

UC Davis Policy and Procedure Manual

Chapter 280, Student Affairs

Section 05, Procedure for Student Complaints of Prohibited Discrimination or Arbitrary Treatment

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I. Introduction

- A. This section provides procedures for resolving student complaints of prohibited discrimination, including discrimination and/or harassment based upon race, color, national origin, religion, gender, sexual orientation, physical or mental handicap, or age. It also covers complaints of arbitrary treatment, as well as complaints regarding allegedly discriminatory or arbitrary campus or University policies, procedures, or practices. Complaints may be filed against the University, the campus, or one or more departments, or against individual staff, faculty, or students. Allegedly discriminatory or arbitrary acts, policies, procedures, or practices will be collectively referred to hereafter in this section as "discriminatory actions."
- B. UC Davis is committed to developing and disseminating educational and informational materials and programs expressing strong disapproval of discrimination, harassment, and arbitrary treatment, explaining what kinds of actions and/or behavior may be viewed as discriminatory, harassing, or arbitrary, and informing members of the campus community of their rights and

responsibilities under this policy.

- C. It is the responsibility of academic and nonacademic department heads, supervisors, and managers to take reasonable steps necessary to prevent and correct discriminatory actions through education, training, and prompt investigation and remediation of complaints.
- D. UCD policy favors facilitating communication and resolving conflicts through mediation whenever possible. Mediation is a voluntary, informal process offering an alternative to adversarial hearing processes. In mediation, people having a dispute can meet and, with the help of a trained mediator, open communication lines. It helps those involved to find mutually agreeable ways to address the problems and set the stage for better conflict management in the future.

II. Scope

- A. This policy governs student grievances alleging discriminatory actions, as defined in I-A, above.
- B. The following matters are not covered by this policy and are addressed using other procedures:
 - 1. Faculty, staff, or student discipline. If a student complaint alleges discriminatory action by individual faculty, staff, or students and seeks discipline, the applicable disciplinary procedures take precedence over this policy and shall be used first. If it is determined that the alleged discriminatory action by faculty, staff, or students falls outside the scope of the disciplinary process, the matter may be subject to review under this policy. For example, certain acts that allegedly tend to create a hostile, intimidating, or offensive environment, while not subject to discipline (because the incident was isolated and was not repeated or pervasive), may be addressed informally through the process described in III, below.
 - a. Student complaints alleging discriminatory action constituting misconduct by faculty who are members of the Academic Senate or the Academic Federation (including alleged violations of the Faculty Code of Conduct) shall be filed with the Office of the Chancellor. The matter will be reviewed under Academic Personnel Manual Section 015 and 016 or 150.
 - b. Student complaints of alleged discriminatory action constituting misconduct by staff (including staff who are academic researchers and other non-faculty members of the Academic Federation) shall be filed with the staff employee's supervisor. The supervisor will determine the facts and appropriate corrective action may be taken in accordance with University personnel policies (including Personnel Policies for Staff Members or Academic Personnel Manual Sections 150 and 390) or collective bargaining agreements.
 - c. Student complaints of alleged discriminatory action constituting student misconduct, including violations of the UC Standards of Conduct for Students, shall be filed with the Office of Student Judicial Affairs (SJA). "Student misconduct" includes alleged violations committed by student teaching assistants or other student employees in connection with their University employment. Student misconduct allegations are reviewed under the Administration of Student Discipline.
 - 2. Privacy rights/student records complaints alleging violation of student rights under the Federal Family Educational Rights and Privacy Act of 1974 and the UC Policies Applying to the Disclosure of Information from Student Records are reviewed under Section 320-21.
 - 3. Grievances by student employees relating to their working conditions or employment by the University are resolved in accordance with applicable personnel policies (contact Human Resources), or under APM Section 140 for student academic appointee

grievances (contact the Office of the Provost).

