

# Part 1

## **CHAPTER 6. FACULTY MISCONDUCT, COMPLAINTS, INVESTIGATIONS, AND SANCTIONS**

### **6-A. INTRODUCTION**

This chapter is intended to help navigate the university's procedures relating to faculty misconduct, complaints, investigations, and sanctions. The chapter is not intended to be comprehensive but rather to provide a roadmap and pointers to more detailed information.

One important thing to be aware of is that procedures vary by the nature of the complaint. This is partly because some forms of misconduct are governed by federal and state law while others are university-specific policies. Individuals involved in a misconduct process should start by identifying the broad category of alleged misconduct that applies from the following list:

- Interpersonal misconduct (6-B (1))
- Sex and gender-based harassment and other sexual misconduct (6-B (2))
- Discrimination, harassment, and retaliation, based on protected characteristics (6-B (2))
- Research-related misconduct (6-B (3))
- Misconduct in health care (6-B (4))
- Professional misconduct (6-B (5))
- Concerns about administrators (6-B (6))
- Retaliation (6-B (7))
- Misconduct in reports and investigations (6-B (8))

## **6-B. TYPES OF FACULTY MISCONDUCT**

### **6-B (1) Interpersonal Misconduct**

Faculty members are expected to engage professionally with all members of the university community. They may not take actions that are abusive, harassing, intimidating, or humiliating against another member of the university community even if not based on a protected class.

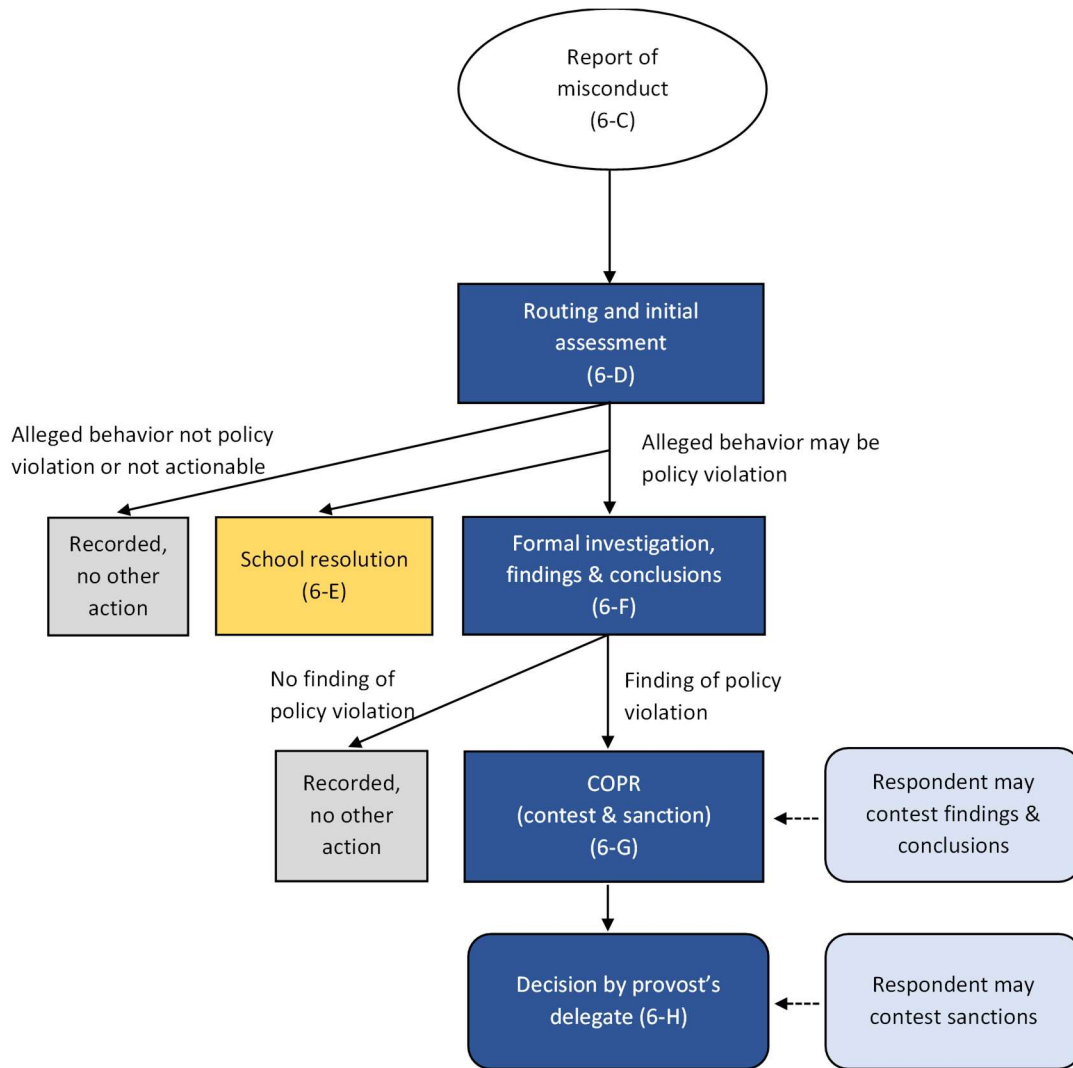
In particular, the following behaviors are not permitted:

