

ADMINISTRATION OF STUDENT CONDUCT
(Reference: UC Systemwide PACAOS 100.00)

600.00 Introduction

Honesty, fairness and respect are essential to learning, teaching and research, and to maintaining a productive and safe campus environment. As members of our academic community and of society at large, UC Merced students are held to the high standards of conduct set by the University of California and the campus, as well as to general requirements of law. UC Merced students are expected to uphold these standards in all their academic and extracurricular activities.

UC Merced conduct procedures are intended to promote reasoned, fair, and impartial consideration of suspected student misconduct, with respect for the rights and interests of all concerned: the accused student, the reporting party and the University.

601.00 Student Conduct and the Administration of the Student Conduct System

601.10 The Office of Student Conduct

UC Merced has designated the Office of Student Conduct (OSC) to administer the student conduct system for academic and nonacademic misconduct, recognizing that centralized authority, responsibility and record-keeping are essential to a balanced and impartial student conduct process. OSC reviews and resolves reports of suspected violations of standards of student conduct and cases of academic integrity. OSC determines jurisdiction, maintains confidential conduct records, and administers the informal disposition and formal fact-finding hearing processes.

601.20 Delegation of Authority

Authority for student conduct at UC Merced is delegated from the chancellor to the vice chancellor for Student Affairs to the associate vice chancellor for Student Affairs and the director of Student Life and Student Conduct. The director, and the OSC staff under the director's supervision, have authority to impose conduct sanctions. All conduct action taken by the director, other OSC staff, or any hearing body or hearing officer, operates by delegation of the chancellor's authority.

601.30 Overview of Process

Most cases are resolved through an informal process in which OSC staff meet with the accused student, consult with the reporting party, and, if appropriate, enter a written conduct contract specifying agreed sanctions for any admitted violations of conduct standards. Students are advised of their rights provided by UC Merced conduct procedures, including the right to consult and be accompanied by an advisor during the informal and/or formal processes.

602.00 Reporting Suspected Student Misconduct

602.10 Reporting Suspected Misconduct to the Office of Student Conduct

Suspected student misconduct falling within OSC's jurisdiction should be reported in writing to OSC. Reports should include the following, if known: the accused student's name and identifying information, the nature of the suspected violation, a description of the circumstances, including the date of the incident, names of witnesses, copies of supporting documents, and how to reach the reporting party (report forms are available online or in the Office of Student Life).

602.20 Preliminary Review by Student Conduct

Upon receiving a written report or a request for review, OSC will evaluate the matter. If OSC determines that no further action is warranted, the person reporting the case or requesting the review will be so informed. OSC may decline further action if the report is untimely; if there is no substantial evidence to support the report; if the suspected behavior does not constitute a violation of student conduct standards; or if the suspected incident should be addressed through other policies or procedures.

602.30 Notification to Student

If OSC determines that further inquiry is appropriate, OSC will notify the accused student and reporting party that an investigatory conference is required. The student will be informed in writing (by email/U.S. or campus mail) of the following:

1. The University policies or campus regulations that have allegedly been violated.
2. That he/she must attend the scheduled meeting or schedule a meeting with OSC.
3. That he/she may consult and/or be accompanied by an advisor of his/her choice prior to the investigative conference.
4. That failure to schedule or attend the investigative conference could result in unilateral action being taken by the University.

602.40 Investigative Conference

At the conference with the accused student, the OSC officer describes conduct procedures, informs the student of the specific allegations against him/her, indicates the applicable University policy(ies) or campus regulations alleged to have been violated, and provides details regarding the information supporting the report of misconduct. The accused student is afforded an opportunity to respond, to ask questions and to discuss possible options for resolving the case.

At the conclusion of the investigative conference(s), the Student Conduct officer may conclude that no violation has occurred and that no further action is warranted. If,

however, the OSC officer believes that a violation has occurred based upon the preponderance of the evidence, the case will be disposed of either informally or through formal hearing depending upon the potential sanction(s) or the preference of the student and OSC.

Students subject to sanction(s) less than suspension or dismissal will have their case disposed of informally. Students subject to suspension or dismissal are entitled to a formal hearing. Students may waive their right to a formal hearing and accept as final and binding the proposed suspension or dismissal by signing a waiver.

603.00 Informal Disposition

603.10 "Informal disposition" means resolution without a formal hearing, usually by agreement between the student and OSC. Informal disposition can also include unilateral conduct action if a student fails to participate in the conduct process, or sanction without agreement.

603.20 Procedures for Informal Disposition

A. Meetings/communications with accused student

If the accused student participates in informal disposition, the process usually includes one or more meetings or other communications (e.g., phone calls and emails) between the student and OSC to discuss the facts of the case, possible outcomes (including sanctions) and terms of agreement. No audio or digital recordings are permitted without the express consent of all meeting participants.

B. Information Provided by Accused Student

While the accused student is required to respond to Student Conduct, he/she may choose not to provide information in response to the charges (remain silent regarding the allegations). Any information provided by the student in the informal disposition process (whether at a meeting, during a phone call, or in an email or other writing) must be truthful. This information may be shared with the reporting party and may become evidence in a later formal process.

C. Consultation with Reporting Party

The "reporting party" is defined as the individual who submits a written report or request for review to OSC. OSC may consult with the reporting party before reaching an agreement with the student or otherwise resolving the case informally.

D. Resolution by Another

Rather than reach agreement regarding the facts and/or sanction, the student and OSC may agree to have the case resolved by another, such as a mediator.

603.30**Informal Disposition by Agreement or Student Conduct Decision**

If after the investigative conference(s) the OSC officer believes a violation has occurred, he or she may offer to resolve the case informally by agreement between the student and OSC. If an agreement is reached, it should be stated in writing and signed by the student, and should contain the following terms, as appropriate:

A. Violation Admitted

The agreement should state whether a violation is acknowledged, and, if so, describe the agreed facts of the incident and the nature of the admitted violation.

B. Terms of Agreed Sanction(s)

If the student and OSC agree on the appropriate sanction(s), the agreement should describe the terms of the sanction(s) to be imposed.