4. Grade change requests not involving allegations of discriminatory action are reviewed by the Academic Senate Committee on Grade Changes. Under Academic Senate regulations, once a course grade has been filed, an instructor may not reassess a student's work. All grades except Incomplete, Evaluation Incomplete, "Y," or In Progress are final when filed by the instructor in the course report. Clerical or procedural errors may be corrected by petition to the Committee on Grade Changes. Charges that a grade resulted from prohibited discriminatory action are covered by Section 280-05.
5. Other complaints. Certain complaints are covered by separate, specific processes. For example, for complaints about alleged misconduct in research, see Section 210-25; for disputes over authorship or rights to research/publications, see the Ethics in Authorship policy administered by the Graduate Council and the Office of Graduate Studies; complaints against UCD Police should be directed to the Police Department; and complaints about medical treatment at the Student Health Center are reviewed by the Quality Assurance Committee.

III. Informal Complaint Procedures

A. General

1. Informal procedures provide for review and resolution of student complaints through advice and conciliation. Complainants are encouraged to use informal procedures before filing a formal complaint, because informal procedures may result in agreed resolutions at a savings of time and effort to the complainant. Informal resolution means that all parties to the complaint reach a mutually agreeable resolution. The informal process may continue for up to 30 days.
2. Students alleging sexual harassment may use these procedures, but are encouraged to contact the Sexual Harassment Education Program or a sexual harassment advisor. Refer to Section 380-12.
3. The Office of Student Judicial Affairs (SJA) is designated to coordinate the informal process for student complaints and to provide advice, referrals, and conciliation services to complainants. SJA staff assist in resolving student complaints by providing information about procedures, giving advice, making appropriate referrals, and where appropriate, facilitating the conciliation process. SJA staff do not serve as advocates or investigators, nor do they "find facts" or act as a decision-maker in disputed matters.
4. A student wishing to preserve the right to file a formal complaint while the informal process continues must initiate contact with SJA within the time limit for filing a formal complaint (see IV-A, below). If the student initiates timely informal proceedings, the time limit for filing a formal complaint is extended until 15 days after the complainant is notified either that attempts at conciliation have failed or that the informal process has ended.

B. Explanation of rights/confidentiality

1. The advisor interviews the complainant, explains available informal and formal procedures, and keeps a record of the contact. The advisor informs the complainant of applicable time limits or other requirements for complaints under these procedures.
2. Before the interview begins, complainants are advised that a reasonable effort will be made during the informal review to protect the confidentiality of the information received, the privacy of the parties, and the wishes of the complainant regarding action by the University. Because the University has a legal responsibility to address discrimination, however, the advisor may be required to provide information to appropriate officials. If

complainants do not wish the respondent to know of the complaint, they should not disclose any identifying information about the respondent to the advisor. The respondent must be informed of the complaint and the identity of the complainant before the University can take action against an individual staff or faculty member, whether formal or informal.

C. The informal process

1. The SJA advisor may involve other campus officers as facilitators in the informal process on a case-by-case basis.
2. The advisor/facilitator will inform the respondent of the complaint, advise the respondent of University policy, and give the respondent the opportunity to provide information responsive to the allegations. An individual respondent cannot be compelled to answer questions or to participate in the process and may, upon request, have a representative present at the interview.
3. As part of the informal process, the advisor/facilitator may contact witnesses identified by the complainant or the respondent, and others as deemed necessary. All those contacted during the informal process must maintain the confidentiality of the process and should discuss any questions or concerns with the advisor.
4. The advisor may refer the matter to mediation, with the consent of the parties, through Mediation Services, 752-9257.
5. At the conclusion of the informal process, the advisor prepares a report summarizing the issues discussed, the positions of the parties, and the results of the informal process, or, if applicable, a copy of any agreement reached through mediation/conciliation.
6. If the complaint cannot be resolved or if the parties are unable to reach an agreement through the informal process, the complainant and respondent shall be advised in writing that the informal process is completed. The complainant then has 15 days in which to file a formal complaint if he/she chooses to do so.

