



Nondiscrimination, Harassment, and Affirmative Action in the Workplace

Responsible Academic Affairs Officer:	Vice Provost – Academic Personnel and Programs
Responsible Academic Affairs Office:	APP – Academic Personnel and Programs
Responsible Human Resources Officer:	VP – Human Resources
Responsible Human Resources Office:	HR – Human Resources
Issuance Date:	TBD
Effective Date:	TBD
Last Review Date:	TBD
Scope:	This policy applies to all University applicants and employees, and where stated in policy, to unpaid interns, volunteers, participants in a training program leading to employment and independent contractors.

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I. POLICY SUMMARY

The University of California is committed to providing a workplace free of discrimination and harassment. The University prohibits discrimination against or harassment of any person employed; seeking employment; providing services pursuant to a contract; or applying for or engaged in an unpaid internship, volunteer capacity, or training program leading to employment with the University of California.

In addition, the University undertakes affirmative action, consistent with its obligations as a federal contractor.

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II. DEFINITIONS

Discrimination: An adverse employment action, based on the categories identified in Section III.A of this policy.

Exception to Policy: An action that exceeds what is allowable under current policy or that is not expressly provided for under policy. Any such action must be treated as an exception.

Executive Officer: The University President, Chancellor, Laboratory Director, or Vice President–Agriculture and Natural Resources.

Gender: The sex of a person, including a person’s gender identity, and gender expression.

Gender Expression: A person’s gender-related appearance and behavior whether or not stereotypically associated with the person’s assigned sex at birth.

Gender Identity: An individual’s personal sense of himself/herself as being male and masculine or female and feminine, or ambivalent.

Harassment: Unwelcome conduct on any of the bases identified in Section III.A of this policy, including verbal, nonverbal, or physical conduct, that explicitly or implicitly affects a person’s employment, interferes with a person’s work performance, or creates an environment such that a reasonable person would find the conduct intimidating, hostile, or offensive.

Pregnancy: Includes pregnancy, childbirth, and medical conditions related to pregnancy and childbirth.

Protected Veteran: A veteran who is protected under the non-discrimination and affirmative action provisions of the Vietnam Era Veterans’ Readjustment Assistance Act of 1974, as amended; specifically, a veteran who may be classified as a “disabled veteran,” recently separated veteran,” “active duty wartime or campaign badge veteran,” or an “Armed Forces service medal veteran,” as defined by 41 CFR 60-300.2.

Service in the Uniformed Services: Includes service in the uniformed services as defined by the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), as well as state military and naval service.

Unpaid Intern: An individual who is engaged in unpaid activities that are an extension of the individual’s educational experience.

Volunteer: An individual who performs hours of service for a public agency for civic, charitable, or humanitarian reasons, without promise, expectation or receipt of compensation for services rendered.

III. POLICY TEXT

A. General

The University prohibits discrimination against or harassment of any person employed; seeking employment; providing services pursuant to a contract; or applying for or engaged in an unpaid internship, volunteer capacity, or training program leading to employment with the University of California on the basis of race, color, national origin, religion, sex, gender identity, gender expression, pregnancy, 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. This policy applies to all employment practices, including recruitment, selection, promotion, transfer, merit increase, salary, training and development, demotion, and separation.

This policy applies to incidents of workplace discrimination or harassment involving members of the University community, including faculty and other academic appointees, staff, student employees, residents, interns, and non-student or non-employee participants in University programs (e.g. vendors, contractors, visitors, and patients). If the harassment is sexual in nature, please see the University's [Sexual Violence and Sexual Harassment \(SVSH\) policy](#). If help is needed, local SVSH resource information can be found at <http://sexualviolence.universityofcalifornia.edu/get-help/index.html> .

This policy is intended to be consistent with the provisions of applicable state and federal laws and University policies.

B. Complaints

Individuals who believe they have been subjected to discrimination, harassment, or retaliation are encouraged to submit complaints through their local Human Resources office, [Affirmative Action/Equal Employment Opportunity officers](#), or the University [Whistleblower Hotline](#) (800-403-4744).

