PPSM Policy 70 Complaint Resolution

Local Implementing Procedures

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<th>Responsible Units:</th>
<th>Employee &amp; Labor Relations</th>
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<td>Responsible Office:</td>
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<td>Scope:</td>
<td>Professional &amp; Support Staff, Managers and Senior Professionals</td>
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I. References - SUMMARY

PPSM 70 – Complaint Resolution
PPSM 63 – Investigatory Leave

UC Santa Barbara’s Local Personnel Policies for Staff Members (LPPSM) provide additional guidance and implementing procedures for the Systemwide PPSM. This local procedure provides additional information or procedural steps not included in the corresponding systemwide policy. This procedure provides campus direction and authority for resolving complaints made by employees in the Professional & Support Staff (PSS) and Managers & Senior Professionals salary grades A-F (MSP A-F) personnel groups pursuant to Systemwide Personnel Policies for Staff Members Policy 70 Complaint Resolution. This procedure should be read in conjunction with the systemwide policy.

II. DEFINITIONS

Not applicable.

I. III. REFERENCES

PPSM 70 - Complaint Resolution

IV. RESPONSIBILITY

The Director of Human Resources is responsible for administering this procedure, in consultation with the Vice Chancellor of Administrative Services.
V. II. POLICY SUMMARY—PROCEDURES TEXT

In general, employees are encouraged to resolve issues informally with their immediate supervisor. However, attempts at informal resolution do not waive time limits to file or appeal formal complaints under this implementing procedure. Such time limits may be waived only by prior written agreement between the employee, supervisor and Employee and Labor Relations.

A. Administration of Policy—Procedures. Employee and Labor Relations is the office designated to administer this policy procedure, including establishing the time limits for filing and appealing complaints, and for official receipt of written complaints and appeals. Pursuant to PPSM 70, Employee and Labor Relations determines whether a complaint is timely, whether its claims are within scope, and whether the complaint qualifies for review through Step II or Step III. Employee and Labor Relations is the office of record for documentation related to all complaints and appeals.

B. Filing Requirements. A complaint is considered “filed” on the date it is postmarked, the date it is personally delivered, the date it is faxed, or the date it is emailed. To be considered complete, a signed, original complaint form must also be received and time stamped in Human Resources during business hours to be eligible for review.

B.C. Informal Resolution. At any stage of the process after the filing of a complaint, the employee or University may attempt to resolve the complaint informally. When the employee and the University agree to pursue informal resolution, the University may suspend deadlines during these efforts. Employee and Labor Relations will provide written confirmation to the employee of any suspension of deadlines. If the employee or the University wishes to terminate informal resolution and resume formal processing of the complaint, the employee and the University must provide written notification to Employee and Labor Relations. Written notification must be provided to the other party Employee and Labor Relations by mail, personal delivery or email facsimile. Formal processing of the complaint will resume 10 calendar days after the issuance of such receipt of written notification by Employee and Labor Relations.

C. Right to Representation. An employee is entitled to be represented by the person of her/his choice at every stage of the complaint process. When an employee decides to become represented, s/he shall furnish the name, business address, email address and telephone number of the representative in writing to Employee and Labor Relations.

D. Pay Status. An employee shall be afforded reasonable time on pay status for actual meeting time to attend meetings convened by the University and to attend hearings under PPSM 70, provided the meeting(s) and/or hearings(s) take place during the employee’s regularly scheduled work hours. An employee is required to obtain prior approval from the applicable supervisor(s) for any absences from work. The following shall occur during an employee’s non-working hours: preparation of a complaint, preparation for meetings, meetings with a representative and/or preparation for hearing.
D. Withdrawal of Complaint. An employee may withdraw a complaint, in whole or in part, at any time during the formal complaint process pursuant to PPSM 70, Section III.H. Written notification of the decision to withdraw the complaint must be provided to Employee and Labor Relations. Once written notification has been provided, withdrawal is irrevocable.

E. Failure to Participate. If an employee fails to participate in a timely manner in key aspects of the review process, the University will consider the complaint resolved and closed on the basis of the last University response. If a Step I response has not yet been provided to the employee, the entire complaint may be dismissed.

Key aspects of the review process include (as applicable), but are not limited to, scheduling of and participation in factfinding, selection of the hearing process, scheduling and attendance at the hearing, and responding on a timely basis to communications from Employee and Labor Relations.

Employee and Labor Relations will notify the employee in writing when his or her complaint is deemed dismissed or closed due to failure to participate in the process. The employee may appeal this decision pursuant to PPSM 70, Section E.

