Note that this procedure has been subsumed and replaced by systemwide Investigation and Adjudication Frameworks:
https://www.ucop.edu/anti-discrimination/_files/5.1.2026a-d-faculty-framework.pdf
https://www.ucop.edu/anti-discrimination/_files/a-d-staff-nfap-framework.pdf
This procedure is maintained because it applies to cases arising from reports of Prohibited Conduct received by the Office of Civil Rights prior to January 1, 2026.



**Policy Title:** Anti-Discrimination Complaint Resolution Procedure--INTERIM

**Policy Number:** 650-75

| | |
|---|---|
| **Responsible Officer:** | Assistant Vice Chancellor for Civil Rights |
| **Responsible Office:** | Office of Civil Rights |
| **Origination Date:** | April 15, 2024 |
| **Date of Revision:** | December 9, 2024 |

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## I. SUMMARY

The University of California ("University") is committed to maintaining a community dedicated to the advancement, application and transmission of knowledge and creative endeavors through academic excellence, where all people who participate in University programs and activities can work and learn together in an inclusive environment. The University's Anti-Discrimination Policy and Sexual Violence and Sexual Harassment Policy ("SVSH Policy") are key to our fulfilment of this commitment.

This procedure implements the Anti-Discrimination Policy at the University of California, Riverside ("UCR") by establishing how UCR addresses reports and complaints of Discrimination or Harassment based on any Protected Category, and Retaliation, as defined in the policy (together, "Prohibited Conduct").

A Protected Category is an identity protected by law, including:

- Race, color, or ethnic origin,
- Citizenship, national origin, or ancestry (including caste[1]),
- Religion (including sincerely-held religious, ethical, or moral beliefs, as well as affiliation with a traditional, organized religious group),
- Sex (including pregnancy, childbirth, lactation or related medical conditions), gender, gender identity, gender expression, gender transition, sexual orientation or marital status,
- Physical or mental disability (including having a history of a disability or being regarded as being disabled), medical condition (cancer-related or genetic characteristics) or predisposing genetic information (including family medical history),

[1] See Policy FAQ #2.

- Age (at least 40 years of age), or
- Veteran or military status.

Antisemitism may constitute prohibited discrimination based on religion, race, ancestry, or national or ethnic origin. See Policy FAQ #3.

Note that discrimination based on a *perceived* Protected Category is prohibited (even if mistaken).[2] Discrimination against someone based on their relationship or association with someone who is (or is perceived to be) within a Protected Category is also prohibited. See Policy FAQ #1.

For individuals who have concerns regarding disability accommodations, the Policy and this Procedure do not replace the interactive process conducted by the UCR Student Disability Rights Office or Disability Management (for employees). (See Policy FAQ #5 and Section II(2)(b).

UCR's Office of Civil Rights implements the Policy and will respond promptly and equitably to reports of Prohibited Conduct. This includes action to stop, prevent, correct, or discipline behavior that violates the Policy. UCR's Assistant Vice Chancellor for Civil Rights, or Civil Rights Officer, is UCR's Local Implementation Officer under the Policy. See Section IV(A).

## II. SCOPE (JURISDICTION)

The Policy covers acts of Prohibited Conduct committed ***by*** UCR students; employees; and third parties (such as contractors, volunteers, vendors, visitors, guests, and patients).[3]

It also covers acts of Prohibited Conduct committed ***against*** UCR students, employees, and third parties, when the conduct occurs:

- on UCR property; or
- in connection with UCR employment (including, for example, remote-work environments or while off-site performing UCR work); or
- in the context of a UCR program or activity (including, for example, UCR-sponsored study abroad, research, online courses, health services, or internship programs).

Prohibited Conduct may be physical actions and/or any form of communication, including spoken, written, and non-verbal communication through any means (including electronic media, such as the internet, social networks, cell phones, texts, and other devices or forms of contact).

There are different options for complaint resolution. Two of these options, Formal Investigations and Alternative Resolution, are used typically for reports **about** current UCR students or employees. See Section VII for discussion of resolution options.

[2] For example, if someone is harassed because they are perceived as having a disability, even though they do not, that harassment is prohibited.

[3] Emeriti are covered; their role may be more akin to an employee role in certain situations or may be more akin to a third party.

## III. DEFINITIONS[4]

### A. Prohibited Conduct

1. **Harassment:** Unwelcome conduct based on an individual's actual or perceived Protected Category (See Section II(B)(5)) that is sufficiently severe, persistent, or pervasive that it unreasonably interferes with, denies, or adversely limits an individual's participation in or benefit from the education, employment, or other programs or activities of the University, and creates an environment that a reasonable person would find to be intimidating or offensive. (Sexual harassment is addressed by the SVSH Policy.)

   In evaluating whether conduct is harassment, the Office of Civil Rights will consider the totality of the circumstances, including but not limited to:

   - The frequency, nature, and severity of the conduct;[5]
   - Whether the conduct arose in the context of other discriminatory conduct or other misconduct;
   - The effect of the conduct;
   - Whether the conduct would be objectively viewed as intimidating or offensive by a reasonable person; and
   - Whether the conduct may be protected by academic freedom or protected speech. (See Section VII(B) for discussion of procedures regarding academic freedom.)

2. **Discrimination:** An Unfavorable Action taken because of an individual's actual or perceived Protected Category, including Failure to Accommodate.

   a. **Unfavorable Action:** Adverse or unequal treatment that unreasonably denies, unreasonably limits, or materially interferes with an individual's ability to participate in programs, activities, or employment of the University, and/or receive services, benefits, or aid of the University, unless required or authorized by law.

      An Unfavorable Action is taken because of an individual's Protected Category. An Unfavorable Action will not exist where the action or inaction would have been taken regardless of the individual's Protected Category.

