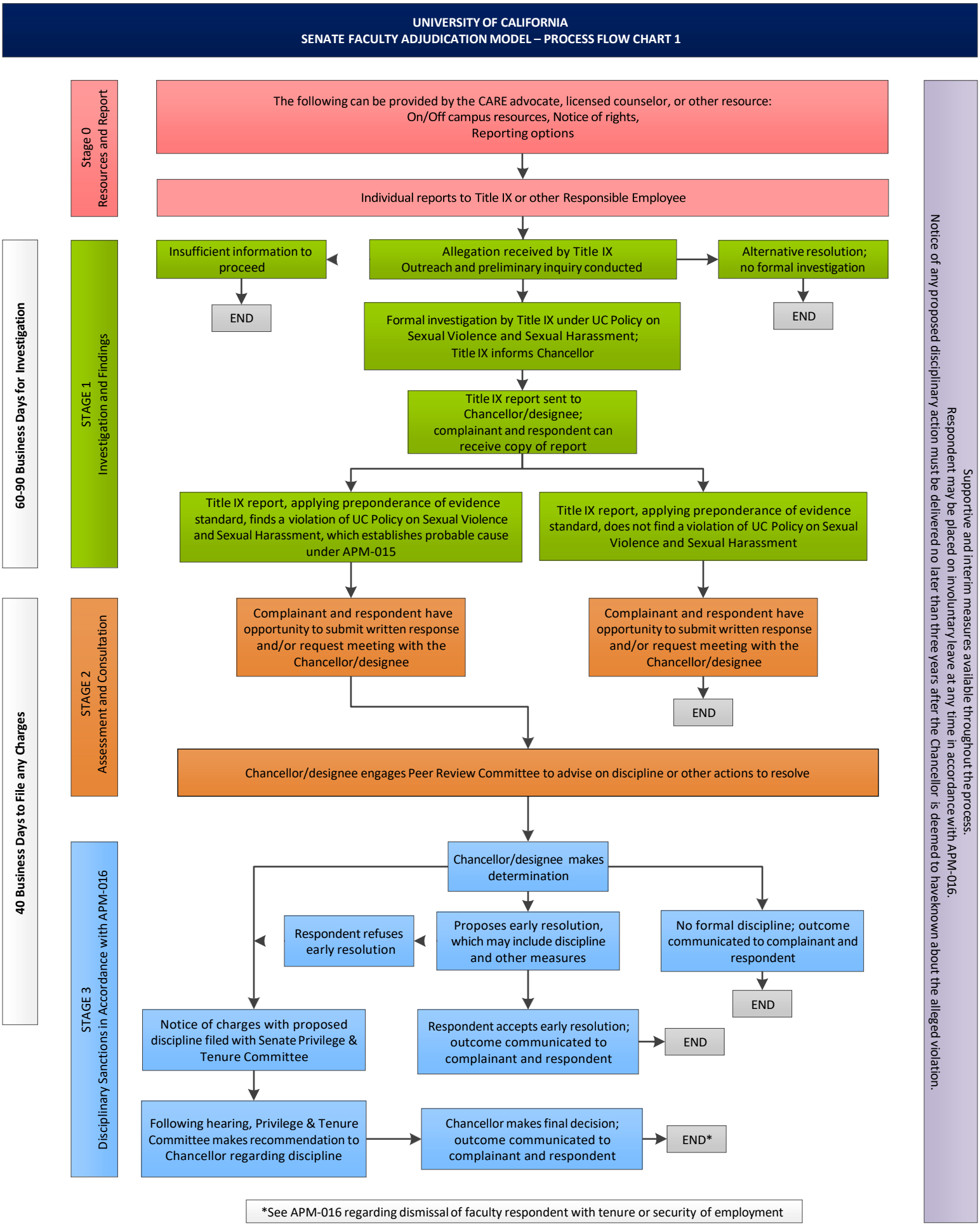
The Chancellor or Chancellor's designee has the authority and responsibility to decide what action to take in response to the final determination and findings. The Chancellor or Chancellor's designee may determine that additional investigation is required to determine whether other Code of Conduct violations occurred but will not reconsider the findings and determinations regarding SVSH Policy violations made through the hearing and any appeal.

