

FAQs: Misconduct Disclosure Requirements for Proposed Hires Under California SB 791 and AB 810

The below frequently asked questions (FAQs) aim to address common questions and concerns related to the misconduct disclosure requirement and institutional reference check under California SB 791 and AB 810, emphasizing the importance of maintaining a safe and professional environment at the University of California.

1. What is California SB 791 and AB 810?

California SB 791 is a legislative bill that mandates applicants for academic or administrative positions to disclose any final administrative or judicial decisions issued within the last seven years determining that they committed sexual harassment.

California AB 810 is a legislative bill that mandates applicants for tenure-track and tenure positions to sign a release form that authorizes, in the event the applicant reaches the final stages of the application process, the release of information by the applicant's previous employers to the UC location concerning any substantiated allegations of misconduct in order to permit the UC location to evaluate the released information with respect to the criteria for a potential job placement. The bill further requires the UC to use the signed release form to make a reasonable attempt to obtain information from the previous employer concerning any substantiated allegations of misconduct.

2. How do these new laws impact the UC?

In response, the University will implement these bills by:

- a. Requiring all proposed hires to disclose any final administrative or judicial decisions issued within the last seven years from the date of submission of an employment application determining that the proposed hire committed misconduct, including sexual harassment.
 - i. Proposed hires will also be permitted to disclose if they have filed an appeal with the previous employer, administrative agency, or court, if applicable.
- b. Requiring all proposed hires in the Professor series or Professor of Teaching series to sign a release form that authorizes the release of information by the proposed hire's previous employers to the UC location concerning any allegations of misconduct in order to permit the UC location to evaluate the released information with respect to the criteria for a potential job placement. The release form is required for all employees if the UC location wishes to follow-up with a prior employer.
- c. Requiring all locations to use the signed release form to make a reasonable attempt to obtain information from the previous employer concerning any allegations of misconduct for all proposed hires in the Professor series or Professor of Teaching series regardless of the proposed hire's responses in the misconduct disclosure questionnaire.

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3. When is this effective?

The University of California is implementing SB 791 and AB 810 effective January 1, 2025. This means all academic recruitments opened on January 1, 2025, and thereafter, are subject to the misconduct disclosure requirements, and authorization release and prior employer follow-up where applicable.

Not all academic recruitments are processed within UC Recruit, such as search waivers and exemptions (*e.g.*, volunteers). In those situations, effective January 1, 2025, all proposed hires are subject to the misconduct disclosure requirements, and authorization release and prior employer follow-up where applicable.

4. Why do we require this misconduct disclosure from all proposed hires?

Requiring this misconduct disclosure ensures a safe and respectful environment for all students, faculty, other academic appointees, and staff. It helps the institution identify individuals with a history of sexual harassment, thereby protecting the community and maintaining a professional and safe working and learning environment.

5. Who needs to comply with this requirement?

Proposed hires for academic or administrative positions at the University of California must comply with this requirement. This includes positions at all levels, ranks, and steps for all academic series appointees. At a minimum, the proposed hire will be required to submit the misconduct disclosure questionnaire. For some recruitments, this may be required earlier in the recruitment process (*e.g.*, shortlist or interview stages).

a. Does this include volunteers and Contingent Workers (CWRs)?

Yes, a misconduct disclosure is required as part of onboarding volunteers and contingent workers.

b. Does this include reappointment in the same title series?

No, the academic appointee is not required to disclose at the time of reappointment in the same academic series.

c. Does this include a change of series from one academic series to another at the same UC campus (*i.e.*, postdoctoral scholar to assistant specialist)?

Yes, if the academic appointee was not previously required to disclose at the time of appointment in their previous academic series. However, shifts between TA and GSR appointments in the same hiring unit do not require a new misconduct disclosure.

d. Does this include moving from a WOS position to a paid position in the same series, for example, from an Adjunct WOS to a paid Adjunct?

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Yes, if the academic appointee in the WOS position was not previously required to disclose at the time of appointment in the WOS title.

e. Does this include employees who are transferring from a different UC campus?

Yes.

f. Does this include FTE transfers within a UC campus? Can the UC require misconduct disclosure from a current UC employee as part of the new normal hiring process?

While not required by law, it is recommended that each hiring unit exercise their due diligence when hiring from even within the same campus. Hiring units can require misconduct disclosure from all proposed hires even if the proposed hire is a current UC employee. It will not be required for academic student employees.

6. What types of decisions need to be disclosed?

Proposed hires must disclose any violation of the policies or laws governing conduct at a candidate's previous place of employment, including, but not limited to, violations of policies or laws prohibiting sexual harassment, sexual assault, or other forms of harassment, discrimination, dishonesty, or unethical conduct as defined by the previous employer. This includes decisions from educational institutions, employers, courts, or other relevant bodies.

