

UC Davis Policy and Procedure Manual

Chapter 400, Campus Climate

Section 15, Complaints of Discrimination or Harassment

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Responsible Department: Compliance and Policy

Source Document: University of California Discrimination, Harassment, and Affirmative Action in the Workplace; University of California Policies Applying to Campus Activities, Organizations, and Students

I. Purpose

- A. This section provides procedures for academic appointees, staff and students to report allegations of discrimination or harassment, and procedures for responding to those reports.
- B. For complaints of harassment involving student Respondents, harassment is defined per Section 102.09, [UC Davis Policy on Student Conduct & Discipline](#).
- C. Complaints of sexual harassment will be handled under [Section 400-20](#). This can include sex-based conduct such as acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on gender, gender identity, gender expression, sex- or gender-stereotyping, or sexual orientation.

II. Definitions

- A. Adverse action—conduct that would discourage a reasonable person from reporting discrimination or harassment or participating in a process provided for in this policy.
- B. Discrimination—an illegal or prohibited adverse employment or educational action, or harassment based on race, color, national origin (including caste or perceived caste), religion, sex, gender, gender expression, gender identity, gender transition status, pregnancy, physical or mental disability, medical condition (cancer-related or genetic characteristics), genetic information (including family medical history), ancestry, marital status, age, sexual orientation, citizenship, or service in the uniformed services, including protected veterans.
- C. Harassment—conduct that is sufficiently severe, persistent or pervasive that it unreasonably denies, adversely limits, or interferes with a person's participation in or benefit from the education, employment or other programs or activities of the University, and creates an environment that a reasonable person would find to be intimidating or offensive when based on the categories identified in II.B, above.
- D. Retaliation—threats, intimidation, reprisals, or adverse actions taken against a person because they report discrimination or harassment, help someone with a report of discrimination or harassment, take part in an investigation or resolution of a complaint or refuse to participate in an investigation or resolution of complaint where not required to do so.
- E. Preponderance of evidence—a standard of proof that requires that a fact be found when its occurrence, based on evidence, is more likely than not.

III. Policy

- A. The University is committed to creating and maintaining a community where all individuals who are part of the University community can work and learn together in an atmosphere free from all forms of discrimination, harassment, exploitation, or intimidation.
- B. The University prohibits discrimination or harassment against students, staff, and faculty/academics; individuals seeking employment or applying for or engaged in a paid or unpaid

internship or training program leading to employment; or individuals accessing or participating in University programs or activities when the behavior is based on the categories identified in II.B, above.

- C. The University responds promptly and effectively to reports of discrimination or harassment and takes appropriate action to prevent and correct behavior that may be non-compliant with this policy, which may include discipline.
- D. The University prohibits retaliation and responds to reports of retaliation following the procedures described in this policy.
- E. No provision of this policy is interpreted to prohibit conduct that is legitimately related to:
 - 1. Course content, teaching methods, scholarship, or public commentary of an individual faculty member/academics; or
 - 2. The educational, political, artistic, or literary expression of students in classrooms or public forums.
- F. However, freedom of speech and academic freedom are not limitless and do not protect speech or expressive conduct that violates Federal or State anti-discrimination laws.

IV. Jurisdiction

- A. The University has jurisdiction over alleged non-compliance with this policy that occurs on University property (e.g., offices, student housing, medical center and medical clinics) or in connection with University activities, programs, or events.
- B. The University may exercise jurisdiction over conduct that occurs off University property and outside the context of a University program or activity, but has continuing adverse effects on or creates a hostile environment for students, employees or third parties while on University property or in any University program or activity.

V. Procedures for Reporting and Filing Complaints/Grievances

- A. Individuals who experience or observe behavior that may be discrimination or harassment may report the behavior to any of the following:
 - 1. The Harassment and Discrimination Assistance and Prevention Program (HDAPP): UC Davis 530-747-3864; UC Davis Health 916-734-3417; <http://hdapp.ucdavis.edu>).
 - 2. The Chief Compliance Officer 530-752-9466.
 - 3. Any department chair, manager, supervisor, academic personnel coordinator, student conduct coordinator or human resources personnel.
- B. Reports should include as much information as possible.