- (a) Behavior or words that a reasonable person would perceive to be demeaning, intimidating, threatening, bullying, or violent enough to significantly impair, or is likely or intended to significantly impair, the ability of a community member to learn, work, or live in the University environment.
- (b) Misconduct that the perpetrator fails to correct after being warned, counseled, or instructed to do so by a supervisor or other appropriate school or university official, whether through a collegial, school, administrative, or investigative process.

Potential harm is considered to be “significant” if it would be viewed as significant in the eyes of a reasonable person in the same or similar circumstances. Occasional instances of behavior that is rude, mean, or uncivil, or any form of interpersonal misconduct that does not cause nor is likely or intended to cause significant harm and is not extreme, is unprofessional and calls for early intervention, but is not the focus of this section.

It is important to note that faculty members have academic freedom protections as expressed in 3-B(1)(a), and the preceding sections do not override those protections.

For convenience, the following flow chart outlines the typical steps of the misconduct process for allegations of interpersonal misconduct. The processes may be different for complaints related to other forms of misconduct.



(Flowchart is being updated.)

## 6-B (2) Sexual Misconduct and Discrimination, Harassment, and Retaliation Based on Protected Characteristics

The University is committed to maintaining an environment that is free from discrimination and harassment based on protected characteristics, including sexual harassment, and related retaliation. Statements and actions that create a discriminatory or harassing work or educational environment based on protected characteristics, and

related retaliation, are prohibited.

Sexual misconduct in the academic and work environment includes: sexual harassment as defined under Title IX; sexual and gender-based harassment; sexual assault; dating violence; domestic violence; exposure; stalking; other forms of dating and domestic violence; and nonconsensual viewing, recording, and dissemination.

A partial list of protected characteristics includes: race, color, ethnicity, religion (including religious dress and grooming practices), creed, sex, age (40 years and over in the context of the academic or work environment), marital status, national origin, citizenship status, employment status, income status, shared ancestry and ethnic characteristics, partnership status, medical condition (including cancer and genetic characteristics), pregnancy (including childbirth, breastfeeding, and related medical conditions), disability, political belief or affiliation, domestic violence victim status, military or veteran status, sexual orientation, gender, gender identity, gender expression, and genetic information. These categories are set by law and can change over time. For a complete up-to-date list of protected characteristics based on federal, state, and local law, see <https://eeotix.usc.edu/notice-of-non-discrimination/>.

Support, reports and complaints, investigations, alternative resolution, and other matters related to discrimination and harassment based on protected characteristics, and related retaliation, are handled by the Office for Equity, Equal Opportunity, and Title IX (EEO- TIX). See <https://eeotix.usc.edu/>. Online resources include:

- A fuller statement of the University's values, definitions, oversight, and an overview of processes: *Policy on Prohibited Discrimination, Harassment and Retaliation*, at <https://policy.usc.edu/wp-content/uploads/2022/02/Policy-on- Prohibited-Discrimination-Harassment-and-Retaliation.pdf>.
- Details on the process for reporting and the resolution options regarding sexual and gender-based harassment and other forms of sexual misconduct: *Resolution Process for Sexual Misconduct*, at <https://eeotix.usc.edu/wp-content/uploads/2022/02/Resolution-Process-for-Sexual-Misconduct Effectivedate 1 1 2022.pdf>.
- Details on the process for reporting and resolution options regarding discrimination based on protected characteristics (including gender and sex) and harassment based on all other protected characteristic (not including sex and gender), and related retaliation: *Resolution Process for Discrimination, Harassment, and Retaliation*, at <https://eeotix.usc.edu/wp-content/uploads/2021/07/Resolution-Process-Discrimination-Harassment-and-Retaliation.pdf>.

The Vice President of EEO-TIX periodically reviews the EEO-TIX policy and processes on at least an annual basis including consultation with Academic Senate representatives. EEO- TIX policies and processes are implemented consistent with the principles protecting the academic freedom of faculty and the statutory free speech rights of students.

