

# Abusive Conduct in the Workplace: Procedures for the UC Santa Barbara Campus

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## 1. INTRODUCTION

Consistent with the [Presidential Policy on Abusive Conduct in the Workplace](#) (“AC Policy”), the following describes UC Santa Barbara’s process for investigating and adjudicating alleged violations of the AC Policy.

This document should be read in conjunction with the [UC Policy on Sexual Violence and Sexual Harassment](#) (“SVSH Policy”), the [Discrimination, Harassment, and Affirmative Action in the Workplace policy](#), as well as applicable provisions of PPSM, including [PPSM 62](#) , [PPSM 63](#) and [PPSM 64](#), and applicable provisions of the APM, including [APM-150](#).

Applicable definitions from the AC Policy are incorporated herein. Other definitions are found in the applicable PPSM and APM provisions and are also incorporated herein.

The following policies are available online:

- [AC Policy](#)
- [The PPSM manual](#)
- [The APM](#)

## 2. PROCEDURES

### **Reporting Incidents of Abusive Conduct**

UC Santa Barbara encourages anyone who is subjected to or becomes aware of Abusive Conduct to promptly report it. Individuals should report conduct believed to constitute Abusive Conduct to their manager, any supervisor, or directly to the Investigator of Workplace Conduct. Chairs and deans, among others, are all considered managers and supervisors for the purposes of the Abusive Conduct Policy.

To report to the Investigator of Workplace Conduct. Please submit a complaint via the online [Abusive Conduct Complaint Intake Form](#). For general inquiries, please email the [Investigator of Workplace Conduct](#). Reports may also be made to the [UC Whistleblower hotline](#).

If you are unsure if the conduct you are reporting would constitute abusive conduct, or believe the behavior is both abusive conduct and discrimination, you should contact the Investigator of Workplace Conduct for consultation.

Students can report Abusive Conduct, as a Complainant or a Reporter. A student may be a Respondent in an Abusive Conduct complaint under the AC policy if the conduct occurred in the Respondent student's capacity as a student employee. If a student is alleged to have engaged in abusive conduct that was not in the course of the student's employment, the [Code of Student Conduct](#) applies instead.

### **Manager and Supervisor Reporting Obligations**

Managers and supervisors (including, among others, Chairs and Deans) who observe conduct that may constitute Abusive Conduct have a responsibility to address and report such conduct immediately. Managers and supervisors who receive a report of Abusive Conduct involving anyone covered by the AC Policy must immediately submit the report to the Investigator of Workplace Conduct and consult with the Investigator regarding appropriate next steps, even if the incident(s) appear(s) to be resolved. A report will include all known details, including date, time, location, and the names of the parties. This consultation with the Investigator will help support the manager or supervisor in responding to the report and may result in the matter being escalated or referred to another office or process, such as for investigation. Consultation will also ensure that the incident is tracked appropriately.

## **Anonymous, Third-Party, and Aggregate 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. 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.

The University recognizes its responsibility to address all concerns of Abusive Conduct, even when they involve individuals who are not employees. When the Respondent is a third party, the Investigator of Workplace Conduct will conduct an initial assessment and/or an investigation. The Investigator may refer the complaint to the appropriate department to determine the appropriate manner of resolution consistent with the University's commitment to a prompt and equitable process. The University's ability to take responsive action depends on its relationship and level of control over the third party, if any. The extent of the inquiry and responsive steps will depend on the specific circumstances.

Such an inquiry may also be appropriate when there is no identifiable, individual Respondent (such as where the Complainant alleges Abusive Conduct by an organization or a Respondent whose identity is unknown, or conduct by multiple people that rises to the level of Abusive Conduct only when considered in the aggregate).

## **Reports of Other Policy Violations**

If the conduct is sex-based, including conduct that is sexual in nature or based on gender, gender identity, gender expression, sex- or gender-stereotyping, or sexual orientation, the University's [Sexual Violence and Sexual Harassment \(SVSH\) Policy](#) will apply. Reports shall be made or forwarded to the [Office of Title IX and Sexual Harassment Policy Compliance](#), the campus Title IX Office, as required by and described in the SVSH policy.

If the conduct is based on one or more protected categories outlined in the University's [Discrimination, Harassment, and Affirmative Action in the Workplace policy](#), that policy will apply. Reports should be made or forwarded to the [Office of Equal Opportunity and Discrimination Prevention](#) for assessment and response.

The initial assessment by the Investigator may identify allegations of violations of other policies arising from the same set of alleged facts that led to the Abusive Conduct report (such as Affirmative Action in the Workplace, Workplace Violence Policy, Whistleblower, or Research Misconduct). In such cases, the Investigator for Workplace Conduct may conduct a joint intake with other applicable offices to determine the most effective way to respond to the allegations.