If insufficient information is provided, the University may be limited in its ability to address the concerns presented in the report.
- C. So that the University can take prompt remedial action, reports should be made as soon as possible. There is no time limit on making a report, except that Responsible Employees must report information to HDAPP promptly after being made aware of a concern.
- D. Filing a Complaint or Grievance

Staff members who believe they have been subjected to discrimination or harassment may file a complaint through [PPSM 70, a grievance through the APM](#), or a grievance through the applicable

collective bargaining agreement subject to the provisions of the appropriate policy or agreement.
The complaint or grievance:

1. May be filed instead of or in addition to making a report to an individual identified in V.A, above.
 2. Must meet all of the requirements of the applicable complaint resolution or grievance procedure, including time limits for filing.
 3. If filed in addition to a report made to an individual identified in V.A, above, the Complainant (a person alleged to have experienced discrimination or harassment) will be asked to place the complaint or grievance in abeyance pending the outcome of the informal resolution or formal investigation procedures described in VI, below.
- E. Complaints may be filed online at <https://reporthatteandbias.ucdavis.edu>.
- F. Anonymous Reporting
1. Reports may be filed anonymously by the individual experiencing or observing the discrimination or harassment but the University may lack sufficient information to respond to complaints filed anonymously.
 2. Anonymous complaints can be made by phone at 530-747-3865, 916-734-2255 or online as identified in V.E above.
 3. Responsible Employees who are reporting by virtue of their role as Responsible Employees must disclose their name and cannot claim anonymity.

VI. University Response

- A. The University will inform Complainants of the resolution processes, confidentiality policies, and the range of potential outcomes.
- B. As soon as practicable after receiving a report, HDAPP, with oversight from the Chief Compliance Officer, will make an initial assessment to determine whether (1) the report, on its face, alleges behavior covered under this policy and (2) such conduct has a sufficient nexus with the University for it to intervene.
- C. HDAPP may consult with appropriate offices or departments such as, but not limited to, Academic Affairs/Academic Personnel, Human Resources, Office of Student Support and Judicial Affairs, Student Affairs, and any Academic or Administrative Department. This assessment will help in determining whether the report should be referred to a different office, administratively closed, or the type resolution process to be implemented (e.g., Informal Resolution or Formal Investigation).
- D. HDAPP, with oversight from the Chief Compliance Officer, may suggest or implement, interim measures while a resolution process is being determined or completed. Interim measures include services, accommodations, or other measures put in place temporarily to assist or protect the Complainant, the Respondent, or the University community; restore or preserve a party's access to a University program or activity; or deter potential non-compliance with this policy.
- E. Informal resolution
The informal resolution process is coordinated by the Director—HDAPP.
 1. Informal resolution may be used to resolve a situation informally or when a formal investigation is unlikely to lead to a satisfactory outcome.
 2. The University reserves the right to resolve complaints through informal resolution when appropriate, even if one or both parties choose not to participate.
 3. Informal resolution may include but is not limited to the following:

- a. Administrative review or preliminary inquiry including fact-finding.
 - b. Providing remedies or referral to support services for the individual who was harmed.
 - c. Referring parties to resources.
 - d. Educational discussion with the Respondent with written confirmation (e.g., documented discussion, administrative notice).
 - e. Conducting targeted educational programs.
 - f. Separating the parties.
 - g. Mediating agreement between the parties.
 - h. Negotiated agreement for disciplinary action.
 - i. Other actions as appropriate.
4. Steps taken to encourage or resolve complaints and any agreement reached through informal resolution will be documented and retained in HDAPP records.
- F. Formal Investigation
1. In cases where informal resolution is inappropriate or unsuccessful, or when the University determines it is necessary, a formal investigation is conducted.
 2. A Complainant's request that no investigation occur will be considered. The Chief Compliance Officer has sole discretion as to whether or not to initiate an investigation.
 3. Those who participate in University investigations under this policy are expected to participate in good faith.
 4. Employee Respondents and witnesses may be compelled to participate in an investigation; failure to participate as directed may result in disciplinary action.
 5. The Chief Compliance Officer will initiate an investigation as follows:
 - a. Identifying an investigator familiar with this policy and trained in discrimination and harassment issues and procedures to conduct the investigation.
 - b. Charging investigation as appropriate, which may include a joint charge with Academic Affairs under the APM.
 - c. Notifying the parties of the investigation, including, where appropriate, Respondent's supervisor and/or parties' representatives. The notification will include a statement of the allegations, the parties' rights during the investigation, the name of the investigator, the deadline for completion, and a link to this policy.
 6. The following procedures are used to ensure a full, fair, and impartial investigation:
 - a. The investigator interviews the parties, if available, as well as other witnesses as needed.
 - 1) The parties may have a representative and support person present when interviewed by the investigator.
 - 2) Other witnesses may be accompanied by a representative if required by applicable University policy or at the investigator's discretion.
 - 3) A representative or support person who interferes with the interview may be excluded from the proceedings.

