

Business and Financial Affairs

General Administration

Sec. 700-18: Guidelines on Discrimination and Harassment

Responsible Administrator: Office of Equal Opportunity and Diversity (OEOD)

Issued: August 2020

References / Resources:

- [California Government Code 12950.1](#)
- [Department of Fair Employment and Housing \(DFEH\)](#)
- [Equal Employment Opportunity Commission \(EEOC\)](#)
- [U.S. Department of Education](#)
- University of California
[Policy on Discrimination, Harassment, and Affirmative Action in the Workplace](#)
- UC Academic Personnel Manual
[APM-15](#) Faculty Code of Conduct
- [UCI Implementation of UC Policies Applying to Campus Activities, Organizations, and Students \(PACAOS\)](#)
[Nondiscrimination](#)
[Grounds for Discipline 102.09](#)
[Nondiscrimination Policy Statement for University of California Publications Regarding Student-Related Matters](#)
- UCI Administrative Policies & Procedures
[Section 700-16](#) Policy on Conflicts of Interest Created By Consensual Relationships
[Section 700-17](#) Guidelines on Sexual Violence and Sexual Harassment

Contact: [Office of Equal Opportunity and Diversity \(OEOD\)](#) at (949) 824-5594 or oeod@uci.edu

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A. University Policy

UC Irvine is committed to creating and maintaining an environment in which all persons who participate in University programs and activities can work and learn together in an atmosphere free of all forms of [discrimination](#) and [harassment](#). Such behavior is prohibited by law and University policy. The University will respond promptly and effectively to reports of discrimination and harassment, and will take appropriate action to prevent, to correct, and when necessary, to discipline behavior that violates University policy and these Guidelines.

The University prohibits discrimination or harassment against students, persons employed; 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 on the following [Protected Bases](#): race, color, national origin, 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.

Conduct by an employee that is discrimination or harassment on a [Protected Basis](#) in violation of University policy and these Guidelines is considered to be outside the course and scope of employment.

In addition, it is the policy of the University to undertake affirmative action, consistent with its obligations as a Federal contractor, for minorities and women, for persons with disabilities, and for protected veterans.

* Sex-based conduct may also be reviewed under the [UCI Guidelines on Sexual Violence and Sexual Harassment](#). On August 14, 2020, the University of California implemented the [Interim UC Sexual Violence and Sexual Harassment Policy \("Interim SVSH Policy"\)](#) and corresponding adjudication frameworks in response to the Title IX regulations issued by the U.S. Department of Education ("DOE"). UCI implements the Interim SVSH Policy in conjunction with the UCI Guidelines on Sexual Violence and Sexual Harassment, in the assessment, investigation, and adjudication of sex-based complaints, including sexual harassment and sexual violence. Reports of sex-based discrimination will be

assessed by OEOD using the Guidelines below, the UCI Guidelines on Sexual Violence and Sexual Harassment, and Interim SVSH Policy. The Guidelines below should be read alongside the Interim SVSH Policy and [OEOD's webpage on the DOE Title IX Compliance](#), for comprehensive information regarding rights, options, and procedures for investigation and adjudication. Please see [OEOD's webpage](#) on DOE Title IX Compliance for more information on how the federal regulations affect sex-based complaints and answers to frequently asked questions. Questions can be directed to the Title IX Officer at oeod@uci.edu.

B. Purpose and Scope

These Guidelines:

1. Implement the [UC Nondiscrimination Policy Statement for University of California Publications Regarding Student-Related Matters](#), [UC Guidelines Applying to Nondiscrimination on the Basis of Disability](#) and the [UC Policy on Discrimination, Harassment, and Affirmative Action in the Workplace](#).
2. Apply to:
 - a. all members of the UCI community, including University students, employees, and third parties (such as contractors, vendors, visitors, guests, patients and volunteers); and
 - b. the UCI campus and the Medical Center. See [Jurisdiction](#).
3. Apply to all employment practices, including recruitment, selection, promotion, transfer, merit increase, salary, training and development, demotion, and separation. Regarding students, these Guidelines cover admission, access, and treatment in University programs and activities.
4. Are designed to provide a prompt and effective response to reports of discrimination and harassment. A prompt and effective response may include early resolution, formal investigation, and/or targeted training or educational programs. Interim measures may be taken as appropriate.
5. Provide a process through which all members of the University community may report alleged discrimination or harassment or other conduct that violates the policies implemented by these Guidelines.
6. Cover reports of retaliation related to reports of discrimination or harassment and reports of making intentionally false complaints or providing information to University officials in connection with a report of discrim(U)1(n)-1(.)1(n)-1ie