G. Right to Representation. An employee is entitled to be represented by the person of her/his choice at every stage of the complaint process. When an employee decides to become represented, s/he shall furnish the name, business address, email address and telephone number of the representative in writing to Employee and Labor Relations.

H. Pay Status. An employee shall be afforded reasonable time on paid status for actual meeting time to attend meetings convened by the University and to attend hearings under PPSM 70, provided the meeting(s) and/or hearings(s) take place during the employees regularly scheduled work hours. An employee is required to obtain prior approval from the applicable supervisor(s) for any absences from work during normal work hours. The following shall occur during an employee’s non-working hours: preparation of a complaint, preparation for meetings, meetings with a representative and/or preparation for hearing.

E.I. Retaliation. It is a violation of University policy to retaliate against any employee for using or participating in the complaint resolution process.

VI. VI. COMPLAINT REVIEW PROCESS- ALL COMPLAINTS

This procedure provides for a systematic method to address eligible written complaints through the applicable administrative levels. At each step of the procedure, the parties are encouraged to resolve the complaint. Employee and Labor Relations is responsible for coordinating all aspects of the complaint resolution process.

A. Initial Assessment Threshold Review. An employee’s complaint must be filed with Employee and Labor Relations using the form provided in Appendix C. The written
Proposed Changes- Red Line

complaint must include an original signature and all the information required in PPSM 70, Sections V.B. or K, as applicable.

1. Time Limits. The employee must file a written complaint with the Employee and Labor Relations office within 30 calendar days after the date on which the employee knew or could reasonably be expected to have known of the event or action that gave rise to the complaint, or within 30 calendar days after the date of separation from University employment, whichever is earlier.

For a complaint regarding layoff, the employee must file the written complaint within 30 calendar days after the effective date of the layoff.

If the complaint alleges a series of policy violations or a pattern of management actions that are subject to review under this policy, the complaint must be filed within 30 calendar days after the most recent policy violation or management action.

The complaint is considered “filed” on the date it is postmarked, it is or the date and time it is personally delivered, the date it is faxed, or the date it is emailed. To be considered complete, a signed, original complaint form must also be received and time stamped in Human Resources during business hours to be eligible for review.

1. Supplemental Information. An employee may be provided up to an additional 15 calendar days to provide supplemental information required to process a timely filed complaint or appeal, with prior approval of Employee and Labor Relations. If the supplemental information is not provided in the timeframe established by Employee and Labor Relations, the incomplete claims will not be accepted for review.

2. Consolidation of Complaints. Multiple complaints regarding or arising out of the same or related action or issues, in the same department, may be consolidated by Employee and Labor Relations into one complaint for review under PPSM 70.

B. Appeals to Office of the President. An employee may only appeal the following decisions of Employee and Labor Relations to the Office of the President, Human Resources: 1) whether the complaint was timely, 2) whether the complaint was within the scope of PPSM 70, 3) whether the remedy granted as an early resolution (PPSM 70, Section G) constitutes a make whole remedy, and/or 4) whether the complaint warranted dismissal or closure due to the employee’s failure to participate (PPSM 70, Section I). The employee must timely file a written appeal within 20 calendar days of the date of Employee and Labor Relations’ decision. The appeal must include all information identified in PPSM 70, Section E.

B. C. Sexual Violence and Sexual Harassment Complaints. If an employee chooses to file a complaint regarding sexual harassment under both this policy and the University of California Sexual Harassment Complaint Resolution Procedures and the complaint under the University of California Sexual Harassment Complaint Resolution Procedures is filed before the date the Step 1 response issues under this policy, the investigation
conducted under the University of California Sexual Harassment Complaint Resolution Procedures. The review of the Title IX and Sexual Harassment Policy Compliance Office (Title IX Office) will serve as the Step I response under this procedure policy. The Title IX Office of Equal Opportunity & Sexual Harassment will send its final report to the employee and the Employee and Labor Relations Office. The Employee and Labor Relations Office will then notify the employee that Step I of this policy procedure has been completed.

In the event an employee files a complaint regarding sexual harassment under PPSM 70 and subsequently files a complaint under the University of California Sexual Harassment Complaint Resolution Procedures on or after the date the PPSM 70 Step I response issues, both processes will proceed simultaneously unless either process is placed in abeyance as permitted by the policy.

If the employee believes that any of the sexual harassment claims alleged in the complaint are not resolved after issuance of the Step I response, the employee may submit a written appeal to Step II pursuant to the applicable section of PPSM 70. An employee’s request to move the complaint to Step II must be filed with Employee and Labor Relations within 15 calendar days from the date of the notice from Employee and Labor Relations that Step I of this policy procedure has been completed.

