



University of California  
San Francisco

## UCSF CAMPUS AND HEALTH LOCAL IMPLEMENTING PROCEDURES FOR ABUSIVE CONDUCT IN THE WORKPLACE SYSTEMWIDE POLICY

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### I. INTRODUCTION

Consistent with the University of California ("UC") Abusive Conduct in the Workplace Policy (referred to as "Abusive Conduct Policy"), the following describes the University of California, San Francisco ("UCSF") procedures for processing, investigating, and adjudicating alleged violations of the Abusive Conduct Policy.

This document should be read in conjunction with the Abusive Conduct Policy, which is available at: <https://policy.ucop.edu/doc/4000701/AbusiveConduct>.

Training regarding the Abusive Conduct Policy is a requirement for UCSF employees.

#### A. Applicability

The Abusive Conduct Policy applies as follows (as described in the "Policy Coverage" section of the Abusive Conduct Policy):

"This policy is intended to protect all members of the University community. It governs conduct by prohibiting acts of Abusive Conduct and Retaliation in the Workplace, including by and against all University employees, unpaid interns, and third parties. This includes but is not limited to conduct that occurs in person or through other means such as electronic media.

This policy applies to students in their capacity as student employees if they are Complainants, Respondents, or Reporters. It also applies to students who are not student employees if they are Complainants or Reporters. If a student is a Respondent and is not acting in the course of employment, campus student codes of conduct and procedures apply."

#### B. Definitions

Applicable definitions from the Abusive Conduct Policy are incorporated herein.

**Abusive Conduct:** Abusive Conduct is 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. When the alleged conduct involves issues related to academic freedom, the applicable University Office will consult with the appropriate academic officer for relevant academic judgment.

Abusive Conduct may take many forms, including but not limited to conduct involving physical actions and/or verbal, non-verbal, electronic, or written communication.

In determining whether the conduct at issue rises to the level of Abusive Conduct, the standard of “reasonable person” should be used. This standard is whether a reasonable person in the same or similar circumstances would find the conduct hostile or offensive in the Workplace given the totality of the circumstances. Although the intention of the person responsible for the conduct may be considered, it is not determinative. When evaluating the conduct at issue, the parties’ perspectives and circumstances should be considered.

**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 this policy. An adverse action is conduct that would discourage reporting Abusive Conduct or participating in a process provided for in this 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). Abusive conduct can occur in many different settings, from physical workplace (e.g., an office building) to an online workplace (e.g., an online meeting or an e-mail). Any type of Abusive Conduct, regardless of the format in which it occurs, is prohibited by the Abusive Conduct policy.

## **II. CONFIDENTIAL RESOURCES**

UCSF offers access to confidential resources for individuals who witness or experience Abusive Conduct. Confidential resources include counselors and staff in the Faculty and Staff Assistance Program (“FSAP”) (<https://hr.ucsf.edu/benefits/staff-and-faculty/faculty-and-staff-assistance-program>) and representatives in the Ombuds Office (<https://ombuds.ucsf.edu/>), as well as Student Health and Counseling Services for students (<https://studenthealth.ucsf.edu/healthcare-services>).

Meeting with a confidential resource is not considered making a formal report of Abusive Conduct.

### **III. REPORTING PROCEDURES**

#### **A. How to Make a Report of Abusive Conduct**

Individuals should report conduct believed to constitute Abusive Conduct to their manager, any supervisor, or directly to the Office of Ethics and Compliance through the University of California Whistleblower Hotline phone number (1-800-403-4744) or online through the Whistleblower Hotline website (Ethics Point): <https://universityofcalifornia.edu/hotline>. Complaint filing information is available at the Office of Ethics and Compliance's website as well: <https://compliance.ucsf.edu/file-complaint>. If individuals have any specific questions, individuals may directly contact the Office of Ethics and Compliance at: [Whistleblower@ucsf.edu](mailto:Whistleblower@ucsf.edu).

#### **B. Manager and Supervisor Responsibilities**

Managers and supervisors (including, among others, Chairs and Deans) who observe or receive reports of behavior that may constitute Abusive Conduct, must immediately submit the report to the University of California Whistleblower Hotline phone number (1-800-403-4744) or online through the Whistleblower Hotline website (Ethics Point): <https://universityofcalifornia.edu/hotline>. If managers and supervisors have any specific questions, they may directly contact the Office of Ethics and Compliance at: [Whistleblower@ucsf.edu](mailto:Whistleblower@ucsf.edu).

#### **C. Sexual Violence/Sexual Harassment/Discrimination/Harassment Reports**

If the alleged conduct is based on membership in a protected category and/or alleges sexual violence or sexual harassment, the allegations will be referred to UCSF's Office for the Prevention of Harassment and Discrimination (OPHD) and will be processed under the University of California Sexual Violence and Sexual Harassment (SVSH) Policy or the University of California Anti-Discrimination (AD) Policy, as applicable. The following OPHD website has information regarding filing a complaint with OPHD: <https://ophd.ucsf.edu/complaints>.

