

## General University Policy Regarding Academic Appointment: APM - 035 Affirmative Action and Nondiscrimination in Employment

### 035-0 Policy

#### a. Nondiscrimination

It is the policy of the University not to engage in discrimination against or harassment of any person employed or seeking employment with the University of California on the basis of race, color, national origin, religion, sex, gender, gender expression, gender identity, pregnancy<sup>1</sup> physical or mental disability, medical condition (cancer-related or genetic characteristics), genetic information (including family medical history), ancestry, marital status, age, sexual orientation, citizenship, service in the uniformed services<sup>2</sup>, or off-duty cannabis use (as prohibited by California Government Code section 12954)<sup>3</sup>. This policy is intended to be consistent with the provisions of applicable State and Federal laws and University policies. Academic personnel are covered by the [University of California Anti-Discrimination Policy](#), which is a Presidential Policy covering all faculty and other academic appointees, students, and staff.

#### b. Retaliation

University policy also prohibits retaliation against any employee or person seeking employment 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. Academic personnel are covered by the [University of California Anti-Discrimination Policy](#), which is a Presidential Policy covering all faculty and other academic appointees, students, and staff.

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<sup>1</sup> Pregnancy includes pregnancy, childbirth, lactation, and medical conditions related to pregnancy or childbirth.

<sup>2</sup> “Service in the uniformed services” as defined by the Uniformed Services Employment and Reemployment Rights Act of 10994 (USERRA), as well as state military and naval service.

<sup>3</sup> Employees are not permitted to possess or use cannabis or be impaired on the job; however, employer-required drug screening may not rely on tests that measure nonpsychoactive cannabis metabolites. Cal. Gov’t Code § 12954. Employees in the building and construction trades and applicants or employees hired for positions that require a federal government background investigation or security clearance in accordance with regulations issued by the U.S. Department of Defense pursuant to Part 117 of Title 32 of the Code of Federal Regulations or equivalent regulations applicable to other agencies are exempt from protections regarding off-duty cannabis use and testing limitations.

**c. Sexual Harassment**

The University of California is committed to creating and maintaining a community in which all persons who participate in University programs and activities can work together in an atmosphere free of all forms of harassment, exploitation or intimidation, including sexual. Specifically, every member of the University community should be aware that the University is strongly opposed to sexual harassment and that such behavior is prohibited by law and by University policy. It is the intention of the University to take whatever action may be needed to prevent, correct and, if necessary, discipline behavior which violates this policy. Academic personnel are covered by the [University of California Policy on Sexual Harassment and Sexual Violence](#), which is a Presidential Policy covering all faculty and other academic appointees, students, and staff.

**d. Complaints**

Upon an employee's request, the campus academic affairs office shall provide information regarding applicable policies and procedures for resolving complaints of discrimination, harassment or retaliation and for pursuing available remedies.

**e. Affirmative Action**

It is the policy of the University of California to undertake affirmative action, consistent with its obligations as a Federal contractor, for minorities and women, for persons with disabilities and for protected veterans.<sup>4</sup> The University commits itself to apply every good faith effort to achieve prompt and full utilization of these groups 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 shall 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 shall be reviewed and approved by the Office of the President and the Office of the General Counsel before they are officially promulgated.

**f. 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 part of their essential job functions cannot disclose the pay of other employees or applicants to individuals who do not otherwise

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<sup>4</sup> Protected veterans includes veterans with disabilities, recently separated veterans, Vietnam era veterans, veterans who served on active duty in the U.S. Military, Ground, Naval or Air Service during a war or in a campaign or expedition for which a campaign badge has been authorized, or Armed Forces service medal veterans.

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 University, or (c) consistent with the University's legal duty to furnish information.

The University will not request or rely on an applicant or candidate's salary history, including compensation and benefits, in determining salary or whether to offer employment. The University also will provide the pay scale for a position in all job postings.

To promote accountability and transparency, the University may disclose employee compensation information in accordance with the University's policy on [Public Disclosure of Compensation Information](#).

### **Revision History**

January 1, 2024:

- Technical revisions to add nondiscrimination for off-duty cannabis use consistent with Assembly Bill 2188 (2022) which added Section 12954 to the Government Code.
- Appendix A, University of California Policy on Sexual Harassment and Sexual Violence, was deleted and incorporated into policy.
- Moved language regarding pay transparency from the systemwide Anti-Discrimination Policy to the APM because the new Anti-Discrimination Policy, issued effective February 20, 2024, applies to students and other non-employees.

For details on prior revisions, please visit the [Academic Personnel and Programs website](#).