

ABUSIVE CONDUCT POLICY IMPLEMENTATION PROCEDURE

Guideline/Procedure: Implementing procedure for Presidential Policy on abusive conduct in the workplace

Responsible Office: Human Resources and Office of Academic Personnel

Issued: March 2023

A. REFERENCES

[University of California – Presidential Policy on Abusive Conduct in the Workplace](#)

[Collective Bargaining Agreements](#)

[UCI Records Management](#)

[UCI Code of Student Conduct](#)

Academic Personnel Policy

- [APM 015 - The Faculty Code of Conduct](#)
- [APM 016 - University Policy on Faculty Conduct and the Administration of Discipline](#)
- [APM 140 - Non-Senate Academic Appointees/Grievances](#)
- [APM 150 - Non-Senate Academic Appointees/ Corrective Action and Dismissal](#)

Personnel Policies for Staff Members

- [PPSM 63- Investigatory Leave](#)
- [PPSM 62- Corrective Action](#)
- [PPSM-64- Termination and Job Abandonment](#)
- [PPSM 70- Complaint Resolution](#)

Personnel Policies for Senior Management Group

- [PPSM II-64- Termination of Appointment \(MSP\)](#)

B. APPLICABILITY

The Abusive Conduct Policy and these Guidelines apply to Workplace conduct involving all members of the University community, including all employees, unpaid interns, and third parties.

C. AUTHORITY AND RESPONSIBILITY

UCI Human Resources (HR) and UCI Office of Academic Personnel (AP) are responsible for monitoring, investigating, enforcing, and reporting compliance with the UC Presidential Policy on Abusive Conduct in the Workplace (“Abusive Conduct Policy”) and these Guidelines for UCI. Responsibilities include, but may not be limited to, the following:

- a. Coordinate compliance with the Abusive Conduct Policy including receiving reports, evaluating options, conducting investigations, and providing notifications.
- b. Coordinate with other responsible units to ensure that interim, remedial, supportive measures are provided, if necessary.
- c. Coordinate with other responsible units to ensure Abusive Conduct Policy education and training programs are offered and provided to staff and management.
- d. Respond promptly and equitably to reports of Abusive Conduct in accordance with the Abusive Conduct Policy.
- e. Keep records of reports of prohibited conduct, and any actions taken in response to reports, including records of investigations, resolutions, and disciplinary action, per University records management policies.

Responsible offices and applicable policies/procedures depend on the Respondent, as follows: HR for UCI staff Respondents; AP for UCI Faculty/academic appointee Respondents; and the Office of Academic Integrity and Student Conduct (OAISC) for UCI student Respondents not acting in the course of University employment.

D. DEFINITIONS

Words and phrases capitalized in these Guidelines are defined as follows:

Abusive Conduct: Harassing or threatening behavior that is sufficiently severe, persistent, or pervasive conduct in the workplace that denies, adversely limits, or interferes with a person’s participation in or benefit from the education, employment, or other programs or activities of the University. The conduct creates an environment, whether intended or not, that a reasonable person would find to be intimidating or offensive and unrelated to the University’s legitimate educational, employment, and business interests. The conduct shall be evaluated taking into account the circumstances of the parties, relationship between the parties (including power imbalance); the frequency, nature and severity of the alleged conduct; whether the conduct was physically threatening; and whether the conduct may be protected as academic freedom or free speech. A single act may constitute Abusive Conduct, if especially severe or egregious.

Complainant: Any individual, including a student, who alleges and/or has been reported to have been subjected to Abusive Conduct.

Reporter: Any individual, including a student, who makes a report of alleged Abusive Conduct.

Respondent: An individual alleged to have engaged in Abusive Conduct.

Retaliation: An adverse action taken against an individual based on their report of Abusive Conduct or participation in an investigation or other resolution process provided for in the Abusive Conduct Policy. An adverse action is conduct that would discourage reporting Abusive Conduct or participating in a process provided for in the Abusive Conduct Policy, and includes but is not limited to threats, intimidation, or coercion.

Workplace: Any space where University business is conducted or occurs, in connection with University employment and/or in the context of a University program or activity (for example, University-sponsored study abroad, research, health services, or internship programs, as well as the online workplace).

