



FACULTY HANDBOOK

(Proposed revisions to chapters 6, 7, 8)

Chapter 6

Providing a Safe and Professional Educational and Work Environment

Chapter 6. **PROVIDING A SAFE AND PROFESSIONAL EDUCATIONAL AND WORK ENVIRONMENT**

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[The Policy on Prohibited Discrimination, Harassment, and Retaliation \(LINK #1\); The Resolution Process for Discrimination, Harassment, and Retaliation \(LINK #2\); and The Resolution Process for Sexual Misconduct \(LINK #3\), collectively referred to as the "EEO-TIX Policies", issued August 2020, reflect the University's effort to implement the 2020 Title IX regulations of the U.S. Office for Civil Rights, the Resolution Agreements between USC and the Office for Civil Rights, other federal laws including the Clery Act, and state law applicable to students and employees. Academic Senate representatives are consulting in the annual review of the EEO-TIX Policies.](#)

[Revisions to Faculty Handbook chapters 6-8 are currently under consideration; until they are revised, the EEO-TIX Policies are in force rather than any inconsistent provisions of these chapters. To clarify the appeal provisions of the EEO-TIX policies, the grounds for appeal include: \(a\) whether the conclusions are supported by the findings, \(b\) whether the findings are supported by the information considered by the panel, \(c\) whether there were procedural errors that had a material impact on the fairness of the investigation, and \(d\) whether the sanctions and corrective actions are grossly disproportionate to the violation found.](#)

6-A FOUNDATIONS

6-A (1) Equal Opportunity

The University of Southern California is an equal-opportunity educator and employer, proudly pluralistic and firmly committed to providing equal opportunity for outstanding persons of every race, creed, and background. The University strives to maintain a community in which each person respects the rights of other people to live, work and learn in peace and dignity, be proud of who and what they are, and to have equal opportunity to realize their full potential as individuals and members of society. To this end, the University places great emphasis on those values and virtues that bind us together as human beings and members of the Trojan Family. The University enthusiastically supports this principle in its entirety, and expects that every person associated with the University will give continuing support to its implementation.

6-A (2) Non-Discrimination and Affirmative Action

The University is firmly committed to complying with all applicable laws and governmental regulations at every level of government that prohibit discrimination against, or which mandate that special consideration be given to, students and applicants for admission, and faculty, staff and applicants for employment, on the basis of any protected characteristic, as defined in Section 6-A (5).

activities, including admissions, and all personnel actions including but not limited to recruiting, hiring, promotion, demotion, compensation, benefits, transfers, layoffs, return from layoff, provision of leaves, training, education, tuition assistance and other University programs. In addition, an otherwise qualified individual must not be discriminated against in, or excluded from, admissions, participation in educational programs and activities, or employment due to his or her disability. The University seeks compliance with all statutes prohibiting discrimination in education, including Title VI and Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, the Age Discrimination in Employment Act of 1967, and the Americans with Disabilities Act of 1990 which respectively prohibit discrimination. This good-faith effort to comply is made even when such laws and regulations conflict with each other. The University will make reasonable accommodations for qualified individuals with known disabilities unless doing so would result in an undue hardship.

All employment ads for faculty positions shall include the following notice:

USC is an equal-opportunity educator and employer, proudly pluralistic and firmly committed to providing equal opportunity for

outstanding persons of every race, gender, creed and background. The University particularly encourages members of underrepresented groups, veterans and individuals with disabilities to apply.

The job posting in the University online system should include the following full version.

USC is an equal-opportunity educator and employer, proudly pluralistic and firmly committed to providing equal opportunity for outstanding persons of every race, gender, creed and background. The university particularly encourages members of underrepresented groups, veterans and individuals with disabilities to apply. USC will make reasonable accommodations for qualified individuals with known disabilities unless doing so would result in an undue hardship. Further information is available by contacting uschr@usc.edu.

6-A (3) Academic Freedom

~~See Section 3-B(1)(a). Just as the University is committed to securing for its students, faculty and staff a safe educational and work environment free of harassment, it is equally committed to maintaining academic freedom as declared in Section 3-B (1)(a). Our academic community also recognizes that when harassment is committed against students or faculty it threatens their academic freedom.~~

~~The University recognizes that students are exposed to thought-provoking ideas as part of their educational experience, and some of these ideas may challenge their beliefs and may lead a student to claim that an educational experience is offensive. Therefore allegations of harassment that arise in the educational context will be considered in keeping with the University's commitment to academic freedom. The educational experience may include, for example, lectures, dialogues, assigned materials, and student assignments, and visual or written material as well as speech. The faculty member should carefully consider the class climate and ground rules around academic discourse, so that student learning is promoted but students are not unreasonably exposed to conditions in which harassment could easily arise.~~

6-A (4) Advice and Counseling

A faculty member who is either a responding party or a reporting party under these policies may seek advice from the Academic Senate President and the Senate Committee on Faculty Rights and Responsibilities, recognizing that such communications are not confidential or legally privileged. Mediation and grievances are not available as a substitute for the process explained in this policy, and students who report sexual harassment by faculty will not be required to resolve the problem directly with the responding party. Advisers may be present as provided in Section 6-E (3), if required by Government regulations. Parties to grievances or dismissals before the Committee on Tenure

and Privileges Appeals under Section 6-G may have legal counsel participate as provided in Chapters 7 and 8.

Any person found to have been subjected to discrimination or harassment may access free counseling services through the University. Such services are also available to others who have been affected by harassment or discrimination, as well as to the person who engaged in the discrimination or harassment. Counseling for faculty is provided through the Center for Work and Family Life, and for students through the Engemann Student Health Center and Relationship and Sexual Violence Prevention and Services.

A student, faculty, or staff member who reports that that he or she has been a victim of sexual assault or sexual harassment, or any form of gender-based misconduct, committed by a faculty member will receive written notification of (a) rights and options; (b) existing counseling, health, mental health, victim advocacy, legal assistance, and other services available for victims both on-campus and in the community; (c) options for, and available assistance in, changing academic, living, transportation, and working situations, if so requested by the reporting party and if such accommodations are reasonably available, regardless of whether the reporting party chooses to report the crime to the Department of Public Safety or local law enforcement.

6-A (5) Protected Characteristics

The protected characteristics under this policy include race, color, national origin, citizenship, ancestry, religion, gender, gender identity, gender expression, sex, sexual orientation, age (40 or older), physical disability, medical condition, mental disability, marital status, pregnancy, veteran status, genetic information, and any other characteristic which may be specified in applicable laws and governmental regulations.

6-A (6) Relation to Other Policies

This policy deals with complaints against faculty members, as defined by University policy (see Section 6-A(10)). The substantive policies on behavior by students and staff are similar to this policy, with a separate process. For considering complaints against students; see student sexual, interpersonal, and protected class misconduct page on the University Policy website (<https://policy.usc.edu/student-misconduct>). For complaints against staff or anyone else who interacts with the University community, see the Office of Equity and Diversity website (<http://equity.usc.edu/sexual-harassment>). Some but not all of the provisions in this policy are required by law.

6-A (7) Definitions

6-A (7) (a)

Mentions of "this policy" refer to all of Chapter 6. "A student" refers to a USC

student. "Protected characteristics" are defined in Section 6-A (5). References to "discrimination, harassment, or retaliation" encompass any violation of this policy, mentions of "sexual harassment" in this Handbook encompass any gender-based violation of this policy and not just Section 6-B (4), and mentions of any prohibited behavior include threats or attempts to perform that behavior. "Action" and similar terms include failure to act when there is a duty to do so. "Designated Investigator" is defined in Section 6-E (1). References to the "Vice Provost" mean the official reporting to the Provost, who is trained in the requirements of Title IX and this policy, and who is designated by the Provost to take actions under this policy. When the official supervising the Office of Equity and Diversity is not available, another official, trained in the requirements of Title IX and this policy, who is designated by the Senior Vice President, Legal Affairs and Professionalism, will act instead.

6-A (7)(b)

"Government regulations" are defined in Section 6-A (11). Provisions in this Chapter mentioning those regulations are applicable to cases of alleged sexual assault, stalking, dating violence, or domestic violence; the University may also apply such provisions to other cases under this Chapter 6.

6-A (7)(c)

"University-authorized fact-finding processes" include, for example, the processes of the Office of Equity and Diversity, the Offices of Audit and Compliance, and the Office of Conduct, Accountability and Professionalism, the process to determine Scientific Misconduct, and the processes of affiliated institutions. The Office of Conduct, Accountability, and Professionalism deals with violations of University policies that have not been investigated by another office. University-authorized fact-finding processes should coordinate appropriately with one another, and may draw on reports from schools.

6-A (8) Sources of Information

Questions regarding the application of the various rules and regulations concerning equal employment opportunity, affirmative action, and non-discrimination should be addressed to the Office of Equity and Diversity, oad@usc.edu. The Disabled/Veterans Affirmative Action Plan may be reviewed by employees and applicants upon request; for further information or to make an appointment during regular business hours, contact the Office of Equity and Diversity. The University's Title IX Coordinator, is Gretchen Dahlinger Means, Executive Director of the Office of Equity and Diversity, University Park Campus, Los Angeles, California 90089-0704, oad@usc.edu. The Americans with Disabilities Act Coordinator/ Section 504 of the Rehabilitation Act of 1973 Coordinator is Christine Street, streetc@usc.edu. Further information on accommodations for disabilities is available from Human Resources Administration by contacting uschr@usc.edu or (213) 821-8111.

6-A (9) Fundamental Fairness

6-A (9)(a) In General

Procedures for disciplinary action shall provide a prompt, fair, adequate, reliable, and impartial process from the initial investigation to the final result. There will be equitable information gathering from both the reporting party and the responding party to the violation. For details on how these procedures are made specific, see the policies and practices of the Office of Equity and Diversity (<https://equity.usc.edu/>).

6-A (9)(b) In Title IX Cases

If provided by Government regulations, both parties will be provided an equal opportunity to participate in any process that is part of a Title IX review, appeal of findings and conclusions, or grievance or dismissal hearings. There are no public hearings.

If provided by Government regulations, all proceedings, including the investigation, appeals and grievances, shall be conducted in a manner that (a) is consistent with the University's policies and transparent to the reporting party and responding party; (b) includes timely notice, of meetings; (c) provides the reporting party, the responding party, and appropriate officials timely and equal access to information that will be used after the fact-finding investigation during informal and formal disciplinary meetings and hearings; and (d) are conducted by officials who do not have a conflict of interest or bias for or against the reporting party or the responding party. For cases involving sexual assault, dating violence, domestic violence, and stalking, the proceedings must be conducted by officials who at a minimum, receive annual training on the issues related to dating violence, domestic violence, sexual assault, and stalking and on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.

The Office of Equity and Diversity will maintain detailed records of each informal and formal complaint, including individuals involved, investigative steps taken, documentation received, individuals interviewed, decisions reached, and reasons for decisions reached.

6-A (10) Scope

This policy applies to all behavior by a faculty member while performing a University role; or on campus or at a facility of the University; or at an activity under the auspices of the University; or where the reporting party is a faculty or staff member, student, post-doctoral fellow, resident, applicant, patient, vendor, contractor, or visitor, or employee of an affiliate of the University; or which is determined through the investigation and sanctioning process to be adequate cause for discipline under Section 8-C. This policy applies to off-campus

misconduct when it falls within the purview of the prior sentence. The University will also consider the effects of off-campus conduct when evaluating whether there is a hostile environment on campus.

The specific University policy and procedure that apply depend on who is alleged to have committed the misconduct. This policy applies to behavior by a faculty member. For behavior by students, see student sexual, interpersonal, and protected class misconduct, see the University Policy website (<https://policy.usc.edu/student-misconduct>); for behavior by staff or anyone else who interacts with the University community, see the Office of Equity and Diversity website (<http://equity.usc.edu/sexual-harassment>).

6-A (11) Government Regulations

Mentions of “government regulations” refer to the following.