      Applying for or accepting research awards that contain eligibility restrictions that are permitted by state and federal law and that are required as a condition for funding does not constitute Prohibited Conduct.

   b. **Failure to Accommodate**: Failure of UCR to provide reasonable accommodations to individuals when required by law.[6] (See Policy FAQ #4 and Section II(2)(b).

[4] Definitions provided in Section II of the Anti-Discrimination Policy, replicated here with some campus customization (such as to reference UCR offices by name).
[5] Conduct that causes physical injury or threat may also violate UCR's Violence Prevention Policy and other policies and laws.
[6] See applicable policies, including but not limited to, the Guidelines Applying to Nondiscrimination on the Basis of Disability (PACAOS 140), Personnel Policies for Staff Members 81 (Reasonable Accommodation), and Academic Personnel Manual - 711 (Reasonable Accommodation for Academic Appointees with Disabilities)

Note: Disparate Impact is a form of Discrimination that occurs when a University policy or practice, although neutral on its face, results in an adverse and material disproportionate impact on individuals within a particular Protected Category, unless the policy or practice has a substantial legitimate justification. The investigative process in this procedure generally is inapplicable to Disparate Impact concerns, however, allegations of Disparate Impact raised by individuals allegedly adversely impacted by the policy or practice will be reviewed and addressed, as appropriate, by the Office of Civil Rights.

3. **Retaliation**: An adverse action against an individual based on:

   a. their report or other disclosure of alleged Discrimination and/or Harassment to a UCR employee or

   b. their participation in, or assistance with, the investigative process, reporting, remedial, or corrective action/disciplinary processes provided for in the Policy or this procedure.

   An adverse action is conduct that would discourage a reasonable person from reporting Discrimination and/or Harassment or participating in a process provided for in the Policy, such as threats, intimidation, coercion, reprisals and adverse employment or educational actions. Good faith actions lawfully pursued in response to a report of Discrimination and/or Harassment (such as gathering evidence) are not, without more, Retaliation.

## B. Other Definitions

1. **Complainant**: An individual alleged, in a report to the Office of Civil Rights, to have experienced Prohibited Conduct.
2. **Confidential Resources**: The following employees who receive information about Prohibited Conduct ***in their confidential capacity***:

   - Ombuds Office,
   - Licensed counselors in CAPS (Counseling and Psychological Services) (which serves students) and the Employee Assistance Program (which is available to faculty and staff),
   - Any individuals with a professional license requiring confidentiality (including Student Health Services employees but excluding campus legal counsel), or someone who is supervised by such an individual, and
   - Pastoral counselors—people associated with a religious order or denomination, who are recognized by that religious order or denomination as someone who provides confidential counseling. UCR does not employ pastoral counselors to serve as such, but UCR employees may serve as pastoral counselors outside of their UCR positions.

   Designation as a “Confidential Resource” under the Policy only exempts an individual from reporting to the Office of Civil Rights. It does not affect other mandatory reporting obligations under other policies or laws that require reporting to campus or local law enforcement, or Child Protective Services. See Section V(A)(4) for more information about Confidential Resources.

3. **Preponderance of Evidence**: A standard of proof that requires that a fact be found when its occurrence, based on evidence, is more likely than not.
4. **Respondent**: An individual who is alleged to have engaged in Prohibited Conduct and/or who has been reported to have violated this Policy.
5. **Responsible Employee**: Any of the following, unless they are acting as a Confidential Resource:
    - Managers and Supervisors including Deans, Department Chairs, and Directors of Organized Research Units
    - Faculty Members
    - Human Resources staff, Academic Personnel staff, and staff in the Chief Compliance Office
    - UCR Police and Campus Safety Department

    If a Responsible Employee learns, in the course of employment, that any individual affiliated with UCR may have experienced Prohibited Conduct, as defined in this Policy, the Responsible Employee must promptly notify the Office of Civil Rights. See Section V(A)(1).
6. **Supportive and Remedial Measures**
    A. **Supportive Measures** include both Interim Measures and Mitigating Measures. UCR provides Supportive Measures as appropriate and reasonably available, without fee or charge.
        i. Interim Measures: Services, accommodations, or other measures put in place temporarily after the Office of Civil Rights receives a report of Prohibited Conduct to assist or protect the Complainant, the Respondent, or the campus community; restore or preserve a party's access to a UCR program or activity; or deter Prohibited Conduct. Interim Measures may:
            - remain in place until the final outcome of a Resolution Process (see Section VII) or a subsequent disciplinary or appeal process;
            - change or terminate depending on the parties' evolving needs, as assessed by the Office of Civil Rights; or
            - become permanent as part of the resolution of a report.
        ii. Mitigating Measures: Services, accommodations, or other measures for a Complainant who is not in a Resolution Process (see Section V.A.5), including a Complainant who was previously in a Resolution Process that did not result in a finding of a policy violation. Mitigating Measures may be implemented to provide support, restore or preserve access to a UCR program or activity, or deter Prohibited Conduct.

    B. **Remedial Measures**: Services, accommodations, or other measures put in place as a result of a completed Resolution Process (see Section V.A.5).
7. **UCR Community Members:** any members of the campus community, including faculty and other academic appointees, staff, student employees, students,

coaches, doctors, residents, interns, and third parties (such as contractors, volunteers, vendors, visitors, guests, and patients).

## IV. COMPLIANCE / RESPONSIBILITIES

### A. Compliance with the Policy

The Chancellor has designated the Civil Rights Officer with responsibility for monitoring, enforcing, and reporting policy compliance and implementing this procedure. The Civil Rights Officer:

1. Coordinates compliance with the policy, including investigations, reports, and remedies.
2. Coordinates with other responsible units to ensure that Supportive and Remedial Measures determined necessary by the Civil Rights Officer are provided.
3. Promotes awareness of and compliance with the policy as well as how to report at UCR.
4. Responds promptly and equitably to reports of Prohibited Conduct according to the Policy and this procedure.

