The University of Southern California
Resolution Process for Discrimination, Harassment, and Retaliation

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THE UNIVERSITY OF SOUTHERN CALIFORNIA
RESOLUTION PROCESS FOR DISCRIMINATION, HARASSMENT AND RETALIATION

I. INTRODUCTION

The University of Southern California (University) is committed to providing a prompt and equitable response to all reports of Discrimination, Harassment, and Retaliation, all of which fall under the University's definitions of Prohibited Conduct under the Policy on Prohibited Discrimination, Harassment, and Retaliation (Policy). The University's Resolution Processes for addressing Prohibited Conduct are grounded in fairness and support for all parties, and include procedural protections that ensure notice, equitable opportunities to participate, and a neutral and impartial investigation, resolution, and appeal process. The definitions of specific forms of Prohibited Conduct and other core concepts are included in the Policy.

II. SCOPE

This Resolution Process will be used to resolve reports and Formal Complaints of Prohibited Conduct other than Sexual Misconduct (as defined in the Resolution Process for Sexual Misconduct), including but not limited to Discrimination, Harassment, and Retaliation.

This Resolution Process applies to reports and Formal Complaints against Students, Faculty, and Staff that occur within the University's Education Program or Activity. In this Resolution Process, the individual reported to have experienced Prohibited Conduct is referred to as the Complainant. The individual who is reported to have committed Prohibited Conduct is referred to as the Respondent.

For reports or Formal Complaints against Third Parties, which include contractors, vendors, visitors, guests, patients, volunteers and unpaid interns, or other individuals who are participating in or seeking to participate in the University's Education Programs or Activities, the University will determine the appropriate manner of resolution, which may include referral to local law enforcement or to the home school or employer of the Third Party Respondent, and/or restriction from access to campus or the University's Education Programs or Activities. The University's ability to take disciplinary action against a Third Party Respondent will be limited and is determined by the context of the Prohibited Conduct and the nature of the University's relationship to the Third Party Respondent.

The term "Education Program or Activity,"[1] whether singular or plural, includes all of the University's operations, including locations, events, or circumstances in which the University exercised substantial control over both the Respondent and the context in which the conduct occurred; and any building owned or controlled by a student organization that is officially recognized by the University. Under limited circumstances, the Policy and this Resolution Process may also apply to instances in which the conduct occurred outside of the Education Program or Activity, but where the University otherwise regulates the conduct, the conduct has or could have a continuing impact within the University's Education Program or Activity, or the conduct may have the effect of posing a serious threat to the University community.

[1] Education Program or Activity is defined in the Policy on Prohibited Discrimination, Harassment, and Retaliation.

In the event any individual with a responsibility identified in the Policy or this Resolution Process, including the Vice President of Civil Rights Compliance and Title VI and Title IX Coordinator (VP for OCRC) or Investigator, has a conflict of interest that would compromise that individual's objectivity in discharging that responsibility, the University will appoint a designee. Concerns about a potential conflict of interest involving an Investigator or other implementer should be raised with the VP for OCRC. Concerns about a potential conflict of interest with the VP for OCRC should be raised with the Senior Vice President of Human Resources, Equity, and Compliance.

III. RESOURCES AND REPORTING OPTIONS

A. Reporting Options

The University encourages anyone who has experienced Prohibited Conduct to report it either to the Report and Response website (report.usc.edu) or directly to the Office of Civil Rights Compliance (OCRC). Any individual may make a report of Prohibited Conduct under this Policy regardless of affiliation with the University and regardless of whether or not the person reporting is the person alleged to be the individual impacted by the conduct. Reports can be made in person, by mail, by telephone, or by electronic mail, or by any other means that results in the VP for OCRC or OCRC receiving the verbal or written report. A report may be made at any time (including during non-business hours)[2] by using the telephone number, email address, or office mailing address, listed below:

Office of Civil Rights Compliance
King Olympic Hall
1025 W. 34th Street, Suite #101
Los Angeles, CA 90089
213-740-5086
http://ocrc.usc.edu
ocrc@usc.edu

In addition, the University encourages anyone who experiences or witnesses an incident of Prohibited Conduct that may also constitute a crime to ***immediately*** report the incident to the University's Department of Public Safety or external law enforcement using the following contact information:

- **Department of Public Safety**
  UPC: (213) 740-6000 (24 hour, non-emergency number)
  HSC: (323) 442-1200 (24 hour, non-emergency number)

- **Los Angeles Police Department**
  911 (for emergencies)
  1-877-ASK-LAPD (24-hour, non-emergency number)

[2] Reports received during non-business hours will responded to as soon as possible during business hours, which are Monday-Friday, 8:30 AM–5:00 PM PT.

A Complainant may make a report to the University, to law enforcement, to neither, or to both.[3] Upon request, the University will assist a Complainant in contacting law enforcement at any time, regardless of whether the Complainant wishes to pursue an Investigation under this Resolution Process. Under limited circumstances posing a threat to the health or safety of any University community member or as required by the University's Memorandum of Understanding with the Los Angeles Police Department, the University will independently notify law enforcement. The Resolution Process and law enforcement investigations may be pursued simultaneously, but will operate independently of one another. The University will, when appropriate, coordinate information with law enforcement if law enforcement is notified.

B. Confidential Resources

The University also offers access to Confidential Resources for individuals who are unsure about whether to report Prohibited Conduct or are seeking counseling or other emotional support in addition to (or without) making a report to OCRC. Confidential Resources include:

- **Confidential Advocacy, Resources, and Education Support Center (CARE-SC)**
  Provides direct support to Complainants, including crisis appointments, group therapy, discussions of reporting options, and support surrounding academic accommodations.
  https://sites.usc.edu/clientservices/
  USC Student Health's Engemann Student Health Center Suite 356
  (213) 740-9355 (WELL) or Login to mySHR: http://usc.edu/myshr

- **Counseling and Mental Health**
  Provides counseling and support for students, including direct support to both Complainants and Respondents
  https://studenthealth.usc.edu/counseling/
  (213) 740-9355 (WELL) or Login to mySHR: http://usc.edu/myshr

- **WorkWell Center**
  Provides mental health and well-being support for USC employees.
  https://workwell.usc.edu/
  workwell@usc.edu

- **Office of the Ombuds**
  Available to faculty, staff, and students experiencing University-related concerns, conflicts, or challenging situations.
  (213) 821-9556 (University Park Campus)
  (323) 442-0341 (Health Sciences Campus)
  hscombuds@usc.edu

[3] The University will comply with external reporting obligations under California state law related to known or suspected abuse, molestation, or neglect relating to children, elders or dependent adults. For more information, please visit https://policy.usc.edu/mandated-reporters/.

IV. ROLE OF ADVISORS OF CHOICE, UNIVERSITY-APPOINTED ADVISORS, AND SUPPORT PERSONS

The Complainant and Respondent each have the right to be accompanied at any meeting or proceeding under the Policy and this Resolution Process by one advisor of their choice and one support person.

A. Advisors

1. **Advisor of Choice:** an Advisor of Choice is any person, including an attorney, who is chosen by the party to serve as their advisor during either the Formal or Alternative Resolution process. Advisors of Choice must sign an Advisor of Choice acknowledgement form. A Party must cover any expenses of an Advisor of Choice.[4]

2. **University-Appointed Advisor:** the University-Appointed Advisor is a trained external subject matter expert, who may be but is not required to be an attorney. A University-Appointed advisor may be appointed, at the party's request, during the Alternative Resolution Process at the point both parties have signed the Agreement to Participate in Alternative Resolution until either a successful resolution is reached or the VP for OCRC halts the process. University-Appointed advisors receive training on the University's Policy and this Resolution Process, and are provided at no cost to the parties.

A party is permitted to only have one advisor present at a meeting or interview at any time, even if they choose to consult with more than one advisor. An advisor may not otherwise be a party or witness involved in the investigation. An advisor may not be in a role that might otherwise conflict with the process. The determination of conflict remains in the discretion of OCRC.

A party may decline to use an advisor for all stages of the Formal or Alternative Resolution process.

The Resolution Process is not a legal proceeding and, although a party may be advised by their advisor, the conduct of the advisor will be governed by the Policy and this Resolution Process. Advisors who are attorneys will be treated the same as advisors who are not. Advisors will be provided with an Advisor Acknowledgment that they will be required to review, sign, and return in order to participate in the Resolution Process.