### **6-B (3) Research-related Misconduct**

Research-related misconduct is mainly governed by University policies and procedures set out in other university documents, not this Handbook. For an overview and a guide to locating the policies and procedures applicable to a specific activity, see the *Guide to Research at USC*, at <https://ooc.usc.edu/compliance-programs/research-compliance/>, or contact [compliance@usc.edu](mailto:compliance@usc.edu) for assistance. Generally speaking, there are three broad categories of research-related misconduct:

- (a) *Administrative requirements.* Administration and expenditure of internally or externally sponsored research projects, research involving human or animal subjects, intellectual property, biological agents, chemical safety, research safety, radioactive materials, and select agents. See the policies and procedures listed at <https://ooc.usc.edu/compliance-programs/research-compliance/guide-to-research/>. For assistance contact the Office of Culture, Ethics, and Compliance (<https://ooc.usc.edu>).
- (b) *Conflicts of interest.* Disclosure and management of conflicts of interest or situations with the appearance of a conflict of interest. See 3-H of this Handbook and the policy on *Conflict of Interest in Research*: <https://policy.usc.edu/conflict-of-interest-in-research>. For assistance contact the Office of Culture, Ethics, and Compliance (<https://ooc.usc.edu>).
- (c) *Falsification, fabrication, and plagiarism.* Fabrication, falsification, or plagiarism in proposing, performing, or reviewing scholarly or research endeavors, or in reporting research results into the research record. This does not include honest error, differences of opinion, or differences in interpretation or judgements in evaluating research methods or results. See the policy on *Research and Scholarship Misconduct*: <https://policy.usc.edu/research-and-scholarship-misconduct/>. For assistance contact the Office of Research Integrity (<https://sites.usc.edu/ori/>).

### **6-B (4) Misconduct in Health Care**

Faculty members who provide clinical services at Keck Medicine of USC are subject to Keck Medicine policies, as well as clinical standards for credentialing. In addition, faculty members

who provide clinical services as part of the University Clinical Services (UCS) are subject to the clinical policies and standards of UCS. Matters impacting healthcare regulatory compliance at Keck Medicine are managed by Keck Medicine's Office of Healthcare Compliance. Matters impacting healthcare regulatory compliance at UCS are managed by the Office of Culture, Ethics and Compliance. See the healthcare compliance- related policies pertaining to both Keck Medicine and UCS at: <https://ooc.usc.edu/compliance-programs/healthcare-compliance/>. The broad categories of misconduct in health care are:

- (a) *Relationships with industry*. The purpose of this policy is to minimize conflicts of interest and the appearance of conflicts of interest in interactions with industry, and to ensure compliance with federal, state and local laws and regulations, including the federal Anti-Kickback laws. "Industry" means pharmaceutical companies, biotechnology companies, device and medical manufactures and other healthcare suppliers. See the policy on *Relationships with Industry*: <https://policy.usc.edu/industry-relationships/>.
- (b) *Compliance*. These policies are aimed at preventing healthcare fraud, waste and abuse, ensuring proper clinical documentation, and protecting patient privacy in accordance with state and federal law. See 3-B (3).

Faculty members may also be subject to entity-specific policies. Keck Medicine of USC, comprised of hospitals, ambulatory clinics, and the USC Care Medical Group, has entity-specific conduct policies that apply to faculty members (3-B (3)). Keck Medicine of USC also has affiliations with other entities such as Children's Hospital Los Angeles, which maintain their own policies that may apply to faculty members. Besides these entity- specific policies, faculty members who provide clinical services for Keck Medicine or UCS are subject to the Faculty Handbook and all other University policies applicable to faculty.

## **6-B (5) Professional Misconduct**

Faculty members have other professional responsibilities that are described elsewhere in this Handbook and in University, school, and medical enterprise documents and websites. See 3-B and 8-C. Faculty members also have professional responsibilities that are not explicitly itemized, for example, showing up and teaching scheduled classes. Faculty members are expected to uphold professional standards in light of the USC Unifying Values, including refraining from behavior described as Prohibited Conduct in USC's *Policy on Prohibited Discrimination, Harassment, and Retaliation*, when on campus, when at other university facilities, when at university activities or events off campus, when acting in their capacity as faculty members off campus, and when interacting on or off campus with university employees, students, post-docs, patients, vendors, contractors, or other members of the university community.

## **6-B (6) Concerns about Administrators**

Concerns related to administrative decisions (such as teaching or office or laboratory space assignments) can be raised with the administrator's direct supervisor, or if that proves unsatisfactory, with the supervisor's supervisor. The grievance process is also available as described in 3-B (2)(h). Concerns related to misconduct -- interpersonal misconduct, sexual misconduct, or other prohibited behavior discussed in this chapter -- should be reported through the channels mentioned in 6-C. Concerns about misconduct by deans can also be raised with the Provost.

## **6-B (7) Retaliation**

Faculty members may not retaliate against or intimidate others for seeking advice, raising concerns informally, filing a report, or asserting a right under a University policy, or under a federal, state, or local law, or a funding agency requirement. Faculty members may not retaliate against or intimidate others for their participation in a University-authorized investigative or resolution process, nor attempt to dissuade them from participating in such processes. These prohibitions, even in non-EEO-TIX matters, include all the behaviors defined as retaliation in USC's *Policy on Prohibited Discrimination, Harassment, and Retaliation*.