When the University receives an allegation of discrimination or harassment, it will conduct a fair, timely, and thorough investigation that provides all parties appropriate due process and reaches reasonable conclusions based on the evidence collected. If the investigation finds discrimination or harassment, the Affirmative Action/Equal Employment Opportunity office, in consultation with the appropriate administrators, will take appropriate remedial measures.

C. Privacy

The University will protect the privacy of individuals involved in a report of discrimination or harassment to the extent permitted by law and by University policy and procedures. However, it should be recognized that an investigation may involve interviews with a number of persons to inquire if they have relevant evidence, and sensitive information may be gathered. While such information is considered confidential, University policy may also require the disclosure of certain information during or following an investigation.

D. Retaliation

University policy also prohibits retaliation against any person employed; seeking employment; providing services pursuant to a contract; or applying for or engaged in an unpaid internship, volunteer capacity, or training program leading to employment with the University of California; 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.

E. Affirmative Action

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 protected veterans. 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.

In conformance with federal regulations, written affirmative action plans must be prepared and maintained by each campus of the University, by the Lawrence Berkeley National Laboratory, by the Office of the President, and by the Division of Agriculture and Natural Resources. Such plans must be reviewed and approved by the Office of the President and the Office of the General Counsel before they are officially promulgated.

F. Free Speech and Academic Freedom

The faculty and other academic appointees, staff, and students of the University of California enjoy significant free speech protections guaranteed by the First Amendment of the United States Constitution and Article I, Section I of the California Constitution. This policy is intended to protect members of the University community from discrimination, not to regulate protected speech. This policy shall be implemented in a manner that recognizes the importance of rights to freedom of speech and expression.

The University also has a compelling interest in free inquiry and the collective search for knowledge and thus recognizes principles of academic freedom as a special area of protected speech. Consistent with these principles, no provision of this policy shall be interpreted to prohibit conduct that is legitimately related to the course content, teaching methods, scholarship, or public commentary of an individual faculty member or the educational, political, artistic, or literary expression of students in classrooms and public forums (see [APM - 010](#), Academic Freedom and [APM - 015](#), The Faculty Code of Conduct.)

However, freedom of speech and academic freedom are not limitless and do not protect speech or expressive conduct that violates federal or state anti-discrimination laws.

G. Pay Transparency

The University of California will not discharge or in any other manner discriminate against employees or applicants because they have inquired about, discussed, or disclosed their own pay or the pay of another employee or applicant. However, employees who have access to the compensation information of other employees or applicants as a part of their essential job functions cannot disclose the pay of other employees or applicants to individuals who do not otherwise have access to compensation information, unless the disclosure is (a) in response to a formal complaint or charge, (b) in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or (c) consistent with the University's legal duty to furnish information.

IV. COMPLIANCE / RESPONSIBILITIES

A. Implementation of the Policy

Executive Officers (the University President, Chancellor, Lawrence Berkeley National Laboratory Director, or Vice President of Agriculture and Natural Resources) and their designees, have the authority to develop procedures and supplementary information to support the implementation of this policy. Responsible Officers (Vice Provost, Academic Personnel and Programs and Vice President of Human Resources) will apply appropriate and consistent interpretations of this policy that are consistent with the policy.

The Executive Officer, or their designee, at each location, must establish and implement local procedures consistent with this policy. Exceptions to local procedures required by the policy must be approved by the Executive Officer or designee.

B. Revisions to the Policy

The President is the Policy Approver and has the authority to approve policy revisions upon recommendation by the Responsible Officers.

The Vice Provost, Academic Personnel and Programs and the Vice President–Human Resources have the authority to initiate revisions to the policy, consistent with approval authorities and applicable Bylaws and Standing Orders of the Regents.

The UC Provost and Executive Vice President for Academic Affairs and the Executive Vice President–Chief Operating Officer have the authority to ensure that the policy is regularly reviewed, updated, and consistent with other governance policies.

C. Approval of Actions

Actions within this policy must be approved in accordance with local procedures.

D. Compliance with the Policy

The Executive Officer at each location will designate the local management office that is responsible for monitoring, enforcing, and reporting policy compliance. The Senior

Vice President – Chief Compliance and Audit Officer will periodically audit and monitor compliance with the policy.