7. Are intended to be consistent with applicable state and federal laws and University policies.
8. Do not apply to:
 - a. Sexual violence, including sexual assault, relationship violence (domestic violence, dating violence) and stalking; or
 - b. Harassment that is sexual in nature.
 - i. The University's [Sexual Violence and Sexual Harassment \(SVSH\) policy](#) applies in these cases and UCI complaint procedures are detailed in [Section 700-17: Guidelines on Sexual Violence and Sexual Harassment](#).
 - Consensual romantic relationships between members of the University community that may pose a conflict of interest. See [Sec. 700-16: Policy on Conflicts of Interest Created by Consensual Relations](#), and [APM 015, Part II.A.7 & 8, Faculty Code of Conduct](#).

C. Prohibited Conduct

1. Discrimination (differing treatment) is unequal treatment of an individual or group of people based upon race, color, national origin, 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 where there is no legitimate reason for such treatment.
2. Harassment (hostile environment) is unwelcome conduct, including verbal, nonverbal, or physical conduct directed at an individual or group of people based upon race, color, national origin, 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 that explicitly or implicitly affects a person's employment or education or interferes with a person's work or educational performance or creates an environment such that a reasonable person would find the conduct intimidating, hostile, or offensive. (Sexual Harassment is prohibited by the [UC Policy on Sexual Violence and Sexual Harassment](#) and the [UCI Guidelines on Sexual Violence and Sexual Harassment](#)).
3. Retaliation includes threats, intimidation, reprisals, and/or adverse employment or educational actions against a person based on their report of Prohibited Conduct or participation in the investigation, report, remedial, or disciplinary processes provided for in these guidelines.

Note: Discrimination and Harassment may include incidents:

- i. between any members of the University community, including faculty and other academic appointees, staff, student employees, students, coaches, residents, interns, and non-student or non-employee participants in University programs (e.g., vendors, contractors, visitors, and patients);
- ii. in hierarchical relationships between peers; and
- iii. between individuals of the same [Protected Groups](#) or dissimilar Protected Groups (such as between individuals of any gender or gender identity). For example, a complaint of harassment on the basis of religion could involve members of the same religious affiliation or different religious affiliations. To determine whether the reported conduct constitutes harassment on a [Protected Basis](#), consideration shall be given to the record of the conduct as a whole and to the totality of the circumstances, including the context in which the conduct occurred.

D. Definitions

Complainant: Any person who files a report of discrimination, harassment, or retaliation or any person who has been the alleged subject of such [Prohibited Conduct](#).

Respondent: A person alleged to have engaged in Prohibited Conduct and about whom a report of [discrimination](#), [harassment](#), or [retaliation](#) is made.

Protected Basis/Group: The various protected categories cited and defined in the [University Policy on Discrimination, Harassment, and Affirmative Action in the Workplace](#), in [PACAOS](#), and used in these Guidelines are consistent with federal and California state laws.

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.

Confidential Resources: Confidential resources are available to anyone considering making a report. These resources provide a place where information can be obtained in a safe place, where concerns can be discussed and individuals can learn about procedures and potential outcomes while remaining anonymous. When consulting with confidential resources, individuals will be advised that their discussions in these settings are not considered reports and that, without their additional action, the University will not take any action to resolve their concerns.

Designation as a “Confidential Resources” for purposes of these Guidelines exempts a person from reporting discrimination or harassment to the OEOD. Confidential Resources are not exempted from other mandatory reporting obligations under [UC CANRA \(Child Abuse and Neglect Reporting Act\) Policy](#), the Clery Act as a Campus Security Authority (CSA), and other policies or laws that require reporting to campus or local law enforcement, or Child Protective Services.

The following employees who receive reports in their confidential capacity include:

- [Office of the Ombudsman](#), (949) 824-7256
- [Counseling Center](#), (949) 824-6457
- [Employee Assistance Program \(EAP\)](#), (844) 824-3273
- Any persons with a professional license requiring confidentiality (including [health center](#)) employees but excluding campus legal counsel), or someone who is supervised by such a person.