The Civil Rights Officer may designate authority to office staff to perform specific duties.

### B. Additional Enforcement Information

The U.S. Equal Employment Opportunity Commission (EEOC), the Office of Federal Contract Compliance Programs (OFCCP), and the California Civil Rights Department (CRD) investigate reports of unlawful discrimination and harassment in employment. The U.S. Department of Education Office for Civil Rights (DOE-OCR) investigates complaints of discrimination and harassment of students and employees in University programs or activities. The U.S. Department of Health & Human Services Office for Civil Rights (HHS-OCR) investigates complaints of discrimination and harassment occurring in the context of clinical, health, research, education, and employment programs. These agencies may serve as fact finders and attempt to facilitate the voluntary resolution of disputes. For more information, contact the nearest EEOC, OFCCP, CRD, DOE-OCR or HHS-OCR offices.

When a complaint is brought to one of these agencies and the agency initiates an investigation, the agency typically contacts UCR and ask UCR to respond to the complaint. In these situations, the Office of Civil Rights must follow the agency's deadlines and process. This means that evidence-collection and investigative activities that UCR conducts in response to these complaints differ from the formal investigations conducted under this procedure.

If in the course of UCR's response to an agency inquiry or investigation, the Office of Civil Rights finds significant evidence that a UCR affiliate has violated the Policy, the Office may initiate a formal investigation, refer the matter for corrective action (under applicable personnel policies), or take other action as warranted.[7]

[7] In all circumstances, personnel policies and procedures relating to discipline are followed.

### C. Noncompliance with the Policy

Noncompliance with the Policy may result in remediation, educational efforts, informal counseling, adverse performance evaluations, corrective action/discipline, and termination/dismissal. See Section IX.

## V. PROCEDURES FOR REPORTING OR SEEKING CONFIDENTIAL SUPPORT

The Complainant and the Respondent are sometimes referred to together in this section as "the parties." Note there may be multiple Complainants or Respondents in a matter.

### A. Reporting Prohibited Conduct

1. **Reporting.** Anyone can report Prohibited Conduct to any of the following UCR offices or employees:

    - Office of Civil Rights (preferred)
      (951) 827-7070, titleix@ucr.edu.
      File a report at: https://uctitleix.i-sight.com/portal/Riverside
    - Employee & Labor Relations (for reports about staff Respondents)
      (951) 827-5588, employee.relations@ucr.edu
    - Vice Provost for Administrative Resolution (for reports about Senate Faculty Respondents)
      (951) 827-2030, vpar@ucr.edu
    - Academic Personnel Office (for reports about Respondents who are academic appointments (other than Senate faculty who should be reported to the VPAR ))
      (951) 827-2933, academicpersonnel@ucr.edu
    - Student Conduct and Academic Integrity (for reports about student Respondents)
      (951) 827-4208, conduct@ucr.edu
      File a report at: https://ucr-advocate.symplicity.com/public_report/index.php/pid057065
    - Student Disability Resource Center or Disability Management (for disability discrimination or harassment)
    - Any Responsible Employee.

    Reports may be made anonymously; see Policy FAQ #6 for information about anonymous reports.

    ***The individual or office that receives the report must forward it to the Office of Civil Rights.*** If it unclear whether it is a report alleging Prohibited Conduct has been communicated, the individual or office may err on the side of reporting it (to OCR) or may consult with the Office of Civil Rights to determine whether the report needs to be shared.[8]

[8] This consultation can be done without (initially) sharing identifying information.

2. **Timelines for Making Reports.** There is no time limit for reporting. Generally, the sooner the Office of Civil Rights receives a report, the better able it will be to respond, investigate, remedy, and impose corrective action/discipline if appropriate.

## B. Other Grievance/Complaint Options for Employees

Instead of, or in addition to, reporting to the Civil Rights Officer or other Responsible Employee, a UCR employee (including certain student employees) 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 listed in the Policy Appendix I: University Complaint Resolution and Grievance Procedures. Any such grievance or complaint that alleges that UCR Community Member may have experienced Prohibited Conduct will be forwarded to the Office of Civil Rights for review, and the grievance or complaint procedure may be held in abeyance pending resolution under this procedure, unless an applicable collective bargaining agreement provides otherwise. After completion of the process under this procedure, the grievance or complaint may be reactivated under the applicable grievance or complaint procedure.