A party's Advisor of Choice may provide support and advice to the party at any meeting and/or interview, but, except as otherwise permitted by this Resolution Process, they may not speak on behalf of the party or otherwise participate in, or in any manner delay, disrupt, or interfere with meetings and/or proceedings. An advisor should plan to make themselves reasonably available for

[4] The Resolution Process is not a legal proceeding. Advisors need not be attorneys and advisors are not required at any stage of the resolution process. If a party does not have an advisor but wishes to use one, the University-Appointed Advisor is available, free of charge. For these reasons, any expenses associated with a party's choice to engage their own advisor or a lawyer are not regarded as "necessary" under California Labor Code Section 2802, and will not be paid by the University. The university also reserves the right to disqualify an advisor who does not adhere to the requirements articulated in the policy and process.

all meetings and proceedings. The University will not unduly delay the scheduling of meetings or proceedings based on the advisor's lack of availability.

Generally, all communications between OCRC and a Complainant or Respondent will occur through the party directly, not the advisor, and the party, rather than the advisor, is required to submit any written correspondence or documents. The University will not share information with a student party's advisor unless the student has executed a Family Education Rights and Privacy Act (FERPA) waiver.[5]

An advisor is entitled to review all information gathered in the investigation that is relevant to the allegations (as part of Evidence Review) and to access the Investigation Report.

B. Support Persons

As a supportive measure, a party may request that, in addition to their advisor, a Support Person be able to attend all meetings and interviews with them. A Support Person is present solely for support and may not speak on behalf of the party at any time. A Support Person may not otherwise be a party or witness involved in the investigation.

V. INITIAL ASSESSMENT

A. Response to Report of Discrimination, Harassment or Retaliation

Any person may report Discrimination, Harassment or Retaliation to OCRC. Upon receipt of a report, a member of the OCRC Intake, Outreach, and Support Team will promptly contact the Complainant to provide information regarding and an invitation to discuss:

- the availability of supportive measures with or without the submission of a Formal Complaint;
- the process for submitting a Formal Complaint; and
- the Complainant's wishes with respect to supportive measures.

A Complainant may request no additional action be taken; request supportive measures only; file a Formal Complaint requesting an investigation or Alternative Resolution; or request more time to consider their options. As described below, the VP for OCRC may determine that it is appropriate to file a Formal Complaint or take other appropriate action on behalf of a Complainant or where there is no identified Complainant. After the filing of a Formal Complaint, the Complainant may decide to seek an Alternative Resolution (facilitated agreed-upon resolution) in lieu of a Formal Resolution process (investigation). A Complainant is always entitled to reasonably available supportive measures, regardless of whether a Formal or Alternative Resolution process is initiated.

B. Overview of Initial Assessment

[5] Although a student may authorize the University to share information with their advisor by executing a FERPA waiver, the University is not required to do so.

Upon receipt of a report alleging Discrimination, Harassment or Retaliation, or an alleged violation of the Policy, OCRC will conduct an Initial Assessment of the reported information and respond to any imminent and serious threat to the health or safety of the Complainant or community member(s) raised by the report.

In conducting the Initial Assessment:

- OCRC may contact the reporter or the Complainant to collect additional or clarifying information;

- OCRC will determine, in consultation with other need-to-know University officials, as appropriate, whether the Policy applies to the report and whether the reported conduct falls within the jurisdiction and scope of the Policy.

- OCRC will review available options for resolution with the Complainant if the Office determines that the report would, if substantiated, constitute a violation of the Policy. These may include, depending on the report, alternative resolution or investigation;

- OCRC will determine interim measures and facilitate supportive measures, as appropriate, and may initiate a resolution process, if appropriate;

- OCRC may refer the report to another office for review or address the conduct through alternative means, if OCRC determines that the report is outside the scope of the Policy; or

- OCRC may close the report if it determines that the report does not allege facts that, if substantiated, would constitute a violation of the Policy or that the facts as alleged in the report are demonstrably false based on objective evidence or information available to OCRC.[6]

As part of the Initial Assessment of the report, OCRC, in consultation with campus stakeholders, will:

- Assess whether there is an immediate threat to the physical health or safety of any student or other individual or of substantial disruption to the University's Education Programs or Activities arising from the allegations that justifies removal;

- Notify the Complainant of the availability of medical and counseling resources to address physical and mental health concerns;

- Notify the Complainant of the importance of preserving evidence, including examples of the types of evidence to preserve;

[6] In some instances, conduct that is otherwise offensive, e.g. microaggressions, may not rise to the level of a Policy violation even if all facts are assumed to be true. Other factors, such as freedom of speech and academic freedom must be considered in determining whether reported concerns, if substantiated, would constitute a Policy violation.

- Notify the Complainant of the right to contact law enforcement, and if requested, assist them with notifying law enforcement;

- Conduct an individualized analysis of safety and risk to determine whether a Student Respondent's presence in the University Program or Activity poses a substantial threat to the safety or wellbeing of a Complainant or any Students, Faculty, Staff, or other individuals such that it justifies Emergency Removal, as defined by the Student Handbook;

- Determine whether an Employee Respondent should be placed on paid or unpaid Administrative Leave;

- Consult with the University's threat assessment team, as necessary and appropriate;

- Promptly contact the Complainant to discuss the availability of supportive measures;

- Consider the Complainant's wishes with respect to supportive measures;

- Assess the nature and circumstances of the report based on reasonably available information;

- Discuss the Complainant's expressed preference for manner of resolution (i.e., formal resolution in the form of an investigation or alternative resolution) and any barriers to proceeding;

- Coordinate with other campus offices to ensure the University's other reporting and notification requirements are met, including but not limited to Clery Act reporting requirements and timely warning assessment;

- Provide the Complainant with information about on-campus and off-campus support resources;

- Provide the Complainant with a copy of the Policy and an explanation of the procedural options, including seeking supportive measures, the process for submitting a Formal Complaint, the resolution process, and alternative resolution;

- Inform the Complainant that they may seek an Advisor of Choice to assist them throughout the investigation and resolution of the report, that the advisor may accompany them to any meeting or proceeding under the Policy and Resolution Process (as described above);

- Assess for relevant evidence of a pattern or history of other conduct by the Respondent; and

- Inform the Complainant the University's policy prohibiting Retaliation and that the University will take prompt appropriate action in response to the known circumstances of any report of alleged Retaliation.

C. Intake Meeting

The Initial Assessment typically includes an initial intake meeting (which may take place in person, by telephone, or via videoconference), with a member of the OCRC Intake, Outreach, and Support Team and the Complainant to understand the nature and circumstances of the report and to provide the Complainant with information about resources, including local law enforcement resources as applicable, procedural options, supportive measures, and an opportunity to discuss the Policy and the Resolution Process.

In addition to the intake meeting, OCRC will provide the Complainant with written information about resources; procedural options for Alternative and Formal Resolution, including the investigation procedures; reasonably available supportive measures, such as Avoidance of Contact Directives, housing changes, and academic schedule changes, and the process for requesting and obtaining those supportive measures; the range of disciplinary sanctions available upon a finding of responsibility for violating the Policy; the prohibition against retaliation for making a report; filing a Formal Complaint, or participating or refusing to participate in a resolution process; the ability to report the matter to law enforcement; and the importance of preserving evidence. The written information will also include information about campus and community resources and services, including counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance if applicable, student financial aid, and other available services. This written information will also include a notification about the process for seeking language-related accommodations (i.e., translations/interpreters) and disability-related accommodations, academic adjustments, and/or auxiliary aids under Section 504 of the Rehabilitation Act and/or other applicable federal, state, or local laws.

D. Formal Complaint

The Formal Resolution process can be initiated by the submission of a Formal Complaint.[7] A Formal Complaint is a written document submitted to OCRC by the Complainant alleging that a Respondent engaged in Prohibited Conduct and requesting an investigation and/or Alternative Resolution. The Formal Complaint may be submitted to OCRC in person, by mail, or by electronic mail, using the Formal Complaint form. The Complainant may also contact OCRC directly for assistance in making a Formal Complaint. In addition, as described below, the VP for OCRC retains discretion, in consultation with relevant University stakeholders, to file a Formal Complaint on behalf of any individual.

