

**FAQs: Misconduct Disclosure Requirements for Proposed Hires
Under California SB 791 and AB 810
December 16, 2024 – Issuance
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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?

Senate Bill (SB) 791 and Assembly Bill (AB) 810 are two bills that were signed into state law that add and amend sections 92612.1 and 92612.2 of the California Education Code, effective January 1, 2025.

California Education Code Sections 92612.1 and 92612.2 include the following requirements:

- Applicants who are identified as a finalist for an academic or administrative position to disclose any final administrative or judicial decisions issued within the last seven years related to misconduct, including sexual harassment, as defined in the statute.
- Permit finalists to disclose if they have filed an appeal with the previous employer, administrative agency, or court, if applicable.
- In the event the applicant reaches the final stages of the application process, the applicants for tenure-track/tenured appointments will be required to sign a release form that authorizes the release of information by the applicant's previous employers to the UC location concerning any substantiated allegations of misconduct. This authorization will permit the UC location to evaluate the released information with respect to the criteria for a potential appointment.
- The law requires the UC location to use the signed release form from applicants for tenure-track/tenured appointments 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 University of California?

In response, the University will implement these bills by:

- a. Requiring all proposed hires to disclose misconduct information, including 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 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 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 substantiated 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.

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. UC Merced will not apply these requirements to recruitments that opened prior to January 1, 2025.

Not all academic recruitments are processed within AP 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 or other types of misconduct, 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 do not require a new misconduct disclosure.

d. Does this include moving from a “without salary” (WOS) position to a paid position in the same series, for example, from an Adjunct WOS to a paid Adjunct?

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.

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?

A proposed hire will receive an email with a link taking them to the disclosure form. The completed disclosure will then be viewable by the Academic Personnel Office.

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

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.

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?

It will be handled with confidentiality and used solely for the purpose of evaluating the proposed hire's eligibility and ensuring the safety and integrity of the academic community.

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

The Associate Vice Provost for Academic Personnel will review all relevant materials and will make a recommendation regarding hiring eligibility to the Vice Provost for

Academic Personnel (VPAP). The VPAP will then consult with Campus Counsel, Chair of the Academic Senate's Committee on Privilege and Tenure, and, as applicable, the Director of the Office for the Prevention of Harassment and Discrimination. The VPAP makes the final decision regarding hiring eligibility.

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

Not necessarily. The disclosed information will be reviewed in an assessment of the proposed hire's eligibility for the position.

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

The staff supporting the search will be notified. The Dean (or equivalent) will also be notified when there is a determination of ineligibility.

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 can access the relevant legislation [here](#) and [here](#). Questions can be directed to apbackground@ucmerced.edu.

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

Departments can access the relevant legislation [here](#) and [here](#). Details regarding UC Merced's hiring process modifications can be found [here](#).

17. Will this delay our recruitments?

For most searches, delays should be relatively minor, with the active engagement of the proposed hire(s) in the misconduct disclosure process. For Senate faculty searches, which require outreach to the proposed hire's current or most recent place of employment, there is a possibility of somewhat longer delays. Departments should plan accordingly when considering their search timelines.

As UC Merced develops and refines our confidential decision-making and communication process, we will consider the timeliness of decisions and communication to minimize 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 applicant required to complete a misconduct disclosure?

No. Only those applicants 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 applicant 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.