- i. Federal Government regulations, 34 CFR 688.46(k), issued under the Violence Against Women Reauthorization Act (VAWA) of 2013, Public Law 113-4. Provisions in this Chapter mentioning those regulations are applicable to cases of alleged sexual assault, stalking, dating violence, or domestic violence; the University may also apply such provisions to other cases under this Chapter.
- ii. California Education Code §67386, enacted by state law SB 967, which requires the trustees to adopt certain policies for cases involving students.
- iii. Title IX, Patsy Mink Equal Opportunity in Education Act, Public Law No. 92-318, and Federal Government regulations issued under Title IX.

Measures required by government regulations must be applied as required by law, but may be extended at the University’s discretion to other proceedings under this policy.

6-A (12) Collegial Problem Solving

Moved to Section 6-AA (1) in this version of the Handbook.

6-A (13) Non-Protected Class Matters

Moved to Section 6-AA (2) in this version of the Handbook

6-AA PROFESSIONALISM AND SANCTIONING

6-AA (1) Collegial Problem Solving

Situations damaging to collegial relations may sometimes arise. To deal with such situations, the Academic Senate has established a panel on collegial

problem solving within the Senate's Committee on Faculty Rights and Responsibilities. A faculty member who has a complaint concerning the actions of a colleague (as opposed to a grievance of the sort described in Section 7-A) may contact the Academic Senate office to request a consultation with the panel.

This panel will be available for consultation and the informal resolution of disputes or other problems that may arise among faculty colleagues (Grievances against administrators will be handled through the separate process described in Sections 7-A through 7-E.)

The panel does not give legal advice. If attempts at informal resolution are unsuccessful, the panel may recommend formal mediation or, with the assent of those involved, may refer the matter to the office of the Provost.

If those concerned wish, the panel will work on a confidential basis to the extent possible, but all participants should understand that the proceedings are not legally privileged from disclosure, and that complaints related to sexual harassment, discrimination or retaliation or to compliance with Government requirements will be reported for appropriate investigation.

6-AA (2) Non-Protected Class Harassment; Other Obligations

Subject to due respect for the protection of academic freedom as described in Section 6-A (3), no faculty member may take actions that are harassing, abusive, or intimidating against another member of the University community, even if not based on a protected characteristic, if a reasonable person would have perceived them as objectively offensive. Faculty members have other obligations under this Handbook and other University policies, their contracts, and applicable government regulations (see, e.g., Office for the Protection of Research Subjects, <https://oprs.usc.edu/>; Guide to Research, <https://ooc.usc.edu/research-compliance/guide-to-research/>; and Office of Ethics and Compliance, <https://ooc.usc.edu/>.) Among the violations of obligations under the Handbook are those listed as adequate cause as defined in the first sentence of 8-C: neglect of duty, incompetence, violations of academic freedom, misconduct, dishonesty, unmanaged or unreported conflict of interest, or moral turpitude.

6-AA (3) Sanctioning Process

6-AA (3)(a) Committee on Professional Responsibility

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. Members of the committee are available to serve as members of ad hoc Sanctioning Panels.

6-AA (3)(b) Referrals

When a University-authorized fact-finding process (see Section 6-A(7)(c)) has concluded that a faculty member is not in compliance with the standards described in Section 6-AA (2), a referral may be made to a Sanctioning Panel.

6-AA (3)(c) Sanctioning Panels

Sanctioning Panels consist of members of the Committee on Professional Responsibility, established as provided in subsection (3)(a). Sanctioning Panels will function as provided in this Section 6-AA (3). Each Sanctioning Panel will be chaired by a past President of the Faculty, if available. In cases involving a research-, teaching-, practitioner-, or clinical-track faculty member, the Sanctioning Panel will include research-, teaching-, practitioner-, or clinical-track faculty, if available. In cases involving a tenured faculty member, the Sanctioning Panel shall consist only of tenured faculty. No member of a Sanctioning Panel may serve on a subsequent grievance panel or dismissal hearing board involving the same responding party's behavior.

The Sanctioning Panel will receive the findings and conclusions, and any other documents provided to both parties, from the fact-finding process. The Sanctioning Panel may receive additional information from the School and University relevant to the determination of sanctions and corrective actions. However, it does not hold a hearing or receive submissions from the parties. It will not re-evaluate the investigation or its factual findings or conclusions. The designated Vice Provost is a non-voting participant in the Sanctioning Panel's work and the Sanctioning Panel may delegate to the Vice Provost, within whatever parameters it sets, the timing of sanctions, and ancillary corrective actions and sanctions.

In cases referred under subsection (3)(b), sanctions and corrective actions may be determined under this section 6-AA (3), notwithstanding other Faculty Handbook provisions.

6-AA (3)(d) Consideration of Dismissal of Tenured Faculty

The Sanctioning Panel may make a recommendation to the Provost on whether the findings and conclusions meet the criteria stated in Section 8-C 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) commencing with Step 4. Formal charges are heard by a dismissal Hearing Board as provided in Step 5 of Section 8-D (2). It is up to the Provost to decide whether to file formal dismissal charges whether or not the panel has recommended them

6-AA (3)(e) Other Sanctions and Corrective Actions

The Sanctioning Panel may impose any sanctions or corrective actions under Section 6-H (3), other than dismissal of a tenured faculty member, whether dismissal charges are filed or not filed. The panel considers the seriousness of the case and all the circumstances.

6-AA (3)(f) Appeal and Grievances

The Sanctioning Panel's determination of sanctions and corrective actions may be appealed to the Provost's delegate under Section 6-F (1).

Thereafter a grievance may be filed as provided in Section 6-G if there is a claim that the decision by the Provost's delegate violated the grievant's rights.

6-AA (3)(g) Other Processes

The actions of Sanctioning Panels should not be confused with school consideration of performance on such matters as salary, reappointment, and termination of contracts for performance reasons (see, e.g., Sections 3-D(2), 4-F(3), 4-G (2) & (3)) or corrective or preventive measures taken by committees or offices under other university policies. (See, e.g., https://research.usc.edu/files/2018/08/GuideToResearch_Summer2018.pdf.)

6-B POLICY AGAINST DISCRIMINATION, HARASSMENT, AND RETALIATION

The University of Southern California is committed to maintaining an environment that is free from discrimination and harassment, including sexual harassment. To carry out this University commitment, the University will not tolerate statements or actions that create a discriminatory or harassing work or educational environment.

Attempts or threats to commit acts prohibited by this policy, or to omit acts required by this policy, are prohibited. Complaints and witness statements that are not in good faith are also prohibited.

Any faculty member who violates this policy will be subject to appropriate disciplinary action for misconduct, which may include termination or dismissal for cause in accordance with applicable University policies.

This policy applies to all behavior by a faculty member while performing a University role; or on campus or at a facility of the University; or at an activity under the auspices of the University; or where the reporting party is a faculty or staff member, student, post-doctoral fellow, resident, applicant, patient, vendor,

contractor, or visitor, or employee of an affiliate of the University; or which is adequate cause for discipline under Sections 8-C. For behavior by students, see student sexual, interpersonal, and protected class misconduct, (<https://policy.usc.edu/student-misconduct>); for behavior by anyone else who interacts with the University community, see (<http://equity.usc.edu/sexual-harassment>).

6-B (1) Discrimination

No faculty member may discriminate against anyone based on any protected characteristic, as defined in Section 6-A (5).

6-B (2) Harassment Based on a Protected Characteristic

No faculty member may take actions that are harassing, abusive, or intimidating against anyone based on any protected characteristic, as defined in Section 6-A (5), or commit actions that adversely affect another because of a protected characteristic. Alleged misconduct does not have to be directed at a specific person or persons to constitute harassment. To find that an action creates a hostile environment it must be found that the action was both objectively and subjectively offensive, i.e., one that a reasonable person would find hostile or abusive, and one that the reporting party in fact did perceive to be so.

Such conduct may include, but is not limited to, the following examples, if a reasonable person would have perceived them as objectively offensive, and with due respect for the protection of academic freedom as discussed in Section 6-A (3):

- Ridicule, abuse, insults or derogatory comments that are directly or indirectly based on a protected characteristic;
- Offensive remarks about an individual's looks, clothing, or body parts, that relate to a protected characteristic;
- Offensive comments about an individual's racial, ethnic, or religious characteristics;
- Disparaging or offensive remarks about an individual's sex or gender whether or not sexual in nature;
- Offensive comments about an individual's religious beliefs or lack of religious beliefs;
- Expressing negative stereotypes regarding an individual's country of birth, ancestry, citizenship, or race;
- Negative comments regarding an individual's age when referring to employees 40 and over;

- Disparaging, intimidating, or offensive references to an individual's mental or physical impairment or disability;
- Disparaging and unwelcome racial or ethnic remarks, or disparaging and unwelcome racial or ethnic slurs, jokes, or epithets;
- Disparaging and unwelcome comments based on other protected characteristics;
- Offensive and unwelcome language directed at someone because of her or his gender or gender identity, or based on gender stereotypes;
- Any unwelcome verbal or physical behavior based on any protected characteristic when the behavior can reasonably be considered to adversely affect the work or academic environment, or when an academic, admissions, or employment decision or recommendation affecting the individual is based on his or her acceptance or rejection of such behavior.

6-B (2)(a) Role of Title IX Coordinator

The Title IX Coordinator will maintain overview of the investigation and resolution as provided in the relevant policy, and will be provided written notice of the complaint and investigation and, where sexual harassment is found to have occurred, will have overview of the steps the University will take in response in accordance with the relevant policy. In addition to disciplinary action taken as provided in this policy and steps to stop the harassment, the Title IX Coordinator will provide overview of all individual or systemic steps necessary to prevent recurrence, to eliminate any hostile environment, and to remedy the discriminatory effects of the harassment on the reporting party and others, as appropriate. Some of the steps and remedies that might be provided depending on the investigation findings are listed in Section 6-H.

6-B (3) Other Harassment

Moved to 6-AA (2)

6-B (4) Sexual Harassment

No faculty member may commit sexual harassment, defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- submission to such conduct is either explicitly or implicitly made a term or condition of an individual's employment, appointment, admission, or academic evaluation; or

- submission to such conduct is used as a basis for evaluation in personnel decisions, academic evaluations, or admissions evaluations affecting an individual; or
- such conduct has the effect of unreasonably interfering with an individual's work or academic performance, or creating an intimidating, hostile, or offensive working or learning environment.

Sexual harassment includes, but is not limited to, the following examples, if a reasonable person would have perceived them as offensive and the reporting party perceived them as offensive, and with due respect for the protection of academic freedom as discussed in Section 6-A (3):

- written instances: suggestive or obscene communication via letters, notes, text messages, e-mails, any material distributed via social media, or any type of digital communication.
- verbal instances: derogatory comments, slurs, jokes, or epithets of a sexual nature or sexist remarks, discussions about sex or sexual activities, requests for sexual favors, repeated and unwelcome propositions for dates, or offensive sexual remarks about an individual's looks, clothing, or body parts when related to sex or gender.
- physical instances: leering, stalking, assaults, impeding or blocking movement, touching, or body contact.
- visual instances: inappropriate display of sexually explicit objects, pictures, cartoons, posters, computer screensavers, websites, movies, drawings, or sexual gestures.

6-B (4.5) Non-Consensual Viewing, Recording, and Dissemination Sexual Harassment

The privacy and dignity of all persons in the university community must be zealously guarded. No faculty member may:

- Observe or record by any means the nudity or sexual activity of another without that person's consent
- Allow another to observe or record the nudity or sexual activity of another without that person's consent
- Share images or recordings of the nudity or sexual activity of another without that person's consent

6-B (5) Sexual Assault

No faculty member may commit sexual assault, defined as any physical sexual act (including, but not limited to, actual or attempted intercourse, sexual touching, fondling, or groping), perpetrated upon a person:

- without consent, or where consent is not freely given;
- where the assailant uses physical force, threat, coercion, or intimidation to overpower or control another; or where the reporting party fears that he or she, or another person, will be injured or otherwise harmed if he or she does not submit; or
- where the reporting party is unable to give consent. See Section 6-B (5)(a)(3).

For rules pertaining to past sexual history of the reporting party or the responding party with each other or with others, see Section 6-E (3).