Other resources can be found on the [OEOD](#) website.

Responsible Employee: Any University employee who is not a [Confidential Resource](#) and who receives, in the course of employment, information that a student (undergraduate, graduate, or professional) has experienced [discrimination, harassment, or retaliation](#) must promptly notify

arise during the review the of [discrimination, harassment, or retaliation](#) complaints.

- Prepare and maintain an annual affirmative action plan which must be approved by Office of the President and Office of General Counsel before it is implemented.
- Review and employ policies, procedures and actions for compliance with the University's nondiscrimination and affirmative action policies.

2. Administrator Responsibilities

Administrators are responsible for understanding and implementing relevant polices and guidelines, and for ensuring that their units are free of [Prohibited Conduct](#). This

Resources Office. The report shall be forwarded to the OEOD. If the person to whom a

- confidentiality of reports, including when reports cannot be kept confidential; and
- the range of possible outcomes of the report, including Health and Safety measures, remedies, and disciplinary actions that may be taken against the [Respondent](#), and information about the procedures leading to such

4. Overview of Processes

Reports of [Prohibited Conduct](#) may be addressed through an Informal Resolution process, Formal Investigation or, a separate employee grievance or complaint process.

a. Informal Resolution

After a preliminary assessment of the facts, and, if useful, in consultation with other offices depending on whether the [Complainant](#) and [Respondent](#) are faculty, other academic appointees, staff, student employees, students, or other persons covered by University policies prohibiting discrimination (for example, applicants), the OEOD may initiate an Informal Resolution process, which may include:

- mediation;
- separating the parties;
- providing for safety;
- referring the parties to counseling;
- referral for disciplinary action;
- a settlement agreement;
- conducting targeting preventive educational and training programs; and
- conducting a follow-up review to ensure that the resolution has been implemented effectively.

The Informal Resolution process may be especially useful when: a report is made by a

When the OEOD determines to conduct an Investigation, the Complainant, the Respondent, as well as the Respondent's supervisor and other appropriate administrators, will be provided with a written summary of the allegations, a copy of these Guidelines, resources available to them, and the procedures that will be followed.

The Investigation shall be completed promptly, typically within sixty (60) to ninety (90) business days of its initiation, unless extended by the OEOD for good cause followed by written notice to the Complainant and Respondent of the reason for the extension and the projected new timeline. If the alleged conduct is also the subject of a criminal investigation, the OEOD will coordinate its Investigation until the conclusion of the criminal investigation.

The Investigation generally includes interviews with the Complainant, the Respondent, and witnesses, if available, and a review of documents as appropriate. Disclosure of facts to persons interviewed shall be limited to what is reasonably necessary to conduct a fair and thorough Investigation. Participants in an Investigation may be advised to maintain confidentiality when essential to protect the integrity of the Investigation.

The Complainant or Respondent may have an advisor and/or support person present when personally interviewed and at any related meeting. Other witnesses may have an advisor and/or support person present at the discretion of the investigator or as required by University policy or collective bargaining agreement.

In cases where the Investigation contemplates issues of academic merit or academic freedom, the investigator may consult with the appropriate academic officer for relevant academic judgment.

- c. **Grievance/Complaint Procedures for Employees**
Instead of, or in addition to, reporting to the OEOD or other [Responsible Employee](#), a University employee who believes they have been subjected to [Prohibited Conduct](#) may file a grievance or complaint. That grievance or complaint must meet all of the requirements, including time limits for filing, under the applicable complaint resolution or grievance procedure listed in [Appendix I: Applicable Complaint Resolution and Grievance Procedures](#). Any such grievance or complaint will be forwarded to the OEOD for processing under these Guidelines, and the grievance or complaint procedure will be held in abeyance pending resolution under these Guidelines. After completion of the process under these Guidelines, the grievance or complaint may be reactivated but only as a means of appeal.

5. The Investigation Report

- a. In the event that a [Formal Investigation](#) is conducted, the investigator will prepare a written report that includes a statement of the allegations and issues, the positions of the [Complainant](#) and [Respondent](#), a summary of the evidence, an explanation why any proffered evidence was not considered, and findings of fact. The report will also include an analysis and determination by the investigator of whether University policy and these Guidelines have been violated. The investigator will apply the [preponderance of evidence](#) standard.
- b. The report will be available to the Complainant, the Respondent, as well as the Respondent's supervisor and other appropriate administrators.

