

UNIVERSITY OF CALIFORNIA, MERCED
REASONABLE ACCOMMODATION APPEALS

In the event an individual thinks s/he has been improperly denied reasonable accommodation, UC Merced utilizes the following for appealing the denial.

I. Informal Resolution

With disputes regarding failure to reasonably accommodate, UC Merced encourages informal resolution as a first step. Individuals who feel their needs related to accommodation are not being addressed have access to the following for assistance in resolving their concerns:

STAFF contact:

Wendy Smith, Director of Equal Opportunity & Accommodations Management
Wsmith4@ucmerced.edu
(209) 228-4620

ACADEMIC contact:

Becky Gubser, Director of Academic Personnel
bgubser@ucmerced.edu
(209) 228-4363

STUDENT contact*:

Fuji Collins, Assistant Vice Chancellor for Student Health & Wellness
fcollins@ucmerced.edu
(209) 228-4331

**** Please note this procedure is determinative for employees, but is not applicable for students. Contact the person referenced for information on the pertinent procedure for student complaint reporting.***

Informal measures may include an inquiry into the facts with pertinent parties and witnesses, but typically do not include a formal investigation. Means for Informal Resolution shall be flexible and encompass a full range of possible appropriate outcomes.

Informal Resolution options include, but are not limited to:

- mediating an agreement between the parties
- conducting targeted educational and training programs
- providing remedies for the individual harmed by the harassment

Informal Resolution also includes making recommendations for resolution, and conducting a follow-up review after a period of time to assure that the resolution has been implemented effectively.

II. Formal Resolution

In the event that informal resolution is not desired, or is not effective, a formal complaint may be filed with the University. In such cases, the individual making the report shall be encouraged to file a written request for investigation.

Represented employees may file a grievance with Employment & Labor Relations pursuant to the requirements and procedures detailed in the applicable collective bargaining agreement.

Non-represented employees and Public Visitors may file a complaint may file a complaint pursuant to [PPSM 70](#). The complaint must be filed within ninety (90) calendar days of the alleged incident with:

Wendy Smith, Director of Equal Opportunity & Accommodations Management
Wsmith4@ucmerced.edu
(209) 228-4620

Formal Investigation of complaints for failure to accommodate shall incorporate the standards listed below:

1. The individual(s) accused of conduct violating the Policy shall be provided a copy of the written request for Formal Investigation or otherwise given a full and complete written statement of the allegations and a copy of this protocol and the University Equal Employment Opportunity/Affirmative Action Policy.
2. The individual(s) conducting an investigation shall be familiar with these policies and have training or experience in conducting investigations.
3. An investigation generally shall include interviews with the parties if available, interviews with other witnesses as needed, and a review of relevant documents as appropriate. Disclosure of facts to parties and witnesses shall be limited to what is reasonably necessary to conduct a fair and thorough investigation. Participants in an investigation shall be advised that maintaining confidentiality is essential to protect the integrity of the investigation.
4. At any time during an investigation, the investigator may recommend that interim protections or remedies for the complainant or witnesses be provided by appropriate University officials. These protections or remedies may include separating the parties, placing limitations on contact between the parties, or

making alternative working arrangements. Failure to comply with the terms of interim protections may be considered a separate violation of the policy.

5. Upon request, the complainant and the accused may each have a representative present when he or she is interviewed. Other witnesses may have a representative present at the discretion of the investigator, as appropriate, or as required by applicable University policy or collective bargaining agreement.
6. Investigations shall be completed as promptly as possible and in accordance with the pertinent Collective Bargaining Agreement(s) or otherwise within 60 working days of the date the request for Formal Investigation was filed, or the date Formal Investigation was deemed necessary. This deadline may be extended on approval by the Vice Chancellor for Administration.
7. Generally, an investigation should result in a written report that at a minimum includes a statement of the allegations, the positions of the parties, a summary of the evidence, and findings as to whether University policy has been violated. The report also may contain a recommendation for actions to resolve the complaint, including educational programs, remedies for the complainant, and a referral to disciplinary procedures as appropriate. The report shall be submitted to officials with authority to implement the actions necessary to resolve the complaint. The report may be used as evidence in other related procedures, such as subsequent complaints, grievances and/or disciplinary actions. Procedures shall be coordinated with applicable complaint resolution, grievance, and disciplinary procedures to avoid duplication in the fact-finding process whenever possible.
8. The complainant and accused shall be informed promptly in writing when the investigation is completed. The complainant shall be informed as to the findings regarding whether there was a policy violation.

In accordance with University policies protecting individuals' privacy, the complainant may generally be notified that the matter has been referred for disciplinary action. However, information regarding disciplinary action taken against the accused shall not be disclosed without the accused's consent, unless it is necessary to ensure compliance with the action or the safety of individuals.

9. The complainant and the accused may request a copy of the investigative report pursuant to University policy governing privacy and access to personal information. (See UC Business and Finance Bulletin RMP-8, Legal Requirements on Privacy of and Access to Information.) However, the report provided shall be redacted to protect the privacy of personal and confidential information regarding all individuals other than the individual requesting the report in accordance with University policy.

III. Additional Appeal

Any further appeal beyond the formal review as outlined herein must be submitted pursuant to the processes and mandates of [PPSM 70](#).

Individuals who believe they have been discriminated against may also file a written complaint within the required time period from the date of the alleged discrimination with the appropriate federal and/or state agency that has jurisdiction over the University.

Agencies having jurisdiction include, but may not be limited to:

- Department of Labor (Federal)
- Equal Opportunity Employment Commission (Federal)
- Department of Fair Employment and Housing (California)

IV. Retaliation

An individual who is subjected to retaliation (including but not limited to, threats, intimidation, reprisals, or adverse employment or educational actions) for having made a report of failure to accommodate in good faith, who assisted someone with a report of failure to accommodate, or who participated in any manner in an investigation or resolution of a report of failure to accommodate, may make a report of retaliation under these procedures. The report of retaliation shall be treated as a report of discrimination and will be subject to the same procedures.