

STUDENT GRIEVANCE PROCEDURES

(Reference: UC Systemwide PACAOS 110.00)

900.00

Policy on Student Grievance Procedures

Chancellors shall develop and submit for approval by Student Academic Services in the Office of the President, and in consultation with the Office of the General Counsel, procedures to resolve grievances claiming to have been the subject of any of the following types of University action:

- A. Violation of privacy rights
- B. Discriminatory practices based on gender
- C. Discriminatory practices based on disability
- D. Discriminatory practices based on race, color, or national origin
- E. Other types of actions that may be grieved, such as discrimination on the basis of sexual orientation, age, or marital status, medical condition (cancer-related), ancestry, citizenship, or status as a Vietnam-era veteran or special disabled.

901.10

UC Merced Student Grievance Procedure

A. Purpose and Scope

- a. The purpose of this procedure is to provide UC Merced students an opportunity to resolve complaints against the University alleging discrimination based upon gender, disability, race, color, national origin, sexual orientation, age, marital status, medical condition (cancer-related), ancestry, citizenship, status as a Vietnam-era veteran, or any other action that may be grieved. Please consult with UC Merced's Title IX officer for procedures related to the resolution of alleged sexual harassment and the Office of the Registrar for procedures for addressing alleged violations of educational rights and privacy.

- b. This procedure is not applicable to decisions rendered via

the Student Conduct process. An appeals process is in place for that purpose and can be found in the 603.60 of the *Student and Organization Policies and Regulations*.

B. Definitions:

- a. Administrative Officer: The person designated to represent the University and serve as fact finder in formal administrative reviews.
- b. Title IX Officer: University officer responsible for monitoring campus efforts to meet requirements of the 1972 federal legislation that prohibits all forms of sex discrimination in educational institutions that receive federal funding. At UC Merced, the Title IX officer receives and facilitates the review of all sexual harassment complaints.
- c. Discrimination: An illegal or prohibited adverse educational action or harassment based on race, color, national origin, religion, sex, gender identity, pregnancy (includes pregnancy, childbirth, and medical conditions related to pregnancy and childbirth), physical or mental disability, medical condition (cancer related or genetic characteristics), ancestry, marital status, age, sexual orientation, citizenship, or service in the uniformed services (includes membership, application for membership, performance of service, application for service, or obligation for service in the uniformed services).
- d. Harassment: Conduct that is so severe or pervasive and objectively offensive, and that so substantially impairs a student's access to University programs or activities, that the student is effectively denied equal access to the University's resources and opportunities on the basis of the categories listed in "Discrimination" above.
- e. Adverse educational action: An action that unreasonably and significantly interferes with a student's admission to, access to, or treatment in educational programs or

activities.

C. Filing a Complaint of Discrimination, Harassment or Arbitrary Treatment

- a. A written complaint must be filed within sixty (60) calendar days of the time the student could reasonably be expected to have knowledge of any injury caused by the alleged discriminatory, harassing or arbitrary action.
- b. Student reports of discrimination, harassment or arbitrary treatment should be submitted in writing to the Office of Student Rights and Responsibilities. If the student feels there is a conflict of interest with the Office of Student Rights and Responsibilities, the Vice Chancellor for Student Affairs and Engagement will receive and facilitate the review of the complaint. If the grievance contains allegations of sexual harassment or sexual violence, the report will be referred to the Title IX Officer for review and investigation, pursuant to the UC systemwide policy on Sexual Harassment and Sexual Violence.
- c. The complaint must contain the following:
 - a. The complainant's name and contact information.
 - b. The identity of the respondent(s).
 - c. A description of the alleged discrimination, harassment, or arbitrary treatment.
 - d. The alleged discrimination or harassment (e.g., discrimination based on race, gender, disability or other illegal grounds) or arbitrary treatment.
 - e. An explanation of the evidence supporting the complainant's assertion that the respondent engaged in the alleged conduct for discriminatory or arbitrary reasons.
- d. The complainant must state the fact on which the complaint of discriminatory, harassing, or arbitrary treatment is based.
 - a. If the complaint is timely but does not include all the

necessary facts, it will be returned to the complainant within 15 calendar days.

- b. The complainant will have seven calendar days to correct the deficiencies.
- c. If the complainant fails to submit a corrected complaint that includes all the necessary facts, the complaint may be dismissed.
- e. Students are not required to file multiple or serial complaints regarding the same incident or action.
 - a. The University shall ensure that complaints reported through this procedure are handled appropriately so that the student obtains a full remedy for any discrimination, harassment, or arbitrary treatment found to have occurred.
 - b. When a complaint is submitted through this procedure but is more appropriately handled through another procedure, OSRR will coordinate a joint process or transfer the complaint to the appropriate procedure and inform the complainant in writing of the procedures that will be used.
- f. Within 15 days of receiving a complaint of discrimination, harassment, or arbitrary treatment, OSRR will inform the complainant in writing of the available processes, including informal resolution, the range of possible outcomes, the right to appeal a decision, and the confidentiality policies.

D. Informal Resolution Procedures

Informal resolution may be used when parties want to resolve the situation cooperatively and/or when a formal administrative review is unlikely to lead to a satisfactory outcome. The complainant and respondent are encouraged to participate in informal resolution.

- a. The informal resolution process shall be coordinated by OSRR. After receipt of a complaint that meets the

requirements set forth in above, OSRR shall provide the parties with the written information about informal resolution. Steps taken to encourage informal resolution and agreements reached will be documented by OSRR.