E. Determining the Scope and Manner of Resolution

OCRC will consider the nature of the report, the safety of the individual and the campus community, and the Complainant's expressed preference for the manner of resolution in

[7] For more information regarding the scope and jurisdiction of the Policy, please refer to the Policy.

determining the appropriate course of action to achieve the goals of the Policy. The range of available resolution options include:

No Further Action	**Supportive Measures Only**	**Investigation**	**Alternative Resolution**
OCRC will maintain a record of the report, but will take no further action May involve referral to another University office	Available regardless of whether a Formal Complaint is filed	Following a Formal Complaint by the Complainant or VP for OCRC	Following a Formal Complaint by the Complainant or VP for OCRC

The Initial Assessment will proceed to the point where a reasonable individualized assessment of the safety of the Complainant and of the campus community can be made, and OCRC, in consultation with other University stakeholders as appropriate, has sufficient information to determine the appropriate course of action.

OCRC will seek to complete the Initial Assessment as promptly as possible, typically within ten (10) business days of notice of the report or Formal Complaint. There may be circumstances, however, where the Initial Assessment takes longer based on the availability of the Complainant or other necessary information, the need to gather additional information, or other factors outside of the University's control. The University also understands that a Complainant may engage in delayed decision-making, which may impact the timing of the conclusion of the Initial Assessment.

Generally, at the conclusion of the Initial Assessment, the Complainant, if known, will receive written notice, typically by email, of the determination about how the University will proceed. If the matter is proceeding to investigation, official notification to all parties, including the Respondent(s), will occur with the issuance of a written Notice of Investigation. Along with that notice, the parties are invited to participate in optional Informational Meetings. The meeting will include a review of the information contained in and provided with the Notice of Investigation, reasonably available supportive measures, Alternative Resolution (as appropriate), their assigned OCRC Care Manager throughout the process, and the major stages of the process, and provide an opportunity for the parties to ask any questions they may have at the outset of the Formal Resolution process.

1. Other Resolution Options for Addressing Reported Conduct

Strictly subject to all applicable laws and University policies governing freedom of expression and academic freedom, the VP for OCRC or designee, in partnership and consultation with relevant stakeholders, may use exclusively voluntary methods to address reported concerns that do not rise to the level of a Policy violation. Participation in such processes is entirely voluntary and will not be required.

2. Dismissal

OCRC may dismiss some or all of the allegations in the Formal Complaint, at any stage of the process, in any of the following circumstances:

1. OCRC is unable to identify the Respondent after taking reasonable steps to do so;

2. the Respondent was not enrolled or employed by the University at the time of the alleged conduct;

3. the Respondent is no longer enrolled or employed by the University;

4. the Complainant notifies OCRC in writing that the Complainant would like to withdraw the Formal Complaint or any of its allegations, OCRC declines to initiate a Formal Complaint on behalf of the Complainant, and without the withdrawn allegations, the remaining alleged conduct would not constitute a Policy violation, even if proven;[8]

5. OCRC determines the conduct alleged in the Formal Complaint, even if proven, would not constitute a Policy violation. Prior to dismissing the Formal Complaint under this paragraph, OCRC will make reasonable efforts to clarify the allegations with the complainant;

6. specific circumstances, including a Complainant's decision not to respond to outreach by OCRC or not participate in the Formal Resolution process, prevent the University from gathering evidence sufficient to reach a determination as to the Formal Complaint or its allegations; or

7. on a case-by-case basis where one or more of the parties has chosen to pursue the matter through litigation or by a settlement agreement outside the Resolution Process.

The decision about whether to dismiss a Formal Complaint, in whole or in part, may be made at any stage in the process. If the Formal Complaint is dismissed prior to notifying the Respondent of the Formal Complaint, OCRC may provide awareness of the Formal Complaint to the Respondent. The Complainant may appeal the dismissal decision by notifying OCRC in writing of the appeal within five (5) business days of the date of the Notice of Dismissal. The appeal is limited to the specific grounds set forth for Appeals in Section VII.O, below. If the Notice of Dismissal is issued after a Respondent has been notified of the Formal Complaint, all parties will receive the Notice of Dismissal and appeal rights.

For more information regarding the appeals process, see Section VII.O, below.

3. OCRC Initiated Formal Complaint

Under this Resolution Process, the VP for OCRC has the discretion, in consultation with relevant University stakeholders, to file a Formal Complaint involving any individual over whom we have jurisdiction. In doing so, the VP for OCRC does not become a party to the matter. This may occur

[8] A Complainant who withdraws a Formal Complaint may later request to reinstate or refile it, and a new initial assessment will be conducted.

in circumstances where a Complainant is not able to file a Formal Complaint (i.e., they are not participating in or seeking to participate in a University program or activity) or where a Complainant elects not to file a Formal Complaint, but the VP for OCRC determines that a Formal Resolution is necessary to ensure a University environment free from Discrimination, Harassment, and Retaliation.

In evaluating the appropriate manner of resolution, including whether the VP for OCRC will file a Formal Complaint in the absence of a Formal Complaint by the Complainant, OCRC will consider the following factors:

1. the Complainant's request not to proceed with initiation of a Formal Complaint, including whether the Complainant has requested anonymity and whether the Complainant wants to participate in an Investigation;

2. the Complainant's reasonable safety concerns regarding initiation of a Complaint;

3. the risk that additional acts of Prohibited Conduct would occur if a Complaint is not initiated;

4. the severity and impact of the alleged Prohibited Conduct on the Complainant or campus community, including whether the conduct, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;

5. the respective ages of the parties, including whether the Complainant is a minor (under the age of 18) or was a minor at the time of the alleged conduct;

6. the relationship of the parties, and whether the Respondent is an employee of the University;

7. the scope of the alleged Prohibited Conduct, including information suggesting a pattern, ongoing Prohibited Conduct, or Prohibited Conduct alleged to have impacted multiple individuals (*e.g.,* by the Respondent; at a particular location, event, or activity; or by a particular group or organization);

8. whether the Respondent is a faculty or staff member with oversight of students;

9. whether the University could end the alleged Prohibited Conduct and prevent its recurrence without initiating an Investigation;

10. the totality of the known circumstances;

11. whether the alleged conduct was committed with a weapon;

12. whether the Respondent has made any statements of admission or otherwise accepted responsibility for the alleged conduct;

13. whether the alleged conduct involved physical violence or the use of physical restraint (*i.e.,* exerting control over another person through the use of physical force, such as hitting, punching, slapping, kicking, restraining, strangling);
14. whether the Respondent has a history of prior arrests or being the subject of multiple reports or complaints of any form of Prohibited Conduct or has any documented history of violent behavior;
15. whether the Respondent is alleged to have threatened to commit violence or any form of Prohibited Conduct;
16. whether the alleged conduct was committed by multiple perpetrators;
17. the existence of independent evidence that may be available without the participation of the Complainant;
18. the scope and nature of prior remedial methods taken with the Respondent;
19. whether the Respondent has a history of failing to comply with any University directives (*e.g.,* Avoidance of Contact Directive) or any judicial protective order;
20. whether any other aggravating circumstances or signs of predatory behavior are present; and
21. any other relevant and available information.

OCRC will take all reasonable steps to respond to the report in a manner that honors the Complainant's requested course of action, but its ability to do so may be limited based on the nature of the reported information. Where OCRC files a Formal Complaint on behalf of the Complainant, OCRC will inform the Complainant about the chosen course of action before disclosing the Complainant's name or other identifying information to the Respondent and initiating an investigation. The Complainant may request that OCRC inform the Respondent that the Complainant did not seek an investigation or discipline.

4. Consolidation of Formal Complaints

The University may consolidate Formal Complaints against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party (*i.e.,* counterclaim), where the allegations of Prohibited Conduct arise out of the same or substantially similar facts or circumstances. All parties will receive concurrent, timely notification of any such consolidation. During the course of the investigation, the investigation may reveal the existence of additional or different potential Policy violations, which may also be consolidated following notification to the parties of the Amended Notice of Investigation. The University may also consider consolidating Complaints in other appropriate circumstances while ensuring that investigations are adequate, reliable, and impartial.

The University is committed to ensuring that the Formal Resolution process is not abused for retaliatory purposes. The University permits the filing of counterclaims; however, it will use an initial assessment, described above, to assess whether the allegations in the counterclaim may proceed to a resolution process. Counterclaims will be addressed in the same manner as the original complaint and either proceed to a resolution process or be dismissed. Depending upon the timing and circumstances of such allegations, the VP for OCRC retains discretion to resolve such claims through the same investigation with the same investigator(s) or following resolution of the initial allegations that gave rise to the formal investigation, in which case a delay may occur. When counterclaims are not made in good faith, they may constitute Retaliation in violation of the Policy.

