



UC San Diego

Policy & Procedure Manual

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PERSONNEL – GENERAL

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INTERIM ABUSIVE CONDUCT IN THE WORKPLACE POLICY UC SAN DIEGO IMPLEMENTING PROCEDURES

I. PROCEDURES

A. SCOPE

1. These local Abusive Conduct in the Workplace complaint resolution procedures have been established pursuant to Section IV.A. of the [University of California Abusive Conduct in the Workplace Policy](#).
2. These procedures apply to complaints of Abusive Conduct and complaints of adverse actions as a result of reporting Abusive Conduct or participating in an investigation or other resolution process related to Abusive Conduct.

B. DEFINITIONS

1. Application of Definitions

The definitions provided herein are for ease of reference only. The operative definitions for this implementing procedure will be the definitions provided in the University of California Abusive Conduct in the Workplace Policy.

2. Abusive Conduct

Abusive Conduct is harassing or threatening behavior that is sufficiently severe, persistent, or pervasive conduct in the Workplace that denies, adversely limits, or interferes with a person's participation in or benefit from the education, employment, or other programs or activities of the University. The conduct creates an environment, whether intended or not, that is objectively intimidating or offensive and unrelated to the University's legitimate educational, employment, and business interests. The conduct shall be evaluated on a case-by-case basis, taking into account the circumstances of the parties, relationship between the parties (including power imbalance); the frequency, nature and severity of the alleged conduct; whether the conduct was physically threatening; and whether the conduct may be protected as academic freedom or free speech. A single act may constitute Abusive Conduct if especially severe or egregious. When the alleged conduct involves issues related to academic freedom, the applicable University Office will consult with the Academic Senate.

3. Complainant

An individual who alleges and/or has been reported to have been subjected to Abusive Conduct. Any individual, including a student, can be a Complainant.

4. Reporter

An individual who makes a report of alleged Abusive Conduct. Any individual, including a student, can be a Reporter.

5. Respondent

An individual alleged to have engaged in Abusive Conduct.

6. Retaliation

An adverse action taken against an individual based on their report of Abusive Conduct or participation in an investigation or other resolution process provided for in this policy. An adverse action is conduct that would discourage reporting Abusive Conduct or participating in a process provided for in this policy, and includes but is not limited to threats, intimidation, or coercion.

7. Workplace

Any space where University business is conducted or occurs, in connection with University employment and/or in the context of a University program or activity (for example, University-sponsored study abroad, research, health services, or internship programs, as well as the online workplace).

C. AUTHORITY AND RESPONSIBILITIES

1. Complaint Review Authority (CRA)

The Complaint Review Authority shall be responsible for administering these procedures. The CRA or their designee will determine whether a complaint is eligible for processing under this Policy, ensure that complaints are processed in a timely manner, and issue final decisions.

2. Investigation Complaint Officer (ICO)

The CRA may appoint one or more individuals to serve as Investigation Complaint Officer(s) (ICO). The ICO will be responsible for overseeing the investigation of a complaint under this Policy. The ICO may personally conduct the investigation or may delegate the fact-finding, in whole or in part, to another investigator.

3. UC San Diego Complaint Review Authorities

The designated offices that serve as CRAs at UC San Diego are:

- Campus Human Resources
- UC San Diego Health Human Resources
- Academic Personnel Services

Complaints will be assigned as follows:

- If the respondent is campus staff: Campus Human Resources
- If the respondent is health staff: UC San Diego Health Human Resources
- If the respondent is an academic appointee: Academic Personnel Services
- If the respondent is unknown: the CRA that oversees employment issues for the Complainant
- If the respondent is unaffiliated with UC San Diego: the CRA that oversees employment issues for the Complainant

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- If the respondent is a student who is not an employee: the CRA that oversees employment issues for the Complainant

4. Substitute Complaint Review Authorities

A substitute CRA may act in the place of the CRA assigned in this Implementing Procedure in the event that (i) the CRA recuses him or herself, (ii) the campus Chief Ethics and Compliance Officer determines a conflict of interest exists or a serious potential for an appearance of a conflict of interest exists, or (iii) the matter might be handled more expeditiously by a substitute due to limitations on staffing or other resources.

