

UC Davis Personnel Policies for Staff Members

Complaint Resolution

Procedure 70, Complaint Resolution

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Responsible Department: Human Resources

Source Document: UC PPSM 70

Exhibit A, Employee Complaint Form

GENERAL

1. **Informal Resolution.** It is in the interest of everyone--staff members and the University--to resolve differences as quickly and as informally as possible. Employees shall attempt to resolve problems through informal discussion with their supervisors. Resources available include the Employee Relations Unit, the Sexual Harassment Program, the Staff Affirmative Action/Equal Employment Opportunity and Diversity Office, Mediation Services, and UC Davis Health System's Policy on Mistreatment.

Mediation Services is a voluntary program through which a mediator can help employees resolve a complaint in the workplace. If all parties to a complaint agree to mediation at any step in [Policy 70](#), Mediation Services will obtain a written extension of the time limits in this policy until the end of the mediation process or for 30 calendar days, whichever comes first. If the complaint is resolved during mediation, both parties will sign an agreement that the complaint under this policy is resolved. Contact Mediation Services at (530) 752-9257 (campus) or (916) 734-5335 (UCDHS). Information on the mediation process is available at <http://www.hr.ucdavis.edu/Mediation>.

Information on the UC Davis Health System's Policy on Mistreatment, P&P 2917, and a Request for Resolution form can be found at <http://intranet.ucdmc.ucdavis.edu/ucdhs/onthejobresources/mistreatment.shtml>

2. **Administration of Policy.** Employee & Labor Relations is the office designated to administer this policy, including responsibility for the time limits for filing and appealing complaints, and for official receipt of written complaints and appeals. Employee & Labor Relations is the office of record of the maintenance of documentation related to all complaints and appeals.
3. **Consolidation of Complaints.** Multiple complaints regarding the same or related action or issue, arising out of actions taken or events occurring in the same department, may be consolidated into one complaint for review under this policy at the discretion of E&LR.
4. **Right to Representation.** An employee is entitled to be represented by the person of her/his choice at every stage of the Complaint Resolution process.
5. **Pay Status.** Employees shall be afforded reasonable time on pay status to attend meetings called by the University, and for attendance at hearings under the Complaint Resolution policy. Employees are required to obtain prior approval for their absences during normal work hours for attendance at meetings related to complaint resolution.
6. **Time Limits.** Initial complaints and appeals to Step II or Step III must be filed within the time limits as stated in the Complaint Review Procedure below. An appeal that is not received within the time limits will be considered resolved on the basis of the last University response. Time limits that fall on a Saturday, Sunday, or University holiday are extended to the next business day.

COMPLAINT REVIEW PROCEDURE

Step I-Initial Review

1. To file a request for formal review, the complaint must be submitted on the Employee Complaint Form, Exhibit A. The complaint must be filed with the Office of Employee & Labor Relations within 30 calendar days after the date on which the employee knew, or reasonably should have

known, of the event or action giving rise to the complaint, or within 30 calendar days after the date of separation from University employment, whichever is earlier.

2. The Office of Employee & Labor Relations determines whether the complaint is eligible for Step I review and sends an acknowledgment letter to the complainant or her/his representative specifying what issues, if any, have been accepted for review. If eligible for review, the complaint is sent to the department head for response. The department head may elect to review the complaint or may designate a Step I reviewer.
3. The Step I reviewer prepares a written response to the complaint which should include any relevant facts and reasons for granting, in whole or in part, or denying, in whole or in part, the requested remedy. The University's written response will be issued to the complainant along with instructions for further appeal within 30 calendar days of the complaint being filed. A copy of the response shall be provided to the complainant's representative, if any.

Step II-Review

1. If the decision at Step I does not resolve the grievance, the complainant may appeal the decision to Step II. The written appeal must be received in the Office of Employee & Labor Relations within 30 calendar days from the date the Step I written response was issued. Employee & Labor Relations will determine whether the complaint is eligible for Step II review.
2. If eligible for Step II review, a Complaint Resolution Officer (CRO) is selected by the Director/Manager of Employee & Labor Relations or designee to review the complaint. The Complaint Resolution Officer must convene a Step II meeting within 30 calendar days of the appeal to Step II. The meeting, at which the CRO presides, is held with the complainant and other individuals the CRO determines would be helpful to obtain sufficient facts to render a fair decision. The purpose of the Step II meeting is to provide the complainant and his/her representative with a fair opportunity to present evidence in support of the employee's complaint. The CRO shall issue a written response to the complaint within 30 calendar days after the conclusion of the Step II meeting.
3. **Fact finding: Professional and Support Staff (PSS):** For PSS complaints that are eligible for fact finding (see Policy 70.F), the Complaint Resolution Officer or the complainant may request a fact finder at Step II. The University will be responsible for selecting a fact finder. The fact finder investigates and writes a report of the facts relevant to the complaint. The fact finder's report is sent to the complainant, her/his representative, and the Complaint Resolution Officer. The Complaint Resolution Officer renders a decision based on the facts in the fact finder's report and shall issue a written response to the complaint within 30 calendar days after receipt of the fact finder's report. If the employee elects to request a fact finding review at Step II, the Step II decision is final and binding.
4. **Fact finding: Managers and Senior Professionals (MSP):** MSP employees do not have the right to request a Step III review or a hearing on any matter. However, an MSP employee may request a fact finding at Step II of the process. Fact finding for MSP employee complaints can take one of two forms: 1) Fact finding as described in Step II-3 above; or 2) Evidentiary fact finding as described below.

