

UC Santa Barbara
Policies
Issuing Unit: Student Affairs

Policy 4105

Date:

University of California
STUDENT GRIEVANCE PROCEDURE
for Alleged Discrimination
Based on Race, Color, Religion, National Origin, Sex,*
Handicap, Sexual Orientation, Age and Alleged Violations
of University Policies Regarding Student Privacy Rights

I. POLICY:

Each Chancellor shall implement and publicize a grievance procedure by which student complaints of alleged discrimination can be investigated, heard and resolved. Such alleged discrimination must be based on race, color, religion, national origin, sex, handicap, sexual orientation or age.

The University is committed to a policy against discriminatory practices based upon race, color, religion, national origin, sex, handicap, sexual orientation or age. All groups operating under The Regents, including administration, faculty, student governments, University-owned residence halls, and programs sponsored by the University, are governed by this policy of nondiscrimination.

The student grievance procedure must include, at a minimum, the following elements:

- (a) investigation of the complaint by a designated entity;
- (b) review by an impartial hearing entity;
- (c) an opportunity to present evidence both documentary and testimonial and to confront evidence presented to the contrary;
- (d) the right of the student to be represented at the student's own expense;
- (e) a summary record of the hearing, to be kept by the campus for a period of three years subject to provision of existing privacy and disclosure laws;
- (f) a written recommendation by the hearing entity upon conclusion of the hearing;
- (g) right of appeal to the Chancellor.

II. Procedure for Student

UCSB Student Grievance Procedures for Alleged Discrimination Based on Race, Color, Religion, National Origin, Sex, Handicap, Sexual Orientation, or Age

1.0 Purpose

The purpose of this procedure is to allow for the resolution of student grievances alleging violation of University policy against discrimination based on race, color, religion, national

origin, sex, handicap, sexual orientation, or age, which results in injury to the student.

This procedure is to allow for the resolution of student grievances alleging violation of University policies found in Sections 91.00 through 92.00 of the University's Policies Applying to Campus Activities, Organizations and Students (Part A) and UCSB Campus Policies, including:

- (1) Discriminatory practices based upon sex, as mandated by and in compliance with Title IX of the Education Amendments of 1972 (45 CFR Part 86) and the University's "Policies Applying to the Student-Related Sections of Title IX of the Education Amendments of 1972";
- (2) Discriminatory practices based upon race, color, or national origin, under Title VI of the Civil Rights Act of 1964 (45 CFR Part 80); and
- (3) Discriminatory practices based upon handicap, as mandated by and in compliance with Section 504 of the Rehabilitation Act of 1973 (34 CFR Part 104) and the University's "Guidelines Applying to Nondiscrimination on the Basis of Handicap";
- (4) Violation of the privacy rights accorded students by the Federal Family Education Rights and Privacy Act of 1974 (45 CFR Part 99), the State of California Education Code, and the University's "Policies Applying to the Disclosure of Information from Student Records" (Part B);
- (5) Other types of grievances specified in campus regulations.

Grades

The following procedure does not apply to grievances related to grades. Such grievances are subject to procedures established by the Academic Senate; please consult with the office of the Academic Senate or see "Contested Grades" section of the Appendix of U.C.S.B. General Catalog.

*Sexual Harassment

One particular form of sex discrimination is sexual harassment. Students who wish to file a complaint of sexual harassment can consult the University Grievance Officer for Sexual Harassment and, following such consultation, may use either this grievance procedure or the sexual harassment grievance procedures to pursue resolution of their complaints.

Employment

For grievances arising out of employment, see: UCSB Policy 6196 and Procedure 6197 for staff personnel; UCSB Policy 6527 and Procedure 6528 for non-Senate academic appointments; and Academic Senate By-Law 112 for Senate academic appointments, including Librarians.

1.1 Definitions

1.10 Affirmative Action Coordinator--Person appointed by the

Chancellor to coordinate implementation of the campus Affirmative Action Personnel Program.

- 1.11 Investigator(s)--Person(s) appointed by the Chancellor to inquire into the circumstances of a grievance by a student alleging discrimination based on race, color, religion, national origin, sex, handicap, sexual orientation or age.
 - 1.12 Office of Record--The Office of the Vice Chancellor-Student Affairs shall serve as the Office of Record. Student grievances alleging discrimination prohibited by Section 1.0 shall be directed to that office.
 - 1.13 Preponderance of Evidence--Such evidence as, when weighed with that opposed to it, has more convincing force and the greater possibility of truth.
 - 1.14 Representation--Assistance to grievant in the formal hearing process; may be one of two types:
 - A. Legal Counsel--includes attorneys and individuals with legal training.
 - B. Non-legal representation--any person without legal training.
 - 1.15 Student--Must be either a currently enrolled or continuing undergraduate or graduate student at the Santa Barbara Campus at the time of the alleged violation.
 - 1.16 Time for Informal Resolution and/or Filing of Grievance--All time referred to in these procedures shall refer to working days excepting quarter breaks.
 - 1.17 Compliance Officers--Persons appointed by the Chancellor to coordinate compliance with above non-discrimination policies.
- 1.2 Procedures--Informal
- 1.20 Informal Resolution