## **6-B (8) Misconduct in Reports and Investigations**

Faculty members are expected to participate in investigations and audits as requested. Whether they are reporting parties, respondents, or others providing information, they are expected to provide truthful information in any allegation, investigation, appeal, or hearing, and in any audit or compliance process. They may not deliberately provide false or misleading information or otherwise obstruct the fact-finding process. They may not submit complaints or provide testimony about allegations of purported misconduct in bad faith or with a view to personal gain or intentional harm to another. This prohibition does not apply to reports made or information provided in good faith, even if the facts alleged turn out to be erroneous or are not later substantiated.

## **6-C. REPORTS OF MISCONDUCT**

### **6-C (1) Overview**

Concerns about potential misconduct by a faculty member or administrator may involve potential violations of any university policies. Concerns may be raised:



- Within the school (6-C (3)).
- Through a central reporting channel (6-C (4)).

For advice prior to reporting potential misconduct, see 6-C (5).

## **6-C (2) Required Reporting**

If faculty observe or hear of potential prohibited sexual misconduct or misconduct related to discrimination based on protected characteristics involving faculty, staff, or students, they are required to immediately report the information to the EEO-TIX office. Faculty members, faculty bodies, and academic units may not attempt to investigate or resolve an apparent violation of the policies concerning protected characteristics except with the permission of the EEO-TIX office. Reports can be made by emailing [eeotix@usc.edu](mailto:eeotix@usc.edu) or calling the EEO-TIX office at (213) 740-5086.

USC policy requires all faculty to promptly report to central offices their suspicion of some additional specific issues. (Even someone who has reported the concern to school officials such as a chair or dean must also make a report to central offices.) Concerns that must be reported to central offices include: protection of minors, violations of government compliance requirements, allegations of criminal conduct, misappropriation of USC assets, accounting and auditing matters, research misconduct (6-B (3)), misconduct in health care (6-B (4)), reports required by the Clery Act, danger to self or others, violence in the workplace, elder abuse, domestic violence, firearm injury, and NCAA violations. See *Faculty and Staff Reporting Responsibilities*, <https://eeotix.usc.edu/faculty-and-staff-reporting-responsibilities>, and *Reporting Wrongdoing*, <https://policy.usc.edu/reporting-wrongdoing>, for specific guidance.

## **6-C (3) Raising Concerns Within the School**

Concerns can be raised with the department chair, school vice or associate dean of faculty affairs, the school human relations or similar office, or through the central channels listed in 6-C (4). Some concerns *must* be reported through central channels, including matters related to protected classes; it is not enough to report them only within the school (6-C (2)).

## **6-C (4) Concerns Submitted through Central Reporting Channels**

Anyone who wishes to report any form of misconduct does not have to identify the appropriate category, but may make a report through any of the channels listed below. If unsure which channel is appropriate, they can proceed through any central University office and their concern will be referred to the appropriate office, depending on the nature of the

reported concern.

- USC Help and Hotline: (213) 740-2500 or (800) 348-7454. Available 24 hours a day, 365 days a year
- Web: <https://secure.ethicspoint.com/domain/media/en/gui/84631/index.html>
- Online: clicking here
- Report to administrators: Reports of potential misconduct can be made to the department chair, school vice or associate dean of faculty affairs, school employee relations office, or the vice provost responsible for faculty affairs. (However, see 6-C (2) on required reporting.)
- Report to the Provost: Reports of potential misconduct by deans can be made through the channels listed in this section 6-C (4) or to the Provost: [uscprovost@usc.edu](mailto:uscprovost@usc.edu).
- EEO-TIX Office: [eeotix@usc.edu](mailto:eeotix@usc.edu), or (213) 740-5086. For sexual misconduct or discrimination, harassment, or retaliation involving a protected characteristic, anyone may make a report to the USC's Office for Equity, Equal Opportunity, and Title IX to request supportive measures, explore procedural options, or ask questions about the *Policy on Prohibited Discrimination, Harassment, and Retaliation*.

#### **6-C (5) Advice Prior to Reporting Potential Misconduct**

Several sources of advice are available for individuals who are considering how to address issues of potential misconduct. Consulting these sources does not amount to reporting the misconduct.

- *Ombuds*: Offer confidential advice, help explore options, and provide references to information and resources: See 7-B (1)(bb) and <https://ombuds.usc.edu/>: UPC Ombuds Office, (213) 821-9556, HSC Ombuds Office, (323) 442-0382, [hscombuds@usc.edu](mailto:hscombuds@usc.edu).
- *Academic Senate*. The Academic Senate, through the Committee of Faculty Rights and Responsibilities or the President of the Faculty, can provide advice and help on disputes with colleagues, consideration of reporting potential misconduct or filing a grievance, or responding to an investigation, <https://academicsenate.usc.edu/contact/> or (213) 740-7169.