Should the Investigator of Workplace Conduct determine that the complaint should be investigated, the investigator of the Abusive Conduct will gather evidence and make factual findings to assist applicable offices in determining whether other policies or standards were violated and/or refer the policy allegations to the applicable office for investigation.

## **Reports involving Academic Freedom**

The faculty and other academic appointees, staff, and students of the University enjoy significant free speech protections guaranteed by the First Amendment of the United States Constitution and Article I, Section II of the California Constitution. Academic freedom, as described in [APM - 010](#), [APM - 011](#), and [APM - 015](#), includes the right to express views, even in passionate terms, on matters of public importance. The Abuse of Conduct policy is intended to protect members of the University community from Abusive Conduct, not to regulate protected speech. The Abusive Conduct Policy will be implemented in a manner that recognizes rights to freedom of speech and expression.

When the alleged conduct involves issues related to academic freedom, the Investigator of Workplace Conduct will consult, where appropriate, with Academic Personnel for relevant academic judgment.

## **Timelines for Making Reports**

There is no time limit for a Complainant to submit a report. Complainants may report incidents even if significant time has passed. However, the sooner the University receives a report, the better able it is to respond, investigate, remedy, and impose discipline, if appropriate.

## **Confidential Resources**

The University makes confidential resources available to individuals who witness or experience Abusive Conduct. Individuals may consult with these confidential resources at any point, including before making a report. Meeting with any confidential resource is not considered making a formal report and will not lead to an investigation. The UC Santa Barbara resources are listed below.

### **Academic and Staff Assistance Program (ASAP)**

[Academic and Staff Assistance Program](#) supports the health and well-being of faculty, staff, and family members. They can assist with identifying, managing, and resolving work-related and personal concerns that may affect job performance and relationships. They offer confidential short-term therapy, consultation, wellness workshops, and assistance with threat management.

### **Office of the Ombuds**

The [Office of the Ombuds](#) at UC Santa Barbara provides confidential consultation services to faculty, staff and students. The Office of the Ombuds offers confidential, impartial, independent, and informal conflict resolution and problem-solving services. Ombuds services include conflict analysis, strategies to resolve and prevent disputes, identification of options and information, effective communication coaching, mediation, group facilitation, and resource referrals.

Individuals experiencing Abusive Conduct may seek confidential assistance from the Office of the Ombuds to discuss strategies and options for moving forward based on the conduct they have experienced. Ombuds may help identify options when the individual is determining which resolution route is best for the situation.

Although Ombuds offices are independent from and do not share information with formal compliance and complaint processes, Ombuds may assist individuals with identifying the applicable offices identified by local procedures and additional location support resources.

## **Campus Advocacy Resources and Education (CARE)**

[Campus, Advocacy, Resources, and Education \(CARE\)](#) is UC Santa Barbara's confidential advocacy and education office for interpersonal violence (sexual violence, relationship violence, and stalking). CARE offers free and confidential services for students, staff, faculty, alumni, community members, and friends/loved ones impacted interpersonal and gender-based violence and we provide violence prevention education for the entire UCSB campus

**For emergencies, call 911.** If you are on campus, you may also call the UCPD emergency on-campus alternate telephone number: 805-893-3446.

Otherwise, to report a crime or threat, please visit the [UC Santa Barbara Police Department](#)

## **Counseling and Psychological Services (CAPS)**

[Counseling and Psychological Services \(CAPS\)](#) offers confidential personal counseling services to all registered students without an additional charge. For more information, call (805) 893-4411. Students may also utilize the Mental Health Peer Program staffed by peer advisors. Phone consultation is available nights, weekends, and holidays at (805) 893-4411.

## **Initial Assessment**

No more than 30 business days after receiving a report, The Investigator of Workplace Conduct will make an initial assessment. The assessment may include a limited factual inquiry to determine how to proceed and whether an investigation is warranted. This timeline may be extended for good cause.

Physical violence or threats of physical violence are extreme forms of Abusive Conduct and should be reported to the [UC Santa Barbara Police Department](#). Such incidents may also violate workplace violence policies and criminal laws.

## **Interim/Supportive Measures**

The University will also consider and implement temporary Interim Measures as appropriate to protect the safety of the parties or the University community following the report of Abusive Conduct; to restore or preserve a party's access to a University program or activity; or to deter further allegations until a policy determination is reached. The Investigator or other applicable

office will consult with the Complainant and, when appropriate, the Respondent, to identify suitable services, accommodations and other measures.

In determining Interim Measures, the Investigator will tailor the measures to the circumstances of each case, minimize burdens on the parties, and avoid depriving the parties of educational and employment opportunities as much as practicable. The University provides Interim Measures as appropriate and reasonably available, without fee or charge.

