

ADMINISTRATION OF STUDENT CONDUCT

(Reference: UC Systemwide PACAOS 100.00)

600.00 Introduction

Honesty, fairness and respect are essential to learning, teaching and research, and to maintaining a productive and safe campus environment. As members of our academic community and of society at large, UC Merced students are held to the high standards of conduct set by the University of California and the campus, as well as to general requirements of law. UC Merced students are expected to uphold these standards in all their academic and extracurricular activities.

UC Merced conduct procedures are intended to promote reasoned, fair, and impartial consideration of suspected student misconduct, with respect for the rights and interests of all concerned: the accused student, the reporting party and the University.

601.00 Student Conduct and the Administration of the Student Conduct System

601.10 The Office of Student Conduct

UC Merced has designated the Office of Student Conduct (OSC) to administer the student conduct system for academic and nonacademic misconduct, recognizing that centralized authority, responsibility and record-keeping are essential to a balanced and impartial student conduct process. OSC reviews and resolves reports of suspected violations of standards of student conduct and cases of academic integrity. OSC determines jurisdiction, maintains confidential conduct records, and administers the informal disposition and formal fact-finding hearing processes.

601.20 Delegation of Authority

Authority for student conduct at UC Merced is delegated from the chancellor to the vice chancellor for Student Affairs to the associate vice chancellor for Student Affairs and the director of Student Life and Student Conduct. The director, and the OSC staff under the director's supervision, have authority to impose conduct sanctions. All conduct action taken by the director, other OSC staff, or any hearing body or hearing officer, operates by delegation of the chancellor's authority.

601.30 Overview of Process

Most cases are resolved through an informal process in which OSC staff meet with the accused student, consult with the reporting party, and, if appropriate, enter a written conduct contract specifying agreed sanctions for any admitted violations of conduct standards. Students are advised of their rights provided by UC Merced conduct procedures, including the right to consult and be accompanied by an advisor during the informal and/or formal processes.

602.00 Reporting Suspected Student Misconduct

602.10 Reporting Suspected Misconduct to the Office of Student Conduct

Suspected student misconduct falling within OSC's jurisdiction should be reported in writing to OSC. Reports should include the following, if known: the accused student's name and identifying information, the nature of the suspected violation, a description of the circumstances, including the date of the incident, names of witnesses, copies of supporting documents, and how to reach the reporting party (report forms are available online or in the Office of Student Life).

602.20 Preliminary Review by Student Conduct

Upon receiving a written report or a request for review, OSC will evaluate the matter. If OSC determines that no further action is warranted, the person reporting the case or requesting the review will be so informed. OSC may decline further action if the report is untimely; if there is no substantial evidence to support the report; if the suspected behavior does not constitute a violation of student conduct standards; or if the suspected incident should be addressed through other policies or procedures.

602.30 Notification to Student

If OSC determines that further inquiry is appropriate, OSC will notify the accused student and reporting party that an investigatory conference is required. The student will be informed in writing (by email/U.S. or campus mail) of the following:

1. The University policies or campus regulations that have allegedly been violated.
2. That he/she must attend the scheduled meeting or schedule a meeting with OSC.
3. That he/she may consult and/or be accompanied by an advisor of his/her choice prior to the investigative conference.
4. That failure to schedule or attend the investigative conference could result in unilateral action being taken by the University.

602.40 Investigative Conference

At the conference with the accused student, the OSC officer describes conduct procedures, informs the student of the specific allegations against him/her, indicates the applicable University policy(ies) or campus regulations alleged to have been violated, and provides details regarding the information supporting the report of misconduct. The accused student is afforded an opportunity to respond, to ask questions and to discuss possible options for resolving the case.

At the conclusion of the investigative conference(s), the Student Conduct officer may conclude that no violation has occurred and that no further action is warranted. If,

however, the OSC officer believes that a violation has occurred based upon the preponderance of the evidence, the case will be disposed of either informally or through formal hearing depending upon the potential sanction(s) or the preference of the student and OSC.

Students subject to sanction(s) less than suspension or dismissal will have their case disposed of informally. Students subject to suspension or dismissal are entitled to a formal hearing. Students may waive their right to a formal hearing and accept as final and binding the proposed suspension or dismissal by signing a waiver.