If agreement cannot be reached between the OSC officer and the student, the OSC officer may render a decision and determine a sanction without agreement. If the OSC officer renders a sanction without agreement, s/he will do so within 10 working days of the investigative conference.

603.40**Informal Disposition by Unilateral Action**

OSC may resolve a report of suspected misconduct unilaterally by taking administrative action or imposing sanctions if a student:

Has failed or refused to respond within seven days after OSC's first attempt to contact him or her, or has failed or refused to participate in or cooperate with the conduct process, despite reasonable efforts by OSC to contact him/her;

Has withdrawn or failed to re-register while conduct is pending, and the student fails to respond and participate in the conduct process.

OSC has discretion to place holds on a student's registration, graduation, diploma and transcripts; or

1. Impose sanctions unilaterally, including but not limited to censure, probation, interim suspension, suspension or dismissal, as long as the student is provided notice and an opportunity to be heard through the informal disposition process either before the sanctions are imposed, or, if the student fails to respond or cooperate.
2. If the student has previously agreed to a deferred sanction, to impose the agreed deferred sanction or a lesser sanction.
3. Submit the case for formal fact-finding hearing in the student's absence.

603.50 Effect of Withdrawal or Failure to Register on Conduct Process

If the student has withdrawn or failed to re-register, the sanctions will take effect immediately upon re-admission, or sooner if appropriate, as determined by OSC.

603.60 Appeal of Student Conduct Decision, Administrative Action or Unilateral Action

A. After receiving written notice of a sanction(s), action(s), or decisions(s), the student may appeal OSC's decision only if all of the following requirements are met: a) the appeal is in writing, b) the appeal is expressly based upon one of the grounds specified in section 607.20 below, c) the appeal is received by OSC by the stated deadline. The deadline shall not be more than seven days from the issuance of the written notification of the sanction. After the Office of Student Conduct receives the appeal, an appeal officer will be appointed.

A meeting to discuss the appeal will be attended by the student and the appointed appeal officer. All matters considered at this meeting will pertain only to the stated basis for the appeal. The appeal will be granted or denied based upon: a) whether the decision lacks substantial basis to support the findings, b) whether there is incongruity between the proposed sanction and findings, c) whether there was unfairness in the hearing procedure, or d) if there is newly discovered important evidence.

Upon completion of the review by the appointed appeal officer the original sanction may be affirmed, modified, or reversed. The decision of the appeal officer will be final.

B. Appeals from Unilateral Action Imposed for Failure or Refusal to Respond
Appeals from unilateral conduct must be submitted to the director in writing and must state reasonable grounds for the student's non-cooperation or failure to respond during the original process. The director may sustain the original unilateral action, or may reopen the conduct process for informal disposition or formal hearing. If the director sustains the original action, the student may appeal under section 607.20, below.

604.00 Formal Hearings

604.10 Setting a Formal Hearing

Based upon the potential severity of sanctions OSC may refer a case to an appropriate body for a formal hearing. The student may waive this right if they prefer to utilize the informal process.

A. Purpose and Nature of the Hearing

A formal conduct hearing, consistent with the University's educational mission, is a process whereby members of our academic community – students, faculty, and staff

– meet to make determinations of fact. It is not a court proceeding. The goal is to find the truth through a fair, prompt, and effective process, respecting and preserving the rights of the accused student, the University community, the reporting party and any witnesses.

B. Procedures

1. A designated representative from OSC will convene the Hearing Board and notify the student in writing of the date, time and place of the hearing. The notice will include a brief statement of the factual basis of the charges and the University policies or campus regulations allegedly violated.
2. The hearing will occur within a reasonable time frame and the University shall bear the burden of proof.
3. The designated representative from Student Conduct will advise both the Board and the student concerning the protocol and procedures to be followed in the hearing. The designated representative will forward all necessary documents relevant to the hearing, and will only be involved in the hearing process in an administrative role, other than serving as a witness, if called.

604.20

The Hearing Board

The Hearing Board is a panel, normally comprised of students, staff and faculty who may hear academic and nonacademic misconduct cases as assigned and appropriate.

A. Composition of the Standing Pool for Hearing Boards

The vice chancellor for Student Affairs or designee may appoint up to 15 each of staff, faculty (Academic Senate members) and students to the standing pool for campus hearing boards. Undergraduate student members of this pool must be UC Merced students and maintain through the period of service on the board/standing pool a cumulative GPA to reflect good standing in their academic department. Graduate student members must be making normal academic progress.

A hearing panel may be chaired by a student, staff or faculty member as appropriate. A quorum is three panel members, including at least one student and one staff or faculty member, and the maximum membership of a panel is five individuals.

B. Graduate Student Hearing Panels

If the accused student is a graduate or professional student, and a formal hearing becomes necessary, an ad hoc hearing panel may be appointed including at least

one graduate-level student and one faculty member with graduate-level teaching and research experience, preferably from the division or school in question.

604.30 Preparation and Hearing Procedures

A. Parties represent themselves

In keeping with the educational nature of the process, accused students and reporting parties speak on their own behalf and present their own case to the hearing panel.

B. Advisors

Both the accused student and the reporting party may each have an advisor of his/her choice to help with preparation for the hearing and who may accompany them at the hearing.

1. The accused student and the reporting party are each responsible for preparing and presenting their own evidence and witnesses at a formal hearing. Advisors may provide assistance to the parties prior to and at a hearing, but advisors do not prepare or present the case for the students.
2. Generally, advisors will not take a direct part in hearings without the consent of the panel or hearing officer. With consent, advisors may ask questions through the panel, and if the party so chooses, present the summarizing statement for the party at the close of the hearing.
3. The panel or hearing officer may exclude an advisor from the hearing if the advisor fails to comply with the hearing procedures, becomes disruptive or impedes or interferes with the hearing process.

605.00 Hearing Procedures

605.10 Applicability

These procedures apply to all conduct hearings unless specifically waived by the accused student or reporting party.

- A. With the guidance of the designated representative from OSC hearing panels and officers have responsibility for the procedural working of the hearing, and may direct appropriate procedures in their discretion, so long as those procedures are consistent with this policy.
- B. A designated OSC representative attends all hearings to ensure compliance with these procedures and facilitate the hearing process.