Substitute CRAs will be assigned by the Chief Ethics and Compliance Officer and may be any appropriate officer or employee or outside service provider; however, priority consideration for assignment as a substitute shall be given to the UC San Diego CRAs provided in this policy.

D. HOW TO REPORT AN ABUSIVE CONDUCT COMPLAINT

1. An abusive conduct or retaliation complaint may be reported:
 - a. By reporting to “Abusive Conduct at UC San Diego”
<https://blink.ucsd.edu/HR/policies/conduct/abusive.html>;
 - b. By reporting to an employee’s manager or any supervisor (mandatory reporter);
 - c. By reporting to the [UC Whistleblower Hotline](#) or 800-403-4744;
2. An abusive conduct or retaliation complaint may also be filed pursuant to the employee’s existing grievance and complaint resolution policies and their respective implementing procedures.

E. INITIAL SCREENING PROCEDURES FOR ABUSIVE CONDUCT AND RETALIATION COMPLAINTS

1. Gather Initial Information:
 - a. Collection of the specific factual allegations that form the basis of the complaint. If the CRA is uncertain whether the alleged behavior meets the definition of Abusive Conduct, the CRA is authorized to conduct an initial inquiry as the CRA deems necessary or appropriate, including requiring the complainant to provide details in writing and documentation regarding the alleged conduct.
 - b. Identification of the alleged Respondent.
 - c. Verification that the alleged abusive conduct took place in a university Workplace.
 - d. Desired resolution of the Complainant.
2. Screen for Emergencies and Additional Policy Violations
 - a. Reports of Abusive Conduct are not an appropriate place to report immediate health and safety concerns that require a rapid response. Physical violence or threats of violence should be reported to the UC San Diego campus police department.
 - b. Sex-based conduct: If the alleged conduct is sex-based, including conduct that is sexual in nature or based on gender, gender identity, gender expression, sex- or gender-stereotyping, or sexual orientation, the University’s [Sexual Violence and Sexual](#)

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[Harassment \(SVSH\) Policy](#) will apply. Reports shall be made or forwarded to the Office for Prevention of Harassment and Discrimination for review.

Protected Category conduct: If the alleged conduct is based on one or more protected categories outlined in the University's Discrimination, Harassment, and Affirmative Action in the Workplace policy, that policy will apply. Reports should be forwarded to the Office for Prevention of Harassment and Discrimination for review.

3. Offer resources:
 - a. Employee Assistance Programs provide assessment, consultation, counseling and referrals regarding work and personal stress or emotional concerns that are interfering with an individual's ability to work in their professional Workplace or academic setting.
 - b. The Ombuds Office provides confidential, neutral, informal dispute resolution services and may provide assistance for any party in an abusive conduct situation.
4. Advise the Complainant:
 - a. Instead of, or in addition to, reporting Abusive Conduct in violation of University policy, an employee may file a grievance or complaint. That grievance or complaint must meet all of the requirements, including time limits for filing, under the applicable complaint resolution or grievance procedure, for example [PPSM-70 \(Complaint Resolution\)](#), [APM-015 \(The Faculty Code of Conduct\)](#), [APM-016 \(University Policy on Faculty Conduct and the Administration of Discipline\)](#), [APM-140 \(Non-Senate Academic Appointees/Grievances\)](#), [APM-150 \(Non-Senate Academic Appointees/Corrective Action and Dismissal\)](#), or applicable collective bargaining agreements). Any such grievance or complaint will be forwarded to the CRA for resolution of alleged violations of this policy, and the grievance or complaint procedure will be held in abeyance pending resolution under this policy, unless the applicable collective bargaining agreement provides otherwise. After completion of the process under this policy, the grievance or complaint may be reactivated under the applicable grievance or complaint procedure.
5. If the Complainant wishes to move forward with a complaint per the Abusive Conduct in the Workplace policy, refer the Complaint to the appropriate CRA.

