

ARTICLE 29

CONDUCT INVESTIGATIONS

29.1 Conduct Investigations

29.1.1 A “conduct investigation” is a District-initiated investigation of a faculty member alleged to have engaged in misconduct, based on information received from a formal or informal complaint, manager observations, or other credible sources of information.

29.1.2 The District has the authority and obligation to investigate complaints, reports, or other credible information that a faculty member has engaged in misconduct.

Faculty members have an obligation to cooperate with investigations and to answer questions truthfully. All parties to a conduct investigation, including investigators, respondents, and witnesses, will adhere to the highest standards of integrity and maintain professional courtesy throughout the process.

29.1.3 Notifications to Respondent

29.1.3.1 Prior to conducting any investigatory interview of a bargaining unit member, the District will send the member an Employee Notification Letter.

29.1.3.1.1 The Employee Notification Letter will be delivered electronically (by email).

29.1.3.1.2 The member shall be provided with notice of his or her right to representation.

29.1.3.1.3 The Employee Notification Letter will provide the following information:

29.1.3.1.3.1 The District takes a neutral stance when investigating possible misconduct, and no findings of wrongdoing have been made;

29.1.3.1.3.2 The District maintains the confidentiality of the investigation to the fullest extent possible;

29.1.3.1.3.3 A description of timelines for the investigation;

29.1.3.1.3.4 District policy and law prohibit retaliation of any kind against anyone involved in the investigation;

29.1.3.1.3.5 A summary of the interview subject matter, including a detailed summary of the complaint and/or subject matter under investigation, as follows:

29.1.3.1.3.5.1 If appropriate, and at the discretion of the Chancellor or designee, the name of the complainant(s), or individual(s) whose concern(s) caused the District to initiate the investigation. To the extent that the contract calls for greater notice, the contract prevails.

29.1.3.1.3.5.2 What allegedly occurred. The faculty member shall be entitled to a description of the subject matter and alleged conduct or actions at issue in the investigation.

29.1.3.1.3.5.3 When the incident(s) allegedly occurred. The notice shall be as specific as possible, based on the information available at the time the notice is given.

29.1.3.1.3.5.4 Where the incident(s) allegedly occurred. The notice shall be as specific as possible, based on the information available at the time the notice is given.

29.1.3.1.3.5.5 This information shall be current and accurate at the time of the interview. If, after interviewing the faculty member, the District learns of other allegations and seeks to re-interview the faculty member, the faculty member shall be provided with a new summary of the subject matter of the interview within a reasonable amount of time prior to the interview.

29.1.3.1.3.5.6 If prior to interviewing the faculty member, the District learns of other allegations it wishes to cover during the interview, the District shall provide the faculty member with an updated summary of the subject matter of the interview within a reasonable amount of time prior to the interview. If, after receiving an updated summary of the subject matter of the interview, a faculty member requests additional time to prepare for the interview (including time to consult UF representatives or legal counsel), the member shall be afforded no less than three days prior to the interview, unless issues of safety and security preclude the delay.

29.1.3.1.3.5.7 The District may elect to provide a summary of the complaint and/or subject matter under investigation, as described above, orally rather than in writing.

In such a case, the Employee Notification Letter should include a written invitation to a meeting whose purpose is clearly described as solely and exclusively to deliver the summary prior to any investigatory interview. UF shall be informed of any such meeting, and a UF representative shall be included in the meeting if the faculty member elects to be accompanied by a representative.

29.1.3.2 Prior to conducting any investigatory interview, the District will notify UF by providing a Union Notification Letter (UNL). If the member authorizes disclosure, all communications to the member regarding the investigation shall be copied to the UF. If the member does not authorize disclosure, UF will be notified that the member has declined representation.

29.1.3.2.1 When UF represents the faculty member under investigation, the District will provide UF with the following information within a reasonable amount of time prior to the investigatory interview, unless nondisclosure is authorized under 29.1.3.2.2

29.1.3.2.1.1 A written summary of the allegations with as much specificity as possible, based on the information available at the time the notice is given;

29.1.3.2.1.2 Additional information requested by UF in its representation of the faculty member under investigation, as appropriate;

29.1.3.2.1.3 District may elect to provide information to the UF orally rather than in writing.

29.1.3.2.2 Nondisclosure: The District will provide a summary with some details left out if it concludes that disclosure is not allowable or otherwise determines that it has a compelling reason permitted by law not to disclose, based on specific facts of the matter. If the District does not disclose any or all of the information listed above, it shall promptly notify UF in writing of the basis for the decision and offer to meet and confer with UF to identify information it is able to provide that meets UF's representational needs. The District will seek to accommodate UF requests for information prior to investigatory interviews through redaction or other means (such as agreements that may limit the scope of how some information provided to UF may be used or with whom it can be shared).

29.1.3.3 Additional Notice Requirements When Faculty Member is Placed on Involuntary Paid Administrative Leave

Where the District determines that it is appropriate to place a faculty member on paid administrative leave prior to completing an investigation of alleged misconduct, the member shall be provided (in addition to the Employee Notification Letter as described above) with an explanation detailing the reasons the faculty member has been placed on leave (see 18.2.3). The Notice of Leave shall include an explanation that while administrative leave constitutes a directive to stay away from the workplace, this does not apply to the UF Office, nor are faculty members precluded from contacting UF representatives while on leave. Faculty on Administrative Leave who visit the UF Office shall be escorted on and off campus by a UF representative.