IV. VII. COMPLAINT REVIEW PROCESS- PROFESSIONAL & SUPPORT STAFF

A. Step I – Formal Review – Professional & Support Staff (PSS) only. If eligible for processing, the employee’s written complaint shall be forwarded to the department head by Employee and Labor Relations. The department head may or may not elect to hold a Step I meeting. If a Step I meeting is held, the department head’s written response shall issue to the employee/complainant within 15 calendar days of the Step I meeting. If a Step I meeting is not held, a written response shall issue to the employee within 15 calendar days of the department head’s receipt of the complaint.

B. Step II – Appeal Professional & Support Staff (PSS) only. Where eligible, an employee’s written request for review of the complaint at Step II must be received by Employee and Labor Relations within 15 calendar days following issuance of the Step I response. Appeals must be received and time stamped in Human Resources during business hours to be considered timely filed. The employee’s written request for review must state which claims alleged in the complaint were not satisfactorily resolved at Step I, the reasons the claims were not satisfactorily resolved, and specify the remedy requested. The requested remedy cannot exceed the remedy requested in the original complaint. At the time of appeal, employees must select one of the following options:

1. Administrative Review. If the employee selects administrative review, the employee’s written request for review must state which claims alleged in the complaint were not satisfactorily resolved at Step I, the reasons the claims were not satisfactorily resolved, and specify the remedy requested which cannot exceed the
remedy requested in the original complaint. If eligible for processing, the employee's request for review shall be forwarded by Employee and Labor Relations to the campus divisional Vice Chancellor or designee. The Vice Chancellor or designee may or may not elect to hold an administrative review meeting. If a meeting is held, the Vice Chancellor or designee’s written response shall issue to the employee within 15 calendar days of the meeting. If a meeting is not held, a written response shall issue to the employee within 15 calendar days of the Vice Chancellor or designee’s receipt of the request for review.

2. Factfinding. If the employee selects factfinding, the employee’s request for review must state which claims alleged in the complaint were not satisfactorily resolved at Step I and specify the remedy requested which cannot exceed the remedy requested in the original complaint. If eligible for processing, the employee’s request for factfinding will be conducted in accordance with the following procedures:

a. Factfinders shall be appointed by the The department and employee will be notified in writing of the selection of the Factfinder by the Director of Human Resources, and shall be UCSB career employees unless the employee and the Vice Chancellor or designee agree, in writing, to the appointment of a non-UCSB Factfinder. The costs for a non-UCSB Factfinder shall be shared equally by the employee and the department.

b. If either the department or the employee has concerns about a possible conflict of interest on the part of the Factfinder, those concerns must be submitted in writing to the Director of Human Resources within 10 days of the date of written notification of the appointment of the Factfinder. The Director of Human Resources will determine whether an actual conflict of interest exists. If it is determined that an actual conflict of interest exists, a different Factfinder will be appointed pursuant to these procedures.

c. The procedures for the campus’ factfinding process are provided in Appendix A.

d. At the conclusion of the factfinding, the Factfinder shall submit a written report to the Vice Chancellor or designee. The factfinding report, with findings of fact regarding the issues in the complaint, must be issued to the Vice Chancellor or designee within 30-45 calendar days of appointment of the Factfinder. The Factfinder may request extensions of time to complete the factfinding from Employee and Labor Relations.

e. Upon consideration of the employee's written complaint and request for review at Step II and the Factfinder's report, the Vice Chancellor or designee, shall notify the employee and the department head in writing of the Step II decision.

f. The Step II decision shall be made within 15 calendar days of the Vice Chancellor or designee’s receipt of the Factfinder's written report.

g. If the employee selects factfinding, the employee is not eligible to appeal the decision to Step III, even if the complaint alleged a policy violation eligible for review at Step III.

3. Proceed Directly to Step III (Career Employees Only). If the University agrees, a career employee may proceed directly to Step III.
C. Step III - Hearing. **PSS Career Employees Only.** If a career employee’s complaint alleges a policy violation eligible for review at Step III (see PPSM 70, Section J.3) and those claims have not been satisfactorily resolved at Step I or Step II, the employee may submit the unresolved claims for a final and binding decision by a hearing officer, provided that the employee did not select the factfinding option at Step II.

1. **Request for Hearing.** An employee's written request for a hearing must be received by Employee and Labor Relations within 15 calendar days of issuance of the Vice Chancellor or designee’s **STEP Step II written** decision. Requests must be received and time stamped in Human Resources during business hours to be considered timely filed.