## C. Confidential Resources

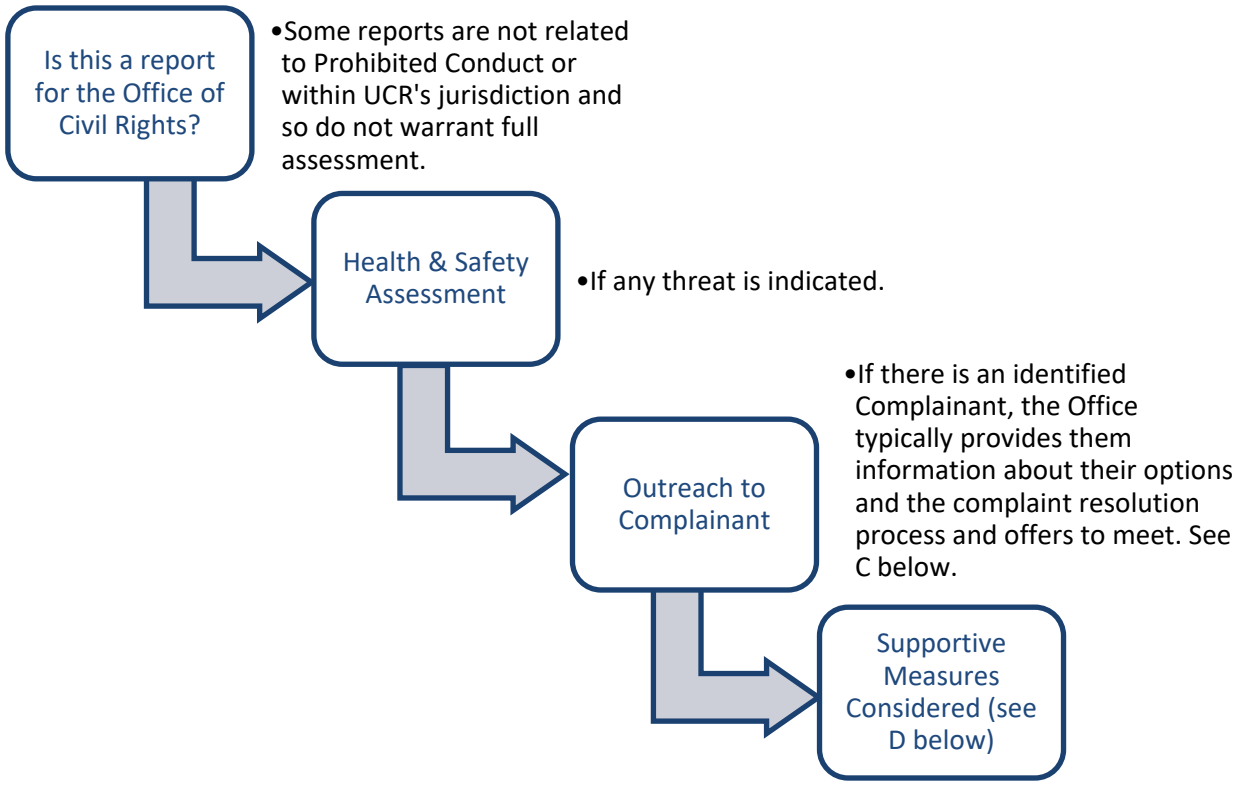
Individuals who have experienced Prohibited Conduct may speak confidentially with the Ombuds, CAPS, and other Confidential Resources (see Section II.B.2).

***Confidential*** Resources are not Responsible Employees and need not report information they receive while acting in their confidential capacity to the Civil Rights Officer.

Disclosures to Confidential Resources while they are acting in their confidential capacity are not “reports” under the Policy and will not, alone, result in any formal UCR action. Confidential Resources may inform an individual who discloses experiencing possible Prohibited Conduct of the discloser’s right to report directly to the Office of Civil Rights.

Individuals who consult with such Confidential Resources will be advised that their discussions in these settings are not considered actual reports of Prohibited Conduct and that without additional action by the individual, these discussions will not, alone, result in any formal action by the UCR to resolve their concerns.

## VI. INITIAL ASSESSMENT OF REPORTS




### A. Triage to Determine Jurisdiction; Considerations Relating to Certain Disability-Related Complaints

As soon as practicable after receiving a report, the Office of Civil Rights will make an initial assessment, including consultation (with VPAR, ELR, APO, SCAIP, or others) and limited factual inquiry when appropriate, to determine whether the report on its face alleges an act of Prohibited Conduct and within the jurisdiction of the Office (see Section II) and so can be addressed under this procedure. Reports that are outside of the Office's scope are referred or closed after initial assessment; see Section VI(E) below.

Reports regarding accommodations for individuals with disabilities may be referred to the Student Disability Resource Center (SDRC) or Disability Management, if (a) the interactive process is not concluded or (b) as an appeal to the Director of the SDRC (for student matters). If the issue is regarding implementation of an accommodation, typically the student or employee is encouraged to first report the issue to the SDRC or Disability Management but the Civil Rights Office or ADA/504 Officer will assist as needed and a complaint resolution process may also be initiated if appropriate. See also Section D (Supportive Measures) below.

## B. Immediate Safety Assessment and Clery Reporting

1. **Health and Safety Assessment.** The Civil Rights Office will make an immediate assessment of the health and safety of the Complainant, in consultation with the Complainant when possible, and the health and safety of the campus community. The Civil Rights Office will consult with or refer the matter to TACT, the UCR Threat Assessment Consultation Team, or members thereof, as warranted, and may consult with the Case Management Team as appropriate. This assessment will determine whether, based on the report and any other available information, there is a credible threat of violence.[9]

   Note that if the report falls outside of the Office's jurisdiction but may present a health or safety risk for a member of the UCR community, the Office will refer it to TACT.

2. **Clery Reporting.** The Office will also assess whether any report is of a Clery Crime (including a Hate Crime) and report to UCPD as required under the UC Clery Act Policy.

## C. Outreach to Complainant

In cases with an identified Complainant, the Office of Civil Rights typically attempts to contact them to let them know they received the report, provide information about their rights and options and campus and community resources, and offer to meet if appropriate. The Office of Civil Rights will also inform the Complainant of the range of possible outcomes of the report, including Supportive and Remedial Measures and corrective/disciplinary actions, and the procedures leading to such outcomes.

- Situations in which this outreach might not be made include if the Complainant is not a UCR student or employee and the matter is not within the scope (jurisdiction) of the Policy and this procedure (see Section II), or if the initial report or other information available to the Office of Civil Rights is that the Complainant does not want to engage with the Office, and the Office can accommodate that preference based on the nature of the report.

## D. Supportive Measures

The Office of Civil Rights considers, in consultation (including with Case Management Team(s) or members thereof) as needed, determines, and oversees Supportive Measures that are deemed necessary upon initial assessment. Supportive Measures are designed to minimize the restrictions on the Respondent while protecting Complainant's access to UCR's programs and activities and others' rights to an environment free from harassment and discrimination. (See Section III for definition of Supportive Measures.) Supportive Measures are reviewed and adjusted as appropriate, during a Resolution Process.