If during the course of a formal Abusive Conduct investigation, information or allegations that may constitute a violation of the SVSH and/or AD policies are found, those potential allegations will be submitted to OPHD/Title IX Office.

#### **D. Anonymous and Third-Party Reports**

As stated in the Abusive Conduct Policy, "[a]nonymous 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. The response to such reports may be limited if the Complainant does not wish to pursue the complaint or if the University is unable to collect sufficient information to determine whether the alleged conduct occurred or constitutes a violation of this policy."

Anonymous reports can be used to identify and address ongoing issues. For example, if there are multiple complaints or a continuing course of conduct.

In cases where the Respondent is a third party, as stated in the Abusive Conduct Policy, "the applicable office will determine the appropriate manner of resolution consistent with the University's commitment to a prompt and equitable process."

Anonymous reports can be made to the University of California Whistleblower Hotline phone number (1-800-403-4744) or online through the Whistleblower Hotline website (Ethics Point): <https://universityofcalifornia.edu/hotline>.

#### **E. Tracking Reports**

The Office of Ethics and Compliance is the office responsible for processing and tracking reports of alleged Abusive Conduct. Other Offices that are in receipt of abusive conduct/bullying complaints shall refer them to the Office of Ethics and Compliance in compliance with legal obligations, and other University policies and procedures.

For the purposes of tracking, all reports of Abusive Conduct must be submitted to the Office of Ethics and Compliance. See Section III.A above on how to submit reports.

#### **IV. INITIAL ASSESSMENT**

As stated in the Abusive Conduct Policy, as soon as practicable and no more than 30 business days after receiving a report of Abusive Conduct, the Office of Ethics and Compliance will make an initial assessment to determine how to proceed and whether a formal investigation under the Abusive Conduct Policy is warranted. This timeline may be extended by the Office of Ethics and Compliance's Investigations Unit Manager for good cause.

When the Office of Ethics and Compliance receives a report of Abusive Conduct, as part of the initial assessment process, they may consult with the following offices as applicable:

- **Faculty:** Consult with the Office of Faculty and Academic Affairs.
- **Non-Faculty Academic (not represented by a bargaining unit):** Consult with the relevant Dean's Office of Academic Affairs.
- **Policy-Covered Staff Employees or Union-Represented Employees (including represented Academic employees, represented post-doc employees, represented trainees (residents/interns/fellows) and represented student employees):** Consult with Labor and Employee Relations (LER).

#### **V. Free Speech and Academic Freedom**

As described in the Abusive Conduct Policy, "[t]his 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." The Abusive Conduct Policy specifies that "speech or expressive conduct that violates federal and state anti-discrimination laws" is unprotected speech.

This is only one example of speech which may fall outside of constitutional protections. Applicable law will be used by the University in making a determination of whether speech or expressive activities fall outside of such protections.

## **VI. Physical Violence or Threats of Violence**

UCSF is committed to maintaining a workplace free from threats, acts of intimidation, and violence.

If there is a threat to an individual's health and safety, an immediate response is required. Physical violence or threats of violence can be extreme forms of Abusive Conduct and should be immediately reported to the UCSF Police Department (9-911 or 415-476-6911).

Subsequently, UCSF's [Threat Management Team](#) (415-476-8279 or [ThreatManagementTeam@ucsf.edu](mailto:ThreatManagementTeam@ucsf.edu)) may also be notified.

## **VII. INTERIM MEASURES**

The University will consider and take interim measures prior to and/or during an investigation, as appropriate, to ensure the safety and well-being of its employees. Interim measures include, but are not limited to, the following: no contact orders; security support; schedule or work location modifications; investigatory leave; and counseling.

The Office of Ethics and Compliance may consult with the following offices regarding appropriate interim measures, including but not limited to:

- **For Respondents and/or Complainants that are faculty and non-faculty academics** (not represented by a bargaining unit) – Consult with the Office of Faculty and Academic Affairs and/or the relevant Dean's Office of Academic Affairs.
- **For Respondents and/or Complainants that are Policy-Covered Staff Employees or Union-Represented Employees** (including represented Academic employees, represented post-doc employees, and represented student employees) – Consult with Labor and Employee Relations (LER).
- **For Complainants that are students** – Consult with Student Academic Affairs.
- **For Respondents who are members of the Medical Staff** – Consult with the Office of Medical Affairs and Governance.

## **VIII. RESOLUTION OPTIONS**

### **A. EARLY/INFORMAL RESOLUTION**

While early resolution and informal resolution is encouraged, the alleged conduct still needs to be reported to the Office of Ethics and Compliance as described above.

Early resolution and informal resolution are encouraged, when possible, consistent with the provisions stated in the Abusive Conduct in the Workplace Policy. The facilitating manager(s) or University

official(s)<sup>1</sup> will initiate the early resolution process promptly, typically within 60 to 75 business days after the applicable office has made an initial assessment of a report.