6-B (5)(a) Consent

6-B (5)(a)(1) Affirmative Consent

An affirmative consent standard applies in the determination of whether consent was given by both parties to sexual activity. "Affirmative consent" means affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that he or she has the affirmative consent of the other or others to engage in the sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent.

6-B (5)(a)(2) Responding Party's Condition and Reasonable Steps

In the evaluation of complaints in any disciplinary process, it shall not be a valid excuse that the responding party believed that the reporting party consented to the sexual activity under either of the following circumstances:

- The responding party's belief in affirmative consent arose from the intoxication or recklessness of the responding party.
- The responding party did not take reasonable steps, in the circumstances known to the responding party at the time, to ascertain whether the reporting party affirmatively consented.

6-B (5)(a)(3) Reporting Party's Inability to Consent

In the evaluation of complaints in the disciplinary process, it shall not be a valid excuse that the responding party believed that the reporting party affirmatively consented to the sexual activity if the responding party knew or reasonably should have known that the reporting party was unable to consent to the sexual activity under any of the following circumstances:

- The reporting party was asleep or unconscious.
- The reporting party was incapacitated due to the influence of drugs, alcohol, or medication, so that the reporting party could not understand the fact, nature, or extent of the sexual activity
- The reporting party was unable to communicate due to a mental or physical condition.

6-B (6) Child Abuse

No faculty may commit an act of child abuse, including sexual abuse of an individual under 18 years of age.

All faculty and staff members are required to report any instances of known or suspected abuse, molestation or neglect relating to children. Please see Section 6-D (1)(b) and the University policy on Protecting Minors (<http://policy.usc.edu/protecting-minors/>). Reports must first be made to the Department of Children and Family Services Child Protection Hotline at (800) 540-4000, or to the LAPD (or the local law enforcement agency if outside the city of Los Angeles), and USC's Department of Public Safety (DPS) must also be immediately notified.

Examples of child abuse or neglect are:

- A physical injury inflicted on a child by another person other than by accidental means.
- The sexual abuse, assault, or exploitation of a child.
- The negligent treatment or maltreatment of a child by a person responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare. This is whether the harm or threatened harm is from acts or omissions on the part of the responsible person.
- The willful harming or endangerment of the person or health of a child, any cruel or inhumane corporal punishment or any injury resulting in a traumatic condition.

6-B (7) Stalking

No faculty member may engage in stalking. Stalking is defined to mean intentionally engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others; or suffer substantial emotional distress. "Course of conduct" means behavior composed of two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, engages in any of the following: monitoring, following, observing, threatening, surveilling, or communicating to or about a person, or interfering with a person's property. Tormenting behavior is prohibited equally with stalking. Tormenting behavior is defined as non-consensual willful conduct directed at a specific person that seriously alarms or annoys the person, that would have that effect on a reasonable person, and that serves no legitimate purpose.

6-B (7.5) Domestic Violence, Dating Violence, and Intimate Partner Violence

No faculty member may commit domestic violence, dating violence or intimate partner violence, on or off campus. Such "violence" means the infliction or threat of physical harm against past or present intimate partners, and includes physical, sexual, and psychological abuse against the partner, that is assaultive, coercive, and controlling behaviors directed at achieving compliance from or control over, that partner. "Partner" means a person who is a spouse or former spouse, a cohabitant or former cohabitant, a person with whom he or she has a child, or with whom he or she has, or had, a dating or engagement relationship.

6-B (8) Intimidation and Retaliation

No faculty member may threaten, attempt, or commit retaliation against anyone for bringing, in good faith, a complaint under this policy or applicable law; or participating in investigation of such a complaint; or protesting in good faith alleged discrimination, harassment, or retaliation against another; or exercising their rights or responsibilities under this policy. This prohibition includes threats of retaliation or other forms of intimidation that attempt to prevent anyone from doing any of these things.

Such retaliation may include, but is not limited to, the following types:

- Coercion, intimidation, interference, harassment, discrimination, or vexatious behavior;
- Adverse employment or academic action (or recommending that such action be taken), such as lowering a grade or a performance evaluation, giving a poor academic or employment recommendation, or causing the individual to be demoted or terminated or not promoted, hired, or admitted;

- Exclusion from employment or educational opportunities or limiting scholarly activities such as teaching, research, or publication;
- Limiting employment opportunities, such as providing a poor reference, or refusing to allow appropriate travel;
- Spreading negative information about the individual;
- Shunning or ostracizing an individual.

As provided in government regulations, the University, or an officer, employee, or agent of the University, may not retaliate, intimidate, threaten, coerce, or otherwise discriminate against any individual for exercising their rights or responsibilities under any provision of those regulations.

6-B (9) Disability Accommodations for Students

The University is committed to full compliance with the laws protecting qualified students with disabilities. Not all disabilities will be apparent to faculty members. The professional staff of Disability Services and Programs (DSP) determines the necessary accommodations and services and issues accommodation letters that students present to their instructors.

Faculty members who have a student with disabilities in their class are required to provide the accommodations set out in the accommodations letter, and to make reasonable efforts as necessary to cooperate with the implementation of any accommodation. Faculty members are also required to maintain the confidentiality of students with accommodations.

In some cases, DSP must work collaboratively with a faculty member to implement an accommodation.

All course syllabi must include a required statement regarding students with disabilities. For information, see <https://dsp.usc.edu/faculty/faqs/>

Faculty should not modify or interpret on their own the accommodations stated in the letter, but should instead address any questions or issues to a DSP professional staff member at (213) 740-0776. Faculty who have unresolved questions, or who believe that an accommodation fundamentally alters the nature of their course, may speak with Lisa Toft, Director of DSP or Christine Street, Executive Director and ADA/504 Coordinator.

6-C HARASSMENT-AWARENESS TRAINING

All faculty members must periodically complete required harassment-awareness training programs provided by the University. Additional examples of harassment are provided in this training. It is important for faculty and

supervisors to take this training even if they do not believe they need it. This is especially so for senior faculty, who are leaders of the academic community and role models for others. Taking the training as periodically required is not discretionary; it is part of the duties of each faculty member.

6-D PROCEDURES FOR COMPLAINTS

6-D (1) Complaints and Reports

6-D (1)(a) Complaint by Person Subject to Discrimination, Harassment, or Retaliation

Anyone who believes he or she has been discriminated against, harassed, or retaliated against in violation of this policy, or is otherwise directly affected by behavior prohibited by this policy, should report the fact to the Office of Equity and Diversity at 213-740-5086. If another faculty member receives or is informed of a formal or informal complaint, that person must report the matter to OED, as stated in Section 6-D (1)(b).

OED also oversees affirmative-action compliance. Complaints of gender-based sexual misconduct, including sexual harassment or Title IX violations, should be addressed to the University's Title IX Coordinator, Gretchen Dahlinger Means, CUB Building, University Park Campus, Los Angeles, California 90089-0704, 213-740-5806. Christine Street is the University's Americans with Disabilities Act/Section 504 of the Rehabilitation Act of 1973 Coordinator. If a complaint is against a student, contact either the Title IX Coordinator or Student Judicial Affairs and Community Standards (SJACS).

Reporting parties are expected to make their complaints as soon as possible. While there is no time limit to making a complaint to the University, delay in taking formal action with respect to an incident may foreclose other remedies under federal or state law, and can otherwise impede the investigation, due to changes in memory, or the reduced likelihood of finding witnesses.

6-D (1)(b) Reports of Violations Under University Policy

This Section 6-D (1)(b) deals only with responsibilities under University policy; for responsibilities under the law see Section 6-D (1)(c).

Any complaint may be reported to the Office of Professionalism and Ethics. OPE serves as a single, centralized resource for all complaint monitoring and investigations. Safety and security issues (non-emergency); harassment and/or discrimination in the workplace; code of conduct and compliance breaches; theft; fraud, waste and/or abuse; and ethical or conflict of interest violations may all be reported through the USC Help & Hotline at [213-740-2500](tel:213-740-2500) or [800-348-7454](tel:800-348-7454). (24 hours a day, 7 days a week) or through this website: <https://app.mycompliancereport.com/report.aspx?cid=uosc>

Complaints of gender-based misconduct, including sexual harassment or Title IX violations, should be addressed directly to the University's Title IX/OED offices.

(i) Any faculty member who receives or is informed of a formal or informal complaint involving our policy prohibiting discrimination, harassment, or retaliation, is required to immediately bring the matter to the attention of the Office of Equity and Diversity at (213) 740-5086. The same responsibility exists for a violation of Title IX.

Moreover, any faculty member who is aware of sex-based harassment must report it to the Title IX Coordinator regardless of whether a complaint is made.

Health-care professionals and any other individuals who are statutorily exempt from reporting should respect confidentiality.

A notification to the Office of Equity and Diversity shall preferably be in writing or by email and should include (1) all known information about the alleged or suspected discrimination, harassment, or retaliation; (2) the names of the reporting party and of the alleged offender(s), if known; and (3) any additional information which would enable the investigator to investigate the allegation.

(ii) The Office of Equity and Diversity will decide whether an investigation is appropriate in the circumstances; the person initially learning of the complaint must not make that decision or try to investigate or resolve the matter except under the guidance of OED.

No faculty member nor entity of the University other than the Office of Equity and Diversity should attempt to investigate, resolve, or adjudicate an apparent violation of any of these policies on discrimination, harassment or retaliation except under the guidance of the Office of Equity and Diversity (except as permitted by Section 6-F(1)) nor should any faculty member dissuade someone from making a complaint or participating in an investigation; it is for only OED to decide whether an investigation is appropriate in the circumstances, to investigate, and to reach findings and conclusions.

(iii) Any faculty member is required to report any known or suspected abuse, molestation or neglect related to children. See Section 6-B (6) and the University policy on Protecting Minors (<http://policy.usc.edu/protecting-minors/>). For other responsibilities, see the University policy on Reporting Wrongdoing at (<http://policy.usc.edu/protecting-minors/>).

6-D (1)(c) Legal Responsibilities

This Section 6-D (1)(c) is to remind certain faculty members of responsibilities under the law; for responsibilities under University policy see Section 6-D (1)(b).

(i) Supervisors must promptly inform the Office of Equity and Diversity of any report to them of sexual assault or sexual harassment, under Title VII of the Civil Rights Act of 1964 and California's Fair Employment and Housing Act.

(ii) Responsible USC officials must promptly inform the Title IX Coordinator of any report of gender-based sexual misconduct, or other violation of Title IX, under Title VII of the Civil Rights Act of 1964 and California's Fair Employment and Housing Act, see 6-D (1)(a). Responsible USC officials include the Provost and all Vice Provosts; Deans of schools, as well as Vice Deans for Faculty and for Students; and any administrator of the rank of Assistant Vice President or above.

(iii) Campus Security Authorities must promptly inform the Department of Public Safety about any report of sexual assault or other crime within USC's geographic area, under the Clery Act (The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act of 1990). Campus Security Authorities include any USC official who has significant responsibility for student and campus activities, including student discipline. The definition of CSA is found in the University's Annual Security Report (<https://dps.usc.edu/alerts/annual-report/>).

(iv) Those designated by law as a "mandated reporter" have an individual duty to report known or suspected abuse or neglect related to children, elders or dependent adults, under the Child Abuse and Neglect Reporting Act and the Welfare and Institutions Code. This requirement and the definition of "mandated reporter" are explained in the policies on Mandated Reporters, Protecting Minors, and Reporting Wrongdoing on the Policy website (<http://policy.usc.edu>).

6-D (1)(d) Other Information on Violations

In the absence of a complaint or report, the University may initiate an investigation if it has reason to believe that this policy has been violated.

The University has an obligation to make reasonable efforts to investigate and address instances of sex discrimination when it knows about such instances, regardless of cooperation and involvement by the person allegedly subjected to the behavior.

