December 16, 2022

Dear Colleagues and Members of the University Community:

I am formally transmitting the new Presidential Policy on Abusive Conduct in the Workplace. The revised Policy is effective January 1, 2023 and may be found online at: policy.ucop.edu. Issuance of this Policy is the culmination of several years of dedicated effort in response to my request, with support from The Regents of the University of California, to develop a Presidential Policy on Abusive Conduct in the Workplace with equal applicability to faculty, staff, and student employees.

Background

At the request of the Regents and the Academic Senate, Systemwide Human Resources (SHR) convened a working group in 2021 with representatives from location Human Resources offices to draft a Policy on Abusive Conduct in the Workplace with applicability to staff employees. Academic Personnel and Programs (APP) subsequently convened a working group with representatives from campus Academic Personnel offices. SHR and APP collaborated with UC Legal, the Systemwide Title IX office, and Graduate, Undergraduate and Equity Affairs to further refine the draft Policy and align it with the Anti-Discrimination, Harassment, and Retaliation Policy, which is currently under development. SHR and APP distributed the proposed Abusive Conduct in the Workplace Policy for systemwide review in October 2021. The draft Policy was revised in response to systemwide feedback and underwent a second round of systemwide review beginning in May 2022.

This Presidential Policy represents a critical step in advancing two of the priorities I identified for the University of California in my communication of September 21, 2022:

- Strengthening an inclusive, respectful, and safe university community; and
- Expanding opportunity and excellence

Abusive conduct compromises the vital mission of the University to educate students and serve the residents of California by interfering with an individual’s participation in or benefit from instructional, research, employment, or other programs sponsored by the University. Abusive conduct also undermines the University’s ability to achieve inclusive excellence. It is therefore essential that all members of the University
community understand the risk that abusive conduct poses to the University’s ability to thrive as an institution.

**Key Policy Provisions**

- **Abusive Conduct.** The initial draft of the Policy included the term “bullying” and incorporated a “reasonable person” investigation standard. Following careful consideration of systemwide feedback, the title of the Policy has been changed to omit the term “bullying” to prevent overly broad application of the Policy and to comport with definitions of prohibited conduct in California State law. While the second draft of the Policy incorporated an investigation standard of “objectively offensive,” the decision was made to revert to the “reasonable person” standard based on its longstanding status as a known legal standard. UC investigators are trained to take the circumstances of Complainants and Respondents into account when applying the “reasonable person” standard. They will also be trained to assess instances of misbehavior, including those commonly referred to as bullying and cyberbullying, that meet the standard of abusive conduct.

- **Free Speech, Academic Freedom, and the Role of the Academic Senate.** The Policy is intended to protect members of the University community from abusive conduct, not to regulate protected speech. The Policy recognizes that freedom of speech and academic freedom are not limitless and, for example, do not protect speech or expressive conduct that violates federal and state anti-discrimination laws. The Policy is distinct from University policies that were developed in response to legal mandates and that address prohibited conduct based on a protected class or prohibited conduct that is sex-based or based on gender, gender identity, gender expression, sex- or gender-stereotyping, or sexual orientation.

The Policy affirms the authority that the Academic Senate has for adjudicating cases involving allegations of abusive conduct involving faculty members and cases that involve issues related to academic freedom.

- **Policy Coverage.** The Policy covers abusive conduct and retaliation by and against members of the University community in the workplace. The Policy applies to all University employees (including student employees), unpaid interns, and third parties.

- **Prohibited Conduct.** The “Frequently Asked Questions” section of the Policy identifies examples of abusive conduct, as well as examples of conduct that generally do not constitute abusive conduct.

- **Retaliation.** The Policy prohibits retaliation against any person who, in good faith, reports abusive conduct, assists someone with a report of abusive conduct, or participates in an investigation or other process under the Policy.

I ask that locations join me in committing to the prevention of abusive conduct in the workplace by expanding the competency of University employees (staff, academic, and student employees) and leaders at all levels to recognize, address, and discipline violations of this Policy in an equitable manner that acknowledges that each individual in our community has the right to work in a respectful environment. This commitment is essential to the mission and future success of the University of California. The Policy
Owners will assess the effectiveness of this Policy at the time it undergoes its first scheduled post-implementation review, in accordance with the schedule established by the University Policy Office.

I wish to thank all members of the University community who participated in consultation regarding this important Presidential Policy. Your contributions are deeply appreciated.

Sincerely,

Michael V. Drake, MD
President

Enclosure:
Presidential Policy on Abusive Conduct in the Workplace

cc:  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
     Chief of Staff Kao
     Vice President Lloyd
     Vice Provost Haynes
     Vice President Maldonado
     Vice President and Vice Provost Gullatt
     Vice Provosts/Vice Chancellors for Academic Affairs/Personnel
     Associate Vice President Matella
     Associate Vice Provost Lee
     Assistant Vice Provosts/Vice Chancellors/Directors – Academic Personnel
     Chief Human Resource Officers
     Deputy Counsel Woodall
     Academic Council Vice Chair Steintrager
     Chief of Staff Henderson
     Chief of Staff Levintov
     Chief of Staff Peterson
     Chief Policy Advisor McAuliffe
     Executive Director Lin
     Executive Director Silas
     Managing Counsel Chin
     Principal Counsel Elconin
     Principal Counsel Sanchez
     Director Anders
     Director Hairston
     Director Roller
     Director Sykes
     Associate Director DiCaprio
     Associated Director Fishel
     Associate Director Nguyen
     Associate Director Young
     Associate Director Weston-Dawkes
     Associate Director Woolston