- *Campus Wellbeing and Education*. Focuses on support and prevention and can provide references to information and resources, <https://cwe.usc.edu> or (213-740- 0411).
- *WorkWell Center*. Provides counseling, coaching, and support services at no charge, <https://workwell.usc.edu> or [workwell@usc.edu](mailto:workwell@usc.edu) or (213) 821-0800.
- *Care for the Caregiver*. Provides emotional well-being support within the medical enterprise: [Careforthecaregiver@med.usc.edu](mailto:Careforthecaregiver@med.usc.edu) or SharePoint site: <https://keckmedicine.sharepoint.com/sites/KM-CareforCaregiver/SitePages/EmotionalWell-being.aspx>.

## 6-D. ROUTING AND INITIAL ASSESSMENT OF REPORTS

### 6-D (1) Routing and Recording

Once a report involving potential misconduct is received by a central office, it is routed to the appropriate office or to the school for further review and assessment. Complaints are routed according to the nature of the complaint:

- Reports relating to interpersonal misconduct are assessed as described in 6-D (2).
- Reports relating to sexual misconduct and discrimination based on protected characteristics are assessed as described in the policy documents mentioned in 6-B (2).
- Reports relating to research misconduct are assessed as described in the policy documents mentioned in 6-B (3).
- Reports related to misconduct in health care are assessed as described in the policy documents mentioned in (6-B (4)).
- Other reports are assessed as described in the policy for the underlying behavior (6-B (5)-(8)).

In some cases, an allegation may be recorded without further action being taken. This may happen, among other reasons, because the allegation (even if true) does not constitute a violation of university policy, or the allegation lacks sufficient detail to allow investigation or early intervention. If the case is recorded without further action, the person making the

allegation will be notified and may request that the Vice President of Professionalism and Ethics reconsider that decision; the Vice President will respond but is not required to issue a detailed ruling. Typically, the subject of the complaint will be informed even if the allegation is recorded without further action.

Upon receiving a report, the central office determines if there are any immediate health or safety issues that must be addressed. The Vice President for Equity, Equal Opportunity and Title IX, (or the appropriate Vice President for other investigations) or designee, may take supportive or protective measures, including those described in the *Resolution Process for Discrimination, Harassment and Retaliation* (VII, A and C).

All allegations and information on their resolution are recorded in a confidential repository so that repeated instances of problematic behavior occurring in the future can be evaluated in context. Access to the repository is on a need-to-know basis limited to the office handling the matter and central supervisors. See 6-E on certain limits to confidentiality.

#### **6-D (2)            Assessment of Allegations of Interpersonal Misconduct**

Allegations of interpersonal misconduct are assessed to determine whether to refer them to the school faculty affairs office for resolution through school processes (6-E); refer them to an investigative office for formal investigation (6-F), or record them without taking further action.

The decision where to refer a case of interpersonal misconduct is made by the Vice President for Professionalism and Ethics, or designee. Before referring a case to an investigative office for formal investigation, the Vice President or designee will consult with a faculty member who is appointed annually by the Provost after consultation with the president of the Academic Senate. One purpose of faculty participation in assessment is to ensure that academic norms are taken into account and academic freedom (3-B (1)) is protected.

In deciding where to refer a case, school-level processes are preferred to formal investigations when feasible and appropriate. As a general goal, cases are referred for formal investigation only if the alleged behavior is repeated, or the alleged potential harm is significant in the eyes of a reasonable person in the same or similar circumstances (6-B (1)), or investigation is mandated (6-C (2)), or involves violence or the threat of violence; or involves the abuse of power or retaliation; or requires fact-finding beyond the capacity of the school. Isolated lapses in professional behavior that do not create significant potential harm are expected to be handled through school-level processes.

After assessment, the appropriate responding office promptly informs the reporting party of the availability of supportive measures and resources.

## **6-E. RESOLUTION THROUGH SCHOOL PROCESSES**

Many cases may be resolved through a school's normal administrative procedures. Typically, this involves the dean, vice or associate dean, department chair, or school human resources or similar office reviewing the circumstances and meeting with the involved parties. Issues related to standard faculty responsibilities, such as absenteeism, are usually managed in this way.

Possible outcomes include, for example, counseling, warning, instructions, corrective actions, changes in teaching or clinical care assignments, training, or, after consultation with a faculty committee, use of the established processes for mid-contract termination (4-G (3)) or non-reappointment (4-F (3) or 4-G (2)). Early intervention methods are emphasized, including referring matters to a partnering unit such as Campus Wellbeing and Education, WorkWell Center, or others for coaching, training, skills building, or professional support. If a reported case turns out to be more serious than initially believed, or turns out to require investigation beyond the school's capabilities, it may be referred back for a formal investigation.

