University of California, San Diego  
PROCEDURES FOR DISCRIMINATION AND HARASSMENT COMPLAINT RESOLUTION  

Effective Date: February 11, 2011

A. University Policy

As set forth in the *University of California Nondiscrimination & Affirmative Action Policy Regarding Academic & Staff Employment*, and the *University of California Nondiscrimination Policy Statement Regarding Student-Related Matters* (University Nondiscrimination Policies), discrimination and harassment based on certain protected categories are prohibited. The University Nondiscrimination Policies include a list of protected categories, clarification of the University’s obligation regarding affirmative action, and a statement of the Policies’ intention to be consistent with the provisions of applicable State and Federal laws and other University policies.

B. UC San Diego Procedures – Purpose

The UC San Diego Procedures for Discrimination and Harassment Complaint Resolution provide a process through which all members of the University community may report alleged discrimination or harassment and other conduct that violates the University Nondiscrimination Policies or the UC San Diego Student Conduct Code, Section VII(I). The Procedures set forth how the University will respond to such reports.

These Procedures also cover reports of retaliation related to reports of discrimination or harassment and reports of intentionally false complaints or information to University officials in connection with a report of discrimination or harassment.

These Procedures do not apply to complaints alleging sexual harassment; such complaints are processed in accordance with the *UC Policy on Sexual Harassment* and the *UC San Diego Procedures for Sexual Harassment Complaint Resolution*.

C. Non-Discrimination Resources

UC San Diego faculty, staff, and students who believe that they have been discriminated against or harassed based on any of the protected categories listed in the University Nondiscrimination Policies have the right to seek resolution through the Office for the Prevention of Harassment & Discrimination (OPHD), which works in collaboration with other offices, including Equal Opportunity/Staff Affirmative Action (EO/SAA), Employee Relations, Health System Human Resources, Academic Employee Relations, Student Life, Student Conduct, College Deans, and other appropriate offices.
Other members of the UC San Diego community may also serve as resources. These include administrators at UCSD, including the Chancellor, Vice Chancellors, Chief Executive Officers, Chief Financial Officers, Deans, Directors, Associate Directors, Department Chairs, and administrative department heads, who are responsible for understanding and implementing the University Nondiscrimination Policies and these Procedures, and for ensuring that the environment in their units is free of harassment or discrimination.

Information regarding available resources may also be obtained at the Campus Community Centers (the Cross Cultural Center, the Women’s Center, and the Lesbian Gay Bisexual Transgender Resource Center); Faculty and Staff Assistance Program; the Office of the Ombuds; Staff Education; Counseling and Psychological Services; Student Legal Services; Sexual Assault and Violence Prevention Resource Center; Graduate Medical Education; and other similar offices.

D. Procedures for Reporting and Responding to Reports of Discrimination

1. Reporting Discrimination

Reports of alleged discrimination or harassment may be made in any of the following ways:

(a) By telephone by calling OPHD at 858-534-8297
(b) In person by visiting the OPHD office, located at 201 University Center (corner of Gilman and Myers)
(c) Online by visiting http://ophd.ucsd.edu

Reports of discrimination should be made 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. The University will respond to reports of discrimination brought after one year to the greatest extent possible, taking into account the amount of time that has passed since the alleged conduct occurred. Unreasonable delay in reporting may impede the University’s ability to conduct an investigation and/or effect appropriate action, as well as both parties’ legal rights. Reports may be made anonymously; however, anonymous reporting may limit the University’s ability to respond to the report.

2. Options for Resolution

Individuals reporting discrimination or harassment will be provided with a copy of these Procedures, which set forth options for resolution and include policies applying to confidentiality of reports under these Procedures (see section H below).

Individuals reporting discrimination or harassment will be informed about the range of possible outcomes, including interim protections, remedies for the individual harmed by the discrimination, and disciplinary actions that might be taken against the respondent as
a result of the report, including information about the procedures leading to such outcomes.

An individual who is subjected to retaliation (e.g., threats, intimidation, reprisals, or adverse employment or educational actions) for having reported discrimination in good faith, who assisted someone with a report of discrimination, or who participated in any manner in an investigation or resolution of a report of discrimination, may make a report of retaliation under these procedures.

3. Procedures for Early Resolution

The goal of Early Resolution is to resolve concerns at the earliest possible opportunity. Parties are encouraged to utilize Early Resolution options when they 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 are flexible and encompass a full range of possible appropriate outcomes. Early Resolution may include options such as the following:

- separating the parties
- referring the parties to counseling programs
- negotiating an agreement for disciplinary action
- conducting targeted educational and training programs, or
- providing remedies for the individual harmed by the discrimination.