6. Remedy

- a. If the Report 7299995 Tm Us

H. Privacy

The University will protect the privacy of individuals involved in a report of [Prohibited Conduct](#) to the extent permitted by law and by University policy and procedures. However, it should be recognized that an investigation may involve interviews with a number of persons to inquire if they have relevant evidence, and extremely sensitive information may be gathered. While information gathered by the investigator will generally be kept confidential by the investigator during the investigation, University policy may also require the disclosure of certain information during or following an investigation.

I. Retention of Records Relating to Reports of Prohibited Conduct

OEOD is responsible for maintaining records relating to reports of [Prohibited Conduct](#), investigations, and resolutions, and for making reports of a statistical nature. Records shall be maintained in accordance with University records policies. All records pertaining to pending litigation or a request for records will be maintained in accordance with instructions from legal counsel.

J. Free Speech and Academic Freedom

The faculty and other academic appointees, staff, and students of the University of California enjoy significant free speech protections guaranteed by the First Amendment of the United States Constitution and [Article I, Section I of the California Constitution](#) (see also [UCI Sec. 900-01](#)). University policy and these Guidelines are intended to protect members of the University community from [discrimination](#), not to regulate protected speech, and shall be implemented in a manner that recognizes the importance of rights to freedom of speech and expression.

The University also has a compelling interest in free inquiry and the collective search for knowledge and thus recognizes principles of academic freedom as a special area of protected speech. Consistent with these principles, no provision, of University policy or these Guidelines shall be interpreted to prohibit conduct that is legitimately related to the course content, teaching methods, scholarships, or public commentary of an individual faculty member or the educational, political, artistic, or literary expression of students in classrooms and public forums (See [APM-010](#) and [015](#).)

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.

K. Resources

[Office of Equal Opportunity and Diversity \(OEOD\)](#) is responsible for receiving and conducting the administrative investigation of all reports of discrimination filed at UCI and is available to discuss options, provide assistance, explain University policies and procedures, and provide education on relevant issues including discrimination. The OEOD investigation is not a criminal procedure. The OEOD is available during normal business hours. Address: 103 MSTB, Irvine, CA 92697 Phone: (949) 824-5594.

[Counseling Center](#) offers free and confidential short-term and crisis counseling by licensed mental health providers to all UCI students on an urgent basis, or by appointment. The Counseling Center also offers certain free and confidential psychiatric services. Referrals to off-campus psychotherapeutic and psychiatric providers are also available through the Counseling Center. The Counseling Center is available during normal business hours. Address: 203 Student Services 1, Irvine, CA, 92697 Phone: (949) 824-6457

[Employee Assistance Program EAP](#) is a free confidential service provided by Guidance Resources that can help UCI employees with any personal concerns including relationship concerns and issues related to sex offenses. Guidance Resources is available 24 hours a day, seven days a week to assist employees face to face, over the phone, and on-line. This service is available at 844.824.3273 or on their website Guidance Resources Online at www.guidanceresources.com and enter UCI's ID: UCIEAP3

[Office of the Ombudsman](#) provides a safe and comfortable environment to discuss complaints, concerns or problems confidentially. The ombudsman acts as an independent, impartial resource. The Office of the Ombudsman does not serve as an office of notice or record for the University. The office does not conduct formal investigations nor does it maintain or keep records. If the ombudsman deems it proper, the ombudsman will refer visitors to the office most appropriate for their concern or complaint. The Office of the Ombudsman serves all students, faculty, staff and administrators of the UCI community – both on the main campus and at the medical center. The Office of the Ombudsman is available during normal business hours. Address: 205 MSTB, Irvine, CA 92697 Phone: (949) 824-7256.