E. GUIDELINES

1. General

These Guidelines address the University's responsibilities and procedures related to Abusive Conduct and Retaliation for reporting, or participating in, an investigation or other process provided for in the Abusive Conduct Policy. These Guidelines supplement and must be read in conjunction with the full text of the Abusive Conduct Policy.

2. Free Speech and Academic Freedom

The Abusive Conduct Policy will be implemented in a manner that recognizes rights to freedom of speech and expression. However, 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.

3. Confidential Resources

The University provides confidential resources to individuals who witness or experience Abusive Conduct. They may consult with these confidential resources before making a report, or at any point. Meeting with any confidential resource is not considered making a formal report and will not lead to an investigation.

- a. Faculty and staff assistance programs, also known as the [Life Resources Program](#), are confidential resources that provide assessment, consultation, counseling and referrals regarding work and personal stress or emotional concerns that are interfering with an individual's ability to work in their professional workplace or academic setting.
- b. [Office of the Ombuds](#) also provides confidential, impartial, independent, and informal conflict resolution and problem-solving services. Individuals experiencing Abusive Conduct may seek confidential assistance from the UCI Ombuds Office to discuss strategies and options for moving forward based on the conduct they are experiencing.

F. REPORTING AND RESPONDING TO REPORTS OF ABUSIVE CONDUCT

1. How to Make a Report of Abusive Conduct

- a. An individual may report conduct believed to constitute Abusive Conduct online or by phone as follows, and with either method the individual can choose to remain anonymous:
 - **University Hotline: (800) 403-4744**
Live operators are available 24 hours a day, 7 days a week, in multiple languages.
 - **Online: www.universityofcalifornia.edu/hotline**
- b. Alternatively, an individual may report conduct believed to constitute Abusive Conduct to a supervisor, any manager, any Human Resources (HR) representative, the Office of Academic Personnel, or a Workforce Relations staff member. Reports submitted in this manner will be responded to as described below in paragraph 2.
- c. For conduct involving students not acting in the course of University employment, individuals may contact the Office of Academic Integrity and Student Conduct: conduct@uci.edu or <https://aisc.uci.edu/resources/reporting.php>.

2. Procedures for Responding to Abusive Conduct

Manager and Supervisor Responsibilities:

Managers and supervisors who observe conduct that may constitute Abusive Conduct have a responsibility to address such conduct immediately. Physical violence or threats of violence are extreme forms of Abusive Conduct and should be reported to UCI police department immediately. Managers and supervisors should consult UCI HR, AP, or OAISC regarding appropriate next steps.

Managers and supervisors who receive a report of Abusive Conduct must immediately submit the report to HR, AP, or OAISC.

3. Sexual Violence/Sexual Harassment and/or Discrimination Reports

If the reported conduct is based on any of the protected categories under the purview of the Office of Equal Opportunity and Diversity (OEOD), the report shall be forwarded to OEOD promptly. Additionally, if during the course of an Abusive Conduct investigation, evidence of Sexual Violence Sexual Harassment allegations is found, the matter will be referred to the Title IX Office for evaluation.

4. Anonymous and Third-Party Reports

Anonymous reports and allegations from Reporters who are not Complainants will be reviewed and may be investigated. Such reports will be tracked, even if they are not investigated. When the Respondent is a third party rather than a UCI employee or student,

HR will determine the appropriate manner of resolution consistent with the University's commitment to a prompt and equitable process.

G. REPORT ASSESSMENT

Within 30 business days after the responsible office receives a report of alleged Abusive Conduct, they will conduct a preliminary review of the allegation.

For complaints involving staff Respondents, the HR triage process will be utilized. The HR triage team will consist of the Senior Director of Workforce Relations, the HR Lead Investigator, the HR Director, and the HR Business Partner or local HR representative. The HR triage team will make an initial assessment, including a limited factual inquiry when appropriate, to determine how to proceed and whether an investigation is warranted. The HR triage team will determine the appropriate level of investigation and assign an investigator accordingly.

For complaints involving Faculty and/or other academic appointee Respondents, AP will conduct a preliminary review of the allegation to determine how to proceed and whether an investigation is warranted.

For complaints involving student Respondents, OAISC will apply student codes of conduct and procedures.

Mediation, referral to other UCI entities, interim measures, and other alternatives aimed at fostering or restoring collaborative relations or environment will be considered when applicable.