Early Resolution also includes options such as discussions with the parties, making recommendations for resolution, and conducting a follow-up review after a period of time to ensure that the resolution has been implemented effectively. If a complainant chooses Early Resolution, complainants are never required to participate in any Resolution activity that is not supervised by the University. Early Resolution may be appropriate for responding to anonymous reports and/or third party reports.

While the University encourages early resolution of a complaint, the University does not require that parties participate in Early Resolution. Some reports of discrimination may not be appropriate for Early Resolution, but may require a formal investigation at the discretion of the OPHD Director (see “Procedures for Formal Investigation” below). A complainant who has requested Early Resolution may request a formal investigation at any time during the resolution process.

4. Procedures for Formal Investigation

In response to reports of discrimination or harassment in cases where Early Resolution is inappropriate (such as when the facts are in dispute in reports of serious misconduct, or when reports involve individuals with a pattern of inappropriate behavior or allege criminal acts such as physical assault) or in cases where Early Resolution is unsuccessful, the individual making the report will be encouraged to file a written request for Formal
Investigation. In the decision to initiate a Formal Investigation of a report of discrimination, the wishes of the individual making the request will be considered, but are not determinative.

In cases where a complainant declines to request a Formal Investigation, OPHD, in consultation with the administration, may nevertheless initiate a Formal Investigation after making a preliminary inquiry into the facts and taking into consideration, among other things, the seriousness of the alleged harassment or discrimination and other complaints of similar conduct or against the same individual. In cases where OPHD learns of potential harassment or discrimination from third parties, such as the media, witnesses, or an anonymous report, OPHD has the discretion to initiate a Formal Investigation, after considering the source and nature of the information, the seriousness of the alleged incident, the specificity of the information, the objectivity and credibility of the source of the report, and the ability to effectively gather evidence, including obtaining cooperation from alleged victims.

OPHD may decline to initiate a Formal Investigation despite a complainant’s request if OPHD concludes, in its judgment, that the facts as alleged by the complainant and/or as found by a preliminary inquiry demonstrate that the alleged conduct does not meet the standards for discrimination or harassment under University policy or federal law.

Formal Investigation of reports of discrimination includes the following:

a. The individual(s) accused of conduct violating the University Nondiscrimination Policies are provided a copy of the written request for Formal Investigation or otherwise given a full and complete written statement of the allegations, and a copy of the appropriate policy and these Procedures within a reasonable period of time following initiation of the investigation, typically within seven (7) working days.

b. The investigation generally includes interviews with the parties if available, interviews with other witnesses as needed, and a review of relevant documents as appropriate. Disclosure of facts to parties and witnesses is limited to what is reasonably necessary to conduct a fair and thorough investigation. Participants in an investigation are advised that maintaining confidentiality is essential to protect the integrity of the investigation.

c. Upon request, the complainant and the accused may each have a representative present when he or she is interviewed. Other witnesses may have a representative present at the discretion of the investigator or as required by applicable University policy or collective bargaining agreement. Any representative may not obstruct or impede the interview.

d. At any time during the investigation, the investigator may recommend that interim

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1 Accommodations shall be provided for complainants unable to make a written request for Formal Investigation due to a disability. Personal information included in a written request for Formal Investigation may be redacted.
protections or remedies for the complainant or witnesses be provided by appropriate University officials, such as senior supervisors, Deans of Students, or other administrators who have authority over the recommended remedy. These protections or remedies may include separating the parties, placing limitations on contact between parties, or making alternative working or student housing arrangements. Failure on the part of a student or employee to comply with the terms of interim protections or remedies may be considered a separate violation of the University Nondiscrimination Policies. The final decision on whether to implement interim protections or remedies rests with the responsible University officials, not OPHD. A decision to implement interim protections or remedies does not constitute a finding or evidence of a violation of policy and shall not be admitted or construed as such in any official proceeding. To the extent interim remedies are provided, the interim remedies will attempt to minimize impact on the complainant.

e. The investigation shall be completed as promptly as possible. Generally, OPHD expects that most investigations will be completed within sixty (60) business days of the date the request for Formal Investigation was filed.

f. An investigation results in a written report that includes a statement of the allegations and issues, the positions of the parties, a summary of the evidence, findings of fact, and a determination by the investigator as to whether University policy has been violated. The report will be submitted to a designated University official with authority to implement the actions necessary to resolve the complaint. The report may be used as evidence in other related procedures, such as subsequent complaints, grievances, and/or disciplinary actions.