A record of the allegation will be promptly documented in a central confidential repository so that repeated instances of problematic behavior can be evaluated in context (see 6-D (1)). The outcome (whether resolved within the school or reported to a central office, and whether or not action was taken) will also be promptly recorded in the repository. (Under some circumstances the university may be legally obligated to disclose the records, and some future employer may ask a faculty member to waive confidentiality and allow them to see the records.) Corrective actions and responses, such as warnings, counseling, disciplinary notices, performance improvement plans, and the individual's responses, are also recorded in the person's personnel record as provided in university policy (<https://policy.usc.edu/employment-records/>).

Schools that identify potential problems in workplace dynamics before an actual allegation is made or the problems develop into serious policy violations are encouraged to consult with school and university human relations or similar offices with an eye toward early intervention. Early intervention can involve cultivating positive working relationships, navigating fairness disputes, fostering open communication, and resolving interpersonal conflicts.

## **6-F. FORMAL INVESTIGATIONS**

## **6-F (1) Overview**

The procedures for formal university-authorized investigations vary by nature of the alleged misconduct. Sources for documents describing procedures are described above: sexual misconduct and discrimination, harassment and retaliation based on protected characteristics (6-B (2)), research-related misconduct (6-B (3)), misconduct in health care (6-B (4)), and other professional misconduct (6-B (5)). In those cases, their processes apply rather than the provisions of this section 6-F.

In all investigations (EEO-TIX or not), interim supportive and protective measures are available including those described in the *Resolution Process for Discrimination, Harassment and Retaliation* (VII A and C). Before the Vice President of EEO- TIX or designee (or the appropriate Vice President or designee for non-EEO-TIX cases) reaches a determination regarding such measures affecting a faculty respondent, he or she consults with a delegate of the Provost and other appropriate stakeholders.

All persons involved in an investigation can expect a prompt, fair, adequate, reliable, and impartial process from beginning to end.

When undertaking an investigation of a faculty member for failing to comply with a policy, the relevant university-authorized investigative office shall notify the appropriate Dean, and the officials designated for such matters by the Provost (and for the Health Science Schools, the Senior Vice President, Health Affairs) and shall also notify them of the findings and conclusions of the investigation. The Dean decides which other administrators within the school to notify; in many cases it may be helpful to notify those who oversee the faculty member, such as the department chair or vice dean of faculty, in order to assist with monitoring the academic climate.

## **6-F (2) Investigations Related to Interpersonal Misconduct**

The following principles and processes apply to formal investigations of interpersonal misconduct.

The terminology of an investigation can be somewhat confusing. To help understand the process, one can think of an investigation producing two outcomes: First, it produces *findings of fact*, which are essentially a description of what actually occurred. Second, it produces *conclusions* about whether a policy violation occurred, based on the findings of fact. Findings of fact and conclusions are related but logically distinct and are often distinguished throughout this chapter. *Findings of fact are made by the investigator* (in consultation with the Vice President or other university official supervising the investigation); *conclusions about whether policies have been violated are ultimately made by the Vice President or other*

*university official supervising the investigation* (in consultation with the investigator).

- *Timeliness.* Investigations are expected to proceed and be concluded promptly, taking into account the complexity of the case. Unless preliminary investigation is appropriate before notifying the respondent, the investigator will tell both parties at the outset the anticipated time required to complete the investigation and indicate issues that can cause it to take longer than the expectation. If the investigator does not act in a timely manner, either the reporting party or the respondent or the Academic Senate's Committee on Faculty Rights and Responsibilities (if requested by either party) may ask for an explanation and may ask the investigator's supervisor to intervene.
- *Equitable information gathering for both parties.* Both the reporting and responding parties will have the opportunity to provide information, suggest witnesses, and offer arguments in person and in writing.
- *Information sharing and opportunity for response.* Respondents will be told the allegations against them, and the policy violations that are being investigated, in enough detail so that they can respond to them. Respondents will be given access to the evidence that the investigator is proposing to rely on and any evidence that is potentially exculpatory and can respond to the evidence before findings are made. Respondents will be notified if the charges or policies being considered change during the investigation.
- *No retaliation or interference.* The respondent will be counseled that retaliation against reporting parties and witnesses or other interference with the investigation is prohibited (6-B (7)).
- *Availability of advice.* The respondent has the right to consult and share information about the case with an advisor. The respondent also has the right to have an advisor who is a USC faculty or staff member present during any interviews with investigators. An advisor may be disqualified based on a conflict of interest. The advisor provides support, but the interview is between the investigator and the respondent, and the adviser may not speak or interfere with the interview. The Academic Senate Faculty Rights and Responsibilities Committee is requested to provide names of potential faculty or staff advisors, who may or may not be members of that committee.
- *Preliminary findings and opportunity to comment.* The investigator will provide the respondent and reporting party with a preliminary Notice of Findings of fact that is sufficiently robust to explain the evidence the investigator considers to be relevant, reliable, and credible, and any evidence that is potentially exculpatory, as well as a preliminary conclusion on whether a policy was violated. The respondent and the

reporting party may then provide any new information or arguments that were not previously mentioned to the investigator. (If the respondent wishes to appeal the findings or conclusions, that takes place later in the process (6 -G(3)); the purpose of this late-stage opportunity to provide information and arguments is to ensure as much as possible a fair and objective outcome where relevant information and contentions have been brought to the attention of the investigator.)