[9] As defined in California Code 527.8, a credible threat of violence is a "knowing or willful statement or course of conduct that would place a reasonable person in fear for their safety, or the safety of their immediate family, and that serves no legitimate purpose."

For matters relating to disability accommodations, the Office will consider whether any temporary accommodation or adjustment to existing accommodations is appropriate.[10]

## E. Closure After Initial Assessment

Not all reports that the Office of Civil Rights receives are reports of Prohibited Conduct that can be resolved through a Resolution Process. This includes reports for which the Civil Rights Officer determines that:

- even if true, the alleged conduct is not Prohibited Conduct;[11] or
- the alleged conduct is outside of UCR's jurisdiction (see Section II); or
- there is not enough information to carry out a Resolution Process (for example, the identities of the people involved are unknown); or
- a Complainant's request that no Resolution Process occur can be honored; or
- there is not enough nexus between the alleged conduct and UCR to carry out a Resolution Process.

Certain types of reports often may be resolved after review of documentary evidence and therefore may be closed after initial assessment, such as complaints about recruitment decisions, conduct processes, or accommodation decisions.[12]

To determine whether there is enough nexus between the alleged conduct and UCR to carry out a Resolution Process, the Office of Civil Rights will consider factors such as:

- whether there is a connection between the alleged Prohibited Conduct and UCR property, UCR employment, or a UCR program or activity;
- whether the Complainant or Respondent were UCR Community Members when the Prohibited Conduct allegedly occurred;
- whether the Complainant or Respondent were UCR Community Members at the time of the report (generally, formal investigations are not initiated regarding reports for which the Respondent is not a current employee or student, although investigations typically are continued even if the Respondent separates from UCR during the course of the investigation); and
- whether there is an ongoing threat to the campus community.

[10] Absent compelling circumstances, for complaints about a disability accommodation decision made by SDRC or Disability Management, that decision will remain in place pending assessment of the complaint and any resolution process.

[11] When the reported conduct is not Prohibited Conduct but may violate other policies (such as the Abusive Conduct Policy), the Office of Civil Rights will, if appropriate, refer the matter to another office for review and resolution.

[12] In these cases, the Civil Rights Office typically reviews the recruitment, conduct or accommodation case files to identify any significant failures to follow applicable policies and procedures or other indicators of discrimination but does not make a *de novo* determination regarding the underlying recruitment, conduct case, or accommodation.

### F. Preventative or Remedial Steps

When appropriate, the Office of Civil Rights will take steps to stop the reported conduct, prevent its escalation or recurrence, and address its effects. Such steps may include, but are not limited to, offering resources, providing Mitigating Measures to the Complainant, providing targeted preventive education (including conducting an educational conversation with the Respondent),[13] and training programs.

## VII. RESOLUTION PROCESSES

Each report is reviewed and assessed to determine whether it falls under the Policy and this procedure, and if so, the appropriate Resolution Process. The procedures for investigating and resolving complaints of Prohibited Conduct depend on the Respondent's affiliation with UCR and other factors as described below. Resolution Processes are non-adversarial proceedings.

Reports of Prohibited Conduct that are not closed after the Civil Rights Officer's initial assessment may be addressed through Alternative Resolution, Formal Investigation, a separate employee grievance or complaint process, or Other Inquiry. Each of these is described below.

At the beginning of any Resolution Process, the Office of Civil Rights will inform the parties of the University's rules of conduct during the process.

In all resolution processes, as well as during initial assessment, UCR balances the privacy interests of individuals involved in a report of Prohibited Conduct against the need to gather information, ensure a fair process, and stop, prevent and remedy Prohibited Conduct. UCR protects individuals' privacy to the extent permitted by law and University policies. This includes keeping confidential the identities of parties, witnesses and those who report Prohibited Conduct, except as required by law or policy or permitted by the Family Educational Rights and Privacy Act (FERPA), and protecting the privacy of personally identifiable information pursuant to all applicable state and federal privacy laws, and University policies. Disclosures that may be made include notification to supervisors (and/or second-level supervisors or managers). See also Policy FAQ #10.

### A. Alternative Resolution

Alternative Resolution is not available when the Complainant is a student and the Respondent is an employee. In other cases, after an initial assessment of the alleged facts, the Office of Civil Rights may—if the Complainant and Respondent agree in writing—begin an Alternative Resolution process (which may incorporate restorative principles and practices). The Office of Civil Rights will, if appropriate, begin the process in consultation with other offices depending on whether the Complainant and Respondent are faculty, other academic appointees, staff, student employees, or students. Alternative Resolution may

[13] Educational conversations are meetings in which the goal is to ensure a shared understand how the reported conduct (which has not been investigated) is Prohibited Conduct or is tension with UCR's commitment to equal opportunity and inclusion. Educational conversations do not involve any findings of fact or responsibility. Educational conversations are not disciplinary in nature. Educational conversations may be conducted by the Office of Civil Rights, a supervisor, or HR, APO, SCAIP, Residence Life, or another campus partner.

include, among other responses:

- no contact orders and, potentially, other measures to separate the parties;
- providing for safety;
- mediation;
- corrective action/discipline;[14]
- an agreement between the parties;
- conducting targeted preventive educational and training programs; and
- conducting a follow-up review to ensure that the resolution has been carried out effectively.

Alternative Resolution may be especially useful when an investigation is not likely to lead to a resolution, when both parties prefer an informal process, or for cases involving less serious allegations. The Civil Rights Officer has discretion to determine whether the complaint is appropriate for Alternative Resolution; to determine the type of resolution to pursue; and to stop the process at any time before its conclusion and move to a Formal Investigation.

