

**University of California, Berkeley**  
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**Supersedes: None, New Policy**  
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## **Workplace Bullying Prevention**

Responsible Executive: Vice Chancellor – Administration & Finance

Responsible Office: Central Human Resources

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### **I. POLICY SUMMARY**

The University of California, Berkeley is committed to promoting and maintaining a healthy working, learning, and social environment where every individual is treated with civility and respect. Bullying behavior will not be tolerated in the University of California, Berkeley workplace. The University strongly encourages anyone who is a victim of bullying behavior, or anyone who observes such behavior, to promptly report it to any manager or supervisor or Central Human Resources. Retaliation against individuals who report bullying also is prohibited.

The University will respond promptly and effectively to reports of bullying and will take appropriate action to prevent, correct, and discipline behavior that violates this policy.

### **II. POLICY SCOPE**

This policy applies to non-represented staff, including undergraduate student-employees, and represented staff in the Clerical Unit, Health Care Professional Unit, Registered Nurses Unit, Patient Care Technical Unit, Printing Trades Unit, Research Support Professional Unit, Service Unit, Skilled Crafts Unit, Student Health Physicians' Unit, and Technical Unit are responsible for complying with this policy in the workplace, at University-sponsored events, and in connection with work-related travel.

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### **III. POLICY STATEMENT**

#### **A. Prohibited Conduct**

Bullying is a pattern of **repeated behavior** that a **reasonable person** would find hostile, offensive, and unrelated to the University's legitimate business interests. Bullying behavior may take many forms including physical, verbal, or written acts or behaviors. Workplace bullying often involves an abuse or misuse of power. A single physical, verbal, or written act or behavior generally will *not* constitute bullying unless especially severe and egregious.

Examples of bullying may include:

- persistent or egregious use of abusive, insulting, or offensive language directed at an employee;
- spreading misinformation or malicious rumors;
- behavior or language that frightens, humiliates, belittles, or degrades, including criticism or feedback that is delivered with yelling, screaming, threats, or insults;
- making repeated inappropriate comments about a person's appearance, lifestyle, family, or culture;
- regularly teasing or making someone the brunt of pranks or practical jokes;
- interfering with a person's personal property or work equipment;
- circulating inappropriate or embarrassing photos or videos via e-mail or social media;
- unwarranted physical contact; or
- purposefully excluding, isolating, or marginalizing a person from normal work activities.

#### **B. Bullying vs. Supervision**

It is important to distinguish between bullying behavior and appropriate workplace supervision. Reasonable supervisory actions, when carried out in an appropriate manner, include:

- providing performance appraisals;
- coaching or providing constructive feedback;
- monitoring or restricting access to sensitive information for legitimate business reasons;
- scheduling ongoing meetings to address performance issues;
- setting aggressive performance goals to help meet departmental goals;
- counseling or disciplining an employee for misconduct; and
- investigating alleged misconduct.

Differences of opinion, interpersonal conflicts, and occasional problems in working relations are an inevitable part of working life and do not necessarily constitute workplace bullying.

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**C. Retaliation**

This policy prohibits retaliation (*e.g.*, threats, intimidation, reprisals, and adverse actions related to employment) against any person who reports bullying, assists someone with a report of bullying, or participates in an investigation or resolution of a bullying complaint. Reports of such retaliation will be addressed under the procedures described below.

**D. Dissemination of this Policy**

As part of the University's commitment to providing a working and learning environment free from bullying, this policy will be disseminated widely to the University community upon onboarding and through publications, websites, new employee orientations, and other appropriate channels of communication.

**IV. PROCEDURES FOR REPORTING AND RESPONDING TO REPORTS OF BULLYING**

**A. Reporting Incidents of Bullying**

All members of the University community are strongly encouraged to report conduct believed to constitute bullying under this policy to a manager, supervisor, or Central Human Resources. Managers and supervisors who observe bullying behavior or receive a report of bullying are required to address such behavior immediately and notify their HR Partner/Representative.

