

**UNIVERSITY OF CALIFORNIA, MERCED
EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION POLICY**

RESPONSIBLE OFFICIAL : AVC FOR HUMAN RESOURCES AND LABOR
RELATIONS

EFFECTIVE DATE : January 14, 2011

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REFERENCES AND RESOURCES:

University of California Personnel Policies for Staff Members (PPSM 12 and PPSM 14)

University of California Academic Personnel Policy (APM 035)

Executive Order 11246

Section 503 of the Rehabilitation Act of 1974 as amended by the Veterans Employment Opportunities Act of 1998, the Veterans Benefits and Health Care Improvement Act of 2000, and the Jobs for Veterans Act of 2002.

BACKGROUND: The University is a Federal government contractor and therefore is covered by regulations that apply to Federal contractors which require compliance with affirmative action laws and regulations, including an Affirmative Action Program at each UC location. UC academic and staff employees and applicants for employment are covered by the UC Merced Affirmative Action Program.

POLICY: The University of California, Merced is an equal employment opportunity employer. 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, pregnancy,¹ physical or mental disability, medical condition (cancer-related or genetic characteristics),

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

genetic information (including family medical history), ancestry, marital status, age, sexual orientation, citizenship, or service in the uniformed services (as defined by the Uniformed Services Employment and Reemployment Rights Act of 1994).² This policy applies to all employment practices, including recruitment, selection, promotion, transfer, merit increase, salary, training and development, demotion, and separation. This policy is intended to be consistent with the provisions of applicable State and Federal laws and University policies.

University policy also prohibits retaliation against any employee or person seeking employment for bringing a complaint of discrimination or harassment pursuant to this policy. This policy also prohibits retaliation against a person who assists someone with a complaint of discrimination or harassment, or participates in any manner in an investigation or resolution of a complaint of discrimination or harassment. Retaliation includes threats, intimidation, reprisals, and/or adverse actions related to employment.

In addition, it is the policy of the University to undertake affirmative action, consistent with its obligations as a Federal contractor, for minorities and women, for persons with disabilities, and for covered veterans³.⁴ The University commits itself to apply every good faith effort to achieve prompt and full utilization of minorities and women in all segments of its workforce where deficiencies exist. These efforts conform to all current legal and regulatory requirements, and are consistent with University standards of quality and excellence.

UC Merced will continue to make good faith efforts to promote and maintain a discrimination and harassment-free workplace by demonstrating that it neither condones nor tolerates employment practices that discriminate against or harass any person or specific group of persons. UC Merced is committed to maintaining an environment in which employees can work in an atmosphere that is free from all forms of discrimination, harassment, exploitation, or intimidation. Such behavior is prohibited by law and is a violation of University policy.

The written Affirmative Action Plan (AAP) plan, which is required by federal regulations, is available for inspection at the UC Merced – Human Resources website :[://hr.ucmerced](http://hr.ucmerced).

² *Service in the uniformed services* includes membership, application for membership, performance of service, application for service, or obligation for service in the uniformed services.

³ *Covered Veterans* includes veterans with disabilities, recently separated veterans, Vietnam era veterans, veterans who served on active duty in the U.S Military, Ground, Naval or air Service during a war or in a campaign or expedition for which a campaign badge has been authorized, or Armed Forces service medal veterans.

⁴ Student Employees are not included.

COMPLAINT PROCESS

Staff, faculty, student employees or applicants for employment who believe they have been discriminated against are encouraged to contact the campus EEO/AA Officer.

Retaliation or harassment against a person who files a complaint of discrimination, participates in an investigation of such a complaint, or opposes an unlawful employment practice is prohibited. An employee who believes she or he has been retaliated against for filing a complaint of discrimination is encouraged to report the retaliatory actions to the campus EEO/ AA office or designated office.

