



UC San Diego

Policy & Procedure Manual

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COMPUTING SERVICES

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UNIVERSITY OF CALIFORNIA ELECTRONIC COMMUNICATIONS POLICY UC SAN DIEGO ELECTRONIC COMMUNICATIONS PRIVACY AND CONFIDENTIALITY

I. INTRODUCTION

The University of California Electronic Communications Policy (the "ECP") was reissued on August 18, 2005. It is posted online at:

<http://policy.ucop.edu/doc/7000470/ElectronicCommunications>

This policy is the Campus implementation policy of the Privacy and Confidentiality provisions of the ECP, Section IV and related appendices.

This Policy replaces the original policy issued on December 1, 2005, and amended on October 22, 2009, and supersedes previous policies adopted by UC San Diego concerning its subject matter, including [PPM 135-5](#).

II. DEFINITIONS

The capitalized terms used in this Policy are defined below or in the [ECP, Appendix A](#)

A. Authorizing Official: The Authorizing Official (whose authority may not be further delegated) is as follows:

1. Vice Chancellor, Student Affairs, is the Authorizing Official for all access without consent requests for electronic communications belonging to students in their capacity as students and student organizations.
2. Executive Vice Chancellor, Academic Affairs, is the Authorizing Official for access without consent requests for electronic communications not covered by II.A.1.

If the Authorizing Official specified in this Section faces a conflict of interest, such individual shall recuse themselves and the Chancellor shall act as the Authorizing Official or shall designate another Vice Chancellor to do so.

B. Electronic Communications: Any transfer of signals, writings, images, sounds, data or intelligence that is, created, sent, forwarded, replied to, transmitted, distributed, broadcast, stored, held, copied, downloaded, displayed, viewed, read, or printed by one or several electronic communications systems. For purposes of this Policy, an electronic file that has not been transmitted is not an electronic communication.

C. Electronic Communications Records: The contents of electronic communications created, sent, forwarded, replied to, transmitted, distributed, broadcast, stored, held, copied, downloaded, displayed, viewed, read, or printed by one or several electronic communications systems or services. This definition of electronic communications

records applies equally to attachments to such records and transactional information associated with such records.

- D. Transactional Information:** Information, including electronically gathered information, needed either to complete or to identify an electronic communication. Examples include but are not limited to: electronic mail headers, summaries, addresses and addressees; records of telephone calls; and IP address logs.
- E. UC San Diego Electronic Communication Services:** Electronic Communications Systems or Services as defined by the ECP that are operated by UC San Diego.

III. PRIVACY OF ELECTRONIC COMMUNICATIONS RECORDS

A. Examination and Disclosure

Examination or disclosure of the contents of an Electronic Communications Record shall occur only as provided in this policy.

1. Consent

The University may examine or disclose Electronic Communications Records with the advance written or oral consent of a Holder of the Electronic Communications Record. Where there are two or more Holders of an Electronic Communications Record, the consent of only one Holder of an Electronic Communications Record is required. When no Holder of an Electronic Communications Record is available to give consent, the procedures in Section **III.A.2** of this Policy shall be followed.

2. Without Consent

- a. The University may examine or disclose Electronic Communications Records if authorized in advance and in writing by the Authorizing Official. The grounds for such authorization are specified in the ECP and generally exist where:
 - required by and consistent with law (e.g., Information Practices Act, California Public Records Act),
 - where there are Compelling Circumstances,
 - in the case of time-dependent, critical operational circumstances, or
 - when there is substantiated reason to believe that violations of law or University policies specified in ECP Appendix C have taken place¹
- b. In Emergency Circumstances as defined in the ECP, the University may examine or disclose Electronic Communications Records without Authorizing Official approval. In such cases, the examination or disclosure shall be the least perusal of contents and the least action necessary to resolve the emergency, and ratification of the examination or disclosure shall subsequently be sought without delay from the Authorizing Official.
- c. The University's Internal Audit department² may examine or disclose Electronic Communications Records in accordance with

¹ Violations of other policies can normally be detected and investigated without requiring nonconsensual access to electronic communications.

² The UC Whistleblower Policy (2012) designates the Locally Designated Official (LDO) to investigate reports of allegations of suspected improper governmental activities. A number of functional units within the University have responsibility for routinely conducting investigations of certain types of allegations of improper governmental activities, and have dedicated resources and expertise for such purposes. These include Compliance, Internal Audit, the UC Police, Human Resources and the Academic Personnel Office.

the UC Internal Audit Charter, except where prohibited by law.

3. Separated and Deceased Users

When an employee or student user of UC San Diego Electronic Communication Services dies or separates from UC San Diego, UC San Diego is deemed to be the Holder of that person's Electronic Communications Records.