If the final finding is that a faculty Respondent violated the SVSH Policy, then the Chancellor or Chancellor's designee will, if they did not already do so, consult with the Title IX Officer and either engage the Peer Review Committee or consult with the Academic Personnel Office as described in *Assessment and Consultation (Stage 2)* of the Framework. If the Chancellor or Chancellor's designee already took these steps (because the investigator determined or preliminarily determined the Respondent violated the SVSH Policy), then they may choose to repeat them before proposing a resolution (for example, when the finding following any hearing or appeal is different from the investigator's determination or preliminary determination). The Chancellor or Chancellor's designee will decide what action to take to resolve the matter.

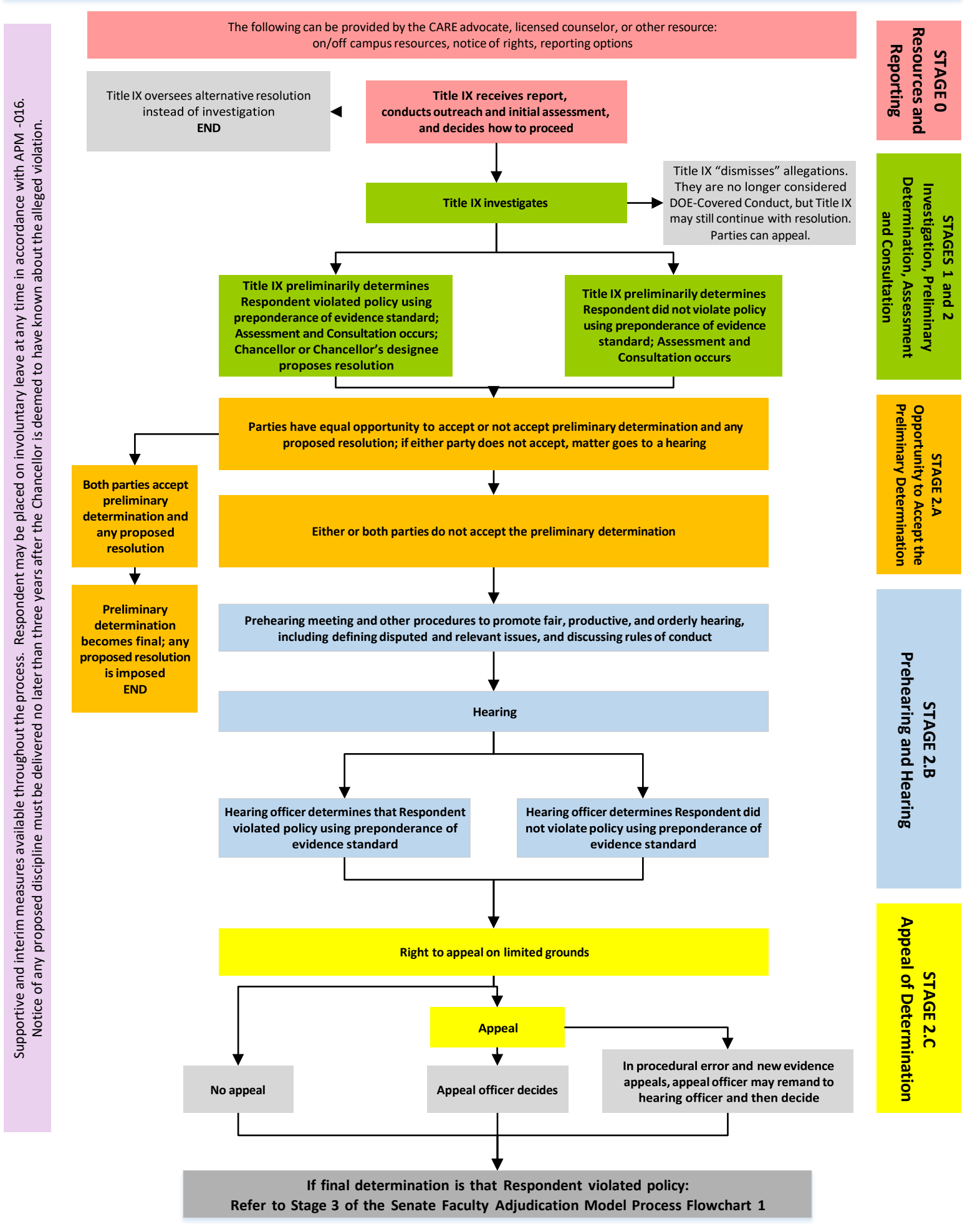
For Senate Faculty, matters will then proceed as described in *Decision on Sanctions for Senate Faculty* (Stage 3) of the Framework.

For Non-Senate Faculty, the matter will then proceed as described in *Decision on Sanctions for Non-Senate Faculty* (Stage 3) of the Framework.