L. Noncompliance with Guidelines

Appendix I: Applicable Complaint Resolution and Grievance Procedures

Academic Personnel:

- Members of the Academic Senate
- Non-Senate Academic Appointees
- Exclusively Represented Academic Appointees

- [UC Senate Bylaw 335](#)
- [APM-015](#)
- [APM-016](#)
- [APM-140](#)
- [APM-150](#)
- Applicable collective bargaining agreement
- [UCI Code of Student Conduct/PACAOS](#)

Students:

Staff Personnel:

- Senior Managers
- Managers and Senior Professionals, Salary Grade I – IX
- Professional and Support Staff
- Exclusively Represented Staff Personnel

- [PPSM II-70](#)
- [UCI PPSM 70](#)
- Applicable collective bargaining agreement

All members of the University community:

The University of California [Policy on Reporting and Investigating Allegations of Suspected Improper Governmental Activities \(Whistleblower Policy\)](#) governs the reporting and investigation of violations of State or federal laws or regulations, including sexual harassment.

All University employees and applicants for employment:

The University's [Whistleblower Protection Policy](#) provides a complaint resolution process for employees and applicants for employment who have been subjected to retaliation as a result of having made a protected disclosure under the [Whistleblower Policy](#) or refused to obey an illegal order. See [UCI Sec. 700-06: Guidelines for Reporting Improper Activities and Guidelines for Filing Complaints of Retaliation for Reporting Improper Activities](#).

External Resources and Time Limits for Filing Complaints

The federal Equal Employment Opportunity Commission (EEOC) and the California Department of Fair Employment and Housing (DFEH) investigate reports of unlawful [Prohibited Conduct](#) in employment. The U.S. Department of Education Office for Civil Rights (OCR) investigates reports of unlawful Prohibited Conduct by students in educational programs or activities. These agencies may serve as fact finders and attempt to facilitate the voluntary resolution of disputes.

For more information, contact the nearest office of the EEOC, DFEH or OCR. Contact information for these agencies can also be found on the [OEOD](#) website.

Department of Fair Employment and Housing (DFEH)
Los Angeles District Office
611 West Sixth Street, Suite 1500
Los Angeles, CA 90017
Employment Discrimination: 800-884-1684
Housing Discrimination: 800-233-3212
www.dfeh.ca.gov
Three (3) years from last incident

Equal Employment Opportunity Commission (EEOC)
255 E. Temple Street, 4th Floor
Los Angeles, CA 90012
800-669-4000 213-894-1121
www.eeoc.gov
300 days (10 months) from last incident

U.S. Department of Education
Office for Civil Rights, San Francisco Office
Old Federal Building, 09-801050
50 United Nations Plaza, Room 239
San Francisco, CA 94102-4102
415-556-4275
Within 180 days of the date of alleged discrimination

U.S. Department of Housing and Urban Development (HUD)
Santa Ana Field Office
Santa Ana Federal Building
34 Civic Center Plaza
Room 7015
Santa Ana, CA 92701-4003
714-796-5577
http://www.hud.gov/complaints_home
1 year from date of last alleged housing discrimination

Appendix II: University Disciplinary Procedures

The following are the University's disciplinary procedures:

1. Students:

PACAOS sets forth UCI's procedures for resolving complaints of discrimination and harassment where the parties are both students, including the discipline of students found in violation of these Guidelines. See also, the [Policy on Student Conduct and Discipline](#).

2. Employees:

- A. The [Faculty Code of Conduct \(APM – 015\)](#) (as approved by the Assembly of the Academic Senate and by The Regents) establishes the ethical and professional standards which University faculty are expected to observe.

The [University Policy on Faculty Conduct and the Administration of Discipline \(APM -16\)](#), as approved by the Assembly of the Academic Senate and by The Regents, outlines sanctions and disciplinary procedures for faculty.

- B. Provisions of the [policy on Non-Senate Academic Appointees/Corrective Action and Dismissal \(APM – 150\)](#) (applicable to non-exclusively represented academic appointees) and collective bargaining agreements (applicable to exclusively represented academic appointees) allow for corrective action or dismissal for conduct which violates these Guidelines.

- C. The following prohibit conduct that violates these Guidelines and provide for disciplinary action:

- i. [Personnel Policies for Staff Members](#) (applicable to non-exclusively represented staff members):

- [PPSM-62: Corrective Action](#)
- [PPSM-63: Investigatory Leave](#)
- [PPSM-64: Termination and Job Abandonment](#)
- [PPSM II-64: Termination of Appointment](#)

- ii. [Collective bargaining agreements](#) (applicable to exclusively represented staff employees)