



OFFICE OF THE PRESIDENT
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May 3, 2022

CHANCELLORS
ACADEMIC COUNCIL CHAIR ROBERT HORWITZ
LABORATORY DIRECTOR MICHAEL WITHERELL
ANR VICE PRESIDENT GLENDA HUMISTON

**Re: Second Systemwide Review of Draft Presidential Policy -- Abusive Conduct
in the Workplace**

Dear Colleagues:

Enclosed for a second systemwide review is a revised draft of a proposed new Presidential Policy on Abusive Conduct in the Workplace.

The proposed Presidential Policy is responsive to a request from the Regents and the Academic Senate for a systemwide policy that addresses the University's responsibilities and procedures related to abusive conduct.

Background

In spring 2021, Systemwide Human Resources convened a working group with representatives from location Human Resources offices, which drafted a policy with applicability to staff employees based upon the staff [Guidance on Abusive Conduct and Bullying in the Workplace](#). Academic Personnel and Programs (APP) subsequently convened a working group with representatives from campus Academic Personnel offices. Systemwide HR and APP worked in collaboration with UC Legal, the Systemwide Title IX office, and Graduate, Undergraduate and Equity Affairs to further refine the draft policy. Except as otherwise expressly provided in applicable collective-bargaining agreements, this policy will supersede any existing guidance, local policies, or procedures that address the topic of Abusive Conduct in the workplace.

The first systemwide review occurred from October 2021 to February 2022. Substantive feedback related to the proposed policy was submitted during the first systemwide review, thus prompting a second systemwide review. In this second systemwide review, the policy revisions are presented in two formats:

- First, there is a “clean” version of the policy as proposed.
- Second, there is a “tracked” version of the policy section indicating changes from the first systemwide review to the second systemwide review.

Policy Revisions for Second Systemwide Review

Summarized below are some of the recommendations received during the first systemwide review that were incorporated into the second draft of the proposed policy:

Policy Renamed. The word “bullying” was removed from the name of the proposed policy, which is now entitled, “Abusive Conduct in the Workplace.”

Abusive Conduct definition. The revised definition omits reference to the “reasonable person” standard and adopts the “objectively offensive” standard. Under this standard, alleged conduct shall be evaluated on a case-by-case basis, considering the circumstances of the Complainant and the Respondent; the relationship between them (including power imbalance); the frequency, nature, and severity of the alleged conduct; whether the alleged conduct was physically threatening; and whether the conduct may be protected as academic freedom or free speech. The “objectively offensive” standard is intended to consider and recognize all of the complainant’s and respondent’s circumstances to determine the effects of all of the relevant factors.

Civility and Cohesiveness. References to “civility” and “cohesiveness” were removed.

Disciplinary Processes for Academic Personnel. The revised draft clarifies that the proposed policy does not supplant disciplinary processes described in the Academic Personnel Manual (APM) or Academic Senate Bylaws and regulations.

Policy Coverage. The revised draft clarifies that the proposed policy applies to students in their capacity as student employees if they are Complainants, Respondents, or Reporters. The policy also applies to students who are not student employees if they are Complainants or Reporters. The University of California Policy on Student Conduct and Discipline applies to student Respondents who are not student employees.

Free Speech and Academic Freedom. The revised draft of the proposed policy affirms that academic freedom and free speech are essential to the mission of the University and upholds protections of academic freedom, as described in APM - 010, APM - 011, and APM - 015.

Interaction with Other University Policies. The revised draft clarifies that the local office responsible for investigating Abusive Conduct may identify violations of other policies arising from the same set of alleged facts that led to a report of Abusive Conduct. In these cases, the investigator of the Abusive Conduct report will gather evidence and make factual findings to assist the appropriate offices in determining whether other policies or standards were violated.

Procedures. The revised draft of the proposed policy includes timelines for initial assessments of reports of alleged abusive conduct, early resolution, and formal investigations.

Frequently Asked Questions (FAQ). Examples of what falls under the definition of Abusive Conduct and conduct that does not generally constitute Abusive Conduct have been moved to the FAQ section of the proposed policy and further clarification of examples have been provided.

Systemwide Review

The second Systemwide review is intended to resolve prior concerns and to answer remaining questions. It is distributed for additional input and comment to the Chancellors, the Chair of the Academic Council, the Director of the Lawrence Berkeley National Laboratory, and the Vice President of Agriculture and Natural Resources requesting that they inform the general University community, especially affected employees, about policy proposals. This current review includes a 30-day comment period.

Employees should be afforded the opportunity to review and comment on the draft policy. Attached is a Model Communication which may be used to inform non-exclusively represented employees about the draft policy. The University will adhere to its bargaining obligations, if any, that may exist in connection with the adoption of this policy. Accordingly, the University will follow appropriate procedures with respect to represented employees and the Office of the President's Systemwide Labor Relations office will coordinate that process.

The systemwide review period for the Abusive Conduct draft policy is **May 3, 2022, through June 3, 2022**. The draft policy is posted at <https://ucnet.universityofcalifornia.edu/working-at-uc/abusive-conduct-review.html>.

Comments from the Academic Senate and campus academic administrators should be submitted to VP-ACADEMICPERSONNEL@ucop.edu. Comments from HR leadership and staff employees should be compiled by HR Policy Coordinators and submitted to SHR Policy. SHR Policy will communicate with HR Policy Coordinators about this process.

Questions relating to academic personnel may be directed to Rebecca Woolston at Rebecca.Woolston@ucop.edu. Questions from staff should be directed to location HR Policy Coordinators. Location questions related to staff employees may be directed to Abby Norris at Abigail.Norris@ucop.edu.

Sincerely,



Susan Carlson
Vice Provost
Academic Personnel and Programs



Cheryl Lloyd
Vice President
Systemwide Human Resources

Enclosures:

1. Proposed Revised Draft Presidential Policy – Abusive Conduct in the Workplace (Clean)
2. Proposed Revised Draft Presidential Policy – Abusive Conduct in the Workplace (Tracked)
3. Model Communication

cc: President Drake
Provost and Executive Vice President Brown
Executive Vice Chancellors/Provosts
Executive Vice President and Chief Operating Officer Nava
Senior Vice President and Chief Compliance Officer Bustamante
Vice President Maldonado
Vice President and Vice Provost Gullatt
Vice Provosts/Vice Chancellors for Academic Affairs/Personnel
Assistant Vice Provosts/Vice Chancellors/Directors - Academic Personnel
Chief Human Resources Officers
Associate Vice Provost Lee
Deputy General Counsel Woodall
Academic Council Vice Chair Cochran
Executive Director Baxter
Executive Director Silas
Chief of Staff and Executive Director Henderson
Chief of Staff Kao
Chief of Staff Levintov
Chief of Staff Peterson
Chief Policy Advisor McAuliffe
Principal Counsel Chin
Principal Counsel Elconin
Principal Counsel Sanchez
Director Grant
Director Hairston
Director Roller
Director Sykes
Associate Director DiCaprio
Associate Director Nguyen
Associate Director Woolston
Assistant Director LaBriola
Manager Carr
Manager Donnelly
HR Manager Crosson
Policy Specialist Norris
Analyst Durrin
Analyst Wilson
Administrative Officer Babbitt
Policy Advisory Committee