- C. Upon establishment of cause by either party to the hearing, OSC may grant reasonable extension of the time limits specified in these procedures.

605.15 Scheduling the Hearing

The date for the hearing will be confirmed within 30 days of the time OSC determines a hearing is necessary, although the hearing itself may occur beyond the 30-day period. Hearings may be held during summer sessions or academic break periods.

605.20 Notice of the Hearing

Once it is determined that a formal hearing is necessary to resolve the matter, OSC sends the student written notice within seven days before the hearing.

A. Delivery of Notice

The notice of hearing is emailed, sent by U.S. mail, delivered to an on-campus housing mail address, and/or picked up by the accused student in person from OSC. Normally, the notice must be picked up by the student, or emailed, and/or postmarked at least seven days before the scheduled hearing date, unless the student agrees to a shorter period.

B. Presumption of Delivery

It is presumed that the accused student has received notice if the student has picked up the notice from OSC, or if the notice has been sent to the student by (1) email at the student's primary UC Merced email address; and/or (2) regular U.S. mail at the local address provided by the student to OSC, or the local address and/or email addresses most recently filed with the Registrar's Office; or, if undeliverable at a local address, at the permanent address of record.

C. Contents of Notice

The notice should include the following information:

1. The time, date and place of hearing, or notice that the hearing will be held at a time and place to be specified in a later notice;
2. A brief description of the factual basis of the suspected violation, a list of the University policies or campus regulations reportedly violated, and a summary of the information (documents or other evidence and names of witnesses) to be provided at the hearing;
3. A statement that the student is entitled to be accompanied/assisted by an advisor; and

4. An outline of or link to the hearing process.
5. Either in the notice of hearing, or as soon as possible afterwards, the student is provided with the name(s) of the hearing panel members so that he or she may, if there is good cause, submit a request to disqualify a member.

605.25 Access to Information to be Provided at the Hearing

The accused student may request and receive information in the possession of the University that will be provided at the hearing and other non-confidential information, which the chair finds to be relevant and necessary to a fair hearing.

- A. Submitted in advance
Any information to be provided at the hearing must be submitted in advance to OSC, including (1) copies of documents and other evidence and (2) lists of the names of witness who will be called with a brief description of the subject of each witness's testimony.
- B. Deadline for submission
The accused student and reporting party will each submit copies of their documents and witness lists at least two days before the hearing so that Student Conduct may make copies for the panel. Anything submitted after this deadline will be considered as evidence only with the approval of the chair and the agreement of both parties.

605.30 Disqualification of a Panel Member

Members of a panel should have no prior involvement in the case, and should disqualify themselves if they believe they cannot render a fair decision.

605.35 Pre-Hearing Conference

If several witnesses will be presented, the issues are complex, or if otherwise deemed useful, a pre-hearing conference may be scheduled at the discretion of the hearing panel chair or OSC designated representative. At the pre-hearing conference, the parties will submit documents and lists of witnesses and the general facts to which they will testify. The chair may decide any procedural issues and may exclude proposed testimony that is irrelevant, unduly repetitive, or unreasonably time consuming, or may reserve such determinations until the hearing. The chair may also ask for and decide any challenges regarding disqualification of a panel member.

605.40 Closed Hearings

OSC hearings are "closed" hearings. Witnesses, if any, may be excluded from the hearing except for the time they are testifying or responding to cross-examination. The

accused student(s) and referring party(ies) may be present throughout the hearing while evidence is being presented.

605.45 Evidence and Testimony

A. Formal rules of evidence or court procedures are not used in the student conduct process

Student conduct hearings are not court proceedings; the procedures used in civil or criminal trials, motions, or other proceedings before a court or administrative agency do not apply.

The hearing panel may receive and consider spoken, written, or other evidence of the kind on which reasonable persons are accustomed to rely.

B. Testimony and questioning of witnesses

1. No student witness may be compelled to incriminate him/herself. The accused student may remain silent and his/her silence should not be taken as inference of culpability.
2. All parties will direct questions and inquiries through the chair of the hearing panel or designated hearing officer.
3. Both the accused student and the reporting party may request that specified witnesses attend the hearing and testify. If a witness is unavailable to testify at a hearing, OSC may arrange for testimony to be taken at an alternate time under conditions providing an opportunity for oral or written questioning by both parties and the panel members, with the consent of the parties.

605.50 Introductory and Summary Statements

At the beginning of the hearing, the accused student and reporting party may each make a brief introductory statement. After all evidence has been heard, the accused and the reporting party, or, if either so chooses, his/her advisor (as permitted by the Chair), may make a brief summary. OSC representatives may, as appropriate, present additional relevant information to the board.

605.55 Burden of Proof

At any formal hearing, no violation can be found unless it has been shown by a preponderance of the evidence that the accused committed the reported offense.

605.60 Hearing Records

An audio recording of the hearing (but not the deliberations or any other component of the conduct process) will be made.

- A. After the hearing, the accused student and the reporting party may each have access to review the hearing recording.
The audio recording will be retained as part of the record for as long as the conduct record is retained.
- B. Other than for the purpose of the official record as provided above, mechanical or electronic devices for recording or broadcasting are excluded from the hearing.

606.00 Report by Hearing Panel

The hearing panel will prepare a brief written report summarizing its findings of fact and recommendations for sanctions, if any.

The committee must complete deliberations and submit their final report to the director within 14 calendar days of the close of the hearing.

If the recommended sanction is suspension or delay of graduation for more than one calendar year, or for dismissal, the report and recommendation is also submitted to the associate vice chancellor of Student Affairs for concurrence before the sanction is delivered.

If the hearing concerns a graduate student, the director or associate vice chancellor of Student Affairs will consult with the appropriate dean, assistant or associate dean and receive their concurrence before delivering the sanction.

The report will include findings of fact as to each specified charge, and whether the conduct as found does or does not violate the policies or regulations as reported. If the decision is not unanimous, both a majority and a minority report may be submitted. Where appropriate, the report shall make recommendations as to the sanction to be imposed.