E. Additional Enforcement Information

The U.S. Equal Employment Opportunity Commission (EEOC), the Office of Federal Contract Compliance Programs (OFCCP), and the California Department of Fair Employment and Housing (DFEH) investigate reports of unlawful discrimination and harassment in employment. These agencies may serve as fact finders and attempt to facilitate the voluntary resolution of disputes. For more information, contact the nearest office of the EEOC, OFCCP, or DFEH.

F. Noncompliance with the Policy

Noncompliance with this policy is handled in accordance with University policies, including but not limited to, the [Faculty Code of Conduct \(APM – 015\)](#) and [University Policy on Faculty Conduct and the Administration of Discipline \(APM – 016\)](#), [Non-Senate Academic Appointees/Corrective Action and Dismissal \(APM – 150\)](#), [Personnel Policies for Staff Members 61, 62, 63, and 64](#) or, as applicable, [collective bargaining agreements](#).

V. REQUIRED PROCEDURES

Local procedures must include the following elements:

A. Supervisor Responsibilities

Supervisors must report complaints of discrimination or harassment to a designated representative at each location so that the claim may be resolved internally if possible.

B. Complaint Process

Complaints will receive:

1. a timely response and closure;
2. impartial and timely investigations by qualified personnel;
3. documentation and tracking for reasonable progress; and
4. appropriate options for remedial actions and resolutions.

VI. RELATED INFORMATION

- [The Uniformed Services Employment and Reemployment Rights Act \(USERRA\)](#) (referenced in Section II of this policy)
- [Sexual Violence and Sexual Harassment](#) (referenced in Section III.A of this policy)
- [Academic Personnel Policy Section 010, Academic Freedom \(APM - 010\)](#)(referenced in Section III.F of this policy)

- [Academic Personnel Policy Section 015 \(APM - 015\), The Faculty Code of Conduct](#) (referenced in Sections III.F and IV.F of this policy)
- [Academic Personnel Policy Section 016 \(APM - 016\), University Policy on Faculty Conduct and the Administration of Discipline](#) (referenced in Section IV.F of this policy)
- [Academic Personnel Policy Section 035 \(APM - 035\), Affirmative Action and Nondiscrimination in Employment](#)
- *Personnel Policies for Staff Members* [61](#), [62](#), [63](#), and [64](#) (referenced in Section IV.F of this policy)
- [Academic Personnel Section 150 \(APM - 150\), Non-Senate Academic Appointees/Corrective Action and Dismissal](#) (referenced in Section IV.F of this policy)

VII. FREQUENTLY ASKED QUESTIONS

N/A

VIII. REVISION HISTORY

Changes effective as of TBD:

- Deleted definition of “Covered Veteran” and added definition of “Protected Veteran” to comply with the Vietnam Era Veterans Readjustment Assistance Act, as amended (VEVRAA) (41 CFR 60-300)
- Updated for compliance with California Fair Employment and Housing Act regulations regarding Harassment and Discrimination Prevention and Correction (2 CCR § 11023)
- Updated for compliance with California Assembly Bill 1443, which extends nondiscrimination and non-harassment protections to volunteers, unpaid interns, and trainees (2 CCR § 11009, 11019)
- Added pay transparency language required by the Office of Federal Contract Compliance Programs (41 CFR 60-1.35(c))
- Reformatted Policy Statement with subsections
- Added reference to the University’s Sexual Violence and Sexual Harassment policy in Section III.A
- Added information on Privacy in Section III.C and Free Speech and Academic Freedom in Section III.F

This policy was reformatted into the standard University of California policy template effective July 3, 2013.

Policy changes effective as of July 3, 2013:

- New language, in compliance with California Assembly Bill 887
- Addition of gender and gender expression to the policy text
- Addition of a definition of gender, gender expression, and gender identity

As a result of the issuance of this policy, the following policy is rescinded as of the effective date of this policy and is no longer applicable:

- *University of California Nondiscrimination and Affirmative Action Policy Regarding Academic and Staff Employment*, dated July 3, 2013

The following policies have been rescinded and are no longer applicable:

- *University of California Nondiscrimination and Affirmative Action Policy Regarding Academic and Staff Employment*, dated June 24, 2010
- *University of California Nondiscrimination and Affirmative Action Policy Regarding Academic and Staff Employment*, dated January 1, 2004