The University has distinct procedures for the investigation and resolution of complaints against staff, students, and faculty. Central Human Resources will refer reports of alleged bullying by faculty, academic appointees, and sworn members of the University of California Police Department to the appropriate office or grievance procedure for processing. Whether a complaint made against an undergraduate student-employee is processed under this policy depends on whether the conduct at issue arises out of their employment status or student status.

**B. Resolution Options**

Individuals making reports of bullying will be informed about options for resolving potential violations of this policy. These options may include facilitated early resolution or formal investigation.

The University will respond to reports of bullying brought anonymously or by third parties not directly involved in the complaint. However, the response to such reports may be limited if the report's allegations cannot be verified by independent facts. Anonymous reports may be made online or by calling the Ethics Point hotline at (800) 403-4744.

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**C. Facilitated Early Resolution**

The goal of early resolution is to resolve concerns at the earliest stage possible with the cooperation of all of the parties involved. The University encourages early resolution and will assist the parties in reaching a mutually agreeable resolution when the parties wish to resolve the situation collaboratively.

Early resolution may include a review of the facts, but typically does not include a formal investigation. Means for early resolution will be flexible and encompass a full range of possible appropriate outcomes.

Options for early resolution may include:

- obtaining an agreement between the parties;
- physically separating the parties;
- changing reporting lines;
- referring the parties to counseling and coaching programs;
- negotiating an agreement for personnel action;
- conducting targeted educational and training programs; and/or
- following up with the parties after a period of time to assure that the resolution has been implemented effectively.

While the University encourages early resolution, the University does not require that parties participate in early resolution prior to the University's decision to initiate a formal investigation. In some cases, Central Human Resources may determine that early resolution is inappropriate and may initiate a formal investigation instead.

**D. Formal Investigation**

In response to reports of bullying where early resolution is unsuccessful or inappropriate, the complainant may request a formal investigation. Central Human Resources may initiate a formal investigation after a preliminary review of the facts even in cases where the complainant has not requested one.

Formal investigation of reports of bullying will incorporate the following procedures:

1. The respondent will be advised of the relevant allegations in the complaint.
2. The investigation generally will include interviews with the parties if available, 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. Participants in an investigation may be advised to maintaining confidentiality when essential to protect the integrity of the investigation.
4. Upon request, the complainant and the respondent may each have a representative present when he or she is interviewed. Other witnesses may have a representative

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present at the discretion of the investigator or as required by the applicable University policy or collective bargaining agreement.

5. At any time during the investigation, the investigator may recommend that the University provide interim protections or remedies for the complainant or witnesses. These protections or remedies may include separating the parties, placing limitations on contact between the parties, or making alternative work arrangements. Failure to comply with the terms of interim protections may be considered a separate violation of this policy.
6. Central Human Resources will make every effort to complete the investigation as quickly as possible. Generally, the investigation will be completed within 90 calendar days from the date the request for formal investigation was submitted.
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. Central Human Resources will submit the report to the appropriate University official, and, in consultation with the appropriate manager or supervisor, determine and implement the actions necessary to resolve the complaint.
8. The complainant and the respondent will be informed when the investigation is completed and whether the complaint was substantiated. 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 disciplinary action, but will not be informed of the details of the recommended disciplinary action without the respondent's consent.
9. The complainant and the respondent may request a copy of the investigative report pursuant to University policies governing privacy and access to personal information. In accordance with University policy, the report will be redacted to protect the privacy of personal and confidential information regarding all individuals other than the individual requesting the report.

**E. Remedies**

Findings of violations of this policy may be considered in determining remedies for individuals harmed by the bullying and will be referred to the appropriate manager. Violations may include engaging in bullying, retaliating against a complainant reporting bullying, or violating interim protections. Investigative reports made pursuant to this policy may be used as evidence in subsequent complaint or grievance resolution processes or disciplinary proceedings.

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## **V. OTHER CAMPUS RESOURCES**

**Ombuds Offices:** These offices provide informal, impartial conflict resolution and problem-solving services regarding academic or work-related concerns. The Ombuds Offices are strictly confidential resources. Unless there is an imminent risk of serious harm, they will not disclose the identity of individuals who have used their services or information provided without express permission. In addition, these offices are not offices of record and are not offices for filing complaints. Communications with the Ombuds offices do not place the University on notice and individuals seeking to file complaints will be informed of appropriate University resources. In the interest of maintaining confidentiality, the Ombuds offices request that anyone seeking assistance contact the office by telephone only.