ATTACHMENTS:

ATTACHMENT I: UC Merced Statement on Campus Procedure for
Discrimination Complaints

ATTACHMENT II: UC Merced Discrimination Complaint Form

UNIVERSITY OF CALIFORNIA, MERCED

ATTACHMENT I

**STATEMENT ON CAMPUS PROCEDURE FOR
DISCRIMINATION/HARASSMENT COMPLAINTS**

RESPONSIBLE OFFICIAL : AVC for Human Resources
EFFECTIVE DATE : January 14, 2011
REVISION NUMBER : Original
NUMBER OF PAGES : 8

REFERENCES AND RESOURCES:

University of California, Merced Equal Employment Opportunity/Affirmative Action Policy

SUMMARY OF POLICY:

The University of California, Merced is an equal employment opportunity employer. It is the policy of the University of California, Merced not to engage in discrimination against or harassment of any person employed by or seeking employment with the campus with regards to race, color, religion, marital status, national origin, ancestry, gender, sexual orientation, gender identity, physical or mental disability, medical condition (e.g., cancer-related or genetic characteristics), pregnancy, service in the uniformed services (as defined by the Uniformed Services Employment and Reemployment Rights Act of 1994), age and citizenship. This applies to all matters of employment.

UC Merced policy also prohibits retaliation or assisting in retaliation against any employee or person seeking employment for bringing a complaint of discrimination or harassment pursuant to this policy.

DEFINITIONS

Discrimination – an illegal or prohibited adverse employment action or harassment based on race, color national origin, religion, sex, gender identity, pregnancy (including childbirth and related medical conditions), physical or mental disability, medical condition (cancer-related or genetic characteristics), genetic information (including family medical history), 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).

Employee(s): for purposes of this complaint procedure, the term employees includes faculty, staff and student employees.

Harassment – verbal or physical conduct that unreasonably interferes with a person’s work or creates an intimidating, hostile or offensive working environment when that conduct is based on the categories identified in the above definition.

Sexual Harassment – unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when submission to or rejection of this conduct explicitly or implicitly affects a person’s employment or education, unreasonably interferes with a person’s work or educational performance, or creates an intimidating, hostile or offensive working or learning environment.

PROCEDURES:

- Reporting Discrimination/Harassment
 - Employees or prospective employees who experience or observe behavior that may be discrimination may report the behavior to any of the following designated officials:
 - Direct Supervisors
 - Managers
 - Human Resources Staff Member
 - EEO/Affirmative Action Officer
 - To qualify for formal review, a completed Discrimination/Harassment Complaint Form (Attachment II) must either be received in person at the EEO/AA office or if mailed, postmarked within thirty (30) calendar days after the date on which the employee or potential employee knew or could reasonably be expected to have known of the event or action which gave rise to the complaint.
 - Time limits which expire on a Saturday, Sunday or UC Merced holiday are automatically extended to the next business day.
 - Submitted Discrimination/Harassment Complaint Forms should provide as much information as possible. If insufficient information is provided (e.g., certain anonymous reports, reports that do not identify the respondent), UC Merced may not be able to respond other than by general outreach and education.
 - The filing of a complaint does not represent any determination that the law or UC Merced policy has been violated.
 - The university cannot guarantee anonymity.

- Reporting retaliation
 - Individuals who believe that they have been subjected to retaliation for reasons prohibited in the UC Merced EEO/AA Policy may file a report under the UC Merced *Reporting Discrimination* procedures described above.
 - The university shall respond to reports of retaliation following the procedures described below, under *University Response*.
- Complaint that the university's response failed to follow policy
 - A complainant may file a complaint or grievance under applicable University-wide procedures (APM – 140, PPSM II-70, PPSM 70, PPSM 71, applicable Laboratory policy and Academic Senate Bylaw 335), alleging that actions taken by UC Merced in response to a report filed under this policy did not follow appropriate procedures.
 - The complaint must be received within the time period specified in applicable reporting procedures.
 - The complaint shall state the reasons for requesting a review.
 - A complaint or grievance may not be filed under this section to challenge or seek modification of a disciplinary sanction imposed on the respondent.
- False Reports
 - A person who makes a report of discrimination or retaliation that is later found to have been intentionally false or made maliciously without regard for the truth may be subject to disciplinary action.
 - This provision does not apply to reports made in good faith, even if the facts alleged in the report cannot be substantiated by an investigation.
- University Response
 - UC Merced shall inform the complainants of the resolution processes (e.g., early resolution, formal investigation, complaint resolution or grievance procedures), confidentiality policies, and the range of possible outcomes (e.g., interim protections, remedies for employees or prospective employees harmed by discrimination, possible disciplinary actions).
 - Early resolution
 - Early resolution may be used when parties want to resolve the situation cooperatively or when a formal investigation is unlikely to lead to a satisfactory outcome.