603.00 Informal Disposition

603.10 "Informal disposition" means resolution without a formal hearing, usually by agreement between the student and OSC. Informal disposition can also include unilateral conduct action if a student fails to participate in the conduct process, or sanction without agreement.

603.20 Procedures for Informal Disposition

A. Meetings/communications with accused student

If the accused student participates in informal disposition, the process usually includes one or more meetings or other communications (e.g., phone calls and emails) between the student and OSC to discuss the facts of the case, possible outcomes (including sanctions) and terms of agreement. No audio or digital recordings are permitted without the express consent of all meeting participants.

B. Information Provided by Accused Student

While the accused student is required to respond to Student Conduct, he/she may choose not to provide information in response to the charges (remain silent regarding the allegations). Any information provided by the student in the informal disposition process (whether at a meeting, during a phone call, or in an email or other writing) must be truthful. This information may be shared with the reporting party and may become evidence in a later formal process.

C. Consultation with Reporting Party

The "reporting party" is defined as the individual who submits a written report or request for review to OSC. OSC may consult with the reporting party before reaching an agreement with the student or otherwise resolving the case informally.

D. Resolution by Another

Rather than reach agreement regarding the facts and/or sanction, the student and OSC may agree to have the case resolved by another, such as a mediator.

603.30**Informal Disposition by Agreement or Student Conduct Decision**

If after the investigative conference(s) the OSC officer believes a violation has occurred, he or she may offer to resolve the case informally by agreement between the student and OSC. If an agreement is reached, it should be stated in writing and signed by the student, and should contain the following terms, as appropriate:

A. Violation Admitted

The agreement should state whether a violation is acknowledged, and, if so, describe the agreed facts of the incident and the nature of the admitted violation.

B. Terms of Agreed Sanction(s)

If the student and OSC agree on the appropriate sanction(s), the agreement should describe the terms of the sanction(s) to be imposed.

If agreement cannot be reached between the OSC officer and the student, the OSC officer may render a decision and determine a sanction without agreement. If the OSC officer renders a sanction without agreement, s/he will do so within 10 working days of the investigative conference.

603.40**Informal Disposition by Unilateral Action**

OSC may resolve a report of suspected misconduct unilaterally by taking administrative action or imposing sanctions if a student:

Has failed or refused to respond within seven days after OSC's first attempt to contact him or her, or has failed or refused to participate in or cooperate with the conduct process, despite reasonable efforts by OSC to contact him/her;

Has withdrawn or failed to re-register while conduct is pending, and the student fails to respond and participate in the conduct process.

OSC has discretion to place holds on a student's registration, graduation, diploma and transcripts; or

1. Impose sanctions unilaterally, including but not limited to censure, probation, interim suspension, suspension or dismissal, as long as the student is provided notice and an opportunity to be heard through the informal disposition process either before the sanctions are imposed, or, if the student fails to respond or cooperate.
2. If the student has previously agreed to a deferred sanction, to impose the agreed deferred sanction or a lesser sanction.
3. Submit the case for formal fact-finding hearing in the student's absence.

603.50 Effect of Withdrawal or Failure to Register on Conduct Process

If the student has withdrawn or failed to re-register, the sanctions will take effect immediately upon re-admission, or sooner if appropriate, as determined by OSC.

603.60 Appeal of Student Conduct Decision, Administrative Action or Unilateral Action

- A. After receiving written notice of a sanction(s), action(s), or decisions(s), the student may appeal OSC's decision only if all of the following requirements are met: a) the appeal is in writing, b) the appeal is expressly based upon one of the grounds specified in section 607.20 below, c) the appeal is received by OSC by the stated deadline. The deadline shall not be more than seven days from the issuance of the written notification of the sanction. After the Office of Student Conduct receives the appeal, an appeal officer will be appointed.

A meeting to discuss the appeal will be attended by the student and the appointed appeal officer. All matters considered at this meeting will pertain only to the stated basis for the appeal. The appeal will be granted or denied based upon: a) whether the decision lacks substantial basis to support the findings, b) whether there is incongruity between the proposed sanction and findings, c) whether there was unfairness in the hearing procedure, or d) if there is newly discovered important evidence.

Upon completion of the review by the appointed appeal officer the original sanction may be affirmed, modified, or reversed. The decision of the appeal officer will be final.