2. **Hearing Officer.** The employee may elect to have his/her case heard by either a University hearing officer, appointed by the Director of Human Resources, or a non-University hearing officer if—who will be mutually selected and agreed to in writing by the employee and the Vice Chancellor or designee. The costs for a non-University hearing officer shall be shared equally by the employee and the department.

3. **Conflict of Interest.** If either the department or the employee has concerns about a possible conflict of interest on the part of the hearing officer, those concerns must be submitted in writing to the Director of Human Resources within 10 days of the date of written notification of the appointment of the hearing officer. The Director of Human Resources will determine whether an actual conflict of interest exists. If it is determined that an actual conflict of interest exists, a different hearing officer will be appointed pursuant to these procedures.

4. **Hearing Procedures.** The procedures for the campus’ hearing process are provided in Appendix B.

5. **Written Decision.** At the conclusion of the hearing, the hearing officer shall submit a written decision to both the Vice Chancellor or designee and the employee/complainant. The decision of the hearing officer is final and binding on the University and the employee, and concludes the review of the complaint under University policy.

V. VIII. COMPLAINT REVIEW PROCESS- MANAGERS & SENIOR PROFESSIONALS

A. **Step I – Formal Review.** Managers & Senior Professionals (MSP) salary grades A-F only. If eligible for processing, the employee’s written complaint shall be forwarded to the department head by Employee and Labor Relations. The department head may or may not elect to hold a Step I meeting. If a Step I meeting is held, the department head’s written response shall issue to the employee/complainant within 15 calendar days of the Step I meeting. If a Step I meeting is not held, a written response shall issue to the employee within 15 calendar days of the department head’s receipt of the complaint.

B. **Step II – Appeal.** Managers & Senior Professionals (MSP) salary grades A-F only. Where eligible, an employee’s written request for review of the complaint at Step II must be received by Employee and Labor Relations within 15 calendar days following
issuance of the Step I response. Appeals must be received and time stamped in Human Resources during business hours to be considered timely filed. The employee’s appeal to Step II must state which claims alleged in the complaint were not satisfactorily resolved at Step I and specify the remedy requested. The remedy requested which cannot exceed the remedy requested in the original complaint.

1. **Administrative Review.** If eligible for processing, the employee’s request for review shall be forwarded by Employee and Labor Relations to the campus divisional Vice Chancellor or designee. The Vice Chancellor or designee may or may not elect to hold an administrative review meeting. If a meeting is held, the Vice Chancellor or designee’s written response shall issue to the employee within 15 calendar days of the meeting. If a meeting is not held, a written response shall issue to the employee within 15 calendar days of the Vice Chancellor or designee’s receipt of the request for review.

2. **Proceed Directly to Step III (Career Employees Only).** If the University agrees, a career employee may proceed directly to Step III.

C. **Step III - Factfinding - MSP Career Employees salary grades A-F only.** If the employee selects factfinding, the written appeal must state which claims alleged in the complaint were not satisfactorily resolved at Step I or Step II, the reasons the claims were not satisfactorily resolved, and specify the remedy requested. The remedy requested which cannot exceed the remedy requested in the original complaint.

1. **Factfinders shall be appointed by the Factfinder Selection.** The department and employee will be notified in writing of the selection of the Factfinder by the Director of Human Resources, and shall be UCSB career employees unless the employee and the Vice Chancellor or designee agree, in writing, to the appointment of a non-UCSB Factfinder. The costs for a non-UCSB Factfinder shall be shared equally by the employee and the department.

2. **Conflict of Interest.** If either the department or the employee has concerns about a possible conflict of interest on the part of the Factfinder, those concerns must be submitted in writing to the Director of Human Resources within 10 days of the date of written notification of the appointment of the Factfinder. The Director of Human Resources will determine whether an actual conflict of interest exists. If it is determined that an actual conflict of interest exists, a different Factfinder will be appointed pursuant to these procedures.

3. The procedures for the campus’ factfinding process are provided in Appendix A.

4. **Factfinder Report.** At the conclusion of the factfinding, the Factfinder shall submit a written report to the Vice Chancellor or designee. The factfinding report, with findings of fact regarding the issues in the complaint, must be issued to the Vice Chancellor or designee within 45 calendar days of appointment of the Factfinder. The Factfinder may request extensions of time to complete the factfinding from Employee and Labor Relations.

5. **Written Decision.** Upon consideration of the employee’s written complaint and request for review at Step II and the Factfinder’s report, the Vice Chancellor or
designee, shall notify the employee and the department head in writing of the Step III decision.
5. The Step III decision shall be made within 15 calendar days of the Vice Chancellor or designee’s receipt of the Factfinder's written report.
6. The Step III decision is final and binding and concludes the review of the complaint under UCSB policy.