- No-fault conversation with written confirmation
 - Mediating agreement between the parties
 - Separating the parties
 - Administrative review or preliminary inquiry, including fact-finding
 - Negotiating agreement for disciplinary action
 - Conducting targeted educational and training programs
 - Referring parties to a counseling program
 - Providing remedies or referral to support services for the individual harmed by the harassment
 - The early resolution process shall be coordinated by UC Merced's EEO/AA Officer. Steps taken to encourage early resolution and agreements shall be documented.
 - UC Merced encourages parties to participate in early resolution but retains the right to resolve reports of discrimination through early resolution when appropriate, even if one or both parties choose not to participate.
 - Formal investigation
 - In cases where early resolution is inappropriate or unsuccessful, the university reserves the rights to require and to conduct a formal investigation.
 - The wishes of the individual reporting discrimination shall be considered but are not determinative in the university's decision to initiate a formal investigation.
 - The EEO/AA Officer may initiate an investigation by:
 - Identifying an investigator familiar with this policy and trained in discrimination issues and procedures to conduct the investigation.
 - Providing the investigator with the Discrimination Complaint Form describing the nature of the complaint, a definition of the standard or review, and a date for the report to be completed.
 - Notifying the individual who reported the discrimination and the respondent that an investigation has been initiated. The notification shall include a statement of the allegations, the

name of the investigator, a date for completion of the investigation, and a copy of this policy.

- The following procedures shall be used to ensure a full, fair, and impartial investigation:
 - The investigator will interview the parties, if available, as well as other witnesses as needed.
 - On request, the parties may each have a representative present when interviewed by the investigator.
 - Other witnesses may be accompanied by a representative if required by applicable university policy or at the investigator's discretion.
 - A representative who impedes or interferes with the investigative process may be excluded from the proceedings.
 - The investigator will review relevant evidence, including documents.
 - Parties and witnesses will be instructed that maintaining confidentiality is necessary to protect the integrity of the investigation. Disclosure of facts or allegations to parties and witnesses will be limited to what is reasonably necessary to conduct a full and fair investigation.
 - The investigator may recommend interim protections or remedies for the complainant or witnesses at any time during the investigation. Failure to comply with the terms of any interim protections may be considered a separate violation of this policy.
 - The investigator will prepare and submit a written report containing the following components:
 - A statement of the allegations and issues
 - The positions of the parties
 - A summary of the evidence
 - Findings of fact
 - The investigator's determination as to whether UC Merced's policy has been violated
 - If directed to do so, a recommendation of remedies to resolve the complaint

- The EEO/AA Officer shall submit the report to the appropriate university official with authority to implement the actions necessary to resolve the complaint. The report may be used as evidence in other procedures, such as subsequent complaints, grievances, or disciplinary action.
 - The investigation shall be conducted and completed as promptly as possible, usually within 60 working days from the date of initiation.
 - The deadline may be extended by the EEO/AA Officer.
 - Written notice of the extension shall be provided to the complainant and the respondent.
 - Within 30 days of receiving the final report, the EEO/AA Officer shall notify the complainant and the respondent in writing that the investigation has been completed. The notification shall indicate:
 - Whether or not there was a finding that UC Merced's policy was violated;
 - Whether, consistent with law and policies regarding confidentiality, any action was taken to resolve the complaint; and
 - Information about requesting a copy of the final report.
 - The complainant and respondent may request a copy of the final report from the Human Resources Department. The release of the report is subject to UC Merced's policy regarding privacy and confidentiality (see Privacy and Confidentiality, below).
 - Disciplinary action shall be considered following a finding of violation of the policy, including engaging in discrimination or retaliation, or filing intentionally false charges of discrimination.
- Privacy and Confidentiality
 - UC Merced shall protect the privacy of individuals involved in a report of discrimination to the extent permitted or required by law and University policy.
 - The university shall comply with requests for confidentiality whenever possible, but may need to make disclosures to complete a fair investigation and ensure a working environment free from discrimination.