- b. The investigator reviews relevant evidence.
 - c. When appropriate, the investigator will instruct parties, representatives, and support persons to maintain confidentiality in order to protect the integrity of the investigation. Those who fail to maintain confidentiality after receiving instruction to do so may be subject to disciplinary action.
 - d. The investigator may disclose facts or allegations to parties and witnesses as reasonably necessary to conduct a full, fair investigation.
 - e. The investigator prepares a written report including the following components:
 - 1) A statement of the allegations.
 - 2) The positions of the parties.
 - 3) A summary of the evidence.
 - 4) Findings of fact.
 - 5) The investigator's determination as to whether University policy was violated.
 - f. The investigator will apply the preponderance of evidence standard.
 - g. If the allegations are substantiated, the Chief Compliance Officer submits the report to the appropriate University official with authority to implement the actions required to resolve the complaint, including the imposition of discipline where appropriate.
7. The investigation report may be used as evidence in other procedures, such as subsequent complaints, grievances, or disciplinary action.
 8. The investigation is completed as promptly as possible, generally within 60-90 business days from the date of initiation.
 - a. The deadline may be extended by the Chief Compliance Officer when required to complete a full and fair investigation.
 - b. The Chief Compliance Officer will provide written notice of any extension to the Complainant and Respondent.
 9. After receiving the final report, the Chief Compliance Officer ensures the parties receive written notice of the following:
 - a. Whether or not there was a finding that University policy was violated.
 - b. Actions taken to resolve the complaint, as relevant to the party receiving the notification.
 10. At the end of the investigation, the Chief Compliance Officer will simultaneously provide the parties the Investigation Report. The report may be redacted to protect privacy (see APM Section 160 and other University policies governing privacy).
- G. Following a finding of non-compliance with policy, disciplinary action may be considered and pursued according to the procedures described in the appropriate discipline policy or collective bargaining agreement.
1. At the end of any disciplinary proceeding the Complainant and the Respondent will be informed in writing of:
 - a. The outcome, including the final determination regarding the alleged offense, any discipline, and the rationale for the results;

- b. Any available appeal rights and procedures; and
 - c. Any subsequent change to the results and when results become final.
 - 2. The University tries to finalize and notify parties of disciplinary decisions promptly per applicable procedures, depending on the severity and extent of the conduct and the complexity of the matter.
- H. Following a finding of a non-compliance with policy and where the complaint relates to student grades, the Academic Senate Committee on Grade Changes will determine whether the Complainant received an unfair grade because of the discrimination or harassment, and if so, the appropriate grade or other action to be taken (e.g., retroactive withdrawal).
- 1. The committee does not reexamine the determination that discrimination or harassment occurred.
 - 2. Nothing in this policy changes the guidelines and procedures under which the committee operates.

VII. Roles and Responsibilities

- A. Responsible Employees
- 1. Managers, supervisors, department chairs, human resources personnel, academic personnel coordinators, and student conduct coordinators
 - a. Maintain a work and education environment free from all forms of discrimination or harassment.
 - b. Promptly forward all reports of harassment or discrimination to HDAPP.
 - c. Consult with HDAPP on appropriate interim actions.
 - 2. Other employees
Promptly forward student reports of concerns of discrimination or harassment to HDAPP.
 - 3. The Chief Compliance Officer develops, implements, and oversees procedures for prompt and effective response to reports of discrimination or harassment.
- B. The Director—HDAPP
- 1. Manages and oversees the planning of discrimination education and training programs.
 - 2. Ensures wide dissemination of this policy and other resources and training materials to promote compliance and awareness of reporting procedures.
 - 3. Manages and supports the intake, assessment, and resolution of complaints of discrimination or harassment, with oversight and direction from the Chief Compliance Officer.
 - 4. Maintains records of reports of discrimination or harassment and actions taken in response to reports, including reports of investigations, voluntary resolutions, and disciplinary actions.