606.10 Notice of the Decision

- A. A written notice of the decision and sanction(s) to be imposed, if any, is provided to the accused student and to reporting parties who are campus officials (in accord with legitimate educational interest criteria), together with a copy of the panel's findings and recommendations. The notice of decision may be sent to the UC Merced email address of record for that individual, and should specify the due date of any appeal and the name and address of the official to whom the appeal must be submitted. In addition, notice of the decision may be provided to the alleged victim of a crime of violence.

If the report involved an alleged forcible or non-forcible sex offense, the alleged victim will be informed of the results of the conduct action and process for appeal.

B. To alleged victims of sexual harassment or assault

Regulations and procedures related to sexual harassment and sexual violence are guided by the [UC systemwide Policy on Sexual Harassment and Sexual Violence](#).

C. To members of the press/public

The decision is made public only if the hearing was open or if the student(s) named in the decision give(s) written consent.

607.00 Appeals

607.10 Time for Appeal

If sanction(s) are upheld or imposed by OSC, a student may file a written appeal with the vice chancellor for Student Affairs or dean (per notice instructions) within the time set in the Notice of Decision, generally seven days after the Notice of Decision is emailed or postmarked.

607.20 Grounds for Appeal

The appeal must be in writing, and may request that the decision be overruled or the sanction amended, on the following grounds:

A. The decision lacks substantial basis in fact to support the findings.

On appeal, the appellant has the burden of proving that there is no substantial evidence to support the decision. It is not enough to assert that the hearing panel made an incorrect decision on the issue of whether a preponderance of evidence supports the finding of violation.

B. There is incongruity between the proposed sanction and findings.

C. There has been unfairness in the hearing proceedings.

D. There is newly discovered important evidence not known at the time of the hearing or decision.

607.30 Decision on Appeal

The official to whom the appeal is submitted will respond within 10 days and may deny the appeal; grant the appeal in whole or part; or direct such other relief, as he/she deems appropriate.

608.00 Timeliness of Complaints

608.10 Academic Misconduct Reports

Reports to OSC for suspected *academic* misconduct must be sent to OSC within 60 days after the end of the semester in which the suspected misconduct occurred or was discovered, or reasonably should have been discovered, or within 30 days after the end of an official investigation.

608.20 Nonacademic Misconduct Reports

Reports of suspected *nonacademic* misconduct must be sent to OSC within 14 days of when the suspected conduct occurred or was discovered, or reasonably should have been discovered, or within 14 days after the end of an official investigation, unless OSC determines that law or policy provides for a longer reporting period.

608.30 Late Reports

The director has the discretion as to whether or not to accept late reports. If a late report is accepted, the case will proceed either through informal disposition or a formal hearing with consideration given to the impact of the delay in reporting upon the accused student including the unavailability of witnesses or evidence.

609.00 Jurisdiction of Student Conduct

The vice chancellor of Student Affairs has jurisdiction over various types of conduct violations, over students and student organizations, and over on- and off-campus incidents, as described below. This jurisdiction has been delegated to the associate vice chancellor and will generally be referred as described below.

Cases involving reported misconduct under the following categories of rules governing student conduct shall be referred to OSC:

- A. University-wide policies, including the University of California *Policies Applying to Campus Activities, Organizations and Students (PACAOS)*, Section 102.00 “Grounds for Discipline;”
- B. Campuswide rules, including the UC Merced implementation of the systemwide PACAOS (*Student and Organization Policies and Regulations*), the UC Merced *Academic Honesty Policy*, and the Alcohol and Other Drug Policy.

- C. Rules established by campus entities (such as departments, residence units, education abroad programs and professional schools) applying to students within such schools, departments, programs, or residence units.

609.10 Students Residing in On-campus Residence Halls Subject to Student Conduct Action

Misconduct by students in the residence halls may be resolved through the student conduct system, by using housing contract remedies, or both. The Housing and Residence Life staff includes conduct officers who have authority designated by the vice chancellor of Student Affairs to resolve cases within campus housing.

609.20 Individuals and Organizations Subject to Student Conduct Action

- A. Definition of “Student.” The UC *Standards of Conduct* apply to all current UC Merced students, including individuals who are enrolled in or registered with any academic program of UC Merced; who have completed the preceding term and are eligible for reenrollment, including the recess periods between academic terms; or who are on an approved educational leave or other approved leave status, or on filing-fee status.
- B. Applicants, Former Students, and Registered Campus Organizations. The UC *Standards of Conduct* also apply to
 - 1. Applicants who become students, for offenses committed as part of the application process; on a University of California campus and/or while participating in University-related events or activities; or following submittal of the application through his or her official enrollment, if off-campus jurisdiction would otherwise apply;
 - 2. Former students (including graduates) for offenses committed while a student; and
 - 3. Registered Campus Organizations. Under University policies and campus procedures, RCOs shall be provided with a hearing and basic standards of procedural due process.

609.30 Geographic (On and Off-Campus) Jurisdiction

The Office of Student Conduct has jurisdiction over academic or nonacademic misconduct by students that occurs on UC Merced property or in connection with campus functions, activities, equipment or facilities; Student Conduct also has jurisdiction over off-campus conduct and alleged crimes, as described below.

A. Off-Campus Jurisdiction

Student conduct that occurs off University property is subject to UC Standards of Conduct where it 1) adversely affects the health, safety, or security of any member of the University community, or the mission of the University, or 2) involves academic work or any records, or documents of the University.

B. Determining Jurisdiction

In determining whether or not to exercise jurisdiction over such conduct, the University shall consider the seriousness of the alleged offense, the risk of harm involved, whether the victim(s) are members of the campus community, whether the off-campus conduct occurred at, or in connection with activities of a student group (e.g., RCO, club, athletic team), or whether the conduct is part of a series of actions which occurred both on and off University property.

