

UC Davis Policy and Procedure Manual

Chapter 400, Campus Climate

Section 15, Complaints of Discrimination or Harassment

Date: 3/23/16

Supersedes: 380-15, 7/25/13; 280-05, 4/20/10

Responsible Department: Compliance and Policy

Source Document: University of California Nondiscrimination and Affirmative Action Policy Regarding Academic and Staff Employment; 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. Complaints of sexual harassment will be handled under [Section 400-20](#).

II. Definitions

- A. Discrimination—an illegal or prohibited adverse employment or educational action, or harassment based on race, color, national origin, religion, sex, gender, gender expression, gender identity, 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.
- B. Harassment—verbal or physical conduct that unreasonably interferes with a person’s work or education, or creates a hostile or offensive working or educational environment, when that conduct is based on the categories identified in II.A, above.
- C. Retaliation—threats, intimidation, reprisals, or adverse actions taken against a person who reports discrimination or harassment, helps someone with a report of discrimination or harassment, or takes part in an investigation or resolution of a complaint.

III. Policy

- A. The University is committed to creating and maintaining a community where all persons 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 responds promptly and effectively to reports of discrimination or harassment and takes appropriate action to prevent and correct behavior that violates this policy, which may include discipline.
- C. The University responds to reports of prohibited retaliation following the procedures described in this policy.
- D. 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; or
 - 2. the educational, political, artistic, or literary expression of students in classrooms or public forums.
- E. 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. Procedures for Reporting

- A. Individuals who experience or observe behavior that may be discrimination or harassment may report the behavior to any of the following responsible employees:
 - 1. The Director—Harassment and Discrimination Assistance and Prevention Program (HDAPP), (530) 752-9255; <http://hdapp.ucdavis.edu>).
 - 2. The Discrimination Complaint Coordinator (UCDHS) 916-734-5335.
 - 3. The Chief Compliance Officer (530) 752-9466.
 - 4. Any department chair, manager, supervisor, academic personnel coordinator, student conduct coordinator or human resource coordinator.
- B. Use of the [Complaint Form](#) is encouraged but is not mandatory.
- C. Complaints may be filed online at <http://reporthatandbias.ucdavis.edu>.
- D. 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.
- E. So that the University can take prompt remedial action, reports should be made as soon as possible.

V. University Response

- A. The University will inform complainants of the resolution processes, confidentiality policies, and the range of potential outcomes.
- B. Alternative resolution
 - 1. Alternative 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 alternative resolution when appropriate, even if one or both parties choose not to participate.
 - 3. Alternative resolution may include but is not limited to the following:
 - a. Mediating agreement between the parties.
 - b. Separating the parties.
 - c. Administrative review or preliminary inquiry including fact-finding.
 - d. No fault conversation with written confirmation.
 - e. Negotiated agreement for disciplinary action.
 - f. Conducting targeted educational programs.
 - g. Referring parties to counseling.
 - h. Providing remedies or referral to support services for the individual who was harmed.
 - 4. The alternative resolution process is coordinated by the Director—Harassment & Discrimination Assistance and Prevention Program (Davis) or the Discrimination Complaint Coordinator (UCDHS).
 - 5. Steps taken to encourage or resolve complaints and any agreement reached through alternative resolution will be documented.

C. Formal Investigation

1. In cases where alternative resolution is inappropriate or unsuccessful, or when the University determines it is necessary, a formal investigation is conducted.
2. 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. Notifying the parties of the investigation, including a statement of the allegations, the name of the investigator, the deadline for completion, and a link to this policy.
3. 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 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 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 to maintain confidentiality in order to protect the integrity of the investigation.
 - 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. 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.
4. The investigation report may be used as evidence in other procedures, such as subsequent complaints, grievances, or disciplinary action.
5. The investigation is completed as promptly as possible, generally within 60 working 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.

6. After receiving the final report, the Chief Compliance Officer notifies the parties, in writing, 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.
 - c. Information about requesting a copy of the final report.
- D. Following a finding of violation of policy, disciplinary action may be considered and pursued according to the procedures described in the appropriate discipline policy.
- E. Following a finding of violation of 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.

VI. Roles and Responsibilities

- A. Managers, supervisors, department chairs, human resources coordinators, academic personnel coordinators, and student conduct coordinators
 1. Maintain a work and education environment free from all forms of discrimination or harassment.
 2. Promptly forward all reports of harassment or discrimination to the Director—HDAPP (Davis campus) or the Discrimination Complaint Coordinator (UCDHS).
 3. Consult with the Director—HDAPP or the Discrimination Complaint Coordinator to implement appropriate interim actions.
- B. The Chief Compliance Officer develops, implements and oversees procedures for prompt and effective response to reports of discrimination or harassment.
- C. The Director—HDAPP and the Discrimination Complaint Coordinator
 1. Plan and manage 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. Maintain records of reports of discrimination and actions taken in response to reports, including reports of investigations, voluntary resolutions, and disciplinary actions, in accordance with the [Records Retention Schedule](#).

VII. 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 disclosure is required by law or University policy, 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. Information on disciplinary action taken against the respondent will not be disclosed without the respondent's consent unless it is necessary to ensure compliance with the action (e.g., restrictions on communication or contact), the safety of the individuals, or is required by law.
- B. Confidential resources
1. The following confidential resources can be consulted for advice or information:
 - a. Counseling Services (530-752-0817) or Academic and Staff Assistance Program (530-752-2727; 916-734-2727).
 - b. Ombuds Office (530-219-6750).
 - c. Legal, medical, or other advisers whose communication is protected by statutory privilege.
 2. Consultation with these resources will not lead to a report of discrimination or harassment unless additional action is taken by the individual seeking advice.

VIII. 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, 530-752-6550.

IX. References and Related Policies

- A. Office of the President:
1. [University of California Nondiscrimination and Affirmative Action Policy Regarding Academic and Staff Employees](#).
 2. University of California Policies Applying to Campus Activities, Organizations, and Students:
 - a. [Section 100.00, Student Conduct and Discipline](#).
 - b. [Section 110.00, Policy on Student Grievance Procedures](#).
 - c. [Section 130.00, Privacy and 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 Information.](#)
 2. [Section 320-21, Disclosure of Information from Student Records.](#)
 3. [Section 380-17, Improper Governmental Activities/Whistleblower Protection.](#)
 4. [Section 400-20, Sexual Violence and Sexual Harassment.](#)
- F. Personnel Policies for Staff Members:
1. [Policy](#) and [UCD Procedure 12](#), Nondiscrimination.
 2. [Policy](#) and [UCD Procedure 14](#), Affirmative Action.
 3. [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.
- H. [Collective Bargaining Agreements.](#)
- I. [Academic Senate Grade Change Committee Guidelines.](#)
- J. [UC Davis Principles of Community.](#)

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Note: Policy is subject to change. Check website.