UC San Diego maintains the Electronic Communications Records of deceased students for 90 days and the Electronic Communications Records of deceased employees as required by the UC Records Management Program. UC San Diego does not release the personal Electronic Communication Records of deceased individuals unless the release is required by law, necessary for an investigation or litigation, or there is consent prior to death.

B. Documentation

Only university employees with a legitimate business or educational purpose may request access without consent to Electronic Communications Records. All such requesters must submit the following information for an access without consent request:

1. Name and contact information of requester
2. Name and affiliation (e.g., employee or student) of the Holder of the Electronic Communications Record
3. Dates of relevant records sought
4. Whether the Holder of the Electronic Communications Records has been contacted for consent and the result of such request or the reasons why consent was not requested
5. The basis for accessing records, explicitly identifying the circumstances, as required in III.A.2(a) above, and including the law and/or specific policy identified in ECP Appendix C, if applicable
6. Time frame for notification per III.C. below
7. Description of the account or record requested
8. Explanation of why the specific account or record is relevant and required for the circumstances
9. Names of individuals who will conduct the requested search and access the results
10. Efforts to ensure least perusal of content
11. Description of search protocol (e.g., search terms to be used, where and how search will occur)-
12. Anticipated disposition of records once the circumstances permitting access have passed

Requesters are highly encouraged to utilize the Request for Authorization to Access Electronic Records Without Consent (AWOC) form available from the Campus Privacy Office to submit requests. The required documentation must be reviewed by the Campus Privacy Officer and Campus Counsel prior to approval by the Authorizing Official.

Documentation of the approved or denied request shall be kept on file with the Campus Privacy Office.

C. Notification

In all cases of examination or disclosure without consent, the perusal of Electronic Communications Records and the action taken to resolve an emergency or other situation shall be limited to the least perusal and action necessary to resolve it. In all such cases, the Authorizing Official or designee shall notify the Holder of the Electronic Communications Records whose account was examined of the action(s) taken and the reasons for the action(s) taken at the earliest appropriate opportunity.

D. Report

The Campus Privacy Office shall be responsible for providing the Office of the President

with a report summarizing instances of authorized or emergency non-consensual access.

E. Subpoenas, Search Warrants and Discovery

Subpoenas, search warrants, and discovery requests are not subject to Sections **III.A.1** and **III.A.2**. Subpoenas shall be processed in accordance with applicable federal and state laws and University policies, including PPM 470-1 "UCSD Guidelines for Serving, Accepting & Responding to Subpoenas", located online at <http://adminrecords.ucsd.edu/ppm/docs/470-1.html> Search warrants and discovery requests will be processed as directed by the UC San Diego Office of Campus Counsel.

IV. PRESERVATION OF EVIDENCE

In order to preserve evidence, UC San Diego may copy without notice Electronic Communications Records stored on or transmitted through UC San Diego Electronic Communication Services; provided, however, that Electronic Communications Records copied for this purpose shall not be reviewed by a human being unless (a) consent of a Holder of the Electronic Communications Record is obtained, or (b) access without consent is permitted pursuant to this Policy.

V. VIOLATIONS OF POLICY - SANCTIONS IN ADDITION TO ACCESS RESTRICTIONS

Violations of this Policy may subject a person to legal penalties and discipline within the University system. Faculty and staff members of the University who violate this policy will be subject to discipline under the Academic Personnel Manual, the Staff Personnel Manual, the manual of the Academic Senate and collective bargaining agreements, as applicable. Students, registered student organizations, and college organizations that violate this policy will be subject to disciplinary sanctions in accordance with the UC San Diego Student Conduct Code.

VI. REFERENCES

The following list identifies sources referenced in or used as background for this UC San Diego Communications Procedures and Practices document. Users of this document may also wish to consult the general list of University Policies and Guidelines contained in [Appendix B](#) of the ECP.

Academic Personnel Manual (APM): [140 Non-Senate Academic Appointees-Grievances](#)

Business & Finance Bulletin (BFB): [IS-3 Electronic Information Security](#)

Bylaws of the San Diego Division of the Academic Senate: [230 Privilege and Tenure](#)

Personnel Policies for UC Staff Members Manual (PPSM): [70 Complaint Resolution](#)

Policy and Procedure Manual (PPM):

160-2	Disclosure of Information from Student Records
480-3	Responsibilities and Guidelines for Handling Records Containing Information About Individuals

University of California Policies Applying to Campus Activities, Organizations, and Students:

130	Policies Applying to Disclosure of Information from Student Records
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UCSD Policies & Procedures Applying to Student Activities:

22.00	Student Conduct and Discipline
23.13	Grievance Resolution Process