C. Good Neighbor Relations

1. The University may also exercise jurisdiction over student conduct that occurs off campus where the conduct compromises University neighbor relations. It is expected that students will:
 - a. Foster and maintain good community relations and cooperation with neighbors and authorities.
 - b. Be responsible for their conduct and encourage guests to adhere to the same standard.
 - c. Respect the rights of neighbors and follow existing laws and ordinances.
 - d. Take active steps to prevent damage to neighbors' property by admitted guests and household members and assume responsibility for damage to neighbors' properties caused by household members or guest.

D. Conduct on Other UC Campuses

A student at one campus of the University, who is accused of violation of University policies or campus regulations on another campus of the University, or at an official function of that campus, shall be subject to the conduct procedures of either the former or the latter campus as agreed by designees of both campuses.

610.00 Confidentiality of Student Conduct Records

610.10 Student Conduct Records Are Confidential Student Records

The Office of Student Conduct records containing personally identifiable information about students relating to any conduct action or proceeding are confidential student records. Conduct actions or proceedings include investigation, informal and/or formal hearings, and/or imposition of sanctions for violation(s) of the University of California *Policies Applying to Campus Activities, Organizations and Students*, the UC Merced *Academic Honesty Policy*, or these *Student and Organization Policies and Regulations*.

610.20

Protected from Disclosure

Confidential OSC student records are protected from disclosure under the Federal Educational and Privacy Rights Act (FERPA), as well as the privacy provisions of the California Information Practices Act and the California State Constitution.

Code of Student Conduct

GROUNDS for DISCIPLINE and SANCTIONS (Reference: UC Systemwide PACAOS 101.00 and 102.00)

Regular Font = UC Systemwide Policy; *Italicized Font* = UC Merced Implementing Regulation

700.00 Policies Applying to Campus Activities, Organizations, and Students

The following standards and sanctions are excerpted directly from:

Policies Applying to Campus Activities, Organizations and Students ([PACAOS](#))

Section 100.00 - Policy On Student Conduct And Discipline (Revised February 2011)

Any italicized language in this section represents UC Merced campus-specific implementing regulations.

701.00 Student Conduct

Students are members of both society and the University community, with attendant rights and responsibilities. Students are expected to comply with all laws and with University policies and campus regulations.

The standards of conduct apply to students as the term 'student' is defined in Section 14.40 of these *Policies*. They also apply to:

- A. Applicants who become students, for offenses committed as part of the application process.
- B. Applicants who become students, for offenses committed on campus and/or while participating in University-related events or activities that take place following a student's submittal of the application through his or her official enrollment; and
- C. Former students for offenses committed while a student.

If specified in implementing campus regulations, these standards of conduct may apply to conduct that occurs off campus and that would violate student conduct and discipline policies or regulations if the conduct occurred on campus.

702.00 Grounds for Discipline

Chancellors may impose discipline for the commission or attempted commission (including aiding or abetting in the commission or attempted commission) of the following types of violations by students, as well as such other violations as may be specified in campus regulations.

Violation of local, state, or federal laws otherwise not covered under these standards of conduct.

702.01 Academic Misconduct

All forms of academic misconduct such as cheating, fabrication, plagiarism, or facilitating academic dishonesty.

See UC Merced "Academic Honesty Policy."

702.02 Other Dishonest Acts

Other forms of dishonesty including but not limited to fabricating information, furnishing false information, or reporting a false emergency to the University.

702.03 Forgery, Alteration, or Misuse

Forgery, alteration, or misuse of any University document, record, key, electronic device, or identification.

702.04 Theft, Misappropriation, Possession of Stolen Property, or Vandalism

Theft of, conversion of, destruction of, or damage to any property of the University, or any property of others while on University premises, or possession of any property when the student had knowledge or reasonably should have had knowledge that it was stolen.

702.05 Computer and/or Electronic Resource Theft, Misuse, or Abuse

Theft or abuse of University computers and other University electronic resources such as computer and electronic communications facilities, systems, and services. Abuses include (but are not limited to) unauthorized entry, use, transfer, or tampering with the communications or accounts of others; ~~or~~ interference with the work of others ~~or~~ and with operation of computer and electronic communications facilities, systems, and services; or copyright infringement (for example, the illegal file-sharing of copyrighted materials).

Use of University computer and electronic communications facilities, systems, or services that violates other University policies or campus regulations.

Contact the UC Merced Information Technology department for further information regarding acceptable use of electronic communications.

Please refer to the [UC Electronic Communications Policy](#) and [Digital Copyright Protection at UC](#) for the University's position on digital copyright.

702.06 Unauthorized Entry, Use, or Possession

Unauthorized entry to, possession of, receipt of, or use of any University services, equipment, resources, or properties, including the University's name, insignia, or seal.

702.07 Housing Facilities

Violation of policies, regulations, or rules governing University-owned, -operated, or -leased housing facilities or other housing facilities located on University property.

702.08 Assault, Threats of Violence, or Conduct Threatening Health or Safety

Physical abuse including but not limited to sexual assault, sex offenses, and other physical assault; threats of violence; or other conduct that threatens the health or safety of any person.

Students who file a complaint or grievance, who request an administrative remedy, who participate in an investigation, or who appear as witnesses during a hearing, have the right to be free from threats of violence or other conduct that threatens their health or safety.

702.09 Sexual Harassment

Harassment, defined as conduct that is so severe and/or pervasive, and objectively offensive, and that so substantially impairs a person's access to University programs or activities that the person is effectively denied equal access to the University's resources and opportunities.

Harassment includes, but is not limited to, conduct that is motivated on the basis of a person's race, color, national or ethnic origin, citizenship, sex, religion, age, sexual orientation, gender identity, pregnancy, marital status, ancestry, service in the uniformed services, physical or mental disability, medical condition, or perceived membership in any of these classifications. Pursuant to section 104.90, sanctions may be enhanced for conduct motivated on the basis of the above classifications.

For cases of harassment on the basis of sex, see also [*Policy on Sexual Harassment and Sexual Violence*](#).

702.10 Stalking

Stalking behavior in which a student repeatedly engages in a course of conduct directed at another person and makes a credible threat with the intent to place that person in reasonable fear for his or her safety, or the safety of his or her family; where the threat is reasonably determined by the University to seriously alarm, torment, or terrorize the person; and where the threat is additionally determined by the University to serve no legitimate purpose.