Participation in Alternative Resolution is voluntary, meaning that neither party is required to participate and both the Complainant and the Respondent must agree to participate in order for Alternative Resolution to move forward. If Alternative Resolution is selected, the Civil Rights Officer will provide timely written notice to both parties that includes the allegations and states that:

- the Civil Rights Officer has begun the process;
- the process is voluntary and will end upon either party's request;
- early termination of the Alternative Resolution process may result in Formal Investigation;
- the parties may be accompanied by an advisor throughout the process;
- the Office of Civil Rights will notify both parties of the process's outcome; and
- the process is private but not confidential; the Office of Civil Rights will maintain a record of the process and may share information with others if needed to carry out the resolution, and information shared by parties may be considered in any subsequent Resolution Process.

The Civil Rights Officer or designee will oversee the Alternative Resolution process and, if other campus officials are involved in the process, maintain an appropriate level of involvement.

Once the parties have agreed to the terms of an Alternative Resolution, the Office of Civil Rights will not conduct a Formal Investigation unless it determines that the Respondent failed to satisfy the terms of the Alternative Resolution, or that the Alternative Resolution was unsuccessful in stopping the Prohibited Conduct or preventing its recurrence.

[14] Note that corrective/disciplinary action may be agreed upon only after consultation with and agreement from the appropriate office (e.g., SCAIP, for student discipline).

## B. Formal Investigation – Overview

The Civil Rights Officer will authorize a Formal Investigation only when the report has been determined to be within the Office's jurisdiction (see Section II), to have sufficient nexus to UCR to warrant a Resolution Process (see Section B(5) above for the factors considered in evaluating this nexus), and to be best addressed with a Formal Investigation (as compared to other Resolution Processes). In making this decision, the Office of Civil Rights may consult with the appropriate Case Management Teams (or members thereof), which include representatives from appropriate offices including SCAIP, Residential Education, ELR, APO, the VPAR, Student Case Management, and Legal Affairs.[15]

Section VIII, below, details the Formal Investigation process.

***What if the Complainant does not want a Formal Investigation?*** The Civil Rights Officer will give serious consideration to such a request. The Officer may, however, determine that a Formal Investigation is necessary to mitigate a risk to the campus community. If the Civil Rights Officer decides to open a Formal Investigation despite the Complainant's request, the Civil Rights Officer will:

a. attempt to inform the Complainant of the decision before beginning the Formal Investigation or otherwise revealing to Respondent the Complainant's identity[16];[17]

b. inform the Respondent that the Complainant did not request a Formal Investigation but the Civil Rights Officer determined one was necessary; and

c. provide the Complainant with all information required by the Policy and this procedure ***unless the Complainant states in writing that they do not want it.***

If the Civil Rights Officer does **not** begin a Formal Investigation, the Civil Rights Officer will (a) inform the Complainant that this limits possible resolution options and (b) to the extent appropriate, provide Mitigating Measures as appropriate and consistent with the Complainant's privacy and the absence of a Formal Investigation.

***What if there are Academic Freedom issues?*** When a report or a Formal Investigation implicates academic judgment (appropriateness) or academic freedom, for example when there are allegations relating to pedagogy, instructor conduct in the instructor role, or research, the Civil Rights Office will consult with the appropriate academic officer for relevant academic expertise. The Civil Rights Officer will consult with the Vice Provost for Academic Personnel (VPAP) in identifying the appropriate academic officer (who may be the VPAP) based on the facts and circumstances of the case; this consultation with the VPAP will be made while protecting (anonymizing) the identity of any Senate faculty party.

***May the Office of Civil Rights itself initiate an investigation?*** Yes**.** The Civil Rights Officer may choose to begin and conduct a Formal Investigation without a Complainant or against the Complainant's wishes when there is, for example:

[15] The Case Management Teams are mandated by the SVSH Policy and further described in that Policy.
[16] Note this provision assumes a situation where Respondent is unaware of the Complainant/complaint.
[17] In rare circumstances, the investigation must be initiated with urgency and notifying the Complainant in advance is not feasible.

- information indicating an ongoing threat to the UCR community; or
- a pattern of alleged conduct toward multiple people by the same Respondent that would, in the aggregate, constitute Prohibited Conduct (see Section II.A.); or
- an allegation of Prohibited Conduct covered by the Policy in the public realm (such as reports in the news or social media).

### C. Other Inquiry

When a report is not closed after initial assessment, yet is not appropriate for Alternative Resolution nor Formal Investigation because there is no individual identifiable Respondent over whom the Office of Civil Rights has jurisdiction, the Civil Rights Officer may authorize an inquiry to try to determine what occurred and take prompt steps reasonably calculated to stop any substantiated conduct, prevent its recurrence, and, as appropriate, remedy its effects.

Such an inquiry may be appropriate when, for example, the Complainant alleges Prohibited Conduct by an organization, an individual whose identity is unknown, or a third party, or alleges conduct by multiple people that rises to the level of Prohibited Conduct only when considered in the aggregate. Other inquiry may be used to address reports about individuals enrolled in UNEX programs or other Respondents who are affiliated with the campus but not faculty, students, or staff.

The inquiry process may be appropriate to address complaints regarding hiring decisions (i.e., complaints of failure-to-hire) or failure-to-accommodate.

The extent of the inquiry and responsive steps will depend on the specific circumstances including the nexus to UCR.

The Office of Civil Rights will complete the inquiry promptly and notify the Complainant and other parties with a need-to-know of the outcome and coordinate any remedial actions as appropriate.

## VIII. FORMAL INVESTIGATION

At the beginning of a Formal Investigation, the Office of Civil Rights will provide the parties a Notice of Investigation including written summary of the allegations, an explanation of their rights, the procedures that will be followed, available resources, and the Policy.

While the parties have the right to identify evidence and witnesses, UCR bears the burden of proof and the burden of gathering evidence sufficient to reach a determination under the Policy.

### A. Timeframe and Communication

The Office of Civil Rights will complete the Formal Investigation promptly, typically within 60 to 90 business days of notifying the parties in writing of the investigation. The Office will periodically update parties on the status of the Formal Investigation.