IV. Formal Complaint Procedures

A. Time limits

1. A formal written complaint must be filed within 30 calendar days of the time the student could reasonably be expected to have knowledge of the injury allegedly caused by the alleged discriminatory action.
2. If the incident relates to a student's class and instructor, and if the student could reasonably be expected to have had knowledge of the injury while enrolled in the class, the formal written complaint must be filed within 30 calendar days following the last day of the quarter or semester in which the alleged discriminatory action occurred. If the student discovers the alleged injury during Spring term or during the Summer Sessions, the complaint must be filed within 30 calendar days after the beginning of the Fall term.
3. If the complainant initiated informal procedures with the assistance of an SJA advisor within the applicable time limits for filing a formal complaint, the time limit for filing a formal complaint shall be extended until 15 days after the advisor informs the complainant in writing either that attempts at conciliation have failed or that the 30-day informal process has expired.
4. If the complaint arises from an alleged series of incidents of discrimination or harassment, or if a complainant allegedly experiences further discriminatory actions or retaliation as a result of using these procedures, the time limit for filing a formal complaint shall be

extended to 30 days from the date of the last alleged discriminatory action or retaliation.

5. Any time limit, including the original filing time limit, that expires on a Saturday, Sunday, administrative holiday, or other day off observed by the University shall be extended to the next normal work day.

B. Representation

The student complainant and the respondent may represent themselves and/or may be advised or accompanied by another person at any stage of a formal complaint filed under this procedure, except that in no event shall attorneys or other representatives participate directly in a formal hearing. If he/she desires a representative, the complainant/respondent must make his/her own arrangements for such representation. If the University, the campus, or a department is a respondent, it may designate an individual to speak on its behalf.

C. Filing a formal complaint

1. Complaints that are within the scope of this procedure shall be submitted, in writing, to the assistant or associate vice chancellor or assistant or associate dean (hereafter "assistant VC/dean") responsible for administration of student matters for the functional area or department in which the alleged discriminatory action occurred or in which the respondent is employed. The written complaint must include:
 - a. The complainant's name, address, and phone number;
 - b. The specific acts or circumstances alleged to constitute the discriminatory actions, including the time and place of the alleged discriminatory action; and the identity of the individual or departmental respondents; and/or the nature of the policy, practice, or procedure complained of;
 - c. The rights of the student that have allegedly been violated, including the specific kind of discriminatory action alleged to have taken place (e.g., discrimination based on race, gender, disability); and
 - d. The remedy requested. Remedies under this procedure are generally limited to restoring losses suffered by the student (e.g., recommending a grade change, reinstating a student in an academic program) or making changes in policy, practice, or procedure. Monetary damages, fines or penalties, or disciplinary action against the respondent are not available remedies under this policy. Any discipline must be imposed under applicable disciplinary procedures.
2. Once a formal complaint has been filed on a timely basis, the assistant VC/dean may extend subsequent time limits in this procedure. The extension shall be in writing and shall include the reason for the extension.
3. Generally, a student is entitled to use only one formal University procedure to review a complaint arising out of a single set of facts. If, however, the procedure does not afford a full set of remedies for the harm found to have occurred, the complaints can be consolidated or the findings under one procedure referred for action under another policy. For example, if a faculty member is disciplined as a result of alleged discriminatory action causing a student's loss of a teaching assistantship, but the student cannot be reinstated to the teaching assistant position as part of the faculty disciplinary process, a complaint under Section 280-05 may be used to restore losses suffered by the student.

D. Review and investigation of complaint

1. Upon receipt, the appropriate assistant VC/dean's office shall review the complaint to determine whether the complaint alleges prohibited discriminatory action within the scope

of this procedure and whether it meets the time limits set forth herein.

2. If the complaint is untimely, it shall be dismissed.
3. If the complaint is timely but does not include all required information, it shall be returned to the student complainant within 15 days. The complainant shall have 7 days to correct the deficiencies. If the complainant fails to submit a corrected complaint that meets the requirements of IV-C-1, above, the complaint shall be dismissed.
4. If a complaint is dismissed for untimeliness or insufficiency, the complainant shall receive written notice of the dismissal, specifying the basis of the decision.
5. Appeals from any decisions regarding timeliness or sufficiency of the complaint shall be submitted in writing to the vice chancellor or dean to whom the assistant VC/dean reports within 15 days after the student is notified of the decision.
6. If the complaint is not covered under this procedure, the assistant VC/dean shall refer the student to the appropriate procedures or offices.
7. If the complaint is timely and sufficient, it shall be accepted for administrative review, and copies of the full complaint and any enclosures or attachments shall be provided to the respondent and to the respondent's supervisor and department head.