F. INITIAL COMPLAINT REVIEW

1. No more than 30 business days, after receiving a report, the CRA or their designee(s) will make an initial assessment, including a limited factual inquiry when appropriate, to determine how to proceed and whether an investigation is warranted. The CRA may extend this timeline for good cause. The initiation of an investigation does not imply any judgment or conclusions regarding the matter to be investigated other than further inquiry is warranted.
2. Anonymous reports and allegations from Reporters who are not Complainants will be reviewed and may or may not be investigated. The response to reports may be limited if the Complainant does not wish to pursue the complaint or if the University is unable to collect sufficient information to determine whether the alleged conduct occurred or constitutes a violation of this policy.

G. EARLY RESOLUTION—OPTIONAL PARTICIPATION

1. The CRA will offer the Complainant and the Respondent the opportunity to participate in a voluntary early resolution process, typically within 60 to 75 business days after the CRA has made an initial assessment of a complaint.
2. The CRA may extend this timeline for good cause, with written notice to the Complainant

and the Respondent of the reason for the extension and the projected new timeline. Options for early resolution may include, but are not limited to:

- a. Facilitated discussion or mediation to obtain an agreement between the Complainant and Respondent;
- b. Agreement to counseling, coaching, educational, and/or training programs;
- c. Negotiating an agreement for corrective action/discipline.

H. FORMAL INVESTIGATION PROCEDURES

The CRA may initiate a formal investigation after a preliminary review of the allegations even in cases where the Complainant does not wish to pursue the complaint. This may occur if the CRA determines that an investigation is necessary to mitigate potential risk to the campus community.

Formal investigation of reports of Abusive Conduct and/or Retaliation will incorporate the following procedures:

1. The Respondent will be advised of the relevant allegations in the complaint and will be reminded that Retaliation is prohibited by this policy.
2. The investigation generally will include interviews with the parties, interviews with other witnesses as needed, and a review of relevant documents or other evidence as appropriate.
3. Disclosure of facts to parties and witnesses will be limited to what is reasonably necessary to conduct a fair and thorough investigation, consistent with University policy and due process requirements. Participants in an investigation may be advised to maintain confidentiality when essential to protect the integrity of the investigation.
4. The Complainant and the Respondent may have an advisor present when they are interviewed and at meetings. If authorized by other University policies, they may have other support persons present. Other witnesses may have an advisor present at the discretion of the ICO or as required by University policy or a collective bargaining agreement.
5. Interim protections or measures may be implemented prior to or during the investigation. These interim protections or measures should be implemented in consultation with the CRA and relevant university authorities and should take into account the due-process rights of both Complainants and Respondents.
6. The ICO conducting the investigation will complete the investigation promptly, typically within 120 business days of notifying the parties in writing that a formal investigation of the complaint will be conducted. The CRA may extend this timeline for good cause, with written notice to the Complainant and the Respondent of the reason for the extension and the projected new timeline.
7. Following the completion of the investigation, the investigator will prepare a written report that, at a minimum, 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 the conduct at issue violated this policy. In determining whether this policy was violated, the investigator will apply the preponderance of evidence standard.

I. THE DECISION

1. The ICO conducting the investigation will submit the report to the CRA, who will recommend next steps.

2. The Complainant and the Respondent will be informed when the investigation is completed and whether or not a violation of this policy was found to have occurred.

J. REMEDIES AND CORRECTIVE ACTION

1. Actions taken to resolve the complaint, if any, that are directly related to the Complainant, such as an order that the Respondent not contact the Complainant, will be shared with the Complainant.
2. In accordance with University policies protecting individuals' privacy, the Complainant may be notified generally that the matter has been referred for appropriate administrative action but will not be informed of the details of the recommended action without the Respondent's consent.

II. REVISION HISTORY

02/17/2023 Policy issued.