702.11

(Deleted on October 9, 2009)

702.12 Hazing

Participation in hazing or any method of initiation or pre-initiation into a campus organization or other activity engaged in by the organization or members of the organization at any time that causes, or is likely to cause, physical injury or personal degradation or disgrace resulting in psychological harm to any student or other person.

702.13 Obstruction or Disruption

Obstruction or disruption of teaching, research, administration, conduct procedures, or other University activities.

702.14 Disorderly or lewd conduct.

702.15 Disturbing the Peace

Participation in a disturbance of the peace or unlawful assembly.

702.16 Failure to Comply with Directions of Official, or Resisting or Obstructing Official

Failure to identify oneself to, or comply with the directions of, a University official or other public official acting in the performance of his or her duties while on University property or at official University functions; or resisting or obstructing such University or other public officials in the performance of or the attempt to perform their duties.

702.17 Unlawful Possession, Use or Distribution of Controlled Substances.

Unlawful manufacture, distribution, dispensing, possession, use, or sale of, or the attempted manufacture, distribution, dispensing, or sale of controlled substances, identified in federal and state law or regulations.

702.18 Possession, Use or Distribution of Alcohol in Violation of Policy

Manufacture, distribution, dispensing, possession, use, or sale of, or the attempted manufacture, distribution, dispensing, or sale of alcohol that is unlawful or otherwise prohibited by, or not in compliance with, University policy or campus regulations.

See UC Merced Alcohol Policy and Use Guidelines (under review/revision).

702.19 Possession, Use or Manufacture of Explosives or Destructive Devices

Possession, use, storage, or manufacture of explosives, firebombs, or other destructive devices.

702.20 Possession, Use, Storage, or Manufacture of Prohibited Weapons

Possession, use, or manufacture of a firearm or other weapon as prohibited by campus regulations.

Examples of weapons UC Merced prohibits include, but are not limited to, stun guns, tasers, retractable bladed knives, knives with a fixed blade over 2.5 inches, nunchucks, sling shots, bows and arrows (except as permitted for departmental demonstrations or classes), air guns (paint, BB, etc.), or any device which closely resembles a firearm. Any item or implement used aggressively or for violent purposes may be deemed a weapon. Mace and pepper spray may not be misused.

702.21 Violation of Conduct Action

Violation of the conditions contained in the terms of a conduct action imposed under these Policies or campus regulations.

702.22 Violation of Emergency Order or Suspension

Violation of the conditions contained in a written Notice of Emergency Suspension issued pursuant to Section 53.00 of these *Policies* or violation of orders issued pursuant to Section 52.00 of these *Policies*, during a declared state of emergency.

702.23 Unauthorized Preparation, Sale, or Distribution of Notes or Recordings of University Courses, or Copying of Course Materials

Selling, preparing, or distributing for any commercial purpose course lecture notes or video or audio recordings of any course unless authorized by the University in advance and explicitly permitted by the course instructor in writing. The unauthorized sale or commercial distribution of course notes or recordings by a student is a violation of these Policies whether or not it was the student or someone else who prepared the notes or recordings.

Copying for any commercial purpose handouts, readers or other course materials provided by an instructor as part of a University of California course unless authorized by the University in advance and explicitly permitted by the course instructor or the copyright holder in writing (if the instructor is not the copyright holder).

702.24 Intent to Terrorize

Conduct, where the actor means to communicate a serious expression of intent to terrorize, or acts in reckless disregard of the risk of terrorizing, one or more University students, faculty, or staff. 'Terrorize' means to cause a reasonable person to fear bodily harm or death, perpetrated by the actor or those acting under his/her control. 'Reckless disregard' means consciously disregarding a substantial risk. This section applies without regard to

whether the conduct is motivated by race, ethnicity, personal animosity, or other reasons. This section does not apply to conduct that constitutes the lawful defense of oneself, of another, or of property.

702.25 Expectation of Privacy

Making a video recording, audio recording, taking photographs, or streaming audio/video of any person in a location where the person has a reasonable expectation of privacy, without that person's knowledge and express consent.

Looking through a hole or opening, into, or otherwise viewing, by means of any instrumentality, the interior of a private location without the subject's knowledge and express consent.

Photographs and recordings made in private locations of sexual activity or that contain nudity, may not be posted online or otherwise shared or distributed in any manner without the knowledge and express consent of all recorded parties, even if the photograph or recording was originally made with the knowledge and express consent of those parties.

Making a video recording, audio recording, or streaming audio/video of private, non-public conversations and/or meetings, without the knowledge and express consent of all recorded parties.

These provisions do not extend to public events or discussions, nor to lawful official law or policy enforcement activities. These provisions may not be utilized to impinge upon the lawful exercise of constitutionally protected rights of freedom of speech or assembly.

Definitions:

"Express consent" is clear, unmistakable and voluntary consent that may be in written, oral or nonverbal form.

"Private locations" are settings where the person reasonably expected privacy. For example, in most cases the following are considered private locations: residential living quarters, bathrooms, locker rooms, and personal offices.

"Nudity" means the absence of an opaque covering which covers the genitals, pubic hair, buttocks, perineum, anus or anal region of any person or any portion of the breast at or below the areola thereof of any female person.

"Private, non-public conversations and/or meetings" include any communication carried on in circumstances that reasonably indicate that any party wants the communication to be confined to the parties, but excludes a communication made in a public gathering, or in any other circumstance in which the parties to the communication may reasonably expect that the communication may be overheard or recorded.

703.00 Student Discipline Procedures

703.10 Procedural Due Process

Procedural due process is basic to the proper enforcement of University policies and campus regulations. Chancellors shall establish and publish campus regulations providing for the handling of student conduct cases in accordance with basic standards of procedural due process. Consistent with this requirement, procedures specified in such regulations shall be appropriate to the nature of the case and the severity of the potential discipline.