VI. INTERIM MEASURES

A. Supportive Measures

As set forth in the Policy, supportive measures are non-disciplinary, non-punitive, individualized support services that are offered as appropriate, as reasonably available, and without fee or charge to the parties whether or not a Formal Complaint is filed. Supportive measures are designed to address the physical safety and emotional well-being of USC community members, as well as to restore or preserve equal access to the University's programs, services, and activities (including employment and education) without unreasonably burdening the other party, or to deter Prohibited Conduct. Supportive measures may be made available to a community member at any point after a report is made to OCRC and throughout any ensuing resolution process.

Supportive measures may be temporary or permanent and may include, but not be limited to, the following:

- access to confidential counseling and providing assistance with scheduling initial appointments;

- arrangement of a meeting with appropriate law enforcement to discuss or report conduct and/or to discuss safety planning;

- assistance in requesting reasonable academic assistance, such as: modified class schedules (including transfer to another section); permission to withdraw from and/or retake a class or attend a class via alternative means (*e.g.,* online or independent study), extensions of deadlines or other course-related adjustments, and voluntary leaves of absence;

- assistance in modifying University housing arrangements, including immediate temporary relocation to safe living quarters and/or permanent reassignment of University residence halls;

- assistance in modifying University employment conditions, such as changes in work schedules, job or supervisory assignments, work locations, and/or assigned parking;

- assistance in arranging campus escort services;

- imposition of a mutual Avoidance of Contact Directive (*i.e.,* a written directive to refrain from contact, directly or indirectly through a third-party proxy) to the parties;[9]

- increased security and monitoring of certain areas of the campus;

- training and education programs; and

- any other similar measures that may be arranged by the University (to the extent reasonably available) to ensure the physical safety and emotional well-being of a Complainant or Respondent.

OCRC will consider a number of factors in determining what supportive measures are appropriate and reasonably available, including the needs of the student or employee seeking supportive measures; the severity or pervasiveness of the alleged misconduct; any continuing effects on the Complainant and/or the Respondent; whether the Complainant and the Respondent share the same residence hall, academic course(s), or job location(s); and whether judicial measures have been taken to protect the Complainant *(e.g.,* protective orders). The University will work in good faith to implement the requirements of judicially-issued protective orders and similar orders, to the extent it has the authority to do so.

OCRC is responsible for ensuring the effective implementation of supportive measures and coordinating resources with the appropriate offices on campus. The University will maintain the confidentiality of any supportive measures provided under the Policy to the extent practicable and will promptly address any violation of supportive measures. Allegations that a party has violated the terms of a supportive protective measure, including but not limited to an Avoidance of Contact Directive or other University directive, may constitute a violation of the Policy and may subject the individual who has been alleged to violate the supportive protective measure to disciplinary or administrative actions. OCRC will determine and identify the appropriate procedures to be followed for such alleged violations depending on the timing and circumstances of the reported violation.

OCRC will also provide reasonably available supportive measures for third parties, provided that the supportive measures are within the scope of that individual's relationship to the University.

B. Emergency Removal

Certain circumstances may warrant removing a Student Respondent from a University program or activity on an emergency basis, typically in the form of interim restrictive measures. The University may remove a Student Respondent on an emergency basis from University property or

[9] One-way Avoidance of Contact (AOC) Directives are permitted in limited circumstances, including to help enforce a restraining order, preliminary injunction, or other order of protection issued by a court, when requested by a Complainant, or if a one-way AOC Directive does not unreasonably burden the other party. When an allegation is made that an AOC has been violated, the assessment and determination will be incorporated into a pending investigation for resolution. When an allegation arises that an AOC is violated where there is no matter pending, OCRC will address the alleged violation using the Resolution Process for Discrimination, Harassment, and Retaliation or will refer the matter to the appropriate investigatory office.

employment, education, research programs or activities, or other University Programs and activities.

Before imposing an Emergency Removal, OCRC, in consultation with appropriate stakeholders, will undertake an individualized risk assessment for the campus community to determine whether the Student Respondent's presence in the University Program or Activity poses a substantial threat to the safety or wellbeing of a Complainant or any Students, Faculty, Staff, or other individuals or of substantial disruption to University operations arising from the allegations of Prohibited Conduct and justifies removal of the Respondent from the University Program or Activity.

Some factors considered in determining whether to impose an Emergency Removal include:

- The nature and scope of the alleged conduct and/or crime, including whether the reported conduct involved the use or threat of use of a weapon or force, or significant loss of property, or impacted a vulnerable victim.

- Whether any aggravating circumstances or signs of predatory behavior are present.

- The severity and impact of the alleged conduct on the Complainant and/or campus community.

- The respective ages of the parties, including whether the Complainant is a minor (under the age of 18) or was a minor at the time of the alleged conduct.

- Any power imbalance between the parties.

- The scope of the alleged conduct, including information suggesting a pattern, ongoing Prohibited Conduct, or Prohibited Conduct alleged to have impacted multiple individuals (*e.g.,* by the Respondent; at a particular location, event, or activity; or by a particular group or organization);

- Whether the Respondent is a student leader with oversight of students.

- Whether the Respondent has made any statements of admission or otherwise accepted responsibility for the alleged conduct and whether there is independent corroborating evidence.

- The risk posed to any individual or to the campus community including the risk of additional violence or significant disruption of university life or function.

- Whether there have been other reports of other Prohibited Conduct or other misconduct by the student.

- Whether the report indicates a pattern of misconduct related to Prohibited Conduct.

- The University's obligation to provide a safe and nondiscriminatory environment.

- The timing of the investigation in the academic calendar.

- The ability of an alternative interim measure to reduce or mitigate the threat.

Upon determining that an Emergency Removal is appropriate, OCRC will coordinate with appropriate stakeholders to effectuate removal, including but not limited to the Department of Public Safety, Residential Education, Office of International Services, and the Registrar.

The parties will be provided with notice of the Emergency Removal and Respondent will have an opportunity to challenge the decision. The notice will include a statement that any information the Respondent chooses to provide during the challenge may subsequently be used in implementing any aspect of this Policy, including the Investigation and determination.

Process for Challenging Emergency Removal

The Respondent will have three (3) business days from the notice of Emergency Removal to submit to OCRC a written challenge to the safety and risk analysis as set forth in the Emergency Removal. If the Respondent submits a challenge, a copy will be provided to the Complainant, and they will be given three (3) business days to respond. OCRC will assign the matter to be reviewed by the Vice President for Student Life or designee to evaluate the information in support of the individualized safety and risk analysis and any information provided by the Respondent and the Complainant, as applicable. The Vice President for Student Life will submit a final decision in writing to the Parties within five (5) business days of receipt of any response to a challenge or the due date for one, if none is filed, with a copy to OCRC.

C. Administrative Leave

The University may place a non-Student Staff or Faculty Respondent on administrative leave, with or without pay, at any time. In reaching a determination as to administrative leave, OCRC may consult with the Respondent's supervisor or designee, Human Resources, the Provost or their designees, and any other appropriate University official.

VII. FORMAL RESOLUTION

The Formal Resolution is comprised of an Investigative Process and/or Alternative Resolution (described below). The Investigative Process commences after OCRC issues a written Notice of Investigation to the Complainant(s) and the Respondent(s).

A. Expectations of the Parties

During the Investigative Process, Complainants and Respondents can expect:

- a fair, impartial, prompt, equitable, and thorough investigation and resolution of allegations of Prohibited Conduct conducted by individuals with sufficient training and/or experience related to their role;

- an investigator and/or facilitator of Alternative Resolution free from conflict of interest or bias for or against complainants or respondents generally or the individual parties related to the report or Formal Complaint;

- privacy, to the extent possible, in accordance with the Policy and any legal requirements;
- access to reasonably available supportive measures without fee or charge, including an assigned OCRC Care Manager;
- the opportunity to request and receive reasonable accommodations for a disability or necessary language translation or interpreter services to ensure meaningful participation in any step of the proceedings under the Policy;
- freedom from Retaliation for making a good faith report of Prohibited Conduct, or participating in any proceeding pursuant to the Policy;
- a presumption that the Respondent is not responsible until a determination is made at the conclusion of the Formal Resolution Process;
- written notice of any meeting or interview at which the party's presence is contemplated by the Policy or this Resolution Process, including the date, time, location, participants, and purpose of all interviews or other meetings, with sufficient time for the party to prepare to participate;
- an equal opportunity to identify witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence;
- freedom to discuss the allegations under investigation[10] or to gather and present relevant evidence;
- the opportunity to be accompanied by an Advisor of Choice, including the right to have that advisor accompany the party at any meeting or interview;
- an objective evaluation of all relevant evidence, including both inculpatory and exculpatory evidence, by an impartial decision-maker;
- reasonably prompt time frames with permissible extensions for good cause;
- written Notice of Investigation, including notice of potential Policy violations and the nature of the alleged Prohibited Conduct;
- subject to applicable privacy laws, timely and equal access to any information that will be used during Formal Resolution pursuant to this process and any related meeting or proceeding under this Policy, including all information gathered that is relevant to the allegations in the Formal Complaint as well as the information contained in the Investigative Report;

[10] Prior to engaging in discussions relating to allegations, refer to additional guidance provided below in Section B, Participation Generally.