g. The complainant and the accused will be informed promptly in writing when the investigation is completed. The complainant will be informed if there were findings made that the UC Nondiscrimination Policies were or were not violated and of actions taken to resolve the complaint, if any, that are directly related to the complainant, such as an order that the accused not contact the complainant. In addition, the complainant will be informed of any systemic remedies undertaken to resolve the complaint. In accordance with University policies protecting individuals’ privacy, the complainant may generally be notified that the matter has been referred for disciplinary action, but will not be informed of the details of the recommended disciplinary action without the consent of the respondent.

h. The complainant and the respondent may request a copy of the investigative report pursuant to University policy governing privacy and access to personal information (see UC Business & Finance Manual, RMP-8). However, the report will be redacted to protect the privacy of personal and confidential information regarding all individuals other than the individual requesting the report in accordance with University policy.

i. Within 15 working days of taking corrective action and/or disciplinary action against the accused, or a decision not to take any action, the appropriate University official(s)
shall provide written notification to the OPHD Director of what action, if any, has been taken, including the results of any appeals.

E. Complaints or Grievances Involving Allegations of Discrimination

In addition to making a report to OPHD, an employee who believes that he or she has been subjected to harassment or discrimination may file a complaint or grievance pursuant to an applicable complaint resolution or grievance procedure, such as under a collective bargaining agreement. A complaint or grievance alleging discrimination must meet all the requirements under the applicable complaint resolution or grievance procedure, including time limits for filing.

If an employee files a complaint or grievance alleging harassment or discrimination pursuant to an applicable complaint resolution or grievance procedure and also makes a report of the same alleged conduct to OPHD, the complaint or grievance will be held in abeyance subject to the requirements of any applicable complaint resolution or grievance procedure, pending the outcome of the Early Resolution and/or Formal Investigation procedures. If the individual wishes to proceed with the complaint or grievance, the Early Resolution and Formal Investigation may constitute the first step or steps of the applicable complaint resolution or grievance procedures.

F. Remedies and Referral to Disciplinary Procedures

Findings of violations of the University Nondiscrimination Policies may be considered in determining remedies for individuals harmed by the discrimination, and violators will be referred to applicable disciplinary procedures. Procedures under this policy will be coordinated with applicable complaint resolution, grievance, and disciplinary procedures to avoid duplication in the fact-finding process whenever possible. Violations of the University Policies include, among other things, engaging in discriminatory or harassing behavior, retaliating against a complainant reporting discrimination, violating interim protections, filing intentionally false charges of discrimination, or making intentionally false statements to investigators. Investigative reports made pursuant to these Procedures may be used as evidence in subsequent complaint resolution, grievance, and disciplinary proceedings as permitted by the applicable procedures.

G. Privacy

The University shall protect the privacy of individuals involved in a report of discrimination or retaliation to the extent required by law and University policy. A report of discrimination 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 of discrimination. An individual who has made a report of discrimination may be advised of sanctions imposed against the respondent 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 respondent will not be disclosed without the
respondent’s consent, unless it is necessary to ensure compliance with the action or the safety of individuals.

H. Confidentiality of Reports of Discrimination

Many University employees, such as the OPHD Director, EO/SAA Director, managers, supervisors, and other designated employees have an obligation to respond to reports of discrimination or retaliation, even if the individual making the report requests that no action be taken. An individual’s requests regarding confidentiality of reports of discrimination or retaliation will be considered in determining an appropriate response; however, such requests will be weighed in consideration of the University’s legal obligation to ensure a working and learning environment free from discrimination or retaliation and to protect the due process rights of the accused to be informed of the allegations and their source.

Individuals wishing complete confidentiality in the exploration of their concerns are directed to consult with the confidential resources listed below for advice and information regarding making a report of discrimination. These resources can provide individuals who may be interested in consulting with someone about discrimination or retaliation information about the procedures and potential outcomes involved. Individuals who consult with confidential resources are advised that their discussions in these settings are not considered notice to the University of reports of discrimination or retaliation and that without additional action taken by the individual, the discussions will not result in any action by the University to resolve their concerns. Confidential Resources at UC San Diego include the Ombuds Office, the Faculty and Staff Assistance Program, Counseling and Psychological Services, and the Sexual Assault and Violence Prevention Resource Center.

I. Retention of Records Regarding Reports of Discrimination or Retaliation

OPHD and EO/SAA are responsible for maintaining records relating to discrimination or retaliation reports, investigations, and resolutions, and for making reports of a statistical nature. 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 OPHD and EO/SAA Directors in cases where the parties have a continuing affiliation with the University. All records pertaining to pending litigation or a request for records will be maintained in accordance with instructions from legal counsel.