- If disclosure is required by law or UC Merced policy, the records shall be redacted to protect the privacy of all persons other than the one requesting the report.
 - An individual who has made a report of discrimination may be advised of the specific sanctions imposed against a respondent when necessary for the sanctions to be fully effective.
 - Information on disciplinary actions taken against the respondent shall not be disclosed without the respondent's consent unless it is necessary to ensure compliance with the action, the safety of individuals, or is required by law.
 - University designated officials (identified under *Reporting Discrimination*, above) have an obligation to respond to reports of discrimination, even if the individual making the report requests that no action be taken.
 - Confidential resources
 - Staff in the following units are identified as confidential resources who can be consulted for advice and information, and are not designated officials:
 - INSIGHT Employee Assistance Program counselors (<http://hr.ucmerced.edu/benefits/employee-assistance-program/insight>)
 - Legal, medical, or other advisers whose communication is protected by statutory privilege.
 - Consultation with these resources will not lead to a report of discrimination unless additional action is taken by the individual seeking advice.
- Additional Information
 - The Federal Equal Employment Opportunity Commission and California Department of Fair Employment and Housing investigate complaints of employment discrimination. Contact information for the nearest office is available in local telephone books or on the agencies' Web sites.
 - University-wide procedures for filing complaints described in APM – 140, PPSM II-70, PPSM 70, PPSM 71, applicable Laboratory policy and Academic Senate Bylaw 335.
 - For additional information regarding campus programs and resources contact the UC Merced Human Resources Office at (209) 228-8247 or hr@ucmerced.edu.

**UNIVERSITY OF CALIFORNIA, MERCED
DISCRIMINATION/HARASSMENT COMPLAINT FORM**

ATTACHMENT II



/HARASSMENT COMPLAINT FORM

University of California and UC Merced policies prohibit discrimination/harassment and/or retaliation on the basis of race, color, national origin, religion, sex, gender identity, pregnancy, physical or mental disability, medical condition, genetic information, ancestry, marital status, age, sexual orientation, citizenship or status as a covered veteran.¹

Staff, faculty, student employees, and applicants for employment who believe they may have been discriminated/harassed or retaliated against are encouraged to bring their concerns to the EEO/AA Officer to investigate and attempt to resolve.

Name: _____	I am: Staff ___
Address: _____	Faculty ___
_____	Student Employee ___
Telephone: _____	Applicant for Employment ___
Email Address: _____	Date: _____

DETAILS OF COMPLAINT

Discrimination based on: (Please check all appropriate items)

- Race Color National Origin Religion Sex Gender Identity Pregnancy Disability Medical Condition
 Genetic Information Ancestry Marital Status Age Sexual Harassment Sexual Orientation Citizenship
 Veteran Status Retaliation Other: _____

Date(s) most recent or continuing discrimination/harassment/retaliation took place (month, day & year):

Clearly state your complaint. Describe each incident of alleged discrimination/harassment separately. For each action provide the following information: 1) Name of individual(s) who discriminated/harassed; 2) what happened; 3) witnesses (if any); and 4) Why you believe the discrimination/harassment situation took place. (Please use additional pages as necessary)

What would you consider to be a successful or acceptable outcome and/or resolution to your complaint?

¹ For Full Text, Please see: University of California Nondiscrimination and Affirmative Action Policy Regarding Academic and Staff Employment, <http://www.ucop.edu/ucophome/coordrev/policy/PP061008nondiscriminationpolicy062410.pdf>

I certify that this information is correct to the best of my knowledge.

Signature of Complainant

Date

Please mail completed form to:

University of California, Merced
Human Resources Dept.
5200 North Lake Road
Merced, CA 95343

Or if you prefer, please drop-off completed form at:

University of California, Merced
Human Resources Dept.
Mondo Building
1715 Canal Street
Merced, CA 95340

Contact information:

Joanne Dunlap, EEO/AA Officer
Human Resources Manager
Human Resources Dept.
University of California, Merced

Phone: (209) 228-4620

Fax: (209) 228-8586

To send your inquiries via email: @ucmerced.

For HR Personnel only

Date of complaint: _____

Date received by EEO Office: _____

Additional Comments: _____