- reasonable time to prepare any response contemplated by the Formal Resolution Process;

- subject to applicable privacy laws, written notice of the outcome of any Formal Resolution, including the determination of a Policy violation, any sanctions, and the rationale; and

- the opportunity to appeal the determination and/or sanctions, as described below.

B. Participation by the Parties Generally

The Investigator may receive any information presented by the parties, but the Investigator, not the parties, is responsible for gathering relevant evidence. The parties will be asked to identify witnesses and provide other relevant information, such as documents, communications, and other evidence, if available. The parties will also be asked to provide the Investigator with any proposed questions that they want asked of another party or witnesses.

The parties are encouraged to provide all relevant information as soon as possible to facilitate prompt resolution. In the event that a party declines to voluntarily provide material information or delays in doing so, the University's ability to conduct a prompt, thorough, and equitable investigation may be impacted. The University will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence, but the parties should be advised that doing so in a way that undermines the independence or reliability of the evidence may impact the integrity of the investigative process. In addition, discussing the allegations or gathering evidence in a way that constitutes Harassment or Retaliation may constitute a policy violations.

In accordance with the Integrity and Accountability Code, the University encourages all Students, Faculty, and Staff to cooperate fully in the investigation of Complaints. The University will take steps to protect all participating Students, Faculty and/or Staff from Retaliation.

1. Expectation Regarding Student Participation

While Recognized Student Organizations are required to participate as a condition of their recognition by Student Life, students are not required to do so. The University will not generally compel the participation of students and will not issue a transcript or registration hold as a means of securing cooperation. Nonetheless, as members of this community, we expect that our students will hold themselves to the highest standards of ethical behavior and encourage students to participate to fulfill the goals of our shared values.

2. Obligation to Participate by University Employees

The University expects all Faculty and Staff to cooperate fully in the investigation of Complaints. In addition, except in limited circumstances, Faculty and Staff are be required to participate in the investigative process and declining to cooperate in an investigation is subject to discipline up to and including termination of employment under other applicable University policies.

3. Good Faith Reporting; Obligation to Provide Truthful Information

All University community members are expected to provide truthful information in any report or proceeding under this Resolution Procedure and are further expected to cooperate in any such proceeding in good faith. Submitting or providing false or misleading information in bad faith or with a view to personal gain or intentional harm to another is prohibited and may lead to administrative or disciplinary action under this Policy or other applicable University policies, as described below. This provision does not apply to reports made or information provided in good faith, even if the information alleged in the report is not later substantiated or no Policy violation is found to have occurred.

If OCRC obtains information or evidence that indicates the likelihood that a Complainant or Reporter knowingly made a false report of Prohibited Conduct to the University, OCRC will take appropriate steps to address the identified concern, which may include amending an ongoing OCRC investigation with the allegation of providing intentionally false or misleading information or referring the matter to other investigatory University offices.

C. Initiating an Investigation

OCRC will assign one or more trained investigators to conduct an investigation. The Investigator may be a University employee or an external professional. The role of the Investigator will be to gather information through interviews of the parties and relevant witnesses and other reasonably available evidence and to synthesize relevant information in a report that will be provided to the parties. As described in the Policy, individuals involved in the implementation of this Policy also receive regular, comprehensive training on the Policy and Resolution Process. The Investigative Report will include all relevant information provided by either party, including inculpatory and exculpatory information, that will be used in the determination of responsibility or sanction.

D. Notice of Investigation

When it is determined that an investigation should be initiated in response to a Formal Complaint, OCRC will concurrently notify the parties, in writing, of the following information:

1. a meaningful summary of all allegations with sufficient details regarding:
    a. the identity of the parties, if known;
    b. the precise nature of the reported conduct; and
    c. date, time, location, of the alleged conduct (if known).
2. the specific potential Policy violation(s) being investigated;
3. the process for investigation and alternative resolution;
4. that prior to the determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence, and that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence[11] obtained during the course of the investigation;
5. the name and contact information of the Investigator;
6. how to challenge participation by the Investigator on the basis of a conflict of interest or bias;
7. information about the parties' respective expectations and responsibilities;
8. the University's prohibition against Retaliation;

[11] Whether evidence is permissible is a determination made by OCRC.

9. the importance of preserving any potentially relevant evidence in any format;
10. information about the privacy of the process;
11. information about how a party may request reasonable accommodations for a disability or language diversity during the process[12]
12. a statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the investigative process;
13. that the parties are entitled to an advisor of their choice, as described above, including an attorney advisor, and the advisor is permitted to review the evidence gathered in the investigation that is relevant to the investigation;
14. that the University prohibits the intentional provision of false or misleading information; and
15. a copy of the Policy and this Resolution Process, including the reasonably prompt timeframes for all major stages of the Resolution Process.

If, at any time, the investigation reveals the existence of additional or different potential policy violations, including a violation of a supportive measure, the VP for OCRC may promptly issue an amended Notice of Investigation to both parties detailing any additional allegations and corresponding potential Policy violations.

To the extent the University has reasonable concerns for the safety of any person as a result of providing this Notice, the University may reasonably delay providing written Notice of the Investigation in order to address the safety concern appropriately. Reasonable concerns must be based on individualized safety and risk analysis and articulated factors, not on mere speculation or stereotypes.

1. Potential Violations of Other University Policies

Where conduct rising from the same or similar set of facts and circumstances involves the potential violation of both the Policy and another University policy, OCRC has the discretion to investigate and resolve the conduct under the Resolution Processes set forth in the Policy, provided that doing so does not unduly delay a prompt and equitable resolution of the report and that the parties are provided timely notice of this decision. The parties will receive specific notice in the Notice of Investigation of any potential violation of other University policies being investigated under this Resolution Process.

E. Informational Meeting

With the issuance of a Notice of Investigation, OCRC will invite the parties to separate, optional Informational Meetings (in person or via videoconference), similar to the initial intake meeting with the Complainant. OCRC will provide notice of the proposed date, time, location, participants, and purposes of the Informational Meeting, with sufficient time for the parties to prepare to participate in the meeting. This meeting is separate and distinct from a fact-gathering interview

[12] The Notice of Investigation provides information about seeking disability-based accommodations, academic adjustments, and/or auxiliary aids under Section 504 of the Rehabilitation Act, the Americans with Disabilities Act, and/or other applicable federal, state, or local laws, and/or other applicable federal, state, or local laws.

with the Investigator. The party's assigned Care Manager may also attend the Informational Meeting.

At the Informational Meeting, the parties will be provided with information about resources, procedural options, and supportive measures, and an opportunity to ask any questions. The parties will receive information about campus and community resources and services, including counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other available services.

F. Overview of Fact-Gathering Process

During the fact-gathering phase of the investigation, the Investigator will attempt to meet separately with the parties and relevant witnesses. The Investigator will send communications with information about the interview date, time, and location, name of participant(s), and purpose of the interview to the individual being interviewed (and any identified party advisor) in sufficient time for the individual to prepare and participate. Parties may submit relevant evidence to the Investigator and request that the Investigator interview relevant witnesses. All meetings with the Investigator will be recorded and transcribed, unless consent to recording is withheld by the individual being interviewed.

The Investigator will also independently gather other relevant evidence, including documents, photographs, communications between the parties or others, and medical records (subject to the consent of the applicable person), and other electronic records as appropriate, as well as identify relevant witnesses not identified by the parties.

1. Information That May be Considered

The Investigator may visit relevant sites or locations and record observations through written, photographic, or other means. In some cases, the Investigator may consult medical, forensic, technological, or other experts when expertise on a topic is needed in order to achieve a fuller understanding of the issues under investigation.

