

UCOP Human Resources Procedures 12 – NON-DISCRIMINATION IN EMPLOYMENT

I. POLICY REFERENCES

UC-PPSM 12, Non-Discrimination in Employment
UC Policy on Sexual Harassment
UC-PPSM 70, Complaint Resolution
UC-PPSM 71, Resolution of Concerns – Managers & Senior Professionals,
salary grades VIII and IX
UC-PPSM II-70, Resolution of Concerns
Collective Bargaining Agreements

POLICY

It is the policy of the University not to engage in discrimination against or harassment of any person employed or seeking employment with the University of California on the basis of race, color, national origin, religion, sex, gender identity, pregnancy¹, physical or mental disability, medical condition (cancer-related or genetic characteristics), ancestry, marital status, age, sexual orientation, citizenship, or status as a covered veteran². This policy applies to all employment practices, including recruitment, selection, promotion, transfer, merit increase, salary, training and development, demotion, and separation. Employees represented by a union may refer to their collective bargaining agreement at: <http://ucnet.universityofcalifornia.edu/labor/bargaining-units/index.html>.

In addition, it is the policy of the University to undertake affirmative action, consistent with its obligations as a Federal contractor, for people of color and women, for persons with disabilities, and for covered veterans. UCOP's efforts conform to all current legal and regulatory requirements, and are consistent with University standards of quality and excellence. The Affirmative Action Plan can be found at: <http://www.ucop.edu/local-human-resources/manager-resources/hiring-process/affirmative-action-plan.html>

II. DISCRIMINATION RESOLUTION PROCEDURES

A. INVESTIGATION PROCEDURES:

Any person who believes she or he has been subjected to discrimination, including harassment and retaliation, in contradiction to the policy stated above, may elect to use the conflict resolution procedure described below and/or file a complaint directly under the provisions of PPSM No. 70, 71 or PPSM II- 70 or a grievance under the applicable collective bargaining agreement. See section B for details.

1. **Informal Resolution:** It is in the best interest of the University and staff to resolve concerns at the earliest stage possible. The informal step of the procedure is available for employees and managers who may need assistance in resolving an issue which could lead to the filing of a request for formal investigation. This is appropriate for cases where early intervention and resolution may be possible. The employee or the manager should bring the issue/concern to the UCOP Local Human Resources (LHR). LHR and the employee may mutually decide on a

¹ Pregnancy includes pregnancy, childbirth, and medical conditions related to pregnancy or childbirth.

² Covered veterans are special disabled veterans, recently separated veterans, Vietnam era veterans, or any other veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized.

resolution approach to the issue, including but not limited to mediation, meetings between parties, and/or education/sensitivity training.

The Executive Director, Local Human Resources or designee may determine that some reports of discrimination may not be appropriate for early resolution and may require a formal investigation.

2. **Formal Investigation:** An employee may initiate a formal investigation of a report of discrimination by filing an oral or written request with the LHR. In addition, LHR designee

may determine that a report of discrimination is not appropriate for Informal Resolution. In cases where there is no written request, the LHR may initiate a formal investigation after making a preliminary inquiry into the facts.

3. Local Human Resources may attempt resolution of the complaint prior to initiating the formal investigation and will continue to facilitate resolution of the issues whenever possible during all phases of the investigation.

4. If an investigation is warranted, LHR will conduct an investigation; or a fact-finder will be appointed by LHR to conduct an investigation of the complaint to determine its merits. The

Investigation may consist of interviewing witnesses and examining documentation and records. An impartial analysis of the facts will be conducted. Confidentiality will be maintained to the extent possible in accordance with State law and University policy.

5. The report of findings will be prepared and shall contain a statement of allegations and issues, a summary of the evidence, the findings of fact based on the investigation, and a determination as to whether a violation of University policy has occurred. The report may be used as evidence in other related procedures, such as subsequent complaints, grievances and/or corrective actions. Parties may request a redacted copy of the report subject to applicable federal and state laws.

6. All reports of discrimination, as well as complaints filed pursuant to PPSM 70, 71, and II-70 and grievances filed under the applicable bargaining unit agreements, will be coordinated with Diversity & Employee Programs.

B. PPSM 70, 71, and II-70 Complaints and Bargaining Unit Grievances Alleging Discrimination

An individual who believes he or she has been subjected to discrimination may file a formal complaint pursuant to the applicable complaint or grievance procedure as cited above. Such formal complaint or grievance may be filed either instead of or in addition to making an informal or formal request for resolution under this UCOP Human Resources Procedure 12. A formal complaint must meet all the requirements under the applicable complaint or grievance procedure, including time limits for filing.

If a formal complaint or grievance alleging discrimination is filed in addition to a request for informal resolution or formal investigation under Procedure 12, the complaint or grievance shall be held in abeyance subject to the requirements of the applicable policy or grievance procedure, pending the outcome of Informal Resolution or Formal Investigation procedures. If the individual then wants to proceed with a formal complaint or grievance, Informal Resolution or Formal Investigation shall constitute the first step or steps of the applicable complaint resolution or grievance procedure. Employees represented by a union may find their applicable grievance procedure at <http://ucnet.universityofcalifornia.edu/labor/bargaining-units/index.html>.

C. EXTERNAL COMPLAINT PROCEDURES

The Director, Diversity and Employee Programs at UCOP has the responsibility for processing all staff discrimination complaints received from outside governmental agencies, including, but not limited to the

Equal Employment Opportunity Commission (EEOC), Department of Fair Employment and Housing (DFEH), Department of Labor (DOL), and the Office of Civil Rights. Director, Diversity and Employee Programs at UCOP will serve as the liaison with the external agency in support of the fact-finding effort.

D. TIME LIMITS

UCOP encourages prompt reporting of discrimination, harassment and retaliation claims. Those claims should be reported as soon as possible after the alleged conduct occurs, optimally within one year. Prompt reporting will enable UCOP to investigate the facts, determine the issues and provide an appropriate remedy or disciplinary action. UCOP will respond to reports brought after one year to the greatest extent possible and will take into account the amount of time that has passed since the alleged conduct occurred.

III. CONFIDENTIALITY AND NON-REPRISAL

Every reasonable effort will be made to protect the privacy of all parties. Records pertaining to complaints will be made available only to the parties and to others in accordance with University policy and pursuant to legal requirements governing release of personal information.

University policy prohibits retaliation against an employee for using or participating in the complaint resolution process. An individual who is subjected to retaliation for having made a report of discrimination or who has assisted someone with a report of discrimination may make a report of retaliation under these procedures. The report of retaliation shall be adjudicated in the same manner as a report of discrimination.