

## UCR HAS A “SPEAK-UP” CULTURE; WE DO NOT TOLERATE RETALIATION

*These FAQs explain UCR’s protections for those who “blow the whistle” or file a complaint or report. These FAQs are informed by and designed to promote compliance with UCR’s Principles of Community, UCR’s Discrimination, Harassment and Retaliation Complaint and Resolution Policy, and the UC Policy on Sexual Violence and Sexual Harassment, Whistleblower Policy, and Standards of Ethical Conduct, but the FAQs do not fully communicate all provisions of all relevant laws and policies; specific instances of retaliation will be handled as appropriate in accordance with those laws or policies.*

### ***What is does it mean to have a “speak-up” culture?***

In a healthy workplace or on a campus committed to doing the right thing, people are expected and encouraged to voice concerns and to draw attention to problems and misconduct. This is how the concerns and problems get fixed.

There are lots of barriers to people speaking up or blowing the whistle:

- People worry that nothing will be done.
- People worry that too much will be done—they worry about what might happen to the person they complain about.
- People often want to avoid conflict.
- People fear negative consequences for themselves, if they report.

A speak-up culture is one where the barriers to “blowing the whistle” or raising a complaint are recognized and steps taken to address them. A speak-up culture has zero tolerance for retaliation.

### ***What is retaliation and why is it a problem?***

Generally, retaliation is negative action taken against someone who has engaged in a **protected activity** such as filing a complaint or report or acting as a witness in a hearing or investigation. To put it another way, someone who has filed a complaint, acted as a witness, or engaged in another form of **protected activity** experiences retaliation when they are subject to an **adverse action** taken because they had engaged in the protected activity.

Retaliation is a problem because if it occurs – or if people reasonably fear it—this means that civil rights violations, sexual violence, improper governmental activities and other issues will go unreported, undetected and unaddressed.

### ***Who is protected from retaliation?***

Anyone who engages in a **protected activity, such as filing a complaint, making a report, testifying in a hearing, or participating in any investigation process** is protected from retaliation. They are protected not only from adverse action taken against them personally, but also adverse action against someone closely associated with them, such as a spouse.

They are protected from retaliation even if the complaint or report is not substantiated.

### ***What is a “protected activity”?***

The most common protected activity is filing a good-faith report under a UC or campus complaint procedure. Other protected activities include:

- Acting as a witness in an investigation or complaint process.
- Taking part in a hearing or an appeal.
- Preparing to make a report or a complaint, including statements to others or consultations that may lead to someone filing a complaint.

Being the subject or respondent in an investigation is **not** a protected activity, but subjects are protected from harassment and may not be retaliated against for participating (or not) in a complaint process.

### ***What is “adverse action”?***

Generally, adverse action is anything that would deter or discourage a reasonable person (in the circumstances) from filing a complaint or engaging in other protected activity – if the action is taken because of the protected activity. An adverse action is any attempt to intimidate, threaten, coerce, or discriminate against any individual who has exercised their rights. Petty slights, minor annoyances, bad manners and trivial inconveniences do **not** count as adverse actions. Activities considered adverse actions are prohibited even if the action does not deter an individual from engaging in a protected action.

Some examples of possible adverse actions:

- Attempting to intimidate someone into not pursuing a grievance or complaint.
- An investigation subject (respondent) starts a “smear campaign” against someone whom they believe to have been a witness in the investigation, speaking negatively about them.
- Increasing scrutiny of their attendance or performance or by excluding them from meetings or events.
- Taking legal action on the basis of statements made during or leading to a grievance or complaint resolution process.
- Being denied a job or a promotion.
- Getting removed from a lab or a work team.
- Being denied a positive letter of recommendation or reference.

### **How can I avoid retaliation?**

Help make sure that when someone makes a complaint or report, they feel supported and their rights respected. Avoid anything that is, or could seem to be, punishing or retributive towards the person who filed the complaint or anyone else protected from retaliation. If you become aware of adverse action being taken, speak up about it—don’t let retaliation continue.

If you are the subject of an investigation process (sometimes called a respondent), you are free to defend yourself in that investigation process by sharing whatever you believe to be relevant with the investigator or any hearing officer(s). But criticizing the complainant (or a witness) publicly could constitute retaliation. Maintaining confidentiality can help prevent retaliation.