E. Administrative review

Once a formal complaint meeting timeliness and sufficiency requirements has been accepted, the assistant VC/dean's office shall have 45 days from the date the complaint was accepted to conduct an administrative review of the complaint.

1. The assistant VC/dean may conduct the administrative review him/herself or appoint a neutral reviewer trained in investigation to talk with witnesses, examine evidence, and make findings of fact and recommendations for action, if any. The reviewer shall report his/her findings of fact and recommendations to the assistant VC/dean. Written information developed during the review will become a part of any record used in granting or denying relief.
2. If the assistant VC/dean determines that the actions charged in the complaint constitutes prohibited discrimination, he/she shall authorize appropriate relief (if within his/her discretion/scope of authority) or refer the matter for remedial action (see IV-I, below).
3. If the assistant VC/dean determines that there is insufficient evidence to support a finding of prohibited discrimination, he/she may:
 - a. Deny the complaint with a finding that no formal hearing is warranted.
 - b. Deny the complaint with a finding that while insufficient evidence to sustain the claim was produced during the administrative review, the student's complaint raises issues that warrant a formal hearing.

In either case, the student may request a formal hearing from the vice chancellor or dean to whom the assistant VC/dean reports.

F. Formal evidentiary hearing

1. The student must file a request for a formal evidentiary hearing with the appropriate vice chancellor or dean within 15 days of receiving the administrative review decision. Copies of the request shall be forwarded to the respondent and to the respondent's supervisor and department head.
2. Upon receiving a request for a formal hearing, the vice chancellor or dean shall review the

request and determine whether to grant a formal hearing.

3. If the vice chancellor or dean grants a formal hearing, he/she shall appoint a trained and impartial hearing officer to conduct the hearing.
 4. The hearing officer shall have had no prior involvement in the case and shall promptly disqualify him/herself if for any reason he/she does not feel able to render a just and fair decision. Either party may challenge the hearing officer for stated reasons of good cause, on the grounds that the challenged hearing officer is unable to render an impartial judgment in the case. The vice chancellor or dean shall decide the challenge and may overrule it or accept it and appoint a new hearing officer. Any challenge to a hearing officer must be made at least 7 calendar days before the hearing.
 5. The hearing shall be scheduled to be held within 60 days of receipt of the student's written request for a hearing. As soon as a hearing has been scheduled, written notice of the date, time, and place of the hearing, and of the name of the hearing officer, shall be sent to the complainant, with copies to the respondent, the respondent's supervisor and department head, and any advisors or witnesses who will be present at the hearing. The hearing may be rescheduled for good cause, such as the unavailability of witnesses.
 6. The hearing shall be conducted to determine whether the action charged in the complaint in fact occurred, whether such action constitutes prohibited discrimination, and whether the alleged discriminatory action caused harm to the student. The student complainant shall bear the burden of establishing these matters by a preponderance of the evidence.
 7. The hearing officer shall resolve procedural issues, hear testimony under oath or affirmation, receive documentary or other evidence, and make findings of fact and appropriate recommendations as to a remedy. The hearing officer shall have no authority to depart from or otherwise modify this procedure, but may make recommendations regarding changes to University or campus policy, procedure, practices, or guidelines.
 8. In resolving procedural issues that may arise before and during a hearing, the hearing officer may consult Campus Counsel as deemed necessary.
- G. Procedures for conducting formal evidentiary hearings
1. The formal hearing shall provide an opportunity for parties to present and examine witnesses and submit evidence. Each party shall provide the other with copies of relevant documents or other evidence and names of witnesses who will testify at the hearing at least 7 days prior to the hearing.
 2. Except by agreement of the parties, no new issue not included in the original complaint may be added to the complaint or introduced at the hearing, except that evidence of alleged retaliatory acts or alleged continuing discriminatory acts that occurred after the original complaint was filed may be introduced.
 3. The hearing shall be closed to the general public unless all parties agree to an open hearing. The respondent and complainant may attend the entire hearing, but are not required to do so. See III-B, above, regarding the rights of the complainant and respondent to have an advisor or representative present at the hearing.
 4. At the request of the panel, Campus Counsel or a designee may attend the hearing to serve in an advisory capacity on procedural issues.
 5. The hearing shall be recorded. The complainant or respondent may arrange provision, at their own expense, for a stenographic report of the hearing, or the parties may agree in advance to share the expense of the transcript. Any party may purchase a copy of the record made by the other party by paying half the total cost. The tape shall be available to

the hearing officer for review of the record.