*Staff Ombuds Office: 510-642-7823*

*Student Ombuds Office: 510-642-5754*

**Office for the Prevention of Harassment and Discrimination (OPHD):** OPHD is responsible for ensuring the University provides an environment for faculty, staff and students that is free from discrimination and harassment on the basis of categories including race, color national origin, gender, age and sexual orientation/identity. OPHD also has the specific responsibility for providing prompt and effective responses to all complaints of sex discrimination or harassment for faculty, staff and students. In addition to serving as an investigation officer when a formal complaint of sexual harassment is filed, OPHD provides consultation to faculty administrators, directors, managers and supervisors, and graduate and undergraduate students for resolution strategies at the earliest possible levels.

*OPHD: 685 University Hall; 510-643-7985; ask\_ophd@berkeley.edu*

**University Health Services (UHS):** The two departments below provide assessment, consultation, and counseling in a confidential setting, and referrals regarding work and personal stress or emotional concerns that are interfering with an individual's ability to work in his or her professional or academic setting.

*UHS: Tang Center, 2222 Bancroft Way*

- *Employee Assistance for Faculty and Staff: 510-643-7754*
- *Social Services for Graduate and Undergraduate Students: 510-642-6074*

**Staff Diversity Initiatives, Division of Equity & Inclusion:** Staff Diversity Initiatives (SDI) is a unit of the Division of Equity & Inclusion that is charged with engaging staff and management to ensure staff diversity throughout the campus at all levels of employment and to foster an inclusive workplace environment with a welcoming climate.

*SDI: 104 California Hall, #1508; (510) 642-5973; staffdiversity@berkeley.edu*

**Whistleblower Investigations, Office of Ethics, Risk and Compliance Services (OERCS):**

The University of California has a responsibility to conduct its affairs ethically and in compliance with the law. Whistleblower investigations are conducted in response to reports of known or suspected improper governmental activity or retaliation against an employee for reporting suspected wrongdoing.

*Whistleblower Investigations: Anonymous reports may be made online or by calling the Ethics Point hotline at (800) 403-4744.*

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## **VI. POLICY WEB ADDRESS**

<http://campuspol.berkeley.edu/policies/bullying.pdf>

## **VII. GLOSSARY**

**Complainant:** An individual who alleges they have been subjected to bullying.

**Exclusively Represented Staff Member:** A staff employee represented by a union.

**Exclusively Represented Academic Appointee:** An employee holding an academic title that is also represented by a union.

**Legitimate Business Interests:** An action that supports or is related to the University of California's missions of education, research, and public service.

**Reasonable Person Test:** The basis for determining whether the conduct at issue rises to the level of bullying is whether a reasonable person in the same or similar circumstances would find the conduct hostile, offensive, and unrelated to the University's legitimate business interests. Though the intention of the person responsible for the conduct may be considered, it is not determinative.

**Respondent:** An individual alleged to have violated this policy.

**Workplace:** For purposes of this policy, any location owned, leased, or rented by the Regents of the University of California on behalf of the University of California, Berkeley, or any location where a University employee is acting in the course and scope of employment. This includes, but is not limited to, buildings, grounds, and surrounding perimeters, including parking lots, field locations, classrooms, and residence halls. It also includes vehicles when those vehicles are used for University business.

## **VIII. RELATED DOCUMENTS AND POLICIES**

- [University of California Statement of Ethical Values and Standards of Ethical Conduct](#)
- [University of California, Berkeley Principles of Community](#)
- [University of California Nondiscrimination and Affirmative Action Policy Regarding Academic and Staff Employment](#)
- [University of California Policy on Sexual Harassment and Sexual Violence](#)
- [University of California Whistleblower Policy \(Policy on Reporting and Investigating Allegations of Suspected Improper Governmental Activities\)](#)
- [University of California Whistleblower Protection Policy](#)
- [University of California Personnel Policies for Staff Members](#)
- [University of California Collective Bargaining Agreements](#)