6-D (1)(e) Complaints to Government Agencies

In addition to notifying the University about unlawful discrimination, harassment, or retaliation, affected employees or other reporting parties also may direct their complaints to the California Department of Fair Employment and Housing (DFEH) or the Equal Employment Opportunity Commission (EEOC), which have the authority to conduct investigations of the facts. The deadline for filing complaints with the DFEH is one year from the date of the alleged unlawful conduct. If the DFEH believes that a complaint is valid and settlement efforts fail, the DFEH may seek an administrative hearing before the California Fair Employment and Housing Commission (FEHC) or file a lawsuit in court. Both the FEHC and the courts have the authority to award monetary and non-monetary relief in meritorious cases. The Office for Civil Rights (OCR) is responsible for enforcing laws prohibiting discrimination on the basis of race, color, national origin, disability, age, or sex. Any person who believes that the University has violated nondiscrimination or affirmative-action obligations as a Federal contractor may contact the Office of Federal Contract Compliance Programs (OFCCP). Contact information: DFEH: email contact.center@dfeg.ca.gov or <http://www.dfeh.ca.gov>. EEOC: 1-800-669-4000 (TTY 1-800-669-6820) or <http://www.eeoc.gov>. OCR: 1-800-421-3481 or <http://www2.ed.gov/about/offices/list/ocr/complaintinfo.html>. OFCCC: 1-800-397-6251 (TTY: 1-202-693-1337).

The crime of rape, or attempted rape, is a serious criminal act. It is the reporting party's right to choose whether to file a criminal report. The University encourages reporting parties to consider reporting these crimes. To report a crime, reporting parties may contact the Department of Public Safety (DPS), (213) 740-4321, 24 hours a day. Whenever a crime of a sexual nature is reported to DPS, they immediately notify the Los Angeles Police Department. In cases where the reporting party has requested that his or her name not be provided to the LAPD, DPS will honor that request. The LAPD (or the appropriate law enforcement agency if outside of Los Angeles) has the responsibility for the investigation of these crimes; DPS is not permitted to do so. Any report filed with DPS will be shared with the Title IX Coordinator.

6-D (1)(f) University Response - Sexual Harassment

The University will respond to complaints, reports, or information about incidents of sexual harassment in order to stop prohibited conduct, eliminate any hostile environment, take steps to prevent the recurrence of sexual misconduct, and address any effects on campus from such conduct.

6-D (2) Privacy and Confidentiality

6-D (2)(a) Privacy

The University will respect and safeguard the privacy interests of individuals involved in reports under this policy to the extent possible. Privacy in this

context means that information related to a report made under this policy will generally be shared only with those University employees who need to know the information in order to assist in the review, investigation, or resolution of the report. These individuals will keep as private as possible information related to the report. If an investigation is pursued against a responding party, however, information will need to be shared with the responding party and, as appropriate, with relevant witnesses. To the extent a person making a report wishes to keep the reporting party's name private, this may limit the University's ability to investigate or discipline the responsible individual.

6-D (2)(b) Confidentiality

The University will also respect confidentiality as provided by law. Confidentiality is different from privacy. Confidentiality in this context means that information shared only with campus or community professionals who have legal confidentiality (such as licensed counselors or therapists) will only be disclosed with the individual's express written permission or as provided by law (where there is a continuing threat of serious harm to the individual or others, or where there is suspected abuse or neglect of a minor; or where disclosure to a third party is otherwise legally required.) An individual can seek confidential assistance and support by speaking with specially designated confidential resources. For information regarding confidential resources see Section 6-A (4).

6-D (2)(c) Anonymous Reporting

Students have the option to make anonymous reports of sexual misconduct by faculty, and may also anonymously access information about resources, through the University's Title IX website (<https://equity.usc.edu/title-ix/>) or Relationship and Sexual Violence Prevention and Services or Student Counseling Services (213-740-7711); similarly, faculty members may call the Center for Work and Family Life (213-821-0800). Such anonymous reports are confidential and do not trigger an investigation.

The University will, if so requested, keep as private as possible the identity of persons who report having been victims of domestic violence, dating violence, or intimate partner violence to the fullest extent of the law, but will inform the person making the report that keeping the reporting party's name private may limit the University's ability to investigate or discipline the responsible individual.

6-D (2)(d) Medical and Counseling Records

Medical and counseling records are privileged and confidential and a party will never be required to disclose them.

6-D (3) Warning Against Retaliation

The Designated Investigator shall inform both parties that the law and the University's rules prohibit threatened, attempted, or actual retaliation against him or her for bringing a good-faith complaint, or against any participant in good faith in the investigation, or against any person who in good faith protests the alleged discrimination, harassment, or retaliation; and shall inform the reporting party that any incident of retaliation must be reported immediately to the Office of Equity and Diversity

In addition, when the Designated Investigator investigates the complaint, he or she shall warn the responding party that retaliation or threats or attempts to retaliate are strictly prohibited. See Section 6-B (8).

6-D (4) Notification

Upon receipt of an allegation by or against a faculty member, the Office of Equity and Diversity shall notify the appropriate Dean and the Executive Vice Provost and the Vice Provost designated by the Provost for such matters.

6-E INVESTIGATION

6-E (1) Designated Investigator

The Office of Equity and Diversity is Designated Investigator under this policy.

The University may designate a different investigator and a different person to determine violations, each trained in the requirements of Title IX and this policy, if it determines it is appropriate.

For complaints that the Designated Investigator determines fall under Title IX or California Education Code §67386, mediation or other informal processes are not available.

6-E (1)(a) Fact Finding

The assigned investigator within the Office of Equity and Diversity will conduct a prompt, thorough, and impartial investigation of the complaint to find the facts, in accordance with the established policies and practices of the Office of Equity and Diversity. The responsibility is on the University, not the parties to the complaint, to gather the relevant evidence, to the extent reasonably possible, relating to a complaint, report, or other incident of misconduct under this policy of which the University has notice.

6-E (1)(b) Conclusions as to Violations

The executive director or designee of the Office of Equity and Diversity will determine whether the facts as found show that a violation of this policy has occurred.

If the Executive Director conducted the investigation the official who has authority over the Office of Equity and Diversity will designate a different official, trained in the requirements of Title IX and this policy, to make this determination.

6-E (1)(c) Evidentiary Standard

In matters under Title IX or California Education Code §67386, the evidentiary standard is a preponderance of evidence.

6-E (1)(d) Conflict of Interest and Bias

If the responding party or the reporting party believes there is a conflict of interest or bias involving the assigned investigator or the executive director in the Office of Equity and Diversity, he or she may call that to the attention of the Executive Director of that office, or to the official who has authority over the Office of Equity and Diversity, who may if appropriate designate different persons, trained in the requirements of Title IX and this policy.

6-E (1)(e) Relation to Criminal Cases

The University cannot and does not determine if the criminal law was violated. The University's investigation is independent of any criminal investigation. Reporting parties have a right to proceed simultaneously with a criminal investigation and a University investigation; the University may defer its investigation for a limited time for criminal fact gathering but will then promptly resume its investigation.

6-E (2) Informing the Responding party

In the conduct of the investigation, the Designated Investigator shall present the responding party with sufficient information so that he or she can meaningfully respond.

If required by government regulations, the reporting party, the responding party, and appropriate officials will be provided timely and equal access to any information that will be used during the investigation.

In communications with the responding party, the Designated Investigator will attempt to employ means of communication that preserve confidentiality.

In an investigation by any University office or official, the responding party shall promptly participate in interviews as requested. If the responding party is unable to participate in a meeting at the date and time scheduled, he or she should request the University office or official to grant a reasonable rescheduling.

6-E (3) Investigative Procedure

6-E (3)(a) In general

The investigation will be conducted in accordance with the University's policies and procedures generally applicable to investigations by the Office of Equity and Diversity. The investigation includes interviewing the reporting party, responding party and relevant witnesses, and viewing other evidence as may be available. More detailed information about the investigative procedure is available at the Equity and Diversity website (<http://equity.usc.edu>). If required by government regulations, both the faculty member responding party as well as the reporting party (whether faculty or staff member, or student) shall have equal procedural rights, as provided in section 6-A (9)(b). For the availability of advice and counseling, see Section 6-A (4).

6-E (3)(b) Cooperation

All faculty and staff members and all students are required to promptly cooperate in the investigative process conducted by any University office or official. If an individual is unable to participate in a meeting at the date and time scheduled, he or she should request the University office or official to grant a reasonable rescheduling.

6-E (3)(c) Sexual history

In cases concerning accusations of sexual assault, the past sexual history of any involved party will not be considered unless directly relevant to the matter under consideration. In general, a reporting party's prior sexual history is not relevant and will not be considered. But where there is a sexual history between the reporting party and the responding party, and the responding party alleges consent, the prior sexual history between the parties may be relevant to assess the manner of consent between the parties. However, the mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. In addition, other conduct may be relevant to prove a material fact (for example, to explain an injury or physical finding). Where there is evidence of conduct substantially similar in nature by the responding party, regardless of whether there has been a finding of responsibility, this information may be deemed relevant to the determination of responsibility or sanction.

6-E (3)(d) Presence of Adviser

As provided by government regulations, in cases involving alleged sexual assault, domestic violence, dating violence, or stalking, the University does not limit the choice or presence of an adviser for either the reporting party or the responding party in any meeting or university disciplinary proceeding where that party is present. In such cases, at the separate meetings of the reporting party and the responding party with the investigator, the person being interviewed may have one adviser present. The role of the adviser in that setting is to provide support to the person being interviewed, and the conversation will be between with investigator and the person being interviewed. The adviser may not interfere with or disrupt the interview. To protect the privacy of parties and witnesses involved in the case, the adviser is required to sign a confidentiality statement prior to attending an interview or otherwise participating in the university's investigatory process.

Except during meetings with investigators, faculty members may consult with the Ombuds, and the Academic Senate Committee on Faculty Rights and Responsibilities in cases not involving alleged sexual assault, domestic violence, dating violence, or stalking. Discussions with the Ombuds are confidential.

At any grievance or dismissal hearing before the Tenure and Privileges Appeals Committee, this Section 6-E (3)(d) does not limit the ability of each party to be represented by legal counsel with the role provided in Section 7-C (4).

6-E (4) Investigator's Report

The Designated Investigator shall attempt to complete the investigation and make a written report as efficiently and promptly as possible. Absent extenuating circumstances, the University endeavors to complete investigations of complaints, find the facts and determine if this policy was violated, and make initial determination as to sanctions, in cases of sexual harassment, sex/gender discrimination, sexual assault, domestic violence, dating violence, or stalking, within 60 days from the date of notice to the responding party, and for other complaints within 90 days. If the report is not complete within the stated 60- or 90-day timeframe, the responding party, the reporting party, the Academic Senate President, or the designated Vice Provost may ask the official who has authority over the Office of Equity and Diversity to explain why it is not yet complete. As provided by government regulations, in cases involving alleged sexual assault, domestic violence, dating violence, or stalking, the Director of the Office of Equity and Diversity may authorize the extension of timeframes only for good cause and with written notice to the reporting party and the responding party of the delay and the reason for the delay. Good causes to extend the period may include the need to conduct a fair and complete investigation, or accommodate or allow for a request by external law enforcement, the availability of witnesses, delays by the parties, University breaks or vacations, the complexity of the investigation, or other legitimate

reasons. Best efforts will be made to complete the investigation in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

6-F RESPONSE TO INVESTIGATION/ APPEAL OF FINDINGS

The assigned investigator will notify the reporting party and the responding party of the findings of fact of the investigation. The notice will be in writing and sent to both on the same day. Subsequently, the Executive Director of the Office of Equity and Diversity will notify the reporting party and the responding party of the conclusion whether those facts violate this policy, and will notify them to the procedures for appeal. The notice will be in writing and sent to both on the same day.

The University will take immediate and appropriate corrective action when it is determined that harassment or other violation of this policy has occurred. If the finding of violation is modified or reversed on appeal, any discipline will be reviewed and modified or rescinded as appropriate.

6-F (1) Appeal of Findings, Conclusions, Sanctions and Corrective Actions

6-F(1)(a) In General

In any case under Section 6-AA (3), within seven calendar days of being notified of the determination of sanctions and corrective actions by the Sanctioning Panel, the responding party may appeal the findings, conclusions, sanctions and corrective actions, or any of them to a delegate of the Provost who is not otherwise involved in any step of the process. The appeal should be emailed to the Executive Vice Provost (vpafa@usc.edu). The appeal will be conducted on the basis of the information before the Sanctioning Panel without a hearing.