The Investigator may also consider information publicly available from social media or other online sources that comes to the attention of the Investigator. OCRC does not, however, routinely monitor social media or online sources, and as with all potentially relevant information, the Complainant, Respondent, or witnesses are encouraged to bring online information to the attention of the Investigator and the Investigator may rely on information from these sources. The Investigator ultimately determines relevancy of all information that is gathered or provided.

2. Witnesses

The Complainant and Respondent will be provided the opportunity to provide names of potential witnesses to the Investigator. Witnesses are individuals who may have information relevant to the incident, including individuals who may have observed the acts in question, may be able to provide contextual information, may have other information related to the alleged conduct or related matters, or may have relevant subject matter expertise. Where witnesses are interviewed as part of the investigation, where permissible, the name of the witness and the information gathered in the interviews will be shared with the parties at the conclusion of the investigation. The Investigator has the discretion, in consultation with the VP for OCRC or designee, to determine whether a potential witness may have relevant information. Witnesses may include individuals outside the University community should they agree to participate.

Throughout the investigation, the Investigator will be alert to whether a witness may have been impacted by the effects of the reported Prohibited Conduct, and, if so, whether the witness should be treated as a Complainant under the Policy and this Resolution Process.

3. Additional Evidence

Parties and witnesses may provide other relevant evidence to the Investigator, including text messages, email exchanges, timelines, receipts, photographs, etc. Any documentation shared with the Investigator that the Investigator determines to be relevant will be provided to all parties. The Investigator may also consider additional documents, items, or other relevant information that the Investigator independently obtains during the course of the investigation. This information will also be shared with the parties if relevant to the allegations.

During the course of the investigation, the parties are encouraged to bring any new evidence or information about additional Prohibited Conduct to the attention of OCRC. OCRC will assess any new information received to determine appropriate action, including interim measures.

G. Evidentiary Considerations

1. Medical or Counseling Records or other Legally Privileged Documents

Legally privileged documents, including medical and counseling records of a Complainant or Respondent, are privileged and confidential records that individuals are not required to disclose. However, these records may contain relevant and material information and, where the privilege belong to the party, a party may voluntarily choose to share such records with the Investigator. In such circumstances, the University must obtain voluntary, written consent from the party offering these records to allow the University to rely upon and share these records as required by the Resolution Process. Records provided to the Investigator by a party who has given voluntary, written consent, and which have been determined to be relevant by the Investigator, will be available for review by the other party to ensure the other party has notice of that information and an opportunity to respond.

Any information provided that is protected under a legally recognized privilege, e.g. medical or legal, will not be relied upon or used by the Investigator unless the person who holds the privilege makes clear in writing that they have waived the privilege. OCRC may redact references to medical records or other privileged information where no waiver has been signed.

2. Recordings

Generally, a recording made without the consent of another individual may be a violation of the USC Student Handbook, and/or California Penal Code Section 633.5. Nonetheless a recording made without the consent of all parties shall not be treated as inadmissible under this Resolution Process where the party who made the recording was a party to the confidential communication and made the recording for the purpose of obtaining evidence reasonably believed to relate to the commission by another party to the communication of extortion, kidnapping, bribery, any felony involving violence against the person, human trafficking, or domestic violence. This exception applies only where the recording was made to document conduct by another party and may not be invoked to document the recorder's own conduct or to establish the recorder's own defense.

The Investigator, in consultation with the Vice President of OCRC or designee, will determine whether the recording satisfies the requirements of this section before it is included in the Investigative Report or otherwise considered in the proceeding. The University's acceptance of a recording under this section does not constitute a determination regarding any potential criminal or civil liability of any party arising from the making of the recording, or regarding responsibility under the Student Handbook.

3. Prior or Subsequent Conduct of the Parties

In gathering information, the Investigator may also consider other reports of, or findings of responsibility for, the same or substantially similar conduct by the Respondent to the extent such information is relevant. Such information may be relevant to determining motive, intent, absence of mistake, pattern, or another material fact. For example, where there is evidence of a pattern or conduct that is the same or substantially similar in nature by the Respondent, either prior to or subsequent to the conduct in question, regardless of whether there has been a finding of responsibility, this information may be relevant and probative to the determination of responsibility and/or sanctioning, as applicable. Similarly, prior or subsequent conduct of a Complainant may be considered when relevant.

Any party seeking to introduce information about prior or subsequent conduct should bring this information to the attention of the Investigator at the earliest opportunity. The Investigator will assess the relevance, form, and reliability of the information and determine, in consultation with the VP for OCRC, if it is appropriate for inclusion in the Investigative Report.

H. Investigative Report and Evidence Review

1. Preliminary Investigative Report and Evidence Review

After initial interviews with parties and witnesses, the Investigator will prepare a Preliminary Investigative Report that fairly summarizes the relevant information gathered to date during the investigation. The Preliminary Investigative Report will not include findings of fact or a determination as to responsibility.

The Preliminary Investigative Report will include:

- a description of the alleged prohibited conduct;
- information about the policies and procedures that the University used to evaluate the allegations;
- both inculpatory and exculpatory information; and

- a summary of the relevant and not otherwise impermissible evidence.

As noted above, the Investigator has the discretion to determine the relevance or permissibility of any evidence or witness.

Along with the Preliminary Investigative Report, the Investigator will prepare for review by the parties and any advisors any information gathered in the investigation, which is permissible to provide under the process, including transcripts of interviews, determined to be directly related to the potential Policy violations (Evidence Review).

OCRC will concurrently make the Preliminary Investigative Report and Evidence Review available to the parties and any advisors for inspection and review in an electronic format for ten (10) business days.

2. Written Response by the Parties

The Parties may submit a written response to the Preliminary Investigative Report and Evidence Review, which will be provided to the Parties and the Investigator. The written response may address the scope of investigation, the Investigator's determination of relevance, or any other information from the Preliminary Investigative Report. The written response must be submitted to OCRC within ten (10) business days of the date OCRC shares the Preliminary Investigative Report and Evidence Review with the Parties.

The written response may include comments, proposed questions for the Investigator to ask the other party or witnesses, including questions challenging credibility, and identification of additional witnesses or sources of evidence.

After the period to submit responses has elapsed, the Investigator will carefully consider any response submitted. Relevant questions submitted by Parties that are not otherwise impermissible, as described above, will be asked by the Investigator unless they are unclear, duplicative, or harassing of the party or witness being questioned. Where a question is determined by the Investigator to be unclear, Parties will be given the opportunity to clarify or revise the question submitted. The Investigator will determine whether a proposed question is relevant and not otherwise impermissible. The Investigator will determine when there is no further relevant information to obtain.

OCRC, if appropriate, will provide a supplemental review period for any additional relevant evidence collected after Evidence Review has ended.

3. Final Investigative Report with Written Determination

After the Investigator has concluded the fact gathering process, the Investigator will prepare a Final Investigative Report with Written Determination incorporating any newly obtained relevant evidence, including any inculpatory or exculpatory information, findings of fact, including credibility assessments if applicable, and determinations of responsibility.

As noted above, the Investigator has the discretion to determine the permissibility and relevance of any evidence or witness. The Investigator may choose to place less or no weight on statements by a party or witness who declines to respond to questions deemed relevant. The Investigator will not draw an inference about whether a Policy violation occurred based solely on a party's or witness's decision not to respond to such questions.

The Investigator will consult with the VP for OCRC, or designee, in making the findings of fact, including credibility assessments if applicable, and determinations of responsibility. The Investigator will apply the preponderance of the evidence standard in making such findings of fact and determinations of responsibility. This means that the Investigator, in consultation with the VP for OCRC, will decide whether it is more likely than not, based upon the information provided, that the Respondent is responsible for the alleged Policy violation(s).

OCRC will concurrently provide the Final Investigative Report with Written Determination, to the parties and their advisors, if any. The Investigator will also reopen Evidence Review at that time so that the parties and their advisors have access to any exhibits referenced in the Final Investigative Report.

The Final Investigative Report with Written Determination will be distributed as follows:

- Where there is a finding that the Respondent is not responsible for the alleged Policy violations, OCRC will directly issue a Notice of Outcome, as set forth below.

- Where there is a finding that the Respondent is responsible for the alleged Policy violations, OCRC will make available for review the Final Investigative Report with Written Determination to all parties and any advisors and initiate the sanctioning process. Following a finding of responsibility, a Sanctioning Authority will determine the appropriate sanction based on all available information, and the Notice of Outcome will be distributed, as set forth below.

