



Michael V. Drake, MD
President

December 16, 2022

Office of the President
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Oakland, CA 94607

universityofcalifornia.edu

CHANCELLORS
ACADEMIC COUNCIL CHAIR COCHRAN
LABORATORY DIRECTOR WITHERELL
ANR VICE PRESIDENT HUMISTON

Re: Issuance of a New Presidential Policy on Abusive Conduct in the Workplace,
Effective January 1, 2023

CAMPUSES

- Berkeley
- Davis
- Irvine
- UCLA
- Merced
- Riverside
- San Diego
- San Francisco
- Santa Barbara
- Santa Cruz

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

MEDICAL CENTERS

- Davis
- Irvine
- UCLA
- San Diego
- San Francisco

NATIONAL LABORATORIES

- Lawrence Berkeley
- Lawrence Livermore
- Los Alamos

DIVISION OF AGRICULTURE AND
NATURAL RESOURCES

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

Assistant Director LaBriola
Manager Donnelly
HR Manager Crosson
Policy Specialist Norris
Analyst Durrin
Analyst Wilson
Administrative Officer Babbitt
Policy Advisory Committee