The appeal may contest the following: (a) whether the conclusions are supported by the findings, (b) whether the findings are supported by the information considered by the panel, (c) whether there were procedural errors that had a material impact on the fairness of the investigation, or (d) whether the sanctions and corrective action are grossly disproportionate to the violation found. The Provost's delegate may affirm or modify the sanctions and corrective action, or remand the case to the University-authorized fact-finding process (see Section 6-A (7)) for reevaluation or further investigation.

6-F (1)(b) In Title IX Cases

If government regulations require, for Title IX cases the reporting party has the same rights as the responding party to file an appeal.

In addition, if OED's findings and conclusions do not establish a policy violation the reporting party may file an appeal within seven days of being notified of that

result, to contest: (a) whether the conclusions are supported by the findings, (b) whether the findings are supported by the information considered by OED, and (c) whether there were procedural errors that had a material impact on the fairness of the investigation.

If either party files an appeal the appeal document will be forwarded to the other party, who will have seven calendar days to reply. In Title IX cases the Provost's delegate must have been trained in the requirements of Title IX and this policy.

In Title IX cases the anticipated timeframe for decision on an appeal of findings is 10 days from the receipt of the appeal, unless the Provost's delegate authorizes an extension of the timeframe for good cause and with written notice to the reporting party and the responding party of the delay and the reason for the delay.

6-F (2) Omitted in this Edition

6-F (3) Disciplinary Action

See Section 6-AA (3).

6-F (4) Notifications

If government regulations require, after the Committee on Professional Responsibility has determined sanctions and corrective actions under Section 6-AA (3), the Vice Provost will see to it that both the reporting party and the responding party, will be notified, in writing and on the same day, of the following: (a) the result of any disciplinary proceeding, and the rationale, including notifying a reporting party about the sanction imposed on an responding party who was found to have engaged in harassment when the sanction directly relates to the reporting party; (b) any change to the result; (c) when such results become final, and (d) the procedures for the responding party and the reporting party to appeal or grieve the result.

In cases where there is not a government requirement, the Vice Provost will see to it that the responding party is notified of the committee's determination and the procedures for appeal, and the reporting party is notified that the committee has considered the matter and taken appropriate remedial action.

6-G RIGHT TO A HEARING

6-G (1) In General

In any case under Section 6-AA (3) the responding party may file a grievance as provided in Section 7-A within ten calendar days of the decision of the Provost's delegate under Section 6-F (1), on a claim that the decision on appeal violated the grievant's rights, rather than a disagreement-with the findings, conclusions,

sanction, or corrective action. A grievance may not be filed except as to the decision on appeal.

If required by government regulations, both parties will have the same right to file a grievance within the same timeframe and, should either party do so, the appeal document will be forwarded to the other party.

This is the method provided by the University to review the decision by the Provost's delegate if there is an appeal as to findings, conclusions, sanctions, or corrective actions.

If there is a grievance as provided in this Section 6-G (1) and the Provost has also filed formal dismissal charges, the dismissal hearing board will simultaneously function as the panel hearing the grievance.

6-G (2) Misconduct Specified in Government Regulations

This Section 6-G (2) sets out rules to apply, if required by government regulations, in cases of an allegation of sexual assault, sexual harassment, domestic violence, dating violence, or stalking. Both the faculty member responding party as well as the reporting party (whether faculty or staff member, or student) shall have the same right to file a grievance against the University regarding findings, conclusions, sanctions and corrective actions, or any of them as provided in this Section 6-G (1). Whether the grievance is filed by the reporting party or responding party in the original allegation, the Academic Senate President shall distribute a copy to the other person (with a copy to the Executive Director of the Office of Equity and Diversity) and inform the person of the right to comment on the grievance, and inform that person that both parties have equal rights to participate under Chapter 7 (unless the Vice Provost has already so informed them).

If it happens that both parties file a grievance, the same panel will hear both grievances simultaneously, and the Chair of the Committee on Tenure and Privileges Appeals shall provide equal and appropriate rights as to convening the grievance hearing, under Section 7-C (2).

If the reporting party and the responding party are of different genders, the grievance hearing panel, or the Step 5 (of Section 8-D (2)) hearing board for a dismissal or demotion, shall include members of different genders.

As provided in Section 6-F (4), both the responding party and the reporting party will be notified, in writing and on the same day, of any initial, interim, and final decision resolving the disciplinary matter, including any sanctions imposed and the rationale for the result and the sanctions.

The timeframes for the steps in the grievance process are set out in Chapter 7. The Chair of the Committee on Tenure and Privileges Appeals or the Provost may authorize an extension of a timeframe for good cause and with written

notice to the reporting party and the responding party of the delay and the reason for the delay.

6-H SANCTIONS, PROTECTIVE AND REMEDIAL MEASURES AND CORRECTIVE ACTIONS

6-H (1) Interim Protective Measures

Protective measures are undertaken by the University to protect the reporting party or the University community, or to protect the integrity of the investigation. Protective measures may also be undertaken by the University in cases alleging serious moral turpitude or other adequate cause for dismissal under Chapter 8 that is of such a nature that it would bring severe injury or discredit to the University.

The range of protective measures that the University may take include but are not limited to a directive that the responding party and the reporting party have no contact; a directive that the responding party have no contact with members of the University community, as specified in the directive; changing advisers, graders, line of supervision, or physical location of work, residence or dining; or paid temporary leave; or temporary exclusion from the campus.

Protective measures will be undertaken only when the Provost determines, after consultation with the President of the Faculty, that they are appropriate, feasible and justified by the evidence available at that time, considering the University's obligations to the community and the nature and scope of the alleged misconduct.

A request for interim protective measures may be made by an Investigator of a University-level fact-finding process at the time the complaint is made or while the investigation or decision is pending. The request will be forwarded for decision to the Provost, who will consult with the President of the Academic Senate, before determining if the imposition of interim protective measures is appropriate.

The provost will provide written notice of all interim measures to the responding party, the reporting party, the investigator, the relevant dean and the President of the Faculty. The responding party retains the right to file a grievance on a claim that the interim measures violate rights. The University shall make reasonable efforts to protect the continuity of the academic work of students, faculty and staff who are adversely affected, or the continuity of clinical care of patients that are adversely affected.

6-H (2) Interim Remedial Measures

The University will offer the parties interim remedial measures as appropriate and feasible. This may include, for example, counseling, medical support, a paid leave of absence for the reporting party, changes to work schedule to accommodate the need to go to court for a restraining order, help with accessing supportive resources, and other measures including the interim remedial measures for students mentioned in the student sexual, interpersonal and protected class misconduct (<https://policy.usc.edu/student-misconduct>).

A request for interim remedial measures may be made by the reporting party to the Designated Investigator at the time the complaint is made or while the investigation or decision is pending.

The Investigator will work with the appropriate University office on an appropriate response to the request.

6-H (3) Sanctions and Corrective Actions

When a faculty member has been found to have violated this policy, sanctions and corrective action may include but are not limited to, any of the following actions by the University:

- approving an informal resolution;
- ensuring that the person against whom the complaint is made is not called upon to write letters of recommendation or make academic judgments about the person making the complaint or any other decision that affects the academic or professional career of the reporting party or witnesses (and making alternative arrangements if necessary);
- changing advisers, graders, the line of supervision, or physical locations of work;
- conducting training, holding discussions, distributing leaflets, showing videos or films, or sending letters in the relevant unit explaining the University's policy on discrimination, harassment, or retaliation;
- action to remedy harm to the reporting party or witnesses, e.g., reinstatement of teaching or research assistantships from which reporting party or witness was removed by the responding party or re-evaluation of course work graded unfairly by the responding party;
- reviewing materials in the reporting party's or witness's file and, if there is evidence of materials placed in the file by the individual as an act of discrimination, harassment or retaliation, removing such materials when appropriate;

- counseling of the individual by his or her supervisor(s), such as the Dean, Vice Provost, or Provost, about the individual's behavior;
- counseling by the Center for Work and Family Life or its designee;
- oral warning of the individual by his or her supervisor(s), such as the Dean, Vice Provost, or Provost, with a record in the individual's personnel file, that the individual's behavior constitutes a violation of the University's policy on discrimination, harassment, or retaliation;
- written warning of the individual by his or her supervisor(s), such as the Dean, Vice Provost, or Provost, with a copy to the individual's personnel file, that the individual's behavior violates the University's policy on discrimination, harassment, or retaliation;
- elimination or reduction of merit increases for the next year;
- removing the individual from a University administrative position;
- denial of promotion or postponement of consideration for promotion;
- suspension without pay, for a period not to exceed one semester;
- reduction in salary;
- for faculty members who do not hold tenure, non-reappointment or termination effective at the end of the current academic or fiscal year; or effective on 90 days' notice or pay in lieu of notice;
- demotion as defined in Section 8-D (5);
- dismissal for cause.

6-I CONSENSUAL RELATIONSHIPS

~~6-I (a) Persons Who Are Not Supervisees.~~

~~See Section 3-F. In addition to the prohibition of personal conflicts of interest in Sections 3-G and 6-I (b), the University strongly discourages sexual relationships and sexual advances between faculty and any students, residents, or fellows, or between faculty and any employees where there is a power differential.~~

~~There is an inherent power differential between faculty and students. A relationship may be voluntary in the sense that an individual is not forced to participate against his or her will, yet it may be unwelcome and therefore result in a claim of sexual harassment or sexual assault. Sexual relationships between these parties may lack meaningful consent. These relationships may put either party at risk. They can create a perceived lack of freedom to give meaningful~~

~~consent about the relationships. The University does not tolerate non-consensual sexual relationships within its work and academic environment.~~

~~Faculty and supervisors should seriously consider the risks to their own professional and private lives, as well as those created for the other person before entering into such a relationship. The University strongly recommends that such relationships generally be avoided.~~

~~Even a fully consensual relationship may create an exposure to legal risk, as others may be treated less favorably, or may feel they have been treated less favorably, than was the person in the sexual relationship; this may be considered a form of sexual favoritism and, as such, is a violation of University policy.~~

~~If a sexual relationship ends, and a participant finds that future such contact by the former partner is unwelcome, it is highly desirable that he or she give explicit notice to the former partner in clear, unambiguous terms of the fact that the relationship is over and future contact or comments of a sexual nature are unwelcome.~~

~~*6-I (b) Supervisees and Other Personal Conflicts of Interest*~~

~~The University does not permit the fact of a relationship between any employee and another person to create either more favored or more disadvantageous treatment of that person.~~

~~More specifically, a faculty member may not provide more favorable treatment, or disadvantageous treatment, to a person with whom the faculty member has a family, intimate or sexual relationship, compared to the treatment the faculty member provides to others.~~

~~Consistent with this restriction, Section 3-G prohibits all faculty from having any work-related conflicts of interest, including the personal conflict of interest that is created by having an intimate or sexual relationship with any person that the faculty member teaches, supervises, or evaluates, including any student, resident, or fellow of the university or an affiliated institution.~~

~~*6-I (c) Consulting and Required Reporting*~~

~~Sections 3-G (c) and (d) provide for mandatory reporting concerning supervisees, as also discussed in Section 6-I (b).~~

~~If a faculty member is in doubt concerning the possibility that a relationship with a non-supervisee, described in Section 6-I (a), may create a conflict of interest, it is recommended that the faculty member consult the department chair or Dean. A department chair or Dean who has similar doubts should initiate discussion with the faculty member; and any other faculty member with such concerns should raise them with the chair or Dean, who should take appropriate~~

~~steps. Advice in these situations should be sought from the Vice Provost designated for such purposes by the Provost and from the President of the Faculty. Confidentiality shall be protected to the fullest extent possible.~~

Chapter 7

Faculty Grievances

Chapter 7. **FACULTY GRIEVANCES**

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[The Policy on Prohibited Discrimination, Harassment, and Retaliation \(LINK#1\); The Resolution Process for Discrimination, Harassment, and Retaliation \(LINK #2\); and The Resolution Process for Sexual Misconduct \(LINK #3\), collectively referred to as the "EEO-TIX Policies", issued August 2020, reflect the University's effort to implement the 2020 Title IX regulations of the U.S. Office for Civil Rights, the Resolution Agreements between USC and the Office for Civil Rights, other federal laws including the Clery Act, and state law applicable to students and employees. Academic Senate representatives are consulting in the annual review of the EEO-TIX Policies.](#)

[Revisions to Faculty Handbook chapters 6-8 are currently under consideration; until they are revised, the EEO-TIX Policies are in force rather than any inconsistent provisions of these chapters. To clarify the appeal provisions of the EEO-TIX policies, the grounds for appeal include: \(a\) whether the conclusions are supported by the findings, \(b\) whether the findings are supported by the information considered by the panel, \(c\) whether there were procedural errors that had a material impact on the fairness of the investigation, and \(d\) whether the sanctions and corrective actions are grossly disproportionate to the violation found.](#)

7-A SUBJECT MATTER

A grievance may be filed for a violation of rights provided by law, or by established University policies including those contained in the Faculty Handbook, or by the faculty member's contract. Complaints or proposals dealing with improvements in practices or policies, rather than dealing with established rights, should be submitted directly to the Academic Senate or the Executive Vice Provost, since they are not appropriate for the grievance process.