a. Appointment of Evidentiary Fact finder

An MSP employee may request the appointment of an evidentiary fact finder at Step II. The request must be submitted in writing, specify the portion(s) of the complaint which were not resolved by the Step 1 decision, and should indicate if the MSP employee will be self-represented or represented by another. If represented by another, the request shall include the representative's name, address, and telephone number. The Director/Manager of Employee & Labor Relations shall appoint a fact finder and notify the parties of the appointment.

b. Scheduling and Rescheduling Evidentiary Fact finding: Subject to the availability of the fact finder, the Director/Manager of Employee & Labor Relations shall attempt to schedule the fact finding within 180 calendar days of the MSP employee's request.

Requests by either party to reschedule fact finding meetings must be for cause and submitted in writing to the Director/Manager of Employee & Labor Relations. He/she will decide whether to reschedule the fact finding. Requests submitted less than 7 business days from the date of the meeting must be for compelling reasons. If a compelling reason does not exist, the fact finding meeting will convene as scheduled.

c. Evidentiary Fact finding Process: Each party shall have the right to appear personally before the fact finder to present evidence and to examine and cross-examine witnesses under oath or affirmation. Evidence may be oral or documentary. Offers of settlement of the complaint or statements made in the course of settlement discussions shall not be admissible.

Each party shall, upon written request, provide the other with copies of material to be introduced at the evidentiary fact finding and the names of witnesses who will testify on the party's behalf. To the extent possible, such materials and names of witnesses shall be exchanged at least 10 business days prior to the fact finding.

Either or both parties may, at their discretion, file written closing statements with the evidentiary fact finder. The order and time limits of submitting closing statements shall, on a case-by-case basis, be as mutually agreed upon by the parties or as specified by the fact finder. These time limits may be extended if mutually agreed upon by the parties.

The University shall either audio record the evidentiary fact finding or have a stenographic record made. The MSP employee may purchase a copy of the audio recording or the stenographic record. The parties may agree in advance to share the expense of a stenographic record.

d. Fact finder's Report: Within 60 calendar days after the fact finding, the fact finder shall file a report with the Director/Manager of Employee & Labor Relations, who then forwards the report to the person in the next higher level of authority in the reporting hierarchy within the department, or her/his designee. The fact finding report shall contain the following information: statement of the issues being grieved; position of the parties; credibility determination; analysis; findings of fact, and policy violations, if any.

e. Final Decision when Fact finding is Requested: The final decision by the person in the next higher level of authority in the reporting hierarchy, or her/his designee shall take into consideration the fact finder's report and provide the reason(s) for accepting, modifying, or denying the requested remedy. The Director/Manager of Employee & Labor Relations shall forward the final decision and the fact finder's report to the MSP employee, his/her representative, if any, and the employee's department head within 60 calendar days of the receipt of the fact finder's report. The final decision is not subject to appeal or additional review.

Step III-Hearing

1. An employee's written request for a hearing must be filed in the Employee & Labor Relations office within 30 calendar days of the date that the Step II written decision was issued. Employee & Labor Relations determines whether the complaint is eligible for a hearing.
2. Eligibility criteria for a hearing for Professional and Support Staff (PSS) are set forth in Complaint Resolution Policy 70. (See Policy 70.F) Managers and Senior Professional complaints are not eligible for Step III, but may request a fact-finding. (See Policy 70.F for a list of types of complaints eligible for fact-finding.)
3. **Hearing:** The complainant may elect to have her/his case heard by a UC Davis hearing officer, or a non-University hearing officer.

If she/he elects a University Hearing Officer (UHO), the Director/Manager of Employee & Labor Relations, or a designee, assigns the UHO to the case.

If she/he elects a non-University hearing officer, a representative from the E&LR office contacts the complainant within 45 calendar days from the date the appeal was received to mutually select the hearing officer. A list of available non-University hearing officers is obtained and the employee and a designee from E&LR alternately strike names, with the employee striking first, until one remains who will be the Hearing Officer.

University hearing officers and fact finders serve without cost to the complainant. Costs of non-University hearing officers are split equally between the complainant and the University. Costs related to cancellations or postponements are borne entirely by the requesting party.

Subject to the availability of the Hearing Officer, the E&LR designee shall attempt to schedule the hearing within 180 calendar days of the complainant's request for hearing. The hearing officer renders a decision and provides a written report to all parties within 60 calendar days from the close of the hearing.