VIII. Privacy and Confidentiality

- A. The University protects the privacy of individuals involved in a report of discrimination or harassment to the extent permitted or required by law and University policy.
- 1. The University will comply with requests for confidentiality whenever possible, but may need to make disclosures to complete a fair investigation and ensure a working or learning environment free from discrimination or harassment.

2. If law or University policy requires disclosure, the records will be redacted to protect the privacy of all individuals other than the person requesting the report (see [Sections 320-20](#) and [320-21](#)).
3. Confidential resources
4. The following confidential resources can be consulted for advice or information:
 - a. Counseling Services (530-752-0871) or Academic and Staff Assistance Program (530-752-2727; 916-734-2727).
 - b. Ombuds Office (530-754-7233).
 - c. Legal, medical, or other advisers whose communication is protected by statutory privilege.
5. Consultation with these resources will not lead to a report of discrimination or harassment unless additional action is taken by the individual seeking advice.

IX. Further Information

- A. The U.S. Department of Education Office of Civil Rights investigates complaints of unlawful discrimination or harassment against students in educational programs or activities.
- B. The Federal Equal Employment Opportunity Commission and California Department of Fair Employment and Housing investigate complaints of employment discrimination.
- C. Additional information regarding campus programs and resources is available from the Chief Compliance Officer, 530-752-9466.

X. References and Related Policies

- A. Office of the President:
 1. [University of California](#) Discrimination, Harassment, and Affirmative Action in the Workplace.
 2. University of California Policies Applying to Campus Activities, Organizations, and Students:
 - a. [Section 100.00, Policy on Student Conduct and Discipline](#).
 - b. [Section 110.00, Policy on Student Grievance Procedures](#).
 - c. [Section 130.00, Policies Applying to the Disclosure of Information from Student Records](#).
 - d. [Section 140.00, Guidelines Applying to Nondiscrimination on the Basis of Disability](#).
 - e. [Section 150.00, Student-Related Policy Applying to Nondiscrimination on the Basis of Sex](#).
 - f. [Appendix C, Nondiscrimination Policy Statement for University of California Publications Regarding Student-Related Matters](#).
- B. [U.S. Code](#):
 1. 20 USC, Section 1681-1687.
 2. 29 USC, Section 794.
 3. 42 USC, Section 2000d et seq.
 4. 42 USC, Section 6101.
 5. 42 USC, Section 12132.

- C. [U.S. Code of Federal Regulations](#):
 - 1. 29 CFR, Section 1604.11.
 - 2. 34 CFR, Part 100.
 - 3. 34 CFR, Part 104.
 - 4. 34 CFR, Part 106.
 - 5. 34 CFR, Part 110.
- D. [California Government Code 129000 et seq.](#)
- E. UC Davis Policy and Procedure Manual:
 - 1. [Section 320-20, Privacy of and Access to Personal Information.](#)
 - 2. [Section 320-21, Privacy and Disclosure of Information from Student Records.](#)
 - 3. [Section 380-10, Affirmative Action in Employment.](#)
 - 4. [Section 400-05, Fraud Risk Management.](#)
 - 5. [Section 400-20, Sexual Violence and Sexual Harassment.](#)
- F. Personnel Policies for Staff Members, [Policy](#) and [UCD Procedure 70](#), Complaint Resolution.
- G. [Academic Personnel Manual](#):
 - 1. Section 015, The Faculty Code of Conduct and UCD-015, Procedures for Faculty Misconduct Allegations.
 - 2. Section 035, Affirmative Action and Nondiscrimination in Employment.
 - 3. Section 140 and UCD-140, Non-Senate Academic Appointees/Grievances.
 - 4. Section 160, Academic Personnel Records/Maintenance of, Access to, and Opportunity to Request Amendment of.
- H. [Collective Bargaining Agreements.](#)
- I. [Academic Senate Grade Change Committee Guidelines.](#)
- J. [UC Davis Principles of Community.](#)