703.11 Minimum Procedural Standards

When a formal hearing is deemed to be appropriate, campus implementing regulations shall provide the following minimum procedural standards to assure the accused student a fair hearing:

Written notice, including a brief statement of the factual basis of the charges, the University policies or campus regulations allegedly violated, and the time and place of the hearing, within a reasonable time before the hearing;

The opportunity for a prompt and fair hearing where the University shall bear the burden of proof, and at which the student shall have the opportunity to present documents and witnesses and to confront and cross-examine witnesses presented by the University; no inference shall be drawn from the silence of the accused;

A record of the hearing; an expeditious written decision based upon the preponderance of evidence, that shall be accompanied by a written summary of the findings of fact; and

An appeals process.

UC Merced's student conduct process and procedures can be found in the 600.00 section of UC Merced student and organization polices.

704.00 Administration of Student Discipline

704.10

Chancellors may impose discipline for violations of University policies or campus regulations whether or not such violations are also violations of law, and whether or not proceedings are or have been pending in the courts involving the same acts.

704.20

Each Chancellor may appoint faculty, student, or other advisory committees, or hearing officers, as specified in campus regulations, but the final authority for administration of student discipline rests with the Chancellor.

The UC Merced chancellor has delegated the administration of student discipline to the Office of Student Conduct within the Division of Student Affairs.

704.30

A student, as defined in Section 14.40 of these *Policies*, at one campus of the University, who is accused of violation of University policies or campus regulations on another campus of the University or at an official function of that campus, shall be subject to the disciplinary procedures of either the former or the latter campus as an outcome of conferral between designees of both campuses. The imposition of any recommendations for disciplinary sanctions arising from these procedures must be reviewed and approved by both campuses before the sanctions are imposed.

704.31

If an alleged violation of University policies occurs in connection with an official Universitywide function not on a campus, the student accused of the violation shall be subject to the disciplinary procedures of the campus at which the individual is a student, except in those cases in which the President directs otherwise.

704.40

The loss of University employment shall not be a form of discipline under these *Policies*. However, when student status is a condition of employment, the loss of student status will result in termination of the student's employment. This section is not intended to preclude the disclosure to other appropriate University officials of information relating to any student's conduct records if that information may be reasonably construed to have bearing on the student's suitability for a specific employment situation. This section is also not intended to preclude an employer from terminating a student's employment outside the disciplinary process.

704.50

In imposing discipline other than Suspension or Dismissal, access to housing and health services shall not be restricted unless the act that occasioned the discipline is appropriately related to the restriction.

704.60

If as a result of an official campus appeal it is determined that the student was improperly disciplined, the Chancellor shall, if requested by the student, have the record of the hearing sealed, and have any reference to the disciplinary process removed from the student's record. In such case, the record of the hearing may be used only in connection with legal proceedings. The Chancellor also may take other reasonable actions to ensure that the status of the student's relationship to the University shall not be adversely affected.

704.70

The results of any disciplinary action by the University that alleged a forcible or nonforcible sex offense, as defined in 34 CFR 668.46(c)(7), must be disclosed to both the alleged offender and the alleged victim. The scope of information to be provided under

this section shall be: (1) the University's final determination with respect to the alleged sex offense; and (2) any sanction that is imposed against the alleged offender.

704.71 [Rescinded October 13, 2005]

704.80

Whether or not a hearing is conducted, campuses may provide written notice to a student that his or her alleged behavior may have violated University policy or campus regulations and that, if repeated, such behavior will be subject to the disciplinary process. Evidence of the prior alleged behavior as detailed in the written notice may be introduced in a subsequent disciplinary action in order to enhance the penalty.

704.90

Sanctions [for any violations of Section 102.00, Grounds for Discipline] may be enhanced where an individual was selected because of the individual's race, color, national or ethnic origin, citizenship, sex, religion, age, sexual orientation, gender identity, pregnancy, marital status, ancestry, service in the uniformed services, physical or mental disability, medical condition, or perceived membership in any of these classifications.

705.00

Types of Student Disciplinary Action

When a student is found in violation of University policies or campus regulations, any of the following types of student disciplinary action may be imposed. Any sanction imposed should be appropriate to the violation, taking into consideration the context and seriousness of the violation.

705.01

Warning/Censure

Written notice or reprimand to the student that a violation of specified University policies or campus regulations has occurred and that continued or repeated violations of University policies or campus regulations may be cause for further conduct action, normally in the form of Conduct Probation, and/or Loss of Privileges and Exclusion from Activities, Suspension, or Dismissal.

1. [Rescinded May 17, 2002]

705.03

Disciplinary Probation

A status imposed for a specified period of time during which a student must demonstrate conduct that conforms to University standards of conduct. Conditions restricting the student's privileges or eligibility for activities may be imposed. Misconduct during the probationary period or violation of any conditions of the probation may result in further conduct action, normally in the form of Suspension or Dismissal.

705.04 Loss of Privileges and Exclusion from Activities

Exclusion from participation in designated privileges and activities for a specified period of time. Violation of any conditions in the written Notice of Loss of Privileges and Exclusion from Activities, or violation of University policies or campus regulations during the period of the sanction, may be cause for further conduct action, normally in the form of Probation, Suspension or Dismissal.

705.05 Suspension

Termination of student status at the campus for a specified period of time with reinstatement thereafter certain, provided that the student has complied with all conditions imposed as part of the suspension and provided that the student is otherwise qualified for reinstatement. Violation of the conditions of Suspension or of University policies or campus regulations during the period of Suspension may be cause for further conduct action, normally in the form of Dismissal.

A sanction of suspension is subject to the review and approval of the associate vice chancellor of Student Affairs.

705.06 Dismissal

Termination of student status for an indefinite period. Readmission to the University shall require the specified approval of the Chancellor of the campus to which a dismissed student has applied. Readmission after dismissal may be granted only under exceptional circumstances.

A sanction of dismissal is subject to the review and approval of the associate vice chancellor of Student Affairs.

705.07 Exclusion From Areas of the Campus or Official University Functions

Exclusion of a student as part of a conduct sanction from specified areas of the campus or other University-owned, -operated, or -leased facilities, or other facilities located on University property, or from official University functions, when there is reasonable cause to believe that the student's presence there will lead to physical abuse, threats of violence, or conduct that threatens the health or safety of any person on University property or at official University functions, or other disruptive activity incompatible with the orderly operation of the campus.