- B. Appeals from Unilateral Action Imposed for Failure or Refusal to Respond
Appeals from unilateral conduct must be submitted to the director in writing and must state reasonable grounds for the student's non-cooperation or failure to respond during the original process. The director may sustain the original unilateral action, or may reopen the conduct process for informal disposition or formal hearing. If the director sustains the original action, the student may appeal under section 607.20, below.

604.00 Formal Hearings

604.10 Setting a Formal Hearing

Based upon the potential severity of sanctions OSC may refer a case to an appropriate body for a formal hearing. The student may waive this right if they prefer to utilize the informal process.

- A. Purpose and Nature of the Hearing

A formal conduct hearing, consistent with the University's educational mission, is a process whereby members of our academic community – students, faculty, and staff

– meet to make determinations of fact. It is not a court proceeding. The goal is to find the truth through a fair, prompt, and effective process, respecting and preserving the rights of the accused student, the University community, the reporting party and any witnesses.

B. Procedures

1. A designated representative from OSC will convene the Hearing Board and notify the student in writing of the date, time and place of the hearing. The notice will include a brief statement of the factual basis of the charges and the University policies or campus regulations allegedly violated.
2. The hearing will occur within a reasonable time frame and the University shall bear the burden of proof.
3. The designated representative from Student Conduct will advise both the Board and the student concerning the protocol and procedures to be followed in the hearing. The designated representative will forward all necessary documents relevant to the hearing, and will only be involved in the hearing process in an administrative role, other than serving as a witness, if called.

604.20

The Hearing Board

The Hearing Board is a panel, normally comprised of students, staff and faculty who may hear academic and nonacademic misconduct cases as assigned and appropriate.

A. Composition of the Standing Pool for Hearing Boards

The vice chancellor for Student Affairs or designee may appoint up to 15 each of staff, faculty (Academic Senate members) and students to the standing pool for campus hearing boards. Undergraduate student members of this pool must be UC Merced students and maintain through the period of service on the board/standing pool a cumulative GPA to reflect good standing in their academic department. Graduate student members must be making normal academic progress.

A hearing panel may be chaired by a student, staff or faculty member as appropriate. A quorum is three panel members, including at least one student and one staff or faculty member, and the maximum membership of a panel is five individuals.

B. Graduate Student Hearing Panels

If the accused student is a graduate or professional student, and a formal hearing becomes necessary, an ad hoc hearing panel may be appointed including at least

one graduate-level student and one faculty member with graduate-level teaching and research experience, preferably from the division or school in question.

604.30 Preparation and Hearing Procedures

A. Parties represent themselves

In keeping with the educational nature of the process, accused students and reporting parties speak on their own behalf and present their own case to the hearing panel.

B. Advisors

Both the accused student and the reporting party may each have an advisor of his/her choice to help with preparation for the hearing and who may accompany them at the hearing.

1. The accused student and the reporting party are each responsible for preparing and presenting their own evidence and witnesses at a formal hearing. Advisors may provide assistance to the parties prior to and at a hearing, but advisors do not prepare or present the case for the students.
2. Generally, advisors will not take a direct part in hearings without the consent of the panel or hearing officer. With consent, advisors may ask questions through the panel, and if the party so chooses, present the summarizing statement for the party at the close of the hearing.
3. The panel or hearing officer may exclude an advisor from the hearing if the advisor fails to comply with the hearing procedures, becomes disruptive or impedes or interferes with the hearing process.

605.00 Hearing Procedures

605.10 Applicability

These procedures apply to all conduct hearings unless specifically waived by the accused student or reporting party.

- A. With the guidance of the designated representative from OSC hearing panels and officers have responsibility for the procedural working of the hearing, and may direct appropriate procedures in their discretion, so long as those procedures are consistent with this policy.
- B. A designated OSC representative attends all hearings to ensure compliance with these procedures and facilitate the hearing process.

- C. Upon establishment of cause by either party to the hearing, OSC may grant reasonable extension of the time limits specified in these procedures.

605.15 Scheduling the Hearing

The date for the hearing will be confirmed within 30 days of the time OSC determines a hearing is necessary, although the hearing itself may occur beyond the 30-day period. Hearings may be held during summer sessions or academic break periods.

605.20 Notice of the Hearing

Once it is determined that a formal hearing is necessary to resolve the matter, OSC sends the student written notice within seven days before the hearing.