The actual time required depends on the specific circumstances, including the complexity of the matter and the severity and extent of the alleged conduct. The Civil

Rights Officer will consider, approve, and communicate to the parties extensions (past the 90 business days) pursuant to written guidelines from the Systemwide Office of Civil Rights.

### B. Policies Investigated – Scope of Investigation

The Office of Civil Rights may investigate conduct as potential violations of other policies, if the conduct arises from the same or related incidents or if conducting a separate/parallel investigation would otherwise be inefficient or duplicative. Examples of other policies that may be investigated include the SVSH Policy, the Abusive Conduct Policy, the Whistleblower Policy, and the Student Standards of Conduct (UC Policies Applying to Campus Activities, Organizations and Students). See F(7) below for further information regarding handling of other potential policy violations.

### C. Disclosure of Information

The Formal Investigation generally includes interviews with the parties and any witnesses, and a review of evidence.[18] The investigator will:

- share information with witnesses only as reasonably necessary to conduct a fair and thorough investigation;
- counsel witnesses about keeping confidential and private any information that they may learn through the Formal Investigation, to protect both the people involved and the integrity of the Formal Investigation; and
- inform witnesses that information they provide directly related to the Formal Investigation and their identities will likely be disclosed to the parties.

### D. Right to an Advisor

The Complainant and Respondent may have an advisor present when they are interviewed and at meetings. They may have other support persons present under other policies. In addition, witnesses may have an advisor present if required by a collective bargaining agreement or otherwise at the investigator's discretion and provided that their inclusion does not delay the conduct of the interview (such as by an advisor with scheduling challenges)*.*

- Parties are expected to answer/provide information themselves rather than having their advisor speak for them.
- UCR expects respectful conduct of all participants. Advisors who are disruptive may be excluded from the process.
- Witnesses are not appropriate to serve as advisors. See Policy FAQ #9.

### E. Administrative Closure

The Civil Rights Officer may close a Formal Investigation before completing it if they determine that a significant change in circumstances has so substantially impaired the Formal Investigation that the investigator cannot reach reasonably reliable conclusions about whether the alleged conduct occurred. The Office of Civil Rights will, when appropriate, still

[18] As discussed in Section V(D) above, disclosures are also made on a need-to-know basis to supervisors and managers and other administrators.

take steps to stop the reported conduct, prevent its escalation or recurrence, and address its effects, including offering appropriate resources to the parties and Mitigating Measures to the Complainant.

## F. Investigation Process

Investigations seek to make factual findings regarding the allegations. A fact-finding investigation collects evidence and makes findings as to whether alleged conduct occurred, to enable determinations as to whether any substantiated conduct violated policy. Investigations most often are conducted by staff in the Chief Compliance Office, but may be conducted by external investigators or investigators in the Systemwide Office of Civil Rights depending on workload and capacity.

1. Investigation Allegations and Scope. The allegations are identified by the Office of Civil Rights through the initial assessment process, and specify the incidents or conduct that are reported or suspected to have occurred, and the type(s) of Prohibited Conduct that may have occurred. The allegations usually are not identical to any report(s) filed; for example, the allegations may not include all issues raised by the Complainant, and are framed to address the relevant policy elements.

   Allegations may be revised over the course of the investigation, most commonly in response to new information received or events occurring over the course of the investigation (such as alleged retaliation). Parties will be notified simultaneously of any revisions.

2. Interviews. The investigator will interview parties and witnesses deemed to have information relevant to the scope of the investigation. Parties may suggest witnesses to be interviewed by explaining what type of information they may be able to provide; the investigator will consider each suggestion and note in the investigation report any decision not to interview a suggested witness.
   - Parties and witnesses who are employees will be allowed a reasonable amount of paid time off from their University duties to participate in interviews conducted by the investigator.[19]
   - The investigator will provide interviewees with admonishments and information about their rights and responsibilities.
   - UCR does not permit parties, witnesses, or other participants to record interviews or meetings, except where required by law.[20]
   - The investigator will select witnesses for interview based on the investigator's professional judgment as to whether the witnesses are likely to have relevant evidence to provide, and with consideration of the confidentiality interests discussed in Section C, above. Character testimony is not considered relevant evidence.

[19] This is applicable typically for non-exempt, hourly employees.
[20] Under California law, recording is required for investigations of sworn officers. Public Safety Officers Procedural Bill of Rights Act, California Government Code § 3300 to § 3313.

3. Evidence Collection. The investigator will gather documentary evidence and other records relevant to the scope of the investigation and provide parties with an opportunity to share evidence they determine relevant.
    - In instances where an investigator needs access to electronic evidence without an employee's consent, authorization must be obtained in accordance with UCR Policy 400-31 Electronics Communications Policy (ECP) Overview and Implementation at UCR.

    The investigator determines the relevance and weight of evidence based on their professional judgment, best practices, the issues in dispute, the scope of the investigation, and applicable policy.

4. Subject-Matter Expertise and Other Consultation. The investigator will consult with administrators or others with subject matter expertise as needed, including the appropriate academic officer consulted regarding academic freedom issues (if applicable see Section VII(B)) and SDRC or Disability Management for disability discrimination matters.

5. Opportunity to Respond. Before the conclusion of the investigation, the investigator will provide each party the opportunity to respond to all the allegations and material evidence. Typically, this is done during interviews.
6. Investigation of Other Policies. In investigations that include policies other than the Anti-Discrimination Policy, the Office of Civil Rights will either (a) consult with the appropriate office in making determinations regarding these policies (such as SCAIP for findings under PACAOS) or (b) make factual findings only, leaving the policy determinations to the appropriate administrator/office.