- *Decision on findings and conclusions, and notification.* After the respondent and reporting party have had the opportunity to comment on the preliminary findings, the investigator may investigate further and may revise the preliminary documents. The investigator then forwards the final findings to the vice president or other university official supervising the investigation who makes a decision whether a policy has been violated. The respondent is notified of the findings and conclusions and the reporting party is notified as appropriate. The relevant dean is also notified as appropriate.

## **6-G. APPEAL OF THE FINDINGS AND CONCLUSIONS; RECOMMENDATION OF SANCTIONS AND CORRECTIVE ACTIONS**

### **6-G (1) Overview**

If a formal investigation concludes that a faculty member engaged in misconduct or other violation of policy, and that it was repeated or sufficiently significant, then the case is typically referred to the Committee on Professional Responsibility (COPR), a neutral body comprised of faculty members that advises the Provost's delegate on sanctions and corrective actions and also matters that have been appealed (6-G (2)). At this stage, the respondent has the opportunity to appeal in writing the findings and conclusions (6-G (3)), and both the respondent and the reporting party may comment on potential mitigating and aggravating factors regarding sanctions and corrective actions (6-G (4)). COPR reviews the respondent's letter and other information (6-G (4)), and makes a recommendation to the Provost's delegate regarding sanctions and corrective actions and, if it chooses, regarding any appealed matters (6-G (6)). The Provost's delegate then makes a final decision on any appealed matters and on sanctions.

### **6-G (2) Committee on Professional Responsibility (COPR)**

COPR is a committee of faculty members appointed by the Provost after consulting with the chair of the Committee on Tenure and Privileges Appeals and the President of the Faculty. Members are selected from both tenured and RTPC faculty and typically include one or more past Presidents of the Faculty. The purpose of COPR is to advise the Provost on sanctions and corrective actions and on matters that have been appealed (6-G (6)).



In order to develop institutional memory of procedures and sanctions, and to ensure fairness across cases over time, members serve renewable three-year terms. The Provost appoints a chair of COPR for a three-year term.

When a case is referred to COPR, it is heard by a panel with a minimum of three members. In cases involving tenured faculty members, the panel must include tenured faculty and in cases involving RTPC faculty members the panel must include both tenured and RTPC faculty. The panel also includes a non-voting designee of the Provost.

COPR members receive training on the university's EEO-TIX policy and resolution processes.

### **6-G (3) Appealing the Findings and Conclusions; Explaining Factors Related to Sanctions**

The respondent may appeal the findings and conclusions after receiving notification of the outcome of the investigation. If the respondent chooses to appeal, the respondent will be given electronic access to the report of the investigation, the findings and conclusions, any underlying evidence that the investigator relied on for the findings, and anything exculpatory. (In rare cases, information may be excluded if necessary to avoid the risk of retaliation, as long as the investigator does not rely on it.) The respondent may appeal the findings and conclusions within two weeks of being notified on them by sending a letter to [copr@usc.edu](mailto:copr@usc.edu).

The findings and conclusions may be appealed on the following grounds: (i) the findings of fact are not supported by evidence; (ii) the conclusion of which policies were violated is not supported by the findings of facts; (iii) there is significant additional evidence that was not available during the investigation; and (iv) there were procedural errors or bias that had a significant impact on the fairness of the investigation. To effectively appeal a case, respondents are encouraged to state clearly the grounds that are the basis of their appeal, and confine their argument to matters related to those grounds.

In addition, and regardless of whether the respondent chooses to appeal the findings and conclusions, both the respondent and the reporting party may submit letters to the Provost's delegate explaining any factors they believe should mitigate, aggravate, or otherwise be considered in determining sanctions and corrective actions. These letters must also be submitted to [copr@usc.edu](mailto:copr@usc.edu) within two weeks of being notified of the outcome of the investigation.

Both the respondent and the reporting party are advised that COPR often finds short, focused letters more effective than lengthy documents with attachments.

The COPR review of the investigation's findings and conclusions is more comprehensive than

the grievance process that was available in the previous edition of this handbook and it replaces that process.

The resolution process in EEO-TIX cases, including provisions for appealing findings and conclusions, follow the provisions of that policy, and may be different from what is described in this chapter 6. For example, under the EEO-TIX process, both the respondent and the reporting party have equal rights to appeal.