A. Delivery of Notice

The notice of hearing is emailed, sent by U.S. mail, delivered to an on-campus housing mail address, and/or picked up by the accused student in person from OSC. Normally, the notice must be picked up by the student, or emailed, and/or postmarked at least seven days before the scheduled hearing date, unless the student agrees to a shorter period.

B. Presumption of Delivery

It is presumed that the accused student has received notice if the student has picked up the notice from OSC, or if the notice has been sent to the student by (1) email at the student's primary UC Merced email address; and/or (2) regular U.S. mail at the local address provided by the student to OSC, or the local address and/or email addresses most recently filed with the Registrar's Office; or, if undeliverable at a local address, at the permanent address of record.

C. Contents of Notice

The notice should include the following information:

1. The time, date and place of hearing, or notice that the hearing will be held at a time and place to be specified in a later notice;
2. A brief description of the factual basis of the suspected violation, a list of the University policies or campus regulations reportedly violated, and a summary of the information (documents or other evidence and names of witnesses) to be provided at the hearing;
3. A statement that the student is entitled to be accompanied/assisted by an advisor; and

4. An outline of or link to the hearing process.
5. Either in the notice of hearing, or as soon as possible afterwards, the student is provided with the name(s) of the hearing panel members so that he or she may, if there is good cause, submit a request to disqualify a member.

605.25

Access to Information to be Provided at the Hearing

The accused student may request and receive information in the possession of the University that will be provided at the hearing and other non-confidential information, which the chair finds to be relevant and necessary to a fair hearing.

A. Submitted in advance

Any information to be provided at the hearing must be submitted in advance to OSC, including (1) copies of documents and other evidence and (2) lists of the names of witness who will be called with a brief description of the subject of each witness's testimony.

B. Deadline for submission

The accused student and reporting party will each submit copies of their documents and witness lists at least two days before the hearing so that Student Conduct may make copies for the panel. Anything submitted after this deadline will be considered as evidence only with the approval of the chair and the agreement of both parties.

605.30

Disqualification of a Panel Member

Members of a panel should have no prior involvement in the case, and should disqualify themselves if they believe they cannot render a fair decision.

605.35

Pre-Hearing Conference

If several witnesses will be presented, the issues are complex, or if otherwise deemed useful, a pre-hearing conference may be scheduled at the discretion of the hearing panel chair or OSC designated representative. At the pre-hearing conference, the parties will submit documents and lists of witnesses and the general facts to which they will testify. The chair may decide any procedural issues and may exclude proposed testimony that is irrelevant, unduly repetitive, or unreasonably time consuming, or may reserve such determinations until the hearing. The chair may also ask for and decide any challenges regarding disqualification of a panel member.

605.40

Closed Hearings

OSC hearings are "closed" hearings. Witnesses, if any, may be excluded from the hearing except for the time they are testifying or responding to cross-examination. The

accused student(s) and referring party(ies) may be present throughout the hearing while evidence is being presented.

605.45 Evidence and Testimony

- A. Formal rules of evidence or court procedures are not used in the student conduct process

Student conduct hearings are not court proceedings; the procedures used in civil or criminal trials, motions, or other proceedings before a court or administrative agency do not apply.

The hearing panel may receive and consider spoken, written, or other evidence of the kind on which reasonable persons are accustomed to rely.

- B. Testimony and questioning of witnesses

1. No student witness may be compelled to incriminate him/herself. The accused student may remain silent and his/her silence should not be taken as inference of culpability.
2. All parties will direct questions and inquiries through the chair of the hearing panel or designated hearing officer.
3. Both the accused student and the reporting party may request that specified witnesses attend the hearing and testify. If a witness is unavailable to testify at a hearing, OSC may arrange for testimony to be taken at an alternate time under conditions providing an opportunity for oral or written questioning by both parties and the panel members, with the consent of the parties.

605.50 Introductory and Summary Statements

At the beginning of the hearing, the accused student and reporting party may each make a brief introductory statement. After all evidence has been heard, the accused and the reporting party, or, if either so chooses, his/her advisor (as permitted by the Chair), may make a brief summary. OSC representatives may, as appropriate, present additional relevant information to the board.

605.55 Burden of Proof

At any formal hearing, no violation can be found unless it has been shown by a preponderance of the evidence that the accused committed the reported offense.