## G. Investigation Report

The Office of Civil Rights will prepare a written investigation report that includes:

1. a summary of how the investigation was initiated;
2. the factual allegations investigated;
3. definitions of the relevant type(s) of Prohibited Conduct;
4. the individuals interviewed and documents and other records relied upon;
5. statements of the parties;
6. a summary of the relevant evidence, which often includes information from witnesses and documentary evidence or other records;
7. credibility determinations by the investigator, when necessary to resolve material disputed issues;
8. findings of fact by the investigator; and
9. the Civil Rights Officer's analysis and determination of whether this Policy was

violated.[21]

In determining whether this Policy was violated, the Office of Civil Rights will apply the Preponderance of Evidence standard.

At the end of the Formal Investigation, the Office of Civil Rights will simultaneously provide the parties with a notice of outcome (including information regarding next steps) and the Formal Investigation report. The report will be redacted to protect privacy (see APM - 160 and other University policies governing privacy).[22]

1. **Remedy.** If the investigation finds Prohibited Conduct, UCR will take prompt and effective steps reasonably calculated to stop the violation, prevent its recurrence, and, as appropriate, remedy its effects. In many cases, corrective action/discipline is sought to stop the violation and prevent recurrence. Additional steps may be appropriate, however, to remedy the effects of the prohibited conduct or prevent recurrence. For examples of available Remedial Measures, see Policy Appendix II.

   The Civil Rights Officer will oversee implementation of remedial measures in consultation with appropriate administrators.

2. **Appeal of Investigation Findings.** There is no right to appeal the investigation findings under this procedure. If disciplinary action is pursued based on investigation findings, the applicable disciplinary process provides Respondents with due process. See Section IX below.

## IX. CORRECTIVE ACTION/DISCIPLINE

Any UCR Community Member who is found to have engaged in Prohibited Conduct may be subject to corrective/disciplinary action, up to and including termination/dismissal pursuant to applicable policies and procedures. UCR strives to finalize and notify parties of corrective action/disciplinary decisions promptly.

### A. Process for Student Respondents

The Office of Civil Rights will forward the Formal Investigation Report (with attachments) to Student Conduct and Academic Integrity Programs (SCAIP). If the report makes findings as to violations of the Policy or specified standards of conduct (PACAOS), SCAIP will pursue sanctions as appropriate in accordance with the Student Conduct Procedures.

### B. Process for Staff Respondents

The Office of Civil Rights will forward the Formal Investigation Report (with attachments) to

[21] The Civil Rights Officer may designate a qualified UCR official to make the final policy determination. The Civil Rights Officer will consult with a relevant subject-matter expert in analysis and determinations under policies other than the SVSH Policy and the Anti-Discrimination Policy.

[22] Exhibits to the report are not typically disseminated along with the report; parties may request these and records will be provided to the extent required under California law (including the IPA and PRA).

the appropriate administrator and Employee & Labor Relations. The appropriate administrator generally is the Vice Chancellor or other senior leader of the unit in which the Respondent is employed. The Office of Civil Rights typically will share with the Respondent's supervisor a copy of the notice of outcome (provided to Respondent); this may also be shared with second-level supervisors or other managers as appropriate. The appropriate administrator shall, in consultation with HR and the Office of Civil Rights as described below, determine the appropriate corrective action.

- The appropriate administrator may consult with the Respondent's supervisor (and/or intermediate managers).
- The appropriate administrator shall consult with Human Resources and the Office of Civil Rights to help ensure consistency and proportionality and to adherence to applicable personnel policies.

## C. Process for Senate Faculty Respondents

The Office of Civil Rights will forward the Formal Investigation Report (with attachments) to the appropriate administrator and the Vice Provost for Administrative Resolution (VPAR). The appropriate administrator generally is the Dean of the College or School in which the Respondent is employed. The Office of Civil Rights may notify the Respondent's Chair or Program Director and/or appropriate contact dean that the investigation is complete, on a need-to-know-basis. The appropriate administrator or designee shall determine whether to file a formal complaint under UCR Senate Bylaw Appendix 5.

- Other individuals, such as the Complainant or witnesses, also may have the right to file a formal complaint under Appendix 5.

## D. Process for Other Academic Personnel (including non-Senate faculty)

The Office of Civil Rights will forward the Formal Investigation Report (with attachments) to the appropriate administrator and the Academic Personnel Office. The appropriate administrator generally is the Dean or Vice Chancellor or other senior leader of the unit in which the Respondent is employed. The Office of Civil Rights typically will share with the Respondent's supervisor a copy of the notice of outcome (provided to Respondent); this may also be shared with second-level supervisors or other managers as appropriate. The appropriate administrator or designee shall, in consultation with APO and the Office of Civil Rights as described below, determine the appropriate corrective action.

- The appropriate administrator may consult with the Respondent's supervisor (and/or intermediate managers).
- The appropriate administrator shall consult with APO and the Office of Civil Rights to help ensure consistency and proportionality and to adherence to applicable personnel policies.

## E. Notice of Final Action

At the end of any corrective/disciplinary procedure the Complainant and the Respondent will be informed, in writing, of:

- the outcome, including the final determination regarding the alleged offense, if there was any appropriate action taken, and the rationale for the results; and

- any available next steps—for example, whether the Respondent has a grievance or appeal right and if so, when that period ends.

If there is any subsequent change to the results, such as from a grievance, the Office of Civil Rights will be informed and will promptly inform the Complainant.

## X. APPROVAL AND REVISION HISTORY

replaces the UCR Discrimination, Harassment, and Retaliation Complaint and Resolution Policy (Policy 650-75)

This procedure was approved as an interim procedure by the Chief Compliance Officer on April 10, 2024. It replaced the UCR Discrimination, Harassment, and Retaliation Complaint and Resolution Policy (Policy 650-75).

Minor grammatical corrections and clarifying revisions were made effective December 10, 2024.