Grievances relating to reappointment, promotion or tenure are limited to (1) a claim that the person was not fairly evaluated because of procedural defects (including inadequate procedural considerations) that materially inhibited the review process, or (2) a claim that the person was not fairly evaluated on the merits because the decision was based significantly on considerations violative of academic freedom or because of bias or prejudice based on considerations prohibited by law, or (3) a claim that tenure was revoked without sufficient cause, except if there has been a hearing and cause for termination was determined.

Grievances concerning the policy on Providing a Safe Educational and Work Environment are handled under the separate procedures provided within Chapter 6. Allegations of scientific misconduct are handled under the process set out in the University Policy on Scientific Misconduct (<https://policy.usc.edu/scientific-misconduct/>).

7-B PROCEDURES

7-B (1) Preliminary Proceedings

7-B (1)(a) Discussions

When a faculty member has any work-related grievance, including when he or she has reason to question whether his or her rights as a faculty member have been violated or are about to be violated, the aggrieved faculty member should ordinarily discuss the matter with the relevant chair, dean, or other administrator(s) in personal conferences looking to mutual settlement. Normally, this should include at least the direct administrative officer against whom a formal grievance may be filed, and if settlement is not reached, the administrator to whom the first is accountable.

The Ombuds is available for consultation. See Section 7-B (1)(bb)

If settlement does not result, and the faculty member is satisfied that there is probable cause for grievance, he or she may file a grievance, as described in Section 7-B (2).

Complaints concerning discrimination, harassment, or retaliation related to a protected category should be referred to the Office of Equity and Diversity, which has sole jurisdiction to investigate and determine them. See 6-D (1)(b).

7-B (1)(b) Consultation and Advice

The faculty member with any work-related grievance, whether or not it is a matter of rights as a faculty member as described in Section 7-A, is encouraged, at an early stage, to seek the counsel of the chair of the Senate Committee on Faculty Rights and Responsibilities. The President of the Faculty, and the Executive Vice Provost on behalf of the Provost, are also available to faculty.

In addition, a number of offices are available on specified topics; see "Who do I call if" on the Faculty page (<http://faculty.usc.edu/>).

7-B (1)(bb) Ombuds

The Ombuds is available for consultation. The Ombuds serves as a confidential, impartial, informal, and independent problem-solving resource. See <https://www.provost.usc.edu/office-of-the-ombuds/>

Discussions with the Ombuds are confidential. Such discussions do not constitute a report to the University, but the Ombuds can explain how to make a report, if that is appropriate.

Among other roles the Ombuds play, they may, on request, attempt to assist in settling disputes informally prior to the grievance being heard.

7-B (1)(c) Mediation

Because the grievance process has substantial costs to all involved, faculty members are strongly encouraged to attempt mediation prior to filing a grievance. Mediation is voluntary and goes forward only with the agreement of both sides.

Mediation looking toward a voluntary settlement shall begin with the lowest level administrative officer able to solve the problem, and shall proceed successively, as needed and appropriate, to higher levels within the University. On request of both parties, one of the Ombuds is available as a mediator. The chair of the Senate Committee on Faculty Rights and Responsibilities may appoint a mediator, if available, if either of the parties requests the services of a neutral mediator other than one of the Ombuds. See 7-B (1)(bb) on the Ombuds.

If faculty members are represented by counsel, their attorney will discuss mediation or settlement with the Office of General Counsel.

7-B (2) Initiating the Grievance

7 B (2)(a) Requirements

Formal proceedings for a faculty grievance shall commence by the filing of a grievance with the Academic Senate on a form obtainable from the Senate office. A faculty member must file a grievance by submitting the appropriate form in writing either in hard copy or, if available, online to the Academic Senate President within nine calendar months of the discovery of the action on which the grievance is based (except for the special timeline provided in the first sentence of Section 6-G for grievances). The Academic Senate office shall maintain grievance records in a confidential manner.

The grievance must clearly state, with sufficient information so that the respondent can meaningfully respond:

- the specific right or rights that allegedly have been infringed,
- the facts showing how the right has been infringed,
- the disposition being sought (see Section 7-D, paragraph 2), and
- the lowest level administrative officer able to resolve the problem.

The written statement may be revised by the grievant at any time up to two weeks prior to the hearing. The Academic Senate President shall assure that any revision is distributed to all appropriate parties.

In grievances substantially overlapping a pending incomplete OED investigation, as determined by the Chair of the Committee on Tenure and Privileges Appeals, the hearing will not occur until OED completes its report, and the grievant's responsibility for scheduling is postponed until that time.

7-B (2)(b) Multiple Parties or Cases

Two or more persons with essentially the same grievance may file a single grievance, covering all of them. If an individual files a grievance, and it is later discovered that one or more others are similarly affected, the others may ask to join the original grievant at any stage of the grievance procedure. The Academic Senate President or the Chair of the Committee on Tenure and Privileges Appeals may also combine the grievances of two or more persons into a single grievance with the consent of the grievants, if either finds that the grievances can be combined without prejudice to the rights of any of the grievants or the University.

If there is a grievance related to a dismissal hearing, or two or more related grievances by the same person, the Chair of the Committee on Tenure and

Privileges Appeals will combine the hearings, but grievances that the Chair determines to be unrelated will be heard by separate panels.

If there is more than one person on either side, the committee Chair will decide how that side exercises its peremptory challenges.

7-B (3) Resolving the Grievance Prior to Arbitration or a Grievance Hearing

The Academic Senate President shall, within five working days, deliver a copy of the grievance to the first administrative officer stated in the formal grievance as able to solve the problem, the Provost, the Chair of the Senate Committee on Faculty Rights and Responsibilities, and the Ombuds.

Because hearings on grievances involving Title IX are to be held promptly, as provided in Section 7-C (2)(a), the Academic Senate President shall at once forward the grievance to the Provost for a hearing without waiting for completion of a mediation period. The remainder of this Section 7-B (3) deals with grievances that do not involve Title IX.

The chair of the Senate Committee on Faculty Rights and Responsibilities or an Ombuds shall then begin procedures for mediation, unless mediation has already been attempted and proven futile.

If the grievance is resolved to the satisfaction of the grievant by an administrator, the grievant shall report this fact, in writing, to the Academic Senate President, and the case is closed. If the grievant at any time requests, in writing, to the Academic Senate President that a grievance hearing be held, or if mediation has not led to settlement within 45 days of the filing of a grievance, or if mediation has not been agreed to by either side, the Academic Senate President shall forward the grievance to the Provost, indicating that mediation has not been successful and requesting that an arbitration proceeding or a grievance proceeding be held. The Provost will forward the grievance to the Chair of the Committee on Tenure and Privileges Appeals requesting that formal proceedings be commenced as discussed below. Upon written agreement of both the Provost's Office and the grievant, an extension of the 45 day mediation period may be granted. At any time during extended mediation, the grievant shall have the right to request, in writing, the commencement of formal proceedings. In no case shall the total time for mediation exceed 90 days.

In the event that new, pertinent, and substantive information is discovered after mediation has been declared unsuccessful, the matter may be returned to mediation upon written agreement of both the Provost's Office and the grievant, provided that neither arbitration nor a grievance hearing has begun. At any time during renewed mediation, the grievant shall have the right to request, in writing, the formation of a Hearing Board, but in no case shall the renewed mediation exceed 45 days.

7-B (4) Binding Arbitration Option as an Alternative to a Grievance Hearing

The Academic Senate grievance form provides notification of the option for binding arbitration as an alternative to a grievance hearing. Binding arbitration in lieu of a grievance hearing shall occur only if both the grievant and the President of the University agree, in writing, to submit the matter to this process and to abide by the decision of the arbiter. Binding arbitration means that the faculty member will forego the ability to later sue in court over the matter and the University will forego the ability of the President to overrule the arbiter's decision. Binding arbitration as an alternative to a grievance hearing is not available for grievances concerning tenure, promotion, dismissal for cause, non-reappointment., or OED matters.

The grievant and the President of the University have 10 business days in which to notify the Chair of the Committee on Tenure and Privileges Appeals that they have elected arbitration. If both have not given notice that they have elected arbitration at the end of this period, a grievance hearing shall be convened as discussed below in Section 7-C (2).

If both sides agree to submit the matter to binding arbitration, the Chair of the Committee on Tenure and Privileges Appeals shall arrange for the appointment of an arbiter designated by the American Arbitration Association. The American Arbitration Association shall designate an arbiter in accord with its procedures and inform the Chair of the Committee on Tenure and Privileges Appeals of the arbiter's identity. The Chair shall then inform both the grievant and the respondent of the arbiter's identity. Either side shall have three working days to reject that arbiter. However, neither side may reject more than one arbiter in any case. If the arbiter is rejected by either party, the American Arbitration Association will be asked to designate another individual. The same procedure will be followed, except that the party having rejected the earlier arbiter may not reject a second individual.

Once chosen, the arbiter, together with the parties and the Chair of the Committee on Tenure and Privileges Appeals, shall convene the arbitration at an appropriate time and location. The arbitration shall be conducted in accord with the rules of the American Arbitration Association.

Within 20 days after the completion of the arbitration, the arbiter shall notify, in writing, the parties and the Chair of the Committee on Tenure and Privileges Appeals of his or her ruling.

The University of Southern California shall be responsible for all of the costs of the arbiter and in no event may the grievant be held responsible for these charges. The University is not responsible for costs and expenses incurred by the grievant in the process of arbitration, such as expert witness fees and attorneys' costs.

7-C GRIEVANCE HEARING

7-C (1) The Committee on Tenure and Privileges Appeals

The Committee on Tenure and Privileges Appeals is a standing University body. Its membership, appointed by the President from among persons nominated as provided in Section 2-B (4)(a) is made up of at least 40 full-time tenured faculty, and at least nine full-time research-track, teaching-track, practitioner-track, and clinical-track faculty of the rank of Associate Professor or higher who serve only where the Handbook requires a research-track, teaching-track, practitioner-track, and clinical-track faculty member. At least four tenured committee members shall have law degrees and at least six other tenured members shall have had prior service on a grievance panel. Nominations and appointments shall be at annual intervals for a three-year term. However, members of the Committee shall continue to serve until their successors have been appointed. The President shall appoint the Chair of the Committee who will serve for a three-year term. By agreeing to serve on the Committee on Tenure and Privileges Appeals, faculty members are making the commitment to be available to serve on grievance panels and will accept such requests to serve whenever possible.