Students who believe that the Santa Barbara campus (UCSB) or any administrative subdivision or employee thereof has acted in violation of the University policy against discrimination based on race, color, religion, national origin, sex, handicap, sexual orientation or age and that such action has resulted in injury to the student are encouraged to try resolving the matter informally with either the party alleged to have committed the violation, or with the head of the department or unit in which the alleged violation occurred, or both. Any attempts to resolve the alleged violation informally should occur within the ninety (90) day period defined in Section 1.31 as the time limit for filing a formal complaint expires at that point.
- 1.3 Procedures--Formal
- 1.30 Provision of Grievance Information

The Affirmative Action Coordinator and all campus Compliance Officers shall provide upon request, information to the student on the available grievance mechanisms, and on pertinent legislation and the University's efforts to comply with the legislation.

1.31 Filing a Complaint

If informal resolution is not attempted or is unsuccessful within ninety (90) days of the alleged violation, the student has an additional ninety (90) days within which to file a formal written complaint with the Vice Chancellor Student Affairs (Office of Records). Such complaint must include a detailed explanation of how a specific policy or regulation was allegedly violated and the remedy requested. The remedy sought should be one that would place the student in the position that he/she would have been in, but for the alleged discrimination.

1.32 Investigation

Upon receipt of a formal complaint the Vice Chancellor-Student Affairs shall furnish, within five (5) days, a copy of the complaint to the :

- (1) Investigator(s)
- (2) head of the department or unit in which the alleged violation occurred,
- (3) Affirmative Action Coordinator,
- (4) Other campus Compliance Officers.

The head of the department or unit must file an answer to the charges in writing with the designated investigator(s) within ten (10) days after receipt of the complaint. A copy of this answer shall be sent to the grievant.

During the ten (10) days following the department or unit-head response or, in any case, no later than twenty (20) days following the receipt of the original complaint by the investigator(s), said investigator(s) shall examine the circumstances of the alleged violation, attempt to seek administrative resolutions, and shall make a report to the Vice Chancellor-Student Affairs, to the student, and the head of the department or unit in which the alleged violation occurred. Copies shall be forwarded to the Affirmative Action Coordinators and to the Campus Compliance Officers.

1.33 Appeal to Hearing

Within ten (10) days of receipt of the report to the student, he/she must notify the Vice Chancellor-Student Affairs in writing if a hearing is desired. If the student is to be assisted by a representative, the name of the representative and a statement as to whether the representative or the student has legal training must be

provided in writing to the Vice Chancellor-Student Affairs at the time the formal complaint is filed. Students assisted by a representative must sign a release at this time authorizing the representative to receive copies of relevant materials.

The Vice Chancellor-Student Affairs shall arrange for an impartial hearing within thirty (30) days. At least fifteen (15) days notice of the time and place of the hearing shall be given to the head of the department or unit where the alleged violation occurred and to the grievant. Such notification shall be given personally or by registered mail.

Extensions or stated limits may be granted by the Chancellor.

1.4 Hearing Entity

- 1.40 The grievant shall have the option of choosing to grieve before a University Hearing Officer or a University Hearing Committee.

Hearing Officer(s) shall be employee(s) of the University who are not in the jurisdiction of the department or unit hear where the alleged violation occurred, and shall be assumed impartial by reasonable standards. The Chancellor shall select and appoint the University Hearing Officer(s) and the Hearing Committee(s). A Hearing Committee shall comprise students and employees of the University in the following numbers:

- 2 faculty members
- 2 staff members
- 2 undergraduate students
- 1 graduate student

The Chancellor shall appoint the student members of the Hearing Committee(s) from a slate of nominees submitted by the appropriate student governing body (Associated Students and Graduate Student Association) at the start of each academic year.

- (a) The choice by a student to grieve before a Hearing Officer(s) or a Hearing Committee shall be final (i.e., having made a choice of Hearing Entity, a grievant may not opt for the other once a formal hearing is underway;
- (b) However, at any stage of the hearing procedure the grievant may request, in writing, that the formal hearing be terminated and an informal solution be arranged by the Vice Chancellor-Student Affairs.

1.5 Exchange of Evidence

Each party shall provide the other with relevant material, including names of all witnesses, which he/she intends to introduce at the hearing. To whatever extent is possible, this

material should be provided at least seven (7) days before the hearing.