#### **6-G (4) Sanctions**

Potential sanctions and corrective actions that COPR may recommend include: admonishment or warnings; performance improvement plans; required counseling, coaching, or training; elimination or reduction of merit pay increases; reduction in compensation; removal from an administrative or supervisory position; removal of honorific title (4-B(2)(d)) or ineligibility for honors; denial of promotion or postponement of consideration for promotion; suspension, demotion, termination, non-reappointment, or ineligibility for future appointment; or (whether or not it is an EEO-TIX case) any of the sanctions and corrective actions set forth in the EEO-TIX resolution processes. Lesser sanctions may be imposed for behavior which 8-C identifies as adequate cause for dismissal.

If the respondent is tenured, COPR may recommend to the Provost that dismissal charges be filed; whether or not there is such a recommendation the Provost decides whether to bring tenured dismissal charges as described in 8-D (2) and, if so, there is then a hearing as described in 8-D(2)(a) and chapter 7.

In recommending a sanction, the panel considers the seriousness of the case, the circumstances, and the sanctions imposed in similar cases. (In EEO-TIX cases, the panel also considers the factors mentioned in the EEO-TIX resolution processes.)

#### **6-G (5) Information Available to the COPR Panel**

The investigative office provides COPR with the information mentioned in 6-G (3). If the respondent appeals the findings or conclusions, the panel also considers the respondent's letter. The panel may ask the investigative office for additional information or comments on the respondent's letter. The panel may also ask the reporting party to comment on appealed matter, and if so will provide the reporting party whatever information is necessary to do so. In addition, the panel may request additional information from the university necessary to carry out its charge.

The panel considers letters submitted by the parties on mitigating, aggravating, or other factors relevant to sanctions. The panel also solicits comments and a recommendation

concerning sanctions from the dean of the respondent's school.

The panel is not an investigatory body and does not conduct independent investigations nor conduct an in-person hearing.

## **6-G (6) COPR Panel Recommendations**

*Recommendations on appealed matters and on sanctioning.* After considering the information available to it, the COPR panel makes a recommendation to the Provost's delegate based on its own judgement, by majority vote. The recommendation includes any appropriate sanctions and corrective actions. The panel may also advise the Provost's delegate regarding appealed matters. In doing so, the panel will give the investigator's findings of fact substantial deference because the investigator could observe the demeanor of witnesses.

The panel is expected to convene and issue its recommendations within the time limits stated in the relevant university policy. If the panel does not act in a timely manner, either the reporting party or the respondent, or the Academic Senate Committee on Faculty Rights and Responsibilities (on the request of either party) may ask the Provost to intervene.

*Opportunity to appeal sanctions.* After providing its recommendation to the Provost's delegate, the panel also notifies the respondent of its recommendations. If the respondent believes that the recommended *sanctions and corrective actions are grossly disproportionate to the violation*, the respondent may send a final letter appealing the sanctions to the Provost's delegate, strictly restricted to this one issue, by emailing to [vpafa@usc.edu](mailto:vpafa@usc.edu) within three working days of the panel's notification to the respondent.

## **6-H. DECISION BY THE PROVOST'S DELEGATE**

After receiving COPR's recommendations along with the information that was available to COPR (6-G (5)), and possibly a letter from the respondent on severity of sanctions (6-G (6)), the Provost's delegate makes a final decision on any appealed matters and on sanctions. The Provost's delegate may affirm or modify the findings and conclusions, and may affirm or modify the recommended sanctions and corrective actions. The decision will be made as quickly as possible, normally within 30 calendar days.

In making a decision, the Provost's delegate may consult with others at the delegate's discretion. For example, if the Provost's delegate reaches a decision on the findings and conclusions different from COPR's recommendation, the delegate may consult with the panel chair on what change if any in the recommended sanctions and corrective actions may be appropriate. There will not be further investigation by the delegate nor an in-person hearing,

except as noted below.

Once a decision is made, the Provost 's delegate sends a written notification to the respondent, and the respondent's dean, of the sanction and corrective action (and the reasoning for any change from COPR's recommendations), and notifies the reporting party that appropriate action was taken. As an exception, in EEO-TIX cases COPR informs the Vice President of EEO-TIX who then sends the appropriate notifications to both the respondent and the reporting party.

The decision of the Provost's delegate is final; however, tenure dismissal cases have a different process and a decision by the Provost whether or not to bring tenure dismissal charges as described in 8-D (2) is outside the jurisdiction of the Provost's delegate.

The sanctions imposed by the Provost delegate following COPR deliberation are separate from school actions on salary, reappointment, and termination of contracts for performance or programmatic reasons (see, e.g., 3-D (2), 4-F (3), 4-G (2), 4-G (3)) or corrective or preventive measures taken by committees or offices under other University policies.