Interim Measures include but are not limited to: change in workstation, schedule, work location, unit, department, reporting line, or position for which the employee is qualified; a no-contact order restricting a party from contacting the other party; and excluding the Respondent from the campus or workplace.

Investigatory leave of a PPSM-covered respondent may be imposed in accordance with PPSM 63. Investigatory leave of a non-faculty academic respondent may be imposed in accordance with APM-150. Involuntary leave of a Senate faculty respondent may be imposed in accordance with APM-016. Investigatory leave of a non-Senate faculty respondent may be imposed in accordance with APM-150.

## **Resolution Options**

Resolution of alleged Abusive Conduct may take different forms, including early resolution and/or a formal investigation. Regardless of the outcome, the Complainant shall be notified in writing that the complaint was reviewed and that appropriate steps were taken to reach resolution in the matter.

Instead of, or in addition to, reporting Abusive Conduct in violation of the AC policy, an employee may file a grievance or complaint. That grievance or complaint must meet all of the relevant requirements, including time limits for filing, under the applicable complaint resolution or grievance procedure ([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). Any such grievance or complaint will be forwarded to the investigator for violations of the AC policy, and the grievance or complaint procedure will be held in abeyance pending resolution under the AC policy, unless the applicable collective bargaining agreement provides otherwise. After completion of the process under the AC policy, the grievance or complaint may be reactivated under the applicable grievance or complaint procedure.

Violations of the AC policy may result in disciplinary measures pursuant to applicable University staff and academic personnel policies and collective bargaining agreements.

For policy-covered staff employees, corrective action/discipline is governed by Personnel Policies for Staff Members (PPSM) [62 \(Corrective Action\)](#), [63 \(Investigatory Leave\)](#), [64 \(Termination and Job Abandonment\)](#), [PPSM-II 64 \(Termination of Appointment\)](#), and other

policies and procedures, as applicable. For academic appointees, formal corrective action/discipline is governed by the Academic Personnel Manual (APM), including [APM-015 \(The Faculty Code of Conduct\)](#), [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 AC policy does not supplant disciplinary processes described in the APM or Academic Senate Bylaws or regulations. For represented employees, formal corrective action/discipline is governed by collective bargaining agreements.

## **Early Resolution**

When possible, the University encourages early resolution. The goal of early resolution is to settle differences fairly, at an early stage, and in an open manner, without retaliation.

Early resolution occurs typically within 60-75 business days after the Investigator has made an initial assessment of a report. The timeline may be extended for good cause, with written notice to the Complainant and the Respondent of the reason for the extension and the projected new timeline.

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

- Facilitated discussion or mediation
- Agreement to counseling, coaching, educational, and/or training programs
- Arranging temporary or permanent supportive measures

The University encourages early resolution, but it does not require that the parties participate in early resolution prior to the University's decision to initiate a formal investigation. In some cases, early resolution may not be the best approach, and the Investigator may initiate a formal investigation instead.

Attempts at early resolution and informal conflict management do not extend the time limit established by the employee's applicable formal complaint resolution or grievance process.

## **Formal Investigations**

The Investigator of Workplace Conduct is the officer responsible for conducting investigations into alleged violations of the Abusive Conduct (AC) Policy. Investigations and consideration of disciplinary actions involving academic appointees will be handled in accordance with the University policies applicable to this population.

The Investigator 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. This may occur if the Investigator determines that an investigation is necessary to mitigate risk to the campus community.

Investigative reports made pursuant to the AC policy may be used as evidence in subsequent complaint or grievance resolution processes or disciplinary proceedings.

### **Formal Investigation Requirements**

Formal investigation of reports of Abusive Conduct will incorporate the following procedures:

1. The Respondent will be advised of the relevant allegations in the complaint and will be reminded that Retaliation is prohibited by the AC policy.
2. The 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. University employees who are interviewed, asked to provide information or otherwise participate in an investigation have a duty to fully cooperate with University-authorized investigators.
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 Investigator or as required by University policy or a collective bargaining agreement.
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 local procedures.
6. The Investigator of Workplace Conduct 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. This timeline may be extended 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 the AC policy. In determining whether the AC policy was violated, the investigator will apply the preponderance of evidence standard.
8. The Investigator of Workplace Conduct will submit the report to the appropriate University official(s), who will recommend next steps, in accordance with local procedures.
9. The Complainant and the Respondent will be informed when the investigation is completed and whether or not the investigation has found a violation of the AC policy 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.