7. How recent must these decisions be to require misconduct disclosure?

Only decisions issued within the last seven years from the date of application submission need to be disclosed.

8. How does the candidate submit their misconduct disclosure? Who will see it?

Final candidates will complete the misconduct disclosure questionnaire through the Qualtrics Survey until a vendor is deployed in January 2025. Responses to the misconduct disclosure questionnaire will be sent directly to Academic Personnel Office.

9. Where will the completed misconduct disclosures be stored and how long will they remain in our archives?

~~The misconduct disclosures will be retained by the University in the personnel file and according to the disposition of records for personnel files when a proposed hire is hired by the University. The misconduct disclosures will be retained by the University according to the disposition of records for recruitment files when a proposed hire is not hired by the University.~~

In order to protect a candidate's privacy, the misconduct disclosure form and any information pertaining to prior misconduct must be treated as confidential and retained per local procedures.

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If the proposed hire is hired by the University, the misconduct disclosure form, and any information pertaining to prior misconduct received from a prior employer, shall be retained in a file separate from the personnel file but retained in accordance with the disposition of records for personnel files.

If the proposed hire is not hired by the University, the misconduct disclosure form, and any information pertaining to prior misconduct received from a prior employer, shall be retained in a file separate from the recruitment records but retained in accordance with the disposition of records for recruitment files.

10. What happens if a candidate fails to disclose such decisions?

Failure to disclose required information can result in disqualification from the recruitment or appointment process, or termination of employment if the omission is discovered after hiring. It is crucial for maintaining integrity and trust in the hiring process.

11. How will the disclosed information be used?

The disclosed information will be reviewed as part of the overall assessment of the proposed hire's suitability for the position. It will be handled with confidentiality and used solely for the purpose of evaluating the proposed hire's qualifications and ensuring the safety of the academic community.

12. Who is involved in the decision-making process if a proposed hire discloses prior misconduct?

A reviewing committee will be responsible for the decision-making process while reviewing the misconduct disclosure responses. The reviewing committee will consider additional factors (but not limited to):

- The nature and severity of the misconduct at issue, including if would it have violated UC policy had it occurred in the UC community.
- When and under what circumstances the misconduct occurred;
- Whether the misconduct involved an abuse of power or authority, such as involvement of subordinate employees, students, or minors;
- The nature of the position for which the candidate is being considered;
- The candidate's subsequent conduct and work history; and,
- Evidence of rehabilitation.

a. Will disclosure of prior misconduct automatically disqualify a proposed hire?

Not necessarily. The disclosed information will be reviewed as part of the overall assessment of the proposed hire's suitability for the position.

13. How will a department know a candidate is cleared for hire?

A vendor will be deployed in the new year to assist with collecting the misconduct questionnaire responses and to notify hiring departments when the final candidate is clear for hire. Until we have a vendor in place, we will have hiring department provide final candidates a link to Qualtrics Survey Platform which will then route responses directly to Academic Personnel Office. Once the final candidate is clear for hire, we will follow up with hiring department to proceed with the hire.

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14. What steps does the University take to ensure fairness in this process?

The University is committed to fair and equitable hiring practices. Each misconduct disclosure will be reviewed in context, considering the severity of the incident, the proposed hire's actions since the decision, and other relevant factors. The goal is to balance transparency and accountability with fairness and rehabilitation.

15. Where can proposed hires find more information or seek clarification about this requirement?

Proposed hires may send an email to Academic Personnel Office:
academicpersonnel@ucr.edu.

16. Where can hiring departments find more information or seek clarification about the process?

Departments can find more information in the APO website in January 2025 where we will include the Misconduct and Background Check Guidelines for Academic Hires.

17. Will this delay our recruitments?

Delays should be minimal with the active engagement of the proposed hire(s) in the misconduct disclosure process. The campus will consider the timeliness of decisions and communication to avoid significant delays in hiring while also ensuring the safety of the academic community.

18. How does this requirement align with the University's commitment to a safe and inclusive environment?

By enforcing this requirement, the University of California demonstrates its commitment to fostering a safe, respectful, and inclusive environment for everyone. It helps ensure that individuals with a history of misconduct, including sexual harassment, are identified and assessed appropriately, upholding the values and integrity of the academic community.

19. Is every proposed hire required to complete a misconduct disclosure?

No. Only those proposed hires the University of California has determined meet the minimum employment qualifications may be required to complete a misconduct disclosure. At a minimum, all proposed hires must complete the misconduct disclosure.

20. Is every proposed hire required to complete a release form?

A release form may be a required part of the application materials for all academic recruitments. The release form is required for all tenure-track/tenured and potential/security of employment faculty positions.