605.60**Hearing Records**

An audio recording of the hearing (but not the deliberations or any other component of the conduct process) will be made.

- A. After the hearing, the accused student and the reporting party may each have access to review the hearing recording.
The audio recording will be retained as part of the record for as long as the conduct record is retained.
- B. Other than for the purpose of the official record as provided above, mechanical or electronic devices for recording or broadcasting are excluded from the hearing.

606.00**Report by Hearing Panel**

The hearing panel will prepare a brief written report summarizing its findings of fact and recommendations for sanctions, if any.

The committee must complete deliberations and submit their final report to the director within 14 calendar days of the close of the hearing.

If the recommended sanction is suspension or delay of graduation for more than one calendar year, or for dismissal, the report and recommendation is also submitted to the associate vice chancellor of Student Affairs for concurrence before the sanction is delivered.

If the hearing concerns a graduate student, the director or associate vice chancellor of Student Affairs will consult with the appropriate dean, assistant or associate dean and receive their concurrence before delivering the sanction.

The report will include findings of fact as to each specified charge, and whether the conduct as found does or does not violate the policies or regulations as reported. If the decision is not unanimous, both a majority and a minority report may be submitted. Where appropriate, the report shall make recommendations as to the sanction to be imposed.

606.10**Notice of the Decision**

- A. A written notice of the decision and sanction(s) to be imposed, if any, is provided to the accused student and to reporting parties who are campus officials (in accord with legitimate educational interest criteria), together with a copy of the panel's findings and recommendations. The notice of decision may be sent to the UC Merced email address of record for that individual, and should specify the due date of any appeal and the name and address of the official to whom the appeal must be submitted. In addition, notice of the decision may be provided to the alleged victim of a crime of violence.

If the report involved an alleged forcible or non-forcible sex offense, the alleged victim will be informed of the results of the conduct action and process for appeal.

B. To alleged victims of sexual harassment or assault

Regulations and procedures related to sexual harassment and sexual violence are guided by the [UC systemwide Policy on Sexual Harassment and Sexual Violence](#).

C. To members of the press/public

The decision is made public only if the hearing was open or if the student(s) named in the decision give(s) written consent.

607.00 Appeals

607.10 Time for Appeal

If sanction(s) are upheld or imposed by OSC, a student may file a written appeal with the vice chancellor for Student Affairs or dean (per notice instructions) within the time set in the Notice of Decision, generally seven days after the Notice of Decision is emailed or postmarked.

607.20 Grounds for Appeal

The appeal must be in writing, and may request that the decision be overruled or the sanction amended, on the following grounds:

A. The decision lacks substantial basis in fact to support the findings.

On appeal, the appellant has the burden of proving that there is no substantial evidence to support the decision. It is not enough to assert that the hearing panel made an incorrect decision on the issue of whether a preponderance of evidence supports the finding of violation.

B. There is incongruity between the proposed sanction and findings.

C. There has been unfairness in the hearing proceedings.

D. There is newly discovered important evidence not known at the time of the hearing or decision.

607.30 Decision on Appeal

The official to whom the appeal is submitted will respond within 10 days and may deny the appeal; grant the appeal in whole or part; or direct such other relief, as he/she deems appropriate.

608.00 Timeliness of Complaints

608.10 Academic Misconduct Reports

Reports to OSC for suspected *academic* misconduct must be sent to OSC within 60 days after the end of the semester in which the suspected misconduct occurred or was discovered, or reasonably should have been discovered, or within 30 days after the end of an official investigation.

608.20 Nonacademic Misconduct Reports

Reports of suspected *nonacademic* misconduct must be sent to OSC within 14 days of when the suspected conduct occurred or was discovered, or reasonably should have been discovered, or within 14 days after the end of an official investigation, unless OSC determines that law or policy provides for a longer reporting period.

608.30 Late Reports

The director has the discretion as to whether or not to accept late reports. If a late report is accepted, the case will proceed either through informal disposition or a formal hearing with consideration given to the impact of the delay in reporting upon the accused student including the unavailability of witnesses or evidence.

609.00 Jurisdiction of Student Conduct

The vice chancellor of Student Affairs has jurisdiction over various types of conduct violations, over students and student organizations, and over on- and off-campus incidents, as described below. This jurisdiction has been delegated to the associate vice chancellor and will generally be referred as described below.

