

Interim Procedures - August 2012

UNIVERSITY OF CALIFORNIA, SAN FRANCISCO OFFICE OF DIVERSITY AND OUTREACH Affirmative Action, Equal Opportunity Program

Procedures for Reporting Discrimination, Harassment and Retaliation AA/EO Complaint Resolution

University Policy

University of California policy prohibits discrimination, including harassment, on the basis of race, color, national origin, religion, sex, gender identity, pregnancy¹, physical or mental disability, medical condition (cancer-related or genetic characteristics), ancestry, marital status, age, sexual orientation, citizenship, or service in the uniformed services (as defined by the Uniformed Services Employment and Reemployment Rights Act of 1994)². University policy also prohibits retaliation against any individual or person seeking employment for bringing a complaint of discrimination or harassment pursuant to this policy.³

Reporting Procedure

All members of the University community are encouraged to contact the Office of Diversity and Outreach, Affirmative Action/Equal Opportunity (AA/EO) if they observe or encounter conduct which may be subject to the nondiscrimination policy (above). Any individual who believes he or she has been subjected to discrimination, harassment or retaliation under this policy may bring a report to the AA/EO or to a manager or supervisor. Any manager or supervisor who becomes aware of conduct that may violate this policy is obligated to report it immediately to his or her manager or supervisor, or to the AA/EO office.

Reports under this policy should be brought as soon as possible after the alleged conduct occurs, optimally within one year. Prompt reporting will enable the University to investigate the

facts, determine the issues, and provide an appropriate remedy or disciplinary action. AA/EO will respond to reports brought after one year to the greatest extent possible, taking into account the amount of time that has passed since the alleged conduct occurred.

Options for Resolution

Individuals making reports of discrimination, harassment or retaliation under this policy shall be informed about options for resolving potential violations of University policy. These options shall include Early Resolution, Formal Investigation, and filing complaints or grievances under applicable University complaint resolution or grievance procedures. Individuals bringing reports shall be informed about the range of possible outcomes of the report, including interim protections, remedies for any individual harmed and disciplinary actions against any individual found to have violated University policy. The same options apply to issues involving retaliation (e.g., threats, intimidation, reprisals, or adverse employment or educational actions) for having made a report in good faith, who assisted someone with a report, or who participated in any manner in an investigation or resolution of a report.

Procedures for Early Resolution

The goal of Early Resolution is to resolve concerns at the earliest stage possible, with the cooperation of all parties involved. Individuals and supervisors are encouraged to utilize Early Resolution options when the parties desire to resolve the situation cooperatively and/or when a Formal Investigation is not likely to lead to a satisfactory outcome. Early Resolution may include an inquiry into the facts, but typically does not include a formal investigation. Means for Early Resolution shall be flexible and encompass a full range of possible appropriate outcomes. Early Resolution includes options such as mediating an agreement between the parties, separating the parties, referring the parties to counseling programs, negotiating an agreement for disciplinary action, conducting targeted educational and training programs, or remedies for any individual harmed. Early Resolution also includes options such as discussions with the parties, making recommendations for resolution, and conducting follow-up after a period of time to assure that the resolution has been implemented effectively. Early Resolution may be appropriate for responding to anonymous reports and/or third party reports. Steps taken to encourage Early Resolution and agreements reached through early resolution efforts should be documented.

While the University encourages early resolution of a complaint, the University does not require that parties participate in Early Resolution prior to the University's decision to initiate a formal investigation. Some reports under the University's nondiscrimination policy may not be appropriate for early resolution, but may require a formal investigation at the discretion of the AA/EO office.

Procedures for Formal Investigation

In cases where Early Resolution is inappropriate (such as when the facts are in dispute in reports of serious misconduct, or reports involve individuals with a pattern of inappropriate behavior) or in cases where Early Resolution is unsuccessful, the AA/EO office may recommend the case to the Investigations Unit in Human Resources for Formal Investigation. In such cases, the individual making the report shall be encouraged to file a written request for Formal Investigation. The wishes of the individual making the request shall be considered, but are not determinative, in the decision to initiate a Formal Investigation. In cases where there is

no written request, the AA/EO office, in consultation with the administration, may recommend a case for Formal Investigation after making a preliminary inquiry into the facts.

The Investigations Unit will conduct the investigation in accordance with its policies and procedures. The Investigations Unit will inform AA/EO of the outcome of the report at the conclusion of the investigation and provide AA/EO with a copy of any written reports of investigations involving discrimination, harassment or retaliation under the University's non-discrimination policy.