1.6 Hearing Procedures

1.60 The student shall have the right to:

1. Be present throughout the hearing;
2. Be represented--the option to be assisted during the formal proceedings by a representative at the student's own expense;
3. Present his/her evidence, including witnesses, first;
4. Examine all witnesses presented by the University.

1.62 Closed or Open Hearing

Unless both parties agree to an open hearing, the hearing shall be closed. In the event that the hearing is closed, each side may have three (3) observers.

1.63 Exclusion of Witnesses

At the request of either party, all witnesses other than the grievant and the University official primarily involved in the action, shall be excluded from the hearing except when testifying.

1.64 Rules of Evidence

Evidence may be verbal or written, but must be limited to issues raised in the written complaint.

Hearsay evidence is admissible only if corroborated. The hearing entity will exclude any irrelevant or unduly repetitive evidence.

1.65 Record

The hearing shall be tape recorded, or at the option of the student, a stenographer may be provided at the student's expense.

The student shall have access to a copy of the tape recording and may copy the tape at his/her own expense. All records pertaining to the hearing shall be kept by the University for a period of three (3) years.

1.66 Findings

The hearing entity must make its report to the Vice Chancellor-Student Affairs within thirty (30) days of the close of the hearing. Such a report shall contain findings of fact as to whether the alleged violation occurred. The findings shall be based on a preponderance

of the evidence presented. The report shall include recommendations for an appropriate remedy if a violation has been found. The remedy will seek to place the student in the position he/she would have been in but for the alleged discrimination or privacy violations.

1.7 Vice Chancellor's Decision

The Vice Chancellor-Student Affairs must make a decision on the recommendation within fifteen (15) days of the receipt of the report from the hearing entity.

Both parties to the complaint and their representatives shall be notified, promptly, in writing, of the Vice Chancellor-Student Affairs decision, and furnished a copy of the report from the hearing entity.

The Affirmative Action Coordinator shall be advised of the disposition of grievances filed under these procedures; other Compliance Officers shall be notified also.

1.8 Appeals

Within thirty (30) days of the date of the Vice Chancellor-Student Affairs decision, the student may file an appeal with the Chancellor. An appeal may be filed for the following reasons only:

- A. New evidence has been brought to light--not available by duly diligent effort at the time of the hearing;
- B. An interpretation of the decision is necessary;
- C. Established procedures have not been followed.

UCSB
Student Grievance Procedures
For Alleged Discrimination Based on
Race, Color, Religion, National Origin, Sex
Handicap, Sexual Orientation, or Age
(Brief Outline of Formal Procedure)

WHO	WHAT	WHERE	WHEN
Student	Files formal complaint	Office of the Vice Chancellor-Student Affairs	Within 90 days of grievable action
Vice Chancellor-Student Affairs	Forwards complaint	1) To designate investigator(s) 2) To department head where alleged violation occurred. 3) Affirmative	Within 5 days of receipt of complaint

		Action Coordinator 4) Title IX Compliance Officer, if sex- related 5) Other Compliance Officers as appropriate	
Department head	Files written answer to charge	With designated investigator(s)	Within 10 days.
Investigator(s)	Examine circumstances of charge and reports findings.	1) To Vice Chancellor- Student Affairs 2) Department head 3) Student 4) Copies to Affirmative Action Coordinator &/or Title IX Officer	Within 10 days of receipt of department head reply or 20 days after receipt of complaint.
Student	Presents written request for formal hearing	To Vice Chancellor- Student Affairs	Within 10 days of receipt of investigator(s) report.
Vice Chancellor- Student Affairs	Arranged for impartial hearing: student chooses hearing entity (officer(s) or committee)	Campus location	Within 30 days
Vice Chancellor- Student Affairs	Notifies grievant & dept head of hearing time & place	Personally or by registered mail	15 days before hearing date
Each party	Exchanges evidence	To be agreed upon	Within 7 days before hearing
Hearing entity	Reports findings; makes recommendatio	To Vice Chancellor- Student Affairs	Within 30 days after hearing

	ns		
Vice Chancellor-Student Affairs	Makes decision based on report & recommendations for an appropriate remedy if a violation has been found.	To both parties & their representatives: To Affirm Act Coord & appropriate campus officers	Within 15 days from receipt of report.
Student	Files appeal	To Chancellor	Within 30 days from date of decision.
Campus	Keeps all hearing records	As designated by the Chancellor & subject to privacy & disclosure legislation.	For 3 years

*All time referred to shall be working days, excepting quarter breaks.

Please direct questions about these policies to Meta.Clow@vcaadmin.ucsb.edu. For questions or comments regarding the format of the above information, please contact webcontact@ucsbuxa.ucsb.edu.

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