7-C (2) Convening a Grievance Hearing

7-C (2)(a) Scheduling

(i) Responsibilities of Grievant. After the time elapses for the election of binding arbitration and for mediation (or the Academic Senate President has notified the Provost that mediation has not been successful or is not desired by a party), or promptly after the grievance has been filed for grievances involving a concluded investigation under Title IX, the grievant should these steps:

- inquire of the staff of the Committee on Tenure and Privileges Appeals to identify the University's designated representative
- consult with the University representative to determine a mutually-agreed hearing date convenient for all involved and
- notify the Chair of the Committee on Tenure and Privileges Appeals of the date agreed.
- If the grievant is unable to reach agreement on a hearing date with the University representative, the grievant should request the Chair to decide the date of the hearing.

(ii) Responsibilities of Chair. If requested by the grievant after being unable to reach agreement, or if the date agreed by the parties is not workable for the committee, the Chair may decide the date of the hearing. The location of the hearing will be selected by the chair considering the convenience of all involved. If there is a grievance related to a dismissal hearing, or two or more related grievances by the same party, the Chair will combine the hearings, but

grievances the Chair determines to be unrelated will be heard by separate panels.

(iii) *Delay.* If six months pass from the date the grievance was filed and the hearing has not been held, the Chair will dismiss the case, except where the chair or the panel allows a brief extension when needed to reschedule an already-scheduled hearing or complete a hearing that has begun.

(iv) *Title IX and OED Matters.* In grievances filed concerning a completed Title IX investigation, the grievant should promptly take the steps stated in the first paragraph so that the hearing will be held within the time required by government regulations, unless in accordance with government regulations the chair authorizes an extension of time for good cause and with written notice to all parties of the delay and the reason for the delay.

In grievances substantially overlapping a pending incomplete OED investigation, as determined by the Chair, the hearing will not occur until OED completes its report, and the grievant's responsibility for scheduling is postponed until that time.

7-C (2)(b) Selecting Panel Members and Chair

When the date for the meeting is scheduled, the Chair of the Committee on Tenure and Privileges Appeals shall, within five business days, generate a list of at least six names for members of the panel and a list of at least three names for the panel chair, who will be available to serve on the grievance panel. A panel chair shall either be a person holding a law degree or a person with prior service on a grievance panel. The grievant and the respondent may each strike two names from the list of panel members and one name from the list of possible panel chairs. If after the exercise of these peremptory challenges more names remain than needed for a grievance panel of two members and one panel chair, the members and panel chair shall be chosen randomly. If additional names remain, they shall be designated as alternates, in a sequence designed randomly, to serve in the event that the initially chosen members become unavailable. The Chair of the Committee on Tenure and Privileges Appeals shall inform the parties of the panel as soon as its selection is completed.

7-C (2)(c) Delays

If the two sides are unable to agree on scheduling or rescheduling a hearing or on other procedural matters, or if the panel requests assistance, the Chair of the Committee on Tenure and Privileges Appeals may make appropriate procedural decisions. If either party does not cooperate in moving the case forward, the chair shall: (a) if the administrator who is a party has not cooperated, report that fact to the President of the University and request appropriate disciplinary action, or (b) if the grievant has not cooperated, dismiss the grievance.

7-C (3) Motion to Dismiss

Before the hearing, but not later than 10 calendar days after notification of the identity of the grievance panel, the respondent may make a motion to dismiss a grievance for either of two circumstances, (1) lack of jurisdiction because the grievant was not a faculty member at the time the grievance arose and is thus not eligible for this process, or (2) failure to allege, as required by Section 7-B (2)(a), a violation of a right as a faculty member protected by law, or established University policies including those contained in the Faculty Handbook, or the faculty member's contract. The grievant shall have 10 calendar days to respond to a motion to dismiss the grievance.

If the respondent's motion is made before the panel is identified, it will be ruled on by the committee Chair. After the panel is chosen, the panel decides. In deciding whether to grant a motion to dismiss, the grievance panel or chair shall accept all of the grievant's allegations as true; the grievance panel shall not examine or evaluate the evidence as to the merits of the grievance in ruling upon a motion to dismiss. The grievance panel may dismiss the grievance only under either of the two circumstances stated in the prior paragraph.

The chair of the Committee on Tenure and Privileges Appeals has no authority to dismiss grievance, unless the grievance was not timely filed, see Section 6-G and Section 7-B (2), was abandoned, see Section 7-C (2)(a) and (c), or under either of the circumstances stated in the first paragraph of this Section 7-C (3).

7-C (4) Grievance Hearing

(a) If the grievance is not dismissed or abandoned, a grievance hearing shall be scheduled (see Section 7-C (2)) and conducted.

(b) Either party may be represented by legal counsel at the grievance hearing (i.e., by a person who holds a law degree). If either side intends to be represented by legal counsel, it shall notify the other party of this intention at least 10 calendar days prior to the hearing. Failure to notify will entitle the other party to a reasonable continuance to secure its own legal counsel.

(c) The grievant and the respondent, and their legal counsel if any, shall have the opportunity to be present during all argument and presentation of evidence.

(d) Each party shall have the opportunity to present its evidence, including witnesses, and to make an argument to the grievance panel. Each party shall have the right to confront and question the witnesses of the other. Each party shall have the right to inspect and respond to all written and documentary evidence offered. Technical rules of evidence, voir dire proceedings, and pre-trial discovery proceedings are not applicable.

(e) As provided in section 6-A (9)(b), if required by government regulations, in Title IX cases both the responding party and the reporting party in the original

Title IX investigation will be provided an equal opportunity to participate in all aspects of the process.

(f) The chair of the grievance panel shall be responsible for presiding over the hearing and shall rule on all evidentiary questions. The chair shall set the order of argument and of presentation of evidence and may exclude irrelevant or unduly repetitious evidence or argument.

(g) Subject to the provisions of the Faculty Handbook, University policies, and the law, the grievant may obtain necessary pertinent witnesses and documentary or other evidence and may ask the University to use its persuasive power and the grievance panel its good offices to help, but the University has no obligation to incur undue expense or burden for this purpose. If there is a request for material which involves privacy rights of an individual or is confidential or legally privileged, the committee chair or panel may request the Provost to rule on whether and with what restrictions the material can be made available.

(h) Grievance panels will be instructed that their decisions must be in accord with all relevant federal, state, and local law, and established University policies including those contained in the Faculty Handbook and the faculty member's contract. The grievance panel will be instructed to decide only the grievance before them, that is, the grievance panel should hear only evidence that is relevant to the grievance and shall decide only the issues presented, as to supposed infringements of the grievant's rights, and the panel's report will deal only with those issues.

(i) No member of the grievance panel shall disclose any of the evidence received during the grievance hearing nor any aspect of the deliberations, except as provided below.

(j) A full stenographic or tape record of the hearing shall be maintained and made available upon request only to the parties, the grievance panel, or the President of the University. The stenographic or tape record shall be given to the Academic Senate office, where it shall be kept for at least a year, after which it can be destroyed or erased unless either party or the University requests that it be kept for a longer period of time. Copies of the stenographic or tape record shall be made for either party at its request, and if the grievant is the requesting party, upon the payment of the expenses of copying. In addition, with a person appointed by the Academic Senate office present, either party may, at any time before a stenographic or tape record is destroyed, read or listen to the original, at a time and place set by the Academic Senate office.

(k) A grievance process will not be terminated if a faculty member files a lawsuit in court or seeks another remedy external to USC over the same matter that is the subject of the grievance, but in such circumstances the hearing may be postponed if both parties agree.

7-C (5) Burden of Persuasion

In grievance cases, the burden of persuading the Hearing Board that the actions or inactions of the University were not proper rests upon the grievant, and shall be satisfied only by clear and convincing evidence, except in cases where government regulations, such as those under Title VII and Title IX require the standard of the preponderance of the evidence.

7-D DECISION OF THE GRIEVANCE PANEL

At the conclusion of the hearing, as promptly as is consistent with due deliberation, the grievance panel shall make its decision. The findings of fact and decision of the grievance panel shall be based solely on the hearing record. The recommendations shall be in writing, shall state the basis for the decision and shall recommend any proposed remedial action. The panel shall provide its written decision within ten calendar days after the completion of the grievance hearing. The written decision shall be provided to each party and to the Chair of the Committee on Tenure and Privileges Appeals. Each party shall have two weeks from receipt of the decision to append an additional statement to the decision.

In considering grievances related to reappointment, promotion, or tenure, or actions under Chapter 6, the grievance panel shall not substitute its judgment on the substantive merits of the decision, including the requirements of the academic unit or Title IX or other laws or of a candidate's professional qualifications, for that of the appropriate faculty body or bodies and administrators. If the grievance panel concludes that the grievant's claim of a violation of rights is proven, it will recommend reconsideration by the appropriate faculty body or bodies and administrators, indicating respects in which it believes the review process was inadequate. If a grievance panel concludes that there was an unfair evaluation because of considerations violative of academic freedom or prejudice, it will recommend reconsideration by a new faculty body and by administrators, indicating the respects in which it considers unfair judgments to have taken place.

All grievance panel decisions are recommendations to the President of the University. After allowing the parties two weeks to append additional statements, as described above, the Chair of the Committee on Tenure and Privileges Appeals shall forward the panel's decision and the appended statements, if any, to the Provost, the President of the University, and both parties. The President shall receive any evidence presented and the stenographic or tape record of the proceedings.

7-E DECISION OF THE PRESIDENT OF THE UNIVERSITY

The President will consider the record and make a decision as promptly as possible, generally within 30 calendar days of the President receiving the grievance panel's recommendation and the record of the hearing. The President

shall retain ultimate decision-making authority as to all grievances and the discretion to accept or reject grievance panel recommendations, except those where there is mutually agreed upon binding arbitration, as discussed above.

If the President intends to not follow the panel's recommendation, the President shall notify the panel of this in person or in writing and shall state the reasons for intending to not follow this recommendation. The President shall provide an opportunity for response by the grievance panel before reaching the final decision. If the President finally decides not to accept the recommendations of the grievance panel, he or she shall state in writing, as part of his or her final decision, his or her reasons for rejecting them and for rendering a different decision.

The final report of the grievance panel and the President's final decision on the grievance shall be made known to the grievant, the respondent, the Provost, the Academic Senate President, the Chair of the Committee on Tenure and Privileges Appeals, and the members of the grievance panel. The Academic Senate President, upon receipt of written consent from the grievant, will forward to the Chair of the Senate Committee on Faculty Rights and Responsibilities a copy of the decision and a copy of the report of the grievance panel. This Senate Committee shall have the right to refer these reports to the Academic Senate, provided that the names of persons mentioned therein are deleted. In appropriate circumstances, where the privacy of students and other faculty members or administrators would be compromised by disclosure, the President of the University or the chair of the grievance panel may ask that all parties keep the report confidential.

Chapter 8

Faculty Dismissals

Chapter 8. **FACULTY DISMISSALS**

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[The Policy on Prohibited Discrimination, Harassment, and Retaliation \(LINK#1\); The Resolution Process for Discrimination, Harassment, and Retaliation \(LINK #2\); and The Resolution Process for Sexual Misconduct \(LINK #3\), collectively referred to as the "EEO-TIX Policies", issued August 2020, reflect the University's effort to implement the 2020 Title IX regulations of the U.S. Office for Civil Rights, the Resolution Agreements between USC and the Office for Civil Rights, other federal laws including the Clery Act, and state law applicable to students and employees. Academic Senate representatives are consulting in the annual review of the EEO-TIX Policies.](#)

[Revisions to Faculty Handbook chapters 6-8 are currently under consideration; until they are revised, the EEO-TIX Policies are in force rather than any inconsistent provisions of these chapters. To clarify the appeal provisions of the EEO-TIX policies, the grounds for appeal include: \(a\) whether the conclusions are supported by the findings, \(b\) whether the findings are supported by the information considered by the panel, \(c\) whether there were procedural errors that had a material impact on the fairness of the investigation, and \(d\) whether the sanctions and corrective actions are grossly disproportionate to the violation found.](#)

8-A SCOPE

The procedures in Section 8-D apply to the dismissal for cause of a tenured faculty member. For the sanctioning process in other cases, see Section 6-AA (3). Dismissal for cause should not be confused with non-reappointment or termination of faculty who do not hold tenure, as discussed in Sections 4-F (3), 4-G, or 6-H (3).