### 3. RELATED INFORMATION

- [Sexual Violence and Sexual Harassment](#) (referenced in Sections III.A and V.A.4 of the AC policy)
- [Discrimination, Harassment, and Affirmative Action in the Workplace](#) (referenced in Sections III.A and V.A.4 of the AC policy)
- [Collective bargaining agreements](#) (referenced in Section III.A of the AC policy)
- Personnel Policies for Staff Members [62](#), [63](#), and [64](#) (referenced in Section IV.E of the AC policy)
- [Personnel Policies for Staff Members-II 64 \(Termination of Appointment\)](#) (referenced in Section IV.E of the AC policy)
- [APM-015 \(The Faculty Code of Conduct\)](#), [APM-016 \(University Policy on Faculty Conduct and the Administration of Discipline\)](#), and [APM-150 \(Non-Senate Academic Appointees/Corrective Action and Dismissal\)](#) (referenced in Section IV.E and Section V.F of the AC policy)
- [Personnel Policies for Staff Members-70 \(Complaint Resolution\)](#) (referenced in Section V.F of the AC policy)
- UC Academic Senate Bylaws [335](#), [336](#), and [337](#)
- [Policy on Student Conduct and Discipline](#)
- [UC Regents Policy 1111: Statement of Ethical Values and Standards of Ethical Conduct](#)
- [Whistleblower Policy](#)
- [Whistleblower Protection Policy](#)
- [California State Assembly Bill 2053: Employment discrimination or harassment: education and training: abusive conduct](#)

### 4. FREQUENTLY ASKED QUESTIONS

#### **What are examples of Abusive Conduct?**

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

Abusive Conduct may include but is not limited to the following types of conduct that otherwise satisfy the definition in Section II of the AC policy:

- Use of abusive and/or insulting language (written, electronic or verbal)
- Spreading false information or malicious rumors

- Behavior, language, or gestures that frighten, humiliate, belittle, or degrade, including criticism or feedback that is delivered with yelling, screaming, threats, implicit threats, or insults
- Encouraging others to act, singly or in a group, to intimidate or harass other individuals
- Making repeated or egregious comments about a person's appearance, lifestyle, family, culture, country of origin, visa status,
- religious/spiritual/philosophical beliefs, or political views in a manner not covered by the University's policies prohibiting discrimination
- Teasing or making someone the brunt of pranks or practical jokes
- Interfering with a person's personal property or work equipment without a legitimate business or educational purpose
- Circulating photos, videos, or information via e-mail, text messages, social media, or other means without a legitimate business or educational purpose
- Making unwanted physical contact or encroaching on another individual's personal space, in ways that would cause discomfort and unease, in a manner not covered by the University's Sexual Violence and Sexual Harassment policy
- Purposefully excluding, isolating, or marginalizing a person from normal work activities for non-legitimate business purposes
- Repeatedly demanding of an individual that the individual do tasks or take actions that are inconsistent with that individual's job, are not that individual's responsibility, for which the employee does not have authority, or repeatedly refusing to take "no" for an answer when the individual is within the individual's right to decline a demand; pressuring an individual to provide information that the individual is not authorized to release (or may not even possess)
- Making threats to block a person's academic or other advancement, opportunities, or continued employment at the University without a legitimate business or educational purpose
- Sabotaging or undermining a person's work performance

Abusive Conduct does not include exercising appropriate supervision of employees or carrying out instruction, grading, assessment, and evaluation. It does not include performance management or providing appropriate feedback.

### **What are examples of conduct that generally do not constitute Abusive Conduct as defined in Section II of this policy?**

Examples include but are not limited to:

- Providing performance appraisals to employees, including negative appraisals
- Delivering constructive criticism
- Grading student performance, including negative assessments
- Coaching or providing constructive feedback
- Monitoring or restricting access to sensitive and confidential information for legitimate business reasons

- Scheduling regular or ongoing meetings to address performance issues
- Setting ambitious performance goals to align with departmental goals
- Investigating alleged misconduct or violation of University policy
- Counseling or disciplining an employee for performance, engaging in misconduct, or violating University policy
- Engaging in assertive behavior
- Having a disagreement
- Making unpopular statements or articulating positions on controversial issues
- Participating in debates and expressing differences of opinion about academic decisions
- Participating in a formal complaint resolution or grievance process
- Exercising academic freedom, including comments about scholarship, instruction within the classroom, different approaches to curriculum, opposing opinions about policy issues, or academic achievement, even if the content is considered insulting by the recipient and even if delivered passionately

It is important to recognize that not all interactions that may be unpleasant are necessarily Abusive Conduct. Differences of opinion, miscommunication, differences in work styles, business disagreements handled professionally, interpersonal conflicts, and occasional problems in working relations are an inevitable part of working life and do not necessarily constitute Abusive Conduct, as defined in Section II.

### **Is cyberbullying addressed in the AC policy?**

Yes. Abusive Conduct can occur in many different settings, from a 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 AC policy.