I. Timeframe for Investigation

The Investigator will seek to complete a thorough Final Investigative Report in a timely manner, dependent on the complexity of the matter. Typically, parties will receive the Final Investigative Report within 120-150 business days of the issuance of the Notice of Investigation. As detailed later in this process, the VP for OCRC and Investigator may grant limited extensions of time frames or temporary delays of the Investigation for good cause with written notice to the Complainant and the Respondent of the delay or extension and the reasons for the delay.

J. Acceptance of Responsibility

At any point prior to the issuance of the Notice of Written Determination, the Respondent may elect to accept responsibility for some or all of the alleged conduct and/or Policy violations at issue. Where a Respondent elects to take responsibility, they must submit a statement in writing to OCRC specifying the conduct and/or Policy violations for which they are accepting responsibility.

Where there is an acceptance of responsibility as to some but not all of the alleged conduct and/or potential Policy Violations in the Notice of Investigation, the Formal Resolution process will continue to the conclusion and any acceptance of responsibility will be documented in the Written Determination. Where there is an acceptance of responsibility as to all of the potential Policy violations, OCRC will prepare a Written Determination that includes all the information gathered to date and, after consultation with the VP for OCRC, will refer the matter for sanctioning, as described below. Where appropriate, Alternative Resolution may be available after a Respondent has accepted responsibility.

As noted below, acceptance of partial or full responsibility is a factor that will be considered by the Sanctioning Authority. Student Respondents considering accepting responsibility may be appointed a University-Appointed advisor, upon request, for consultation related to acceptance of responsibility.

K. Standard of Review

The standard of review to be used when reviewing a Formal Complaint and making related determinations is preponderance of the evidence. This means that the Investigator, in consultation with the VP for OCRC or designee, will decide whether it is more likely than not, based upon the available information at the time of the decision, that the Respondent is responsible for the alleged Policy violation(s).

A Respondent is presumed to be not responsible for the alleged conduct unless and until a determination regarding responsibility is made at the conclusion of the Formal Resolution process.

L. Sanctioning

Following a finding of responsibility, a Sanctioning Officer/Panel (Sanctioning Authority) will determine the appropriate sanction based on all available information (Sanctioning Decision).

Within five (5) business days after receiving the Final Investigative Report with Written Determination, the Complainant may submit a written statement describing the impact of the conduct on the Complainant. Likewise, within five (5) business days after receiving the Final Investigative Report with Written Determination, the Respondent may submit a written statement explaining any factors that the Respondent believes should mitigate or otherwise be considered in determining the sanctions(s) imposed. OCRC will provide any statement(s) to the Sanctioning Authority.

OCRC will then refer the matter to the Sanctioning Authority for review of the finding(s) and determination(s), and as appropriate, imposition of sanctions and remedies where a violation is found.

The Sanctioning Authority will be determined by the affiliation of the Respondent:

- For Student Respondents, a Sanctioning Panel will be composed of two employees and one student.[13]

[13] Generally, OCRC appoints an undergraduate student in the case of an undergraduate student Respondent, and a graduate student in the case of a graduate student Respondent. However, there are times when, due to scheduling conflict and time limitations, a graduate student may be appointed in matters involving an undergraduate student and an undergraduate student may be appointed in matters involving a graduate student.

- For Faculty Respondents, the Committee on Professional Responsibility will serve as the Sanctioning Panel.[14]

- For Staff Respondents, the Sanctioning Officer will be a delegate of the Senior Vice President of Human Resources.

Generally, within fifteen (15) business days following the referral to the Sanctioning Authority, the Sanctioning Authority will convene, if applicable, and return the Sanctioning Decision. The Sanctioning Authority is responsible for reviewing the Final Investigative Report with Written Determination and any mitigation or impact statements submitted by the Parties.

1. Sanctioning Considerations

In determining sanctions, the Sanctioning Authority will consider the following factors:

- the nature and severity of the conduct;

- the impact of the conduct on the Complainant;

- the impact or implications of the conduct on the community or the University;

- prior misconduct for which the Respondent has been found responsible, including the Respondent's relevant prior discipline history, both at the University or elsewhere, and criminal convictions (if available);

- whether the Respondent has accepted responsibility for the conduct;

- maintenance of a safe and respectful environment conducive to learning and the provision of other University programs and services, including whether there is a continued hostile environment on campus caused by the Respondent's conduct;

- presence or absence of bias as a motivation for the Respondent's conduct;

- protection of the University community requiring extended protective measures or other sanctions; and

- any other mitigating, aggravating, or compelling circumstances in order to reach a just and appropriate resolution in each case.

The Sanctioning Authority will prepare a written Sanctioning Decision and forward it to OCRC for concurrent distribution to the parties.

[14] Under the Faculty Handbook, the Committee on Professional Responsibility is a subcommittee of the Committee on Tenure and Privileges Appeals Committee. It is appointed by the Provost after consulting with the Chair of the Committee on Tenure and Privileges Appeals and the President of the Faculty. It will include past Presidents of the Faculty, if available, and research-, teaching-, practitioner-, or clinical-track faculty members.

In the event the Sanctioning Authority recommends dismissal of a tenured faculty member in the written sanctioning determination, OCRC will additionally provide the sanctioning determination to the Provost, to ensure appropriate implementation, as described in Subsection 2, below.

The imposition of sanctions will take effect immediately after the appeal period has expired. For employees if the recommended sanction is termination the University may place the employee on paid or unpaid leave pending the appeal period.

2. Range of Sanctions

A range of sanctions may be imposed upon Students, as defined above. A full list of potential sanctions is provided in the Student Handbook, including but not limited to one or more of the following: warning, education/training, counseling, disciplinary probation, loss of privileges, suspension or expulsion from University premises, and/or suspension or expulsion from the University's academic or extracurricular programs.[15] In certain circumstances, sanctions can be imposed upon a Student that is no longer currently enrolled, including but not limited to suspension, expulsion, revocation of degree, loss of alumni privileges, and a campus no-trespass directive. Any of these sanctions may be supplemented with additional required actions by the Respondent.

A range of sanctions may be imposed upon Staff and Faculty, as defined above, including but not limited to one or more of the following: warning, censure, education/training, counseling, disciplinary probation, paid or unpaid suspension of employment, demotion, dismissal, or termination of employment. Any of these sanctions may be supplemented with additional required actions by the Respondent.

For tenured Faculty Respondents, the Sanctioning Panel may recommend that the Provost initiate formal charges for termination consistent with Chapter 8 of the Faculty Handbook. This recommendation will consider whether the findings and conclusions meet the criteria stated in Section 8-C of the Faculty Handbook for adequate cause for dismissal of a tenured faculty member. The Provost may decide to bring formal charges and, if so, the charges shall be considered pursuant to the formal proceedings set forth in Section 8-D (2) of the Faculty Handbook, commencing with Step 4. Formal charges are heard by a dismissal Hearing Board as provided in Step 5 of Section 8D (2). It is up to the Provost to decide whether to file formal dismissal charges, regardless of whether the panel has recommended them. At the conclusion of the tenure dismissal process, the Provost will communicate the sanctioning determination to OCRC.

M. Remedies

The VP for OCRC will review the determination of responsibility and sanction, if any, to determine whether additional remedies for the Complainant or the University community are necessary to restore and preserve equal access to the University Education Program or Activity. Examples of such remedies may include the continuation or initiation of supportive measures, including the provision of counseling, academic services, escort services, and/or training for members of the

[15] The University may impose any sanction described in the Student Handbook. For more information regarding the potential sanctions or outcomes, please refer to the Student Handbook.

University community, as well as making modifications to academic, employment, or housing conditions or assignments.

N. Notice of Outcome[16]

OCRC will concurrently issue the Notice of Outcome to the Parties after completion of the Final Investigative Report with Written Determination, if the Respondent is not found responsible for the alleged Policy violations, or within (5) business days following receipt of the Sanctioning Decision, if the Respondent is found responsible for the alleged violations. There may be circumstances where OCRC does not issue a Notice of Outcome to a party. This may include circumstances where rules of privacy apply or other exceptional circumstances. In most cases, OCRC will notify all parties of the closure of an investigation and whether appropriate steps were taken to address the findings and conclusions.