8-B REDUCTION IN SALARY FOR CAUSE

[Omitted. See Section 6AA-3]

8-C ADEQUATE GROUNDS FOR DISMISSAL

Adequate cause for a dismissal shall be one or more of the following: neglect of duty, incompetence, violations of academic freedom, misconduct, dishonesty, unmanaged or unreported conflict of interest, or moral turpitude. No offense will be considered adequate cause for dismissal unless it is serious and either (a) relates directly and substantially to the fitness of the faculty member in his or her professional capacity, including as a teacher, researcher, or practitioner performing clinical services, or (b) is of such a nature that it would bring severe injury or discredit to the University. Dismissal shall not be used to restrain faculty members in their exercise of academic freedom or other rights of American citizens.

8-D DISMISSAL PROCEDURES

Every action to dismiss a tenured faculty member must follow these carefully detailed procedures, with the full cognizance of the affected person, the Provost, and the President of the Faculty (or the ranking tenured Academic Senate officer, if the President is untenured or unavailable.) The full set of faculty rights enumerated in this Handbook must be observed.

Preliminary investigation and committee consideration may take place as specified in Section 6-AA (3). As provided in that section, after consideration by the Committee on Professional Responsibility, if the Provost decides to bring formal charges to dismiss a tenured faculty member the charges shall be considered pursuant to the formal proceedings set forth in Section 8-D (2), commencing with Step 4. If Section 6-AA (3) is not utilized and instead a school-based process is used, then Section 8-D (1) applies.

8-D (1) Preliminary Inquiry When Section 6AA (3) is Not Utilized

Step 1: (a) When reason arises to consider whether cause exists to dismiss a faculty member who has tenure, the relevant dean or academic director shall invite the faculty member to meet with him or her in a personal conference to discuss the problem, its possible resolution, and the possibility of dismissal

proceedings if it is not resolved. The dean's consideration of recommending dismissal for cause shall be based on a thorough inquiry into the circumstances.

(b) Before making a recommendation to the Provost, the dean shall consult with an ad hoc faculty committee, whose existence will be immediately disclosed to the faculty member concerned, to invite its views whether sufficient grounds exist for the dean to forward the matter to the Provost. The ad hoc committee, which the dean shall constitute, shall include one or more members of the Faculty Council and also a member drawn from either the Senate Committee on Faculty Rights and Responsibilities or the Committee on Tenure and Privileges Appeals and the dean shall ask the Provost to notify the President of the Faculty as to the appointment and composition of the ad hoc committee.

Alternatively, the dean may elect to ask that the Provost request the President of the Faculty to appoint a three-person ad hoc committee from a list of six members of the Committee on Tenure and Privileges Appeals nominated by the Chair of that committee. The ad hoc committee's recommendations are not binding on the dean.

(c) The chair of the Senate Committee on Faculty Rights and Responsibilities, and the Ombuds, are available for consultation, and mediation may be arranged if desired by both sides, but mediation is not mandatory.

(d) During Step 1, the dean may elect to formulate in writing a preliminary statement of charges with reasonable particularity of the grounds pertinent to the dismissal action under consideration. If the dean does so, a copy of the preliminary statement shall be given to the faculty member for the faculty member's written comments. The dean may also elect to provide evidence in writing to the faculty member and invite comment on that as well, and if the dean does so the faculty member shall be allowed 18 calendar days from the date on which the charges were sent to him or her to provide in writing his or her comments on the evidence to the dean. If the dean receives such comments on the preliminary statement, the evidence or both, and has not yet consulted with a faculty committee as provided above, the dean will share the comments with the committee as part of the consultation.

(e) If the dean believes there is probable cause for dismissal, the dean shall forward his or her recommendation to the Provost, together with any preliminary statement or evidence which has been shared with the faculty member, and comments submitted by the faculty member, and shall inform the Provost whether the views of the ad hoc committee were that sufficient grounds do or do not exist to forward the matter to the Provost. The Provost will inform the President of the Faculty of the dean's recommendation.

Step 2: If the Provost then believes there may be cause for a dismissal, he or she shall formulate a preliminary statement of charges with reasonable particularity of the grounds pertinent to the dismissal action under consideration. A copy of the charges and grounds shall be given to the faculty

member for the faculty member's comment to the Provost, unless the Provost adopts the preliminary statement formulated by the dean as part of Step 1 on which the faculty member has already had the opportunity to comment, in which case the Provost will refer to any comments the faculty member submitted at Step 1.

Step 3: If the Provost is satisfied there is good cause to proceed further, he or she shall request a review of the evidence by a three-person select committee appointed by the President of the Faculty from a list of six members of the Committee on Tenure and Privileges Appeals nominated by the Chair of that committee. The select committee shall review the evidence to determine whether, in its view, sufficient grounds exist to initiate formal dismissal proceedings. The faculty member shall be allowed 18 calendar days from the date on which the evidence is sent to him or her in which to review all the evidence upon which the committee will rely in making its recommendation and to present a response to the committee, unless the preliminary statement of charges and the evidence presented to the committee are in all respects identical to those the dean elected to provide to the faculty member in Step 1 and the faculty member was afforded an opportunity to review and comment on them during that step, in which case the committee will refer to any comments the faculty member submitted at Step 1. The committee shall convey its recommendations to the Provost within 45 days of its appointment. If, for any reason, it proves necessary for this time to be extended, the committee shall request an extension from the Provost, who shall notify the faculty member and others involved of any approved extension. The committee's recommendations are not binding on the Provost.

However, if an ad hoc committee has already been appointed by the President of the Faculty in Step 1; if the preliminary statement of the charges and the evidence which would be presented to the committee are in all respects identical to those the dean elected to provide to the faculty member during Step 1; if the faculty member was afforded an opportunity to review and comment on the charges and evidence during that step; and if the dean shared with the ad hoc committee any comments he or she received from the faculty member on the preliminary statement, the evidence, or both; then the Provost may refer to the recommendations by the ad hoc committee and any comments by the faculty member, made in Step 1, instead of requesting an additional review as provided in the prior paragraph.

8-D (2) Formal Proceedings

Step 4: If the Provost determines that formal proceedings for dismissal should commence, such proceedings shall begin by conveyance of written notice from the Provost to the faculty member by personal delivery, by courier, or by email with a duplicate sent by U.S. mail. This notice shall contain the formal statement of charges framed with reasonable particularity, and state the University's intent to initiate a dismissal hearing. The faculty member, in this letter, shall be given the option of resigning in lieu of a dismissal hearing. A

copy of this letter will be sent to the chair of the Senate Committee on Faculty Rights and Responsibilities.

Step 5: If the faculty member has not resigned and the Chair of the Senate Committee on Faculty Rights and Responsibilities and the Ombuds have not through mediation effected a mutual settlement, it shall be assumed that the faculty member contests the statement of charges. The Provost shall ask the Chair of the Committee on Tenure and Privileges Appeals to convene a Hearing Board to recommend whether the proposed dismissal should occur. The hearing shall be convened no earlier than 30 calendar days after the date on which written notice was sent to the faculty member by means specified in Step 4. Normal procedures as set out in Chapter 7 shall then be followed; for scheduling and conduct of the hearing, including participation by the faculty member; for formulation of findings, reasons, and recommendations of the Hearing Board; and for final disposition of the case by the President. These normal procedures specified for use in faculty grievances are incorporated herein as required procedures in dismissal cases, except that there is no option for binding arbitration in cases involving dismissal for cause. In cases of dismissal or demotion from a tenured position or of dismissal prior to the end of a contract, the burden of persuading the Hearing Board that adequate cause for dismissal exists rests upon the University, and is as defined in Section 7-C (5).

8-D (2)(a) Constituting the Hearing Board

The Hearing Board consists of a chair and two members, selected from among the members of the committee who will be available to serve. The chair shall inform the parties of the composition of the Hearing Board as soon as its selection is completed.

In cases under this Chapter of dismissal of a tenured faculty member or a tenure-track faculty member prior to the end of a contract, the normal procedures as set out in Chapter 7 for constituting a grievance panel shall be used to select the chair and two members of the Hearing Board.

In cases under this Chapter of dismissal of a research-track, teaching-track, practitioner-track, and clinical-track faculty member prior to the end of a contract, the normal procedure as set out in Chapter 7 shall be used to select the chair of the Hearing Board, but the Hearing Board shall have one tenured and one research-track, teaching-track, practitioner-track, or clinical-track faculty member and the following procedures shall be used to select them. When the date for the meeting is scheduled, the chair shall within five business days, generate a list of three names of tenured faculty, and a list of three names of research-track, teaching-track, practitioner-track, and clinical-track faculty. The University and the faculty member may each strike one name from each list. If after the exercise of these peremptory challenges more names remain than needed for the Hearing Board, the members shall be chosen randomly. Those not chosen shall be designated as alternates, in a sequence designed

randomly, to serve in the event that the initially chosen persons become unavailable.

8-D (3) Suspension of a Faculty Member

A faculty member may be suspended from his or her duties, without loss of pay and usual faculty privileges, only as part of the initiation of a dismissal action and only if, in the judgment of the Provost, immediate harm to the faculty member or others is threatened by his or her continuance.

8-D (3)(a) Limitation on Suspensions

In no event shall suspension be used as penalty, an alternative to dismissal, or outside normal dismissal procedures, except for sanctions determined by the Committee on Professional Responsibility under Section 6-AA (3), paid leave under Section 6-H (1), or temporary separation under Section 8-D (3)(b).

8-D (3)(b) Temporary Separation

The Provost may temporarily separate a faculty member from his or her duties even before an investigation is initiated, without loss of pay and usual faculty privileges, if it is the Provost's judgment that immediate harm to the faculty member or others is threatened by his or her continuance and that extraordinary circumstances warrant the action. The Provost may also use the term "administrative leave" in announcing a temporary separation.

In the case of temporary separation from duties, within fourteen days either an investigation will be initiated, or a voluntary agreement will be reached between the individual and the University. The faculty member retains the right to file a grievance seeking an end to the temporary separation. During the separation period, the faculty member may consult with members of the University community, except those persons or categories of persons with whom the Provost expressly prohibits or restricts contact. The University shall make reasonable efforts to protect the continuity of the academic work of students, faculty and staff who are adversely affected. The Provost shall consult with the President of the Faculty and the dean of the relevant school during the temporary separation and indicate the reasons underlying any prohibited or restricted contact between the faculty member and other members of the University community.

Interim protective measures, including paid leave, may also be authorized by the Provost as provided in Section 6-H (1).

8-D (3)(c) Protections in Connection with Dismissal Proceedings

A faculty member may not be dismissed nor, except as specified in

Section 8-D (4), may his or her compensation be cut off or withheld before the dismissal procedure has been completed and a final decision has been made by the President, unless a sanction under Section 6-H (3) has been determined by the Committee on Professional Responsibility.

8-D (4) Abandonment of Duty

If the Dean, on the advice of the faculty committee constituted as described in Step 1 of the dismissal procedures, or the Committee on Professional Responsibility, determines that the faculty member has abandoned his or her duties, e.g., by failing to return from vacation or leave, or by a pattern of failure to teach scheduled classes, or by a pattern of failure to meet established clinical, research, or other responsibilities, then compensation may be withheld for the period the duties are not being performed. If the faculty member returns to his or her duties at any time in the process, compensation shall resume immediately.

The faculty member may appeal such a determination of abandonment of duty to the Provost. If this determination is reversed at any step in the procedures, compensation that has been withheld shall be paid in full, at once, with interest at the statutory rate.

If the conclusion of the dismissal procedures results in severing the ties between the faculty member and the University, and if the finding of abandonment of duty is not reversed, then the faculty member is not entitled to receive compensation that had been withheld.

8-D (5) Demotion of a Faculty Member

Demotion is a reduction in rank, e.g., from professor to associate professor, with a corresponding reduction in salary. It does not involve loss of tenure.

8-D (6) Terminal Notice

If the faculty member is to be dismissed, the faculty member shall receive reasonable notice or salary in lieu of notice. The President in determining the length of terminal notice or salary in lieu of notice shall take into account the length and quality of service and the character of the grounds upon which the action was based.