29.1.3.3.1 Per Ed Code 87623, each academic employee who is subject to accusations of misconduct is entitled to be provided with the general nature of the accusations made against him or her at least two business days before the employee is placed on involuntary paid administrative leave. At least two business days before he or she is placed on involuntary paid administrative leave, the employee shall be notified in writing of the general nature of the allegation or allegations of misconduct upon which the decision to place the employee on involuntary paid administrative leave is based.

The requirements do not apply in the event of a serious risk of physical danger or other necessity arising from the specific allegations, and the employee may immediately be placed on involuntary paid administrative leave. The employee shall be provided with, at minimum, the general nature of the accusations made against him or her within five business days of the employee being placed on involuntary paid administrative leave.

29.1.3.4 Faculty members who will be interviewed as witnesses in any district investigation of alleged misconduct but who are not themselves respondents (in other words when there has been no allegation made against the members nor any reason for investigators to suspect misconduct on their parts) are not required to receive an Employee Notification Packet. However, prior to the investigatory interview, faculty members who serve as witnesses must be informed as follows:

29.1.3.4.1 that they are not the subject of the complaint;

29.1.3.4.2 that they have the right to consult a UF representative prior to or after the interview;

29.1.3.4.3 that District policy and law forbid retaliation of any kind by any party for participating in a conduct investigation.

29.1.4 Scheduling Interviews

29.1.4.1 Faculty should be given at least three days' notice prior to any investigatory interview. For faculty who elect to be represented at an interview by UF, the interview must be scheduled when a UF representative is available.

29.1.4.2 Interviews must be scheduled during working hours on regular faculty service days, unless exceptions are agreed to by all parties. No faculty member may be disciplined for failing to attend an interview during winter or summer break.

29.1.4.3 Respondents and witnesses may request a short break during an investigatory interview.

29.1.5 Representation at Interviews

29.1.5.1 The respondent has the right to representation at an investigatory interview.

29.1.5.2 The District may allow a faculty member called as a witness to bring a UF representative to an investigatory interview with prior approval.

29.1.6 Confidentiality

29.1.6.1 The District shall maintain the confidentiality of investigations to the fullest extent possible. However, investigating complaints necessarily requires certain disclosures, which may include the name of the complainant and details about alleged events.

29.1.6.2 Faculty members are directed to keep confidential all elements of an investigation to protect the integrity of the process. However, faculty members may contact and discuss district investigations with UF representatives or legal counsel, and may confer with colleagues for their mutual aid and protection. The District recommends that faculty members refrain from contacting the complainant(s) or witnesses to avoid even the appearance of interference or retaliation.

29.1.6.3 Faculty members on paid administrative leave may be asked to refrain from contacting students while on leave. In such cases, the District will put an automatic notice/response on the member's District email directing students with questions to the substitute, department chair or dean as appropriate. The notice will not mention the reason for leave or the investigation.

29.1.7 Timelines

29.1.7.1 The Employee Notification Letter should be sent to the faculty member who has been accused of misconduct prior to any formal investigatory interviews and prior to the member being interviewed. In a case where this is not possible or practical due to safety concerns, the UF will be notified as part of the Union Notification Letter (UNL), Per 29.1.3.2.

29.1.7.2 The District will notify United Faculty prior to beginning any formal investigation of a faculty member. Once the respondent has completed and returned the Acknowledgement of Rights and Responsibilities Form, prior to the member being interviewed as part of the investigation, the District will send the UF a Union Notification Letter (UNL).

29.1.7.3 Every effort will be made to complete the investigation within ninety (90) days of when the District first received the complaint or information triggering the investigation. Where this is not possible, the respondent and the UF, if they are representing the respondent, will receive a written notification with a timeline update.

29.1.7.4 Where laws and regulations create deadlines (such as Title IX requirement that investigations of sexual misconduct complaints be completed within in 60 days), the District and UF will work cooperatively to ensure compliance.

29.1.8 Recordings

29.1.8.1 The investigator shall have the right to make recordings of interviews with faculty members only if the respondent or UF representative is also able to record the interview or if District agrees to make the full un-edited recording available to the respondent (or UF when UF is representing the faculty member). Neither the respondent nor the UF shall make recordings unless the investigator does as well (or agrees to the recording being made only by the respondent or UF representative).

29.1.9 Closure of Investigation

29.1.9.1 Where allegations are not sustained, the faculty member shall be provided with written notice that the allegations have not been sustained and confirmation that nothing related to the allegations will be placed in the member's personnel file.

29.1.9.2 Where some or all of the allegations are sustained, the faculty member shall be provided with written notice summarizing the findings as to each allegation and whether or not it was sustained.

29.2 Nothing in this article shall waive or supersede the District's, UF's or a faculty member's right to request or receive information and/or documents as allowed by the EERA, Education Code, or other law.

29.3 Other aspects of the investigatory process, including information, are covered by district policies and procedures.