Where a Notice of Outcome is issued, it will consist of:

1. access to the Final Investigative Report with Written Determination and relevant evidence which includes:

    a. identification of the allegations potentially constituting Sexual Misconduct;

    b. a description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;

    c. findings of fact supporting the determination;

    d. conclusions regarding the application of the Policy to the facts;

    e. a statement of, and rationale for, the outcome; and

    f. the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions imposed on the Respondent, and whether remedies designed to restore or preserve equal access to the University's education program or activity will be provided to the Complainant;

2. access to the Sanctioning Decision with rationale, if applicable;

3. whether additional remedies will be provided; and

4. the procedures for the Parties to appeal.

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[16] There may be circumstances where OCRC does not issue a Notice of Outcome to a party. This may include circumstances where rules of privacy apply or other exceptional circumstances. In almost all cases, OCRC will notify all parties of the closure of an investigation and whether appropriate steps were taken to address the findings and conclusions.

5. whether additional remedies will be provided; and

6. the procedures for the Parties to appeal.

O. Appeals

Both Parties have the right to appeal the dismissal of the Formal Complaint (in whole or in part), the determination of responsibility, and/or the resulting sanctions based on the following four limited grounds:

1. **Procedural irregularity that affected the outcome of the matter**. The appeal should specify the procedural irregularity or irregularities and how they affected the outcome of the matter.

2. **New evidence, not reasonably available at the time of the determination regarding responsibility or dismissal of the Formal Complaint, that could affect the outcome of the matter**.[17] The appeal should specify the new evidence that was not reasonably available at the time of the determination, why the evidence was unknown or unavailable, and how the new evidence could affect the outcome of the matter.

3. **The VP for OCRC, Investigator(s), or Sanctioning Authority had a conflict of interest or bias for or against Reporting Parties or Respondents generally, or the individual Complainant or Respondent, that affected the outcome of the matter.** The appeal should specify the basis on which the party believes there is an actual conflict of interest or bias and how that affected the outcome of the matter.

4. **The Sanction(s) imposed was objectively unreasonable or arbitrary based on substantiated conduct.** The appeal should specify why the sanction was objectively unreasonable or arbitrary.

A concise written request for appeal must be submitted to OCRC within five (5) business days following delivery of either the Notice of Outcome or Notice of Dismissal. If an appeal is submitted based on a Notice of Outcome, OCRC will notify all Parties and each party will have five (5) business days to respond to the appeal.

The designated Appellate Authority may be an external professional or a University administrator who is appropriately trained, and free from conflict of interest or bias. The Appellate Authority will be determined by the role of the Respondent:

- For a Student Respondent, the Appellate Authority is a delegate of the Vice President for Student Life.

[17]The time frame for filing an appeal based on newly discovered information may be extended at the discretion of the VP for OCRC where the evidence could not reasonably have been discovered within the time frame and a compelling justification exists for its consideration.

- For a Faculty Respondent, the Appellate Authority is a delegate of the Provost or, for faculty of the Health Sciences Schools, a joint delegate of the Provost and Senior Vice President, Health Affairs.

- For a Staff Respondent, the Appellate Authority is a delegate of the Senior Vice President of Human Resources.

If an appeal is submitted based on a Notice of Dismissal, the Appellate Authority will review the Formal Complaint, any information relied upon in making the determination, and the Notice of Dismissal.

If an appeal is submitted based on a Notice of Outcome, the Appellate Authority will review the written appeal submissions by the Parties, the Final Investigative Report with Written Determination, relevant evidence, and the Sanctioning Decision (if applicable).

The Appellate Authority may:

1. affirm the dismissal of the Formal Complaint;

2. affirm the findings or determination of responsibility;

3. affirm or modify the sanction(s); or

4. remand the matter for reevaluation or further investigation.

The Appellate Authority will concurrently issue a written decision to the parties within fifteen (15) business days of receipt of the appeal. In reaching a decision, the Appellate Authority has the discretion to consult with relevant stakeholders.

The decision by the Appellate Authority is final.

P. Time Frame for Resolution

OCRC will seek to complete the Formal Resolution process in a prompt and timely manner consistent with the reasonably prompt timeframes for the major stages of the process designated in this Resolution Process. OCRC may extend any timeframe in this Resolution Process for good cause. An extension may be required for good cause, including, but not limited to, ensuring the integrity and thoroughness of the investigation; complying with a request by law enforcement; in response to the unavailability of the parties (or their advisors) or witnesses; based on a need for language assistance or accommodation of disabilities; or for other legitimate reasons, such as intervening breaks in the academic calendar, finals periods, the complexity of the investigation, the volume of information or length of the written record, and/or the severity and extent of the alleged misconduct.

While requests for delays by the Parties may be considered, OCRC cannot unduly or unreasonably delay the prompt resolution of a report under this Policy. Reasonable requests for delays by the Parties will serve to extend the anticipated time period for resolution of the report. The VP for OCRC or designee, in consultation with the Investigator, has the authority to determine whether an extension is required or warranted by the circumstances. OCRC will notify the Parties in writing of any extension of the timeframes for good cause and the reason for the extension.

Although cooperation with law enforcement may require OCRC to suspend the fact-gathering portion of the investigation temporarily, OCRC will promptly resume its investigation as soon as it is notified by law enforcement that it has completed its initial evidence gathering process. OCRC will not, however, wait for the conclusion of a criminal proceeding to begin its own investigation and, if needed, will take immediate steps to provide appropriate supportive or interim measures for the Parties.

VIII. ALTERNATIVE RESOLUTION

Following receipt of a Formal Complaint, OCRC may resolve reports through Alternative Resolution, as appropriate based on the circumstances. Alternative Resolution is available only once a Formal Complaint has been filed, prior to a determination of responsibility, and if the Parties voluntarily consent to the process in writing. In all other cases, the Vice President of OCRC will have discretion to determine whether Alternative Resolution, or any particular form of Alternative Resolution, is appropriate to the circumstances.

Alternative Resolution may involve agreement to pursue individual or community remedies, including targeted or broad-based educational programming or training; supported direct conversation or interaction with the Respondent; mediation (subject to the provisions outlined above); indirect action by OCRC or other appropriate University officials; and other forms of resolution that can be tailored to the needs of the Parties. With the voluntary consent of the Parties, Alternative Resolution may be used to impose agreed-upon disciplinary sanctions. Any person who facilitates Alternative Resolution will be trained and free from conflicts of interest or bias for or against either party.

If the parties are interested in pursuing Alternative Resolution, OCRC will send written notices to the parties describing:

1. the allegations at issue;
2. the requirements of the Alternative Resolution process;
3. the circumstances under which the parties are precluded from resuming a Formal Complaint arising from the same allegations;
4. the right to end the Alternative Resolution process at any time prior to resolution and continue the Formal Resolution process; and
5. the consequences resulting from participating in the Alternative Resolution, including that the records and communications created or maintained as part of the Alternative Resolution process may be viewed by parties, or later used or considered in the Formal Resolution process, including in an investigation or at a hearing, if found to be relevant by the Investigator or Hearing Officer.

All parties will be required to return signed copies of the written notices agreeing to the Alternative Resolution process prior to engaging in the Alternative Resolution process.

With any form of Alternative Resolution, each party has the right to choose and consult with an Advisor of Choice. The parties may be accompanied by their respective advisors at any meeting or proceeding held as part of Alternative Resolution. While the advisors may provide support and advice to the parties at any meeting and/or proceeding, they may not speak on behalf of the parties or otherwise participate in, or in any manner disrupt, such meetings and/or proceedings. The parties may also consult with Confidential Resources. A list of the University's Confidential Resources is available on the OCRC website.

Any form of Alternative Resolution and any combination of interventions and remedies may be utilized. If an agreement acceptable to the University and the Parties is reached through Alternative Resolution, the terms of the agreement are implemented and the matter is resolved and closed. OCRC will monitor the implementation of the agreement as appropriate. Depending on the terms of the Alternative Resolution agreement, the matter may be considered closed, and the parties will be precluded from filing another Formal Complaint arising from the same set of facts or circumstances.

If an agreement between the parties and subject to the VP for OCRC's approval is not reached or if a Respondent fails to comply with the terms of the Alternative Resolution, the Formal Complaint may be referred for investigation or an investigation may resume under the Formal Resolution process.

The University's goal is to complete an Alternative Resolution within thirty (30) business days of the parties' written agreement to participate in the process. If the University anticipates the process will take longer, written notification will be provided to the parties with an explanation regarding the delay.