Options for early resolution may include, but are not limited to:

- Facilitated discussion or mediation to obtain an agreement between the parties
- Agreement to counseling, coaching, educational, and/or training programs
- Negotiating an agreement for corrective action/discipline

If an early or informal resolution is pursued but unable to be reached, the matter may be escalated for a formal investigation in accordance with the Abusive Conduct Policy and these Implementing Procedures.

## **B. FORMAL INVESTIGATIONS**

The Office for Ethics and Compliance will be responsible for assigning abusive conduct complaints for formal investigation. At the discretion of the Locally Designated Official (LDO), a formal investigation under the UC Abusive Conduct in the Workplace Policy shall be assigned to the Office of Ethics and Compliance's Investigations Unit, the Office of Medical Affairs and Governance, the Office for the Prevention of Harassment or Discrimination, external investigators or other qualified investigators, as appropriate (collectively, referred to as "assigned offices"). To avoid duplicative efforts and ensure efficiency, investigations that implicate multiple policies may be conducted jointly by different assigned offices or consolidated into one investigation in coordination between assigned offices.

For investigations under the Abusive Conduct Policy, the "Formal Investigation Requirements" specified in the Abusive Conduct Policy will be followed. Specifically, all formal investigation reports of Abusive Conduct will follow the below procedures:

1. The Respondent will be advised of the relevant allegations in the complaint and will be reminded that Retaliation is prohibited by this policy.
2. The formal investigation generally will include interviews with the parties, interviews with other witnesses as needed, and a review of relevant documents or other evidence as appropriate.
3. Disclosure of facts to parties and witnesses will be limited to what is reasonably necessary to conduct a fair and thorough investigation, consistent with University policy. Participants in an investigation may be advised to maintain confidentiality when essential to protect the integrity of the investigation.
4. The Complainant and the Respondent may have an advisor present when they are interviewed and at meetings. They may have other support persons present under other policies. Other witnesses may have an advisor present at the discretion of the applicable University office or as required by University policy or a collective bargaining agreement.

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<sup>1</sup> A facilitating manager may be, for example, the direct manager of the respondent, or a department chair. The Office of Ethics and Compliance can advise a facilitating manager when informal resolution may be more appropriate than a formal investigation.

5. Interim protections or measures may be necessary prior to or during the investigation. These interim protections or measures should be implemented in accordance with Section VII above and will be followed and may be in place throughout the investigation process.
6. The assigned investigator will complete the investigation promptly, typically within 120 business days of notifying the parties in writing that a formal investigation of the complaint will be conducted. The LDO may grant an extension to the assigned investigator for good cause, with written notice to the Complainant and the Respondent of the reason for the extension and the projected new timeline.
7. Following the completion of the investigation, the investigator will prepare a written report that, at a minimum, includes a statement of the allegations and issues; the positions of the parties; a summary of the evidence; findings of fact; and a determination by the investigator as to whether the conduct at issue violated this policy. In determining whether this policy was violated, the investigator will apply the preponderance of evidence standard.
8. The investigator will submit the report to the appropriate University official, who will recommend next steps, in accordance with local procedures. The appropriate University official is as follows:
  - **Faculty respondents** — Vice Provost Academic Affairs.
  - **Non-faculty academic respondents (not represented by a bargaining unit)** – Relevant Dean’s Office of Academic Affairs.
  - **Staff and represented academic respondents** – Chief Human Resources Officer and Labor and Employee Relations Director.
9. The Complainant and the Respondent will be informed when the investigation is completed and whether or not a violation of this policy has been determined to have occurred. Actions taken to resolve the complaint, if any, that are directly related to the Complainant, such as an order that the Respondent not contact the Complainant, will be shared with the Complainant. In accordance with University policies protecting individuals’ privacy, the Complainant may be notified generally that the matter has been referred for appropriate administrative action, but will not be informed of the details of the recommended action without the Respondent’s consent.

Investigative reports that result from the Abusive Conduct Policy may be used as evidence in subsequent complaint or grievance resolution processes or disciplinary procedures, consistent with applicable collective bargaining agreements or other applicable policies.

#### **VIII. Noncompliance with the Policy and/or Adjudication of Policy Violations**

As described in the Abusive Conduct Policy, “[n]oncompliance with this policy 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 employment classification, the following applies:

- **Policy-Covered Staff Respondent Employees:** The applicable Personnel Policies for Staff Members (PPSM) apply, including PPSM 62 (Corrective Action), 63 (Investigatory Leave), and 64 (Termination and Job Abandonment); and as applicable, other policies and procedures.
- **Faculty/Non-Faculty Academic Respondents (not represented by a bargaining unit):** The following may apply: APM015 (The Faculty Code of Conduct), APM - 016 (University Policy on Faculty Conduct and the Administration of Discipline), APM - 150 (Non-Senate Academic Appointees/Corrective Action and Dismissal), and as applicable, other policies and procedures. The Abusive Conduct Policy does not supplant disciplinary processes described in the APM or Academic Senate Bylaws or regulations.
- **Union-Represented Employees:** Applicable collective bargaining agreements, academic due process procedures, and other policies and procedures that apply.