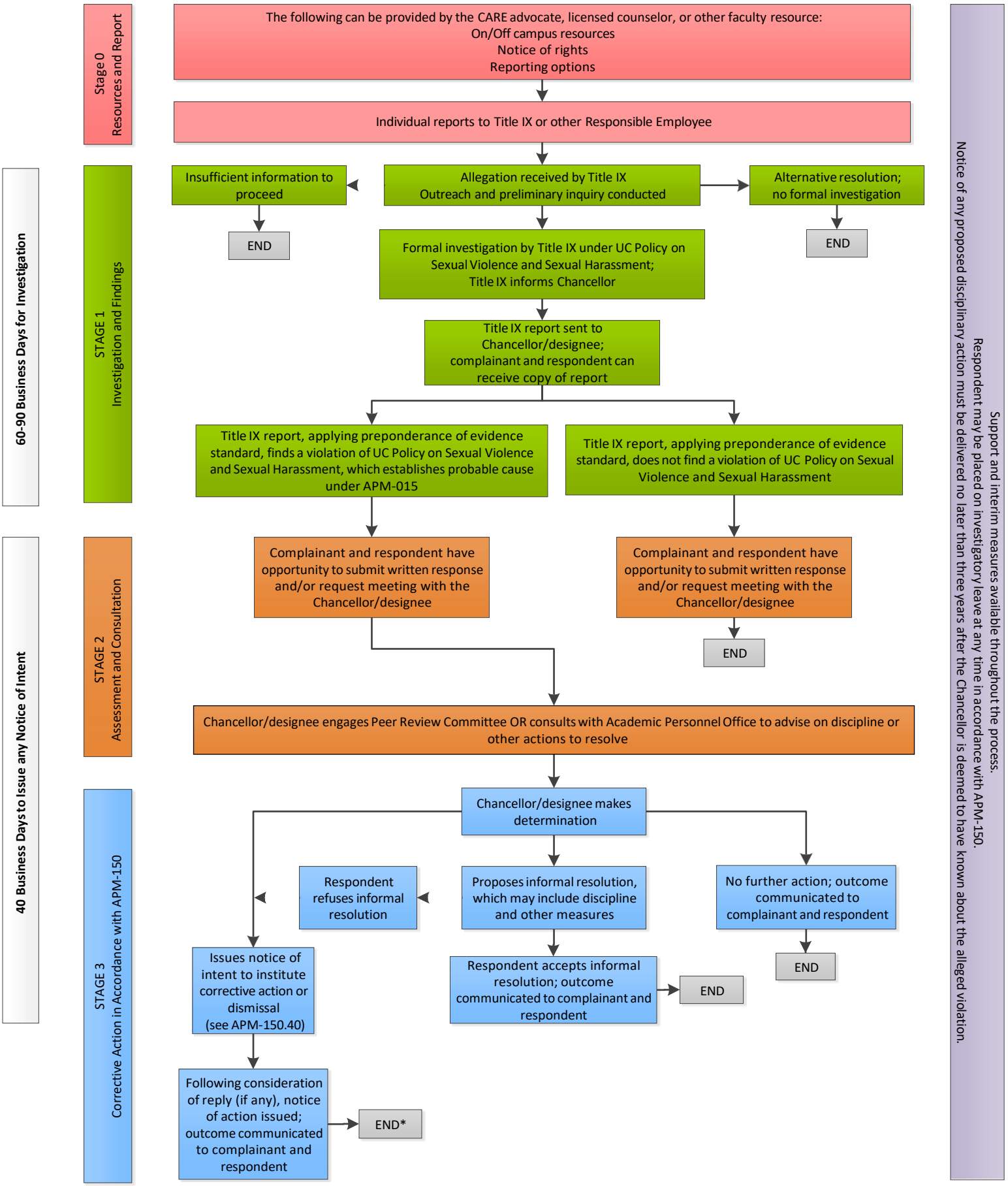
Attachment 1: Senate Faculty Adjudication Model - Process Flow Chart



UNIVERSITY OF CALIFORNIA
SENATE FACULTY DOE GRIEVANCE PROCESS – ATTACHMENT 1.A



UNIVERSITY OF CALIFORNIA
NON-SENATE (NON-REPRESENTED) FACULTY ADJUDICATION MODEL – PROCESS FLOW CHART 2



*Respondent may grieve decision pursuant to APM-140

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NON-SENATE (NON-REPRESENTED) FACULTY ADJUDICATION MODEL – ATTACHMENT 2.A