6. The hearing officer shall prepare a report setting forth findings of fact and recommendations as to the remedy, if any, to be afforded the student. The report shall be forwarded to the vice chancellor or dean within 15 days after the hearing concludes.
7. If, pursuant to agreement, the hearing has been stenographically recorded, or the tape recording has been transcribed, or the parties are to submit post-hearing briefs, the 15-day period will begin when the hearing officer receives the transcripts or briefs, whichever is later. The hearing officer will thus have 15 days from the receipt of the materials in which to prepare and submit a final report.

H. Decision of vice chancellor or dean

Within 15 days after receipt of the hearing officer's report, the vice chancellor or dean shall either accept, reject, or modify the report and/or recommendations. The decision of the vice chancellor or dean is final and shall be forwarded in writing, along with a copy of the hearing panel's report, to the complainant, with copies to the respondent and to the respondent's supervisor and department head.

I. Remedies

If the hearing officer finds that prohibited discrimination occurred, and the vice chancellor or dean approves that finding, or if the assistant VC/dean has made a finding of prohibited discrimination after an administrative review (pursuant to IV-E-2, above), the following dispositions apply. In each case, if the matter is referred to another committee or official, that referral shall be solely for the determination of an appropriate remedy, and the committee or official to which the matter is referred shall not reexamine the determination that prohibited discrimination occurred.

1. The vice chancellor or dean, or the assistant VC/dean, shall determine and authorize any appropriate remedy within his/her scope of authority.
2. If the complaint relates to grades, the Committee on Grade Changes of the Davis Division of the Academic Senate shall determine the appropriate grade to be awarded to the student. That committee shall not reexamine the determination that the grade assigned was the result of prohibited discrimination. It may, however, refer the matter to the Committee on Student-Faculty Relationships for recommendations as to the appropriate grade.
3. If the discriminatory action relates to other matters in which only the Academic Senate is authorized to take remedial action, the matter shall be referred to the appropriate Senate committee for action.
4. In other cases, the matter shall be referred to the responsible campus official with directions to take appropriate remedial action.

Once the remedial action has been decided by the vice chancellor, dean, assistant VC/dean, or appropriate committee or official, the written decision shall be sent to the complainant, with copies to the respondent and the respondent's supervisor and department head.

V. Confidentiality

Unless an open hearing is held, all proceedings held or actions taken under this policy and all reports filed shall be confidential to the parties involved in the hearing, and reasonable effort shall be made to protect the privacy of the parties.

VI. Nonretaliation

No respondent or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege conferred by this procedure. Complaints of such retaliation or interference may be filed and processed under these procedures as a separate violation of the student's rights.

VII. References

Copies of references below are available through the UC Davis World Wide Web site and in the Shields Library Reference Room.

A. General

1. University of California Policies Applying to Campus Activities, Organizations, and Students, 8/15/94.
2. Office of Student Judicial Affairs: Administration of Student Discipline.

B. Policy & Procedure Manual

1. [Section 320-21](#), Disclosure of Information from Student Records.
2. [Section 380-12](#), Sexual Harassment.

C. Academic Personnel Manual

1. [Section 015](#), Faculty Conduct and Administration of Discipline, Including the Faculty Code of Conduct; and [Section UCD-015](#), Faculty Discipline.
2. [Section 140](#), Non-Senate Academic Appointees/Grievances; and [Section UCD-140](#), Non-Senate Academic Appointees/Grievances.
3. [Section 150](#), Non-Senate Academic Appointees/Corrective Action and Dismissal.

D. Manual of the Academic Senate

1. Academic Senate Bylaw 335.
2. Academic Senate Davis Division Bylaws 75 and 87.

E. Personnel Policies for Staff Members

1. [Policy and Procedure 62](#), Corrective Action--Professional and Support Staff.
2. [Senior Management Personnel Policy II-70](#), Resolution of Concerns.