Complaints or Grievances Involving Allegations of Discrimination, Harassment or Retaliation

An individual who believes he or she has been subjected to discrimination, harassment or retaliation in violation of University policy may file a complaint or grievance pursuant to the applicable complaint resolution or grievance procedure. Such complaint or grievance may be filed either instead of or in addition to making a report to the AA/EO office. A complaint or grievance alleging discrimination, harassment or retaliation must meet all the requirements under the applicable complaint resolution or grievance procedure, including time limits for filing. If a complaint or grievance is filed in addition to a report made to the AA/EO office under this policy, the complaint or grievance shall be held in abeyance subject to the requirements of any applicable complaint resolution or grievance procedure, pending the outcome of the Early Resolution or Formal Investigation procedures. If the individual wishes to proceed with the complaint or grievance, the Early Resolution or Formal Investigation may constitute the first step or steps of the applicable complaint resolution or grievance procedure.

An individual who has made a report under this policy also may file a complaint or grievance alleging that the actions taken in response to the report did not follow University policy. Such a complaint or grievance may not be filed to address a disciplinary sanction imposed upon the accused. Any complaint or grievance regarding the resolution of a report under this policy must be filed in a timely manner. The time period for filing begins on the date the individual was notified of the outcome of the investigation or other resolution process pursuant to this policy, and/or of the actions taken by the administration in response to the report, whichever is later.

Remedies and Referral to Disciplinary Procedures

Findings of violations of University policy may be considered in determining remedies for any individuals harmed and shall be referred to applicable disciplinary procedures. Procedures under this policy shall be coordinated with the applicable disciplinary procedures to avoid duplication in the fact-finding process whenever possible. Investigative reports made pursuant to this policy may be used as evidence in subsequent complaint resolution, grievance, and disciplinary proceedings as permitted by the applicable procedures.

Privacy

The University shall protect the privacy of individuals involved in a report under this policy to the extent required by law and University policy. A report of discrimination, harassment or retaliation may result in the gathering of extremely sensitive information about individuals in

the University community. While such information is considered confidential, University policy regarding access to public records and disclosure of personal information may require disclosure of certain information concerning a report. In such cases, every effort shall be made to redact the records in order to protect the privacy of individuals. An individual who has made a report may be advised of sanctions imposed against the accused when the individual needs to be aware of the sanction in order for it to be fully effective (such as restrictions on communication or contact with the individual who made the report). However, information regarding disciplinary action taken against the accused shall not be disclosed without the accused's consent, unless it is necessary to ensure compliance with the action or the safety of individuals.

Confidential of Reports of Discrimination, Harassment or Retaliation

Individuals who wish to have a confidential discussion about an issue involving discrimination, harassment or retaliation without a response by the University may contact the UCSF **Office of the Ombuds** or the **Faculty/Staff Assistance Program**. These offices provide a safe place to discuss concerns and learn about the procedures and potential outcomes involved without making a report to AA/EO. Discussions with these confidential offices are not considered reports under this policy and will not result in any action by the University to resolve the concerns.

All reports under this policy made to the AA/EO office, supervisors or managers require the University to respond, even if the individual requests that no action to be taken. An individual's requests regarding the confidentiality of reports will be considered in determining an appropriate response; however, such requests will be considered in the dual contexts of the University's legal obligation to ensure a working and learning environment free from discrimination and the due process rights of the accused to be informed of the allegations and their source. Some level of disclosure may be necessary to ensure a complete and fair investigation, although the University will comply with requests for confidentiality to the extent possible.

For information about the **Office of the Ombuds**, go to:
<http://ombuds.ucsf.edu> ^[1]

For information about the **Faculty/Staff Assistance Program** go to:
<http://www.ucsfhr.ucsf.edu/assist> ^[2]

Retention of Records Regarding Reports

The AA/EO office is responsible for maintaining records relating to reports, investigations, and resolutions under this policy. Records shall be maintained in accordance with University records policies, generally five years after the date the complaint is resolved. Records may be maintained longer at the discretion of the AA/EO office in cases where the parties have a continuing affiliation with the University. All records pertaining to pending litigation or a request for records shall be maintained in accordance with instructions from legal counsel.

For information or an appointment about AA/EO complaint resolution contact:
Office of Diversity and Outreach (415) 476-7700 aaeo@ucsf.edu ^[3]

¹ Pregnancy includes pregnancy, childbirth, and medical conditions related to pregnancy or childbirth.

² Service in the uniformed services includes membership, application for membership, performance of service, application for service, or obligation for service in the uniformed services.

³ University of California Nondiscrimination and Affirmative Action Policy Regarding Academic and Staff Employment

<http://policy.ucop.edu/doc/4000376/NondiscrimAffirmAct> ^[4]

Source URL: <https://ophd.ucsf.edu/interim-procedures-august-2012>

Links

[1] <http://ombuds.ucsf.edu>

[2] <http://www.ucsfhr.ucsf.edu/assist>

[3] <mailto:aaeo@ucsf.edu>

[4] <http://policy.ucop.edu/doc/4000376/NondiscrimAffirmAct>