H. RESOLUTION OPTIONS

1. Early Resolution

The goal of early resolution is to settle differences fairly, at an early stage, and in an open manner, without Retaliation. The University encourages early resolution, and either party may request early resolution prior to a formal investigation. However, the University does not require that the parties consent to early resolution, or that they participate in early resolution prior to the University's decision to initiate a formal investigation. The early resolution process will be initiated typically within 75 days after an initial assessment of a report, if both parties agree to participate. The following options are available:

a. [UCI HR Mediation Program for Staff](#)

The HR Mediation Program for Staff allows staff to raise any issue, concern, or conflict and know that it will be respectfully received and responsibly dealt with at the lowest level possible through direct communication and collaboration. Mediation offers an opportunity for cooperative engagement and dispute resolution services. Contact mediation@uci.edu for additional information.

b. [Office of the Ombuds](#)

The Office of the Ombuds is an alternate channel for confidential, impartial, and informal

dispute resolution services. When appropriate, the office will initiate an informal intervention with the goal of facilitating a resolution that is acceptable to all parties involved. Schedule an appointment by calling 949-824-7256.

2. Filing a Grievance

An employee may file a grievance or complaint in accordance with applicable procedures (PPSM-70 (Complaint Resolution), APM - 015 (The Faculty Code of Conduct), APM - 016 (University Policy on Faculty Conduct and the Administration of Discipline), APM - 140 (Non-Senate Academic Appointees/Grievances), APM - 150 (Non-Senate Academic Appointees/Corrective Action and Dismissal), or applicable collective bargaining agreements). The grievance or complaint will be forwarded to the Workforce Relations Department or Office of Academic Personnel for assessment and processing under these Guidelines, and will be held in abeyance pending resolution unless the applicable collective bargaining agreement provides otherwise and the University and the applicable union are unable to agree to vary the terms for this purpose.

3. Formal Investigation

The University may initiate a formal investigation after a preliminary review of the allegations even in cases where the Complainant does not wish to pursue the complaint. HR, AP, or OAISC will manage, conduct, and track their respective investigations under the Abusive Conduct Policy.

I. FORMAL INVESTIGATION REQUIREMENTS

All formal investigation of reports of Abusive Conduct will incorporate the following procedures:

1. Notifications

The Respondent will be advised of the relevant allegations in the complaint and will be reminded that Retaliation is prohibited. Both Complainant and Respondent will be informed when the investigation is completed and whether a violation of the Abusive Conduct Policy has occurred.

2. Advisors/Support Persons

The Complainant and Respondent may have an advisor present during their interviews and at meetings. For represented Respondents, an advisor may include a union representative, pursuant to Weingarten rights. They may have other support persons present under other policies.

3. Confidentiality

Participants in an investigation may be advised to maintain confidentiality when essential to protect the integrity of the investigation.

4. Investigation Reports

A written investigation report will contain, at minimum, a statement of the allegations and issues; party positions; summary of evidence; findings of fact; and determination as to

whether the conduct at issue violated the policy. The preponderance of evidence standard will be used to determine whether the policy was violated.

The investigation will be completed typically within 120 business days from the date the parties are notified that a formal investigation will be conducted. The responsible office may extend this time for good cause, with written notice provided to Complainant and Respondent containing the reason for the extension and the new timeline.

The completed investigation report will be submitted to the appropriate University official, who will review the finding(s) and take appropriate action.

5. Adjudication of Policy Violations

Violations of the Abusive Conduct Policy or these guidelines may result in remediation, educational efforts, and/or employment consequences up to and including informal counseling, adverse performance evaluations, corrective action/discipline, and termination.

Depending on the Respondent's status, adjudication shall accord with the following:

- a. For Faculty/Academic Appointee Respondents: [The Faculty Code of Conduct \(APM - 015\)](#) and University [Policy on Faculty Conduct and the Administration of Discipline \(APM - 016\)](#); [Non- Senate Academic Appointees/Corrective Action and Dismissal \(APM - 150\)](#);
- b. For Staff Respondents: The applicable personnel policies for Staff employees ([Personnel Policies for Staff Members 62, 63, & 64](#)), pertaining to discipline and separation matters;
- c. For Union-Represented Employees: collective bargaining agreements, and other policies and procedures;
- d. For Student Respondents not acting in the course of University employment: The applicable policies for student conduct including the [Policy on Student Conduct and Discipline](#).

6. Tracking

The respective responsible office will track these complaints in accordance with their procedures.