Cases involving reported misconduct under the following categories of rules governing student conduct shall be referred to OSC:

- A. University-wide policies, including the University of California *Policies Applying to Campus Activities, Organizations and Students (PACAOS)*, Section 102.00 “Grounds for Discipline;”
- B. Campuswide rules, including the UC Merced implementation of the systemwide PACAOS (*Student and Organization Policies and Regulations*), the UC Merced *Academic Honesty Policy*, and the Alcohol and Other Drug Policy.

- C. Rules established by campus entities (such as departments, residence units, education abroad programs and professional schools) applying to students within such schools, departments, programs, or residence units.

609.10 Students Residing in On-campus Residence Halls Subject to Student Conduct Action

Misconduct by students in the residence halls may be resolved through the student conduct system, by using housing contract remedies, or both. The Housing and Residence Life staff includes conduct officers who have authority designated by the vice chancellor of Student Affairs to resolve cases within campus housing.

609.20 Individuals and Organizations Subject to Student Conduct Action

- A. Definition of “Student.” The UC *Standards of Conduct* apply to all current UC Merced students, including individuals who are enrolled in or registered with any academic program of UC Merced; who have completed the preceding term and are eligible for reenrollment, including the recess periods between academic terms; or who are on an approved educational leave or other approved leave status, or on filing-fee status.
- B. Applicants, Former Students, and Registered Campus Organizations. The UC *Standards of Conduct* also apply to
 - 1. Applicants who become students, for offenses committed as part of the application process; on a University of California campus and/or while participating in University-related events or activities; or following submittal of the application through his or her official enrollment, if off-campus jurisdiction would otherwise apply;
 - 2. Former students (including graduates) for offenses committed while a student; and
 - 3. Registered Campus Organizations. Under University policies and campus procedures, RCOs shall be provided with a hearing and basic standards of procedural due process.

609.30 Geographic (On and Off-Campus) Jurisdiction

The Office of Student Conduct has jurisdiction over academic or nonacademic misconduct by students that occurs on UC Merced property or in connection with campus functions, activities, equipment or facilities; Student Conduct also has jurisdiction over off-campus conduct and alleged crimes, as described below.

A. Off-Campus Jurisdiction

Student conduct that occurs off University property is subject to UC Standards of Conduct where it 1) adversely affects the health, safety, or security of any member of the University community, or the mission of the University, or 2) involves academic work or any records, or documents of the University.

B. Determining Jurisdiction

In determining whether or not to exercise jurisdiction over such conduct, the University shall consider the seriousness of the alleged offense, the risk of harm involved, whether the victim(s) are members of the campus community, whether the off-campus conduct occurred at, or in connection with activities of a student group (e.g., RCO, club, athletic team), or whether the conduct is part of a series of actions which occurred both on and off University property.

C. Good Neighbor Relations

1. The University may also exercise jurisdiction over student conduct that occurs off campus where the conduct compromises University neighbor relations. It is expected that students will:
 - a. Foster and maintain good community relations and cooperation with neighbors and authorities.
 - b. Be responsible for their conduct and encourage guests to adhere to the same standard.
 - c. Respect the rights of neighbors and follow existing laws and ordinances.
 - d. Take active steps to prevent damage to neighbors' property by admitted guests and household members and assume responsibility for damage to neighbors' properties caused by household members or guest.

D. Conduct on Other UC Campuses

A student at one campus of the University, who is accused of violation of University policies or campus regulations on another campus of the University, or at an official function of that campus, shall be subject to the conduct procedures of either the former or the latter campus as agreed by designees of both campuses.

610.00 Confidentiality of Student Conduct Records

610.10 Student Conduct Records Are Confidential Student Records

The Office of Student Conduct records containing personally identifiable information about students relating to any conduct action or proceeding are confidential student records. Conduct actions or proceedings include investigation, informal and/or formal hearings, and/or imposition of sanctions for violation(s) of the University of California *Policies Applying to Campus Activities, Organizations and Students*, the UC Merced *Academic Honesty Policy*, or these *Student and Organization Policies and Regulations*.

610.20

Protected from Disclosure

Confidential OSC student records are protected from disclosure under the Federal Educational and Privacy Rights Act (FERPA), as well as the privacy provisions of the California Information Practices Act and the California State Constitution.