- b. Informal resolution may include but is not limited to the following:
 - a. Mediating agreement between parties.
 - b. Separating the parties.
 - c. Preliminary inquiry including fact-finding.
 - d. No-fault conversation with written confirmation, or negotiating an agreement for disciplinary actions.
 - e. Conducting targeted educational and training programs.
 - f. Referring parties to a counseling program.
 - g. Providing remedies and/or referral to support services for the individual harmed by the discrimination.
- c. The informal resolution process may last up to 45 calendar days, unless extended by mutual agreement of the parties or by OSRR with written notice to the parties.
- d. OSRR will notify both parties in writing when the informal resolution process is completed and provide a summary of the outcome.

E. Formal Campus Resolution Procedures

If a complaint of discrimination, harassment, or arbitrary treatment is not resolved by informal resolution, within ten calendar days the Director of Student Rights and Responsibilities shall review the complaint to determine if the complaint is eligible for formal administrative review.

A. Insufficient Evidence

If the Director of Student Rights and Responsibilities determines,

based on information developed through the informal resolution process, that there is insufficient evidence to warrant an administrative review, the director shall issue a written decision to the complainant explaining the determination.

- a. For a period of 7 calendar days after receipt of the director's decision, the complainant may submit a request for reconsideration.

- b. If the director denies the request, the decision is final.

B. Formal Administrative Review

If the Director of Student Rights and Responsibilities determines that the complainant alleges facts that may establish a violation of University policy, the director shall refer the complaint for formal administrative review.

- a. Upon referral for formal administrative review, the Director of Student Rights and Responsibilities, or his/her designee as appropriate, shall promptly designate an Administrative Officer to serve as fact finder. The Title IX Officer will serve as the Administrative Officer for any sexual harassment related complaints.
- b. Within 15 days of initiating the formal administrative review, OSRR shall notify the parties, in writing, of the name(s) of the Administrative Officer, a statement of allegations under review, and a date for completion of the review.
- c. Parties and witnesses shall be instructed that confidentiality is important to protect the integrity of the review. The reviewer's disclosure of facts or allegations to parties and witnesses shall be limited to what is reasonably necessary to conduct a fair review.
- d. The Administrative Officer shall complete the investigation and produce a report within sixty (60) days of the initial receipt of the complaint in the Office of Student Rights and

Responsibilities. The report should contain a summary of the allegations and issues presented by the complaint, the positions of the parties, a statement of the applicable law or policy, a summary of the evidence and factual findings reached in the investigation and the AO's determination as to whether University policy has been violated. If directed to do so, the report should also include a recommendation of remedies to resolve the complaint.

- e. The time limit for conclusion of the administrative review may be extended when deemed necessary by OSRR. Written notice of the extension will be provided to the complainant and the respondent.
- f. With 15 days of submission of the report, OSRR will notify the parties, in writing, of the following:
 - Whether or not there was a finding that University policy was violated and the reasons for the finding.
 - The investigative steps that led to the decision, including a summary of the facts gathered.
 - Any actions that will be taken that are directly related to the party receiving the notice (e.g., an order that the respondent not contact the complainant) including any remedies that OSRR determines are appropriate and within the scope of its authority.
- g. The outcome of the administrative review can be appealed as set forth below.

- C. Actions following a finding of discrimination, harassment, or arbitrary treatment
 - a. Within 15 calendar days of notifying parties of the review outcome, OSRR shall authorize appropriate remedies within the scope of its authority.
 - b. If the discrimination, harassment, or arbitrary treatment related to matters where another campus official holds authority to

make remedial, non-disciplinary action or implement a reviewer recommendation, OSRR shall forward the report to that official within seven calendar days of notifying parties of the review outcome. The official shall not reexamine the determination that discrimination, harassment, or arbitrary treatment occurred.

- c. If the complaint relates to grades, the Dean of the school shall determine whether the complainant receive an unfair grade because of the discrimination, harassment, or arbitrary treatment, and if so, the appropriate grade to award or action to be taken (e.g., granting a retroactive withdrawal). The Dean shall not reexamine the determination that discrimination, harassment, or arbitrary treatment occurred. Nothing in this policy otherwise changes the guidelines and procedures under which the faculty operate.
- d. If any member of the UC Merced community is found to have engaged in discrimination, harassment, or arbitrary treatment in violation of this policy, the investigative report shall be referred to the appropriate campus official for further handling under the applicable disciplinary policies and procedures. Administrative review reports prepared under this policy may be used as evidence in disciplinary actions if permitted by applicable rules.

D. Appeals

- a. The student may seek reconsideration of an adverse determination by filing a written request for review with the office of the Vice Chancellor for Student Affairs and Engagement within ten days of receiving a written notice of the determination. This request must be based on at least one or more of the following grounds:
 - There is no substantial evidence to support the decision made by the reviewer.

- There is newly discovered evidence that is material to the findings of fact and that was not available to the complainant prior to the conclusion of the review.
- The remedies or actions are inadequate to redress the harm.
- There was a procedural error that materially affected the fairness of the proceedings and prejudiced the appellant.

b. If the appeal is based on a claim that there is no substantial evidence to support the decision, that there was a procedural error, or that the remedy is inadequate, the reviewer shall consider the record as a whole to determine if the appeal is supported by the record, and if so, shall take appropriate action (e.g., initiate a new review, correct an error, or provide a different remedy).

c. If the appeal is based on newly discovered evidence, the reviewer may forward the evidence to the original reviewer to evaluate. If the original reviewer advises that the evidence provided by the appellant is not newly discovered, or was already considered, the appeal shall be denied.

d. The Vice Chancellor shall provide a written response within 30 days following the notice of appeal. The determination of the Vice Chancellor for Student Affairs and Engagement is final.