705.08 Interim Suspension

Exclusion from classes, or from other specified activities or areas of the campus, as set forth in the Notice of Interim Suspension, before final determination of an alleged violation. A student shall be restricted only to the minimum extent necessary when there

is reasonable cause to believe that the student's participation in University activities or presence at specified areas of the campus will lead to physical abuse, threats of violence, or conduct that threatens the health or safety of any person on University property or at official University functions, or other disruptive activity incompatible with the orderly operation of the campus. A student placed on Interim Suspension shall be given prompt notice of the charges, the duration of the Interim Suspension, and the opportunity for a prompt hearing on the Interim Suspension. Interim Suspension shall be reviewed by the Chancellor within twenty-four hours. If a student is found to have been unjustifiably placed on Interim Suspension, the University is committed to a policy whereby reasonable efforts are taken to assist an individual who has been disadvantaged with respect to employment or academic status.

Interim suspension may be invoked only by the vice chancellor or associate vice chancellor of Student Affairs.

705.09 Restitution

A requirement for restitution in the form of reimbursement may be imposed for expenses incurred by the University or other parties resulting from a violation of these policies. Such reimbursement may take the form of monetary payment or appropriate service to repair or otherwise compensate for damages. Restitution may be imposed on any student who alone, or through group or concerted activities, participates in conduct causing the damages or expenses.

705.10 Revocation of Degree

Subject to the concurrence of the Academic Senate, revocation of a degree obtained by fraud. Such revocation is subject to review on appeal by the Chancellor.

705.11 Other

Other disciplinary actions, such as monetary fines, community service, or holds on requests for transcripts, diplomas, or other student records to be sent to third parties, as set forth in campus regulations.

705.11a UC Merced campus-specific sanctions (in italics) follow:

705.11(a)(1) Delay of Graduation

Defined as the delaying the granting of a degree, after the student has completed all academic requirements, until the end of the specified period. Once the period of delay has elapsed, the degree will be awarded as of that date, provided that the student has complied with all conditions imposed as part of the delay of graduation and that he/she is otherwise qualified to graduate under degree requirements applicable at the time the delay was imposed. During the delay, the student may not enroll in any classes at UC

Merced. Violation of University policies or campus regulations during the delay may be cause for further conduct action, normally in the form of dismissal

705.11(a)(2) Name on File

Defined as a written record of a student violation reported to the Office of Student Conduct by other campus officials. *The student's name is reported to OSC after another campus official (e.g., faculty, Resident Advisor, or Bookstore staff) has met with the student regarding the misconduct. A "Name on File" is equivalent to a written Warning or Censure. The student is notified of the report and given an opportunity to respond. If the student does not respond, or if, after a response, OSC determines the report is supported by the evidence, the violation may be considered in assessing a sanction for any later similar offense.*

705.11(a)(3) Special Assignment

Defined as assignment of costs, labor, duties, educational projects, or other responsibilities that are appropriate in light of the violation, or relevant to the student's role on campus or living area. *Sanctions may include educational projects, research papers or personal essays, workshops or training, community service, or outreach project.*

705.11(a)(4) Educational Projects – *A student may be assigned to complete a specific educational task or project.*

705.11(a)(5) De-registration

Applies to registered campus organizations. Defined as "forfeit ...[of] registered status with the accompanying loss of rights and privileges." Such forfeiture shall remain in effect for the period of time specified in the Notice of De-registration.

705.11(a)(6) Deferred Separation, Deferred Suspension, and/or Deferred Dismissal

Defined as a delay in imposing a Suspension or Dismissal, which means that a Suspended or Dismissed student may be permitted to remain in school on condition that he/she agrees to waive the right to a formal fact-finding hearing for any new violation of specified conduct standards. The right to an investigative conference and informal disposition is not waived. If the student whose Suspension/Dismissal has been deferred is later reported again, and admits or is found in violation by a OSC officer of having committed a subsequent violation of specified conduct standards, the deferred Suspension or Dismissal may be implemented at that time without a formal hearing. "Deferred Separation" means that an OSC officer may impose any appropriate sanction, including.

Administrative Actions (these are not sanctions and do not result in a conduct record)

Administrative Holds - Administrative holds may be placed on students' registration, transcript, diploma, or graduation to ensure that they respond to OSC, and to enforce certain sanctions. Holds prevent students from registering or graduating, or from receiving copies of diplomas or transcripts, while a conduct matter is pending or while a sanction of suspension, dismissal, revocation of degree, or delay of graduation is in force.

Administrative Notice - An administrative notice provides official notice of University standards and policies, but does not imply a finding that the student has committed a violation, and does not constitute conduct action. If the student is referred subsequently for similar misconduct, the notice may be relevant to the student's knowledge of University and campus standards, policies, and regulations.

No Contact Directive – A student may be directed to abstain from any contact with a specific individual or group. Contact includes direct, indirect, or intentional contact. Direct, indirect, and intentional contact includes all forms of communication including but not limited to phone calls, text messages, verbal communication, social networks, emails, letters, contact via friends or family or contact with the restricted individual's friends or family.

706.00

Posting Suspension or Dismissal on Academic Transcripts

When, as a result of violations of the Policy on Student Conduct and Discipline, a student is suspended or dismissed, a notation that the discipline was imposed must be posted on the academic transcript for the duration of the suspension or dismissal. Thereafter, notations of Suspension or Dismissal reflected on a student's transcript may be removed as set forth in campus regulations.

At UC Merced, suspension and dismissal must be posted on the student's academic transcript for the duration of the sanction. Suspensions are annotated on student transcripts with the statement "READMISSION PRIOR TO [Semester in which student may re-enroll in UC Merced] SUBJECT TO APPROVAL OF DIRECTOR OF STUDENT CONDUCT." The transcripts of Dismissed students bear

the statement “READMISSION TO THE UNIVERSITY OF CALIFORNIA SUBJECT TO APPROVAL OF THE CHANCELLOR.” Notations of Suspension are removed at the end of the suspension, and notation of dismissal is removed if the student is readmitted to UC Merced.