



*Academic Senate*

August 12, 2020

To: Ian Harazduk  
Compliance Analyst & Privacy Officer

From: Dylan Rodriguez   
Chair, Riverside Division

CC: Datasha Hudson  
Special Assistant to Associate Vice Chancellor & Chief Diversity Officer

**Re: Draft Policy: Prohibition on Bullying and Abusive Conduct by Employees and Non-Affiliates**

Dear Fellow Members of the Communications and Policy Coordination Group,

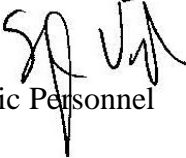
The Academic Senate appreciates this opportunity to provide broad, rigorous feedback on the proposed policy on bullying and abusive conduct. I have attached the written consultative input from Senate standing committees here, and trust that they will help inform the next draft of this proposal.

Peace  
dylan

**COMMITTEE ON ACADEMIC PERSONNEL**

July 22, 2020

To: Dylan Rodriguez  
Riverside Division Academic Senate

From: Sherryl Vint, Chair   
Committee on Academic Personnel

Re: [Campus Review] Proposed Policy: Prohibition on Bullying and Abusive  
Conduct by Employees and Non-Affiliates

At its meeting on July 15, 2020, CAP considered the proposed policy against bullying. The Committee is supportive of the intent behind the policy, including provisions in Appendix B that outline the personnel review process as one possible remedial action in the case of policy violations. At the same time, however, CAP believes that significant clarification is required regarding procedure and levels of responsibility for this policy to be effective.

Most significantly, while CAP believes that it is appropriate for policy violations to play a role in the merit and promotion process, the Committee does not believe that CAP should be adjudicating such matters. Rather, CAP recommends that, in conjunction with the policy against bullying, a new committee be established to hear cases related to allegations of policy violations. CAP feels that it is appropriate that information related to faculty conduct (whether violations of this policy, of the Faculty Code of Conduct, or of other relevant policies) become part of a personnel file only after the Committee on Charges, the Privilege and Tenure Committee, or the new committee established in relation to this policy makes a judgment about the merits of the case. Before such an adjudication, it is not appropriate to have material included in personnel actions considered by CAP. As currently written, the policy conflates the merit and promotion process with adjudication of allegations made in relation to this policy (in the provisions under Section 2, Appendix B).

CAP also recommends the development of a revised policy document that would indicate in detail the rules and procedures to be followed by such a committee. In relation to the proposed policy language, CAP has some concerns about how the effects of violations might be documented (for example related to changed lines of research, or recruitment efforts).

Finally, CAP is concerned about the central role given to a department Chair. The current policy language may subject the process to bias on the part of certain Chairs, or for to factional divisions within departments; both are unfortunate occurrences that one hopes would not be an issue in most cases, but CAP has seen such phenomena have an impact on personnel files in the past.

Finally, CAP encourages more education about the Faculty Code of Conduct to be included in the orientation process for all faculty, especially for new faculty, to ensure that its existing provisions are more widely understood.



## Academic Senate

### COMMITTEE ON FACULTY WELFARE

August 4, 2020

To: Dylan Rodriguez  
Riverside Division Academic Senate

From: Abhijit Ghosh, Chair  
Committee on Faculty Welfare

Re: [Campus Review] Proposed Policy: Prohibition on Bullying and Abusive Conduct by Employees and Non-Affiliates

The FWC met remotely on July 14, 2020 and considered the proposed policy on “Prohibition on Bullying and Abusive Conduct by Employees and Non-Affiliates.” The policy aims to prevent and respond to bullying and abusive conduct while not supplanting existing compliant, grievance or disciplinary processes. Towards those ends, the policy outlines an exhaustive (but not all-inclusive) list of behaviors that constitute bullying and abusive behavior, distinguishing them from single-incident and/or supervisory behaviors (i.e. annual reviews) that may be unpleasant. This policy would target patterns or repeated acts of bullying or abusive behavior that create a hostile climate or impinges upon a UCR community member’s ability to carry out their professional or educational activities. The policy would *require* supervisors, managers and administrators to report incidents of bullying and abusive behaviors of which they have been made aware and would *encourage* such reporting by other UCR community members who experienced or witnessed them.

The FWC lauded the policy’s attempt to address such an important issue, but had several questions and concerns:

1. While the policy outlines several mechanisms for reporting bullying and abusive behavior, some members found this confusing. How would the protocols for reporting bullying and abusive behavior differ from those already established by the university? Some members were concerned that the proliferation of reporting options would diffuse responsibility for actually addressing allegations of bullying or abusive behavior.

2. At what point would allegations of bullying or abusive behavior become part the Merit and Promotion process? Could they be included in personnel meetings or the department letter? FWC members noted that attempts to include documented or first-hand reports of unprofessional conduct and hostile behaviors have been excluded from personnel discussion in the past.

3. FCW members further noted it was important for faculty engaging in such behaviors to be held to account more quickly than the 2 to 5 years personnel review processes can take. It is also important for faculty to be able to defend themselves against such allegations in a more timely manner.

**COMMITTEE ON CHARGES**

July 31, 2020

To: Dylan Rodríguez, Chair  
Riverside Division

From: Timothy Close, Chair  
Committee on Charges

**Re: [Campus Review] Proposed Policy: Prohibition on Bullying and Abusive Conduct by Employees and Non-Affiliates**

The Committee on Charges considered the proposed policy and offers the following preliminary feedback:

1) The Committee on Charges notes that the proposed policy is being offered without explanation of how the proposed policy differs from policy already in place, and without explanation of what problems with existing policy the proposal is intended to address. Without this information, the Committee is unable to comment as constructively as one would like on the proposal, nor to complete its review. The Committee thus requires additional information on the origination of this proposed policy before completing the Committee's feedback. Who wrote this policy? What is lacking in current policies, including APM015, which the proposed policy uniquely would address? The Committee notes that abusive behavior is already specified within the scope of APM015, for example. Is the purpose of this document only to bring existing policies to the faculty's attention or to refresh the collective memory?

2) The proposed policy may, except toward the end of the document in Appendix B.3, give the impression that corrective measures, implicitly including discipline, could result without disclosure of the identity of the complainant. But, established procedures for grievances and formal complaints require disclosure of the identity of complainant, as per UCR Division bylaws 8.7 (Committee on Charges) and 8.19 (Committee on Privilege and Tenure), UCR Appendix 5 (Policies on Faculty Conduct and the Administration of Discipline), Senate Bylaws 334-337, APM015 and APM016. The proposed policy thus conflicts with established legislation. Several problems arise, as follows:

2a) A complainant of bullying or abusive action must be informed that if there is any intention of disciplinary action, then the identity of the complainant cannot be maintained. This should be clarified at the beginning of the proposed policy, otherwise a series of futile actions, having no real clout, many ensue. The guidelines for complaints against faculty members who are alleged to have violated the Code of Faculty Conduct are stated in UCR Appendix 5.3.4, "...The Form must be signed by the complainant..."). The rights of the accused individual to

be informed are addressed in UCR Appendix 5.3.2 “...informed of the allegation, in writing, by the recipient of the signed allegation. It shall also be the accused Faculty member's right to examine all relevant documents assembled in connection with the allegation and to be heard at each step in the progress of the case.” The procedures are well defined for faculty, and can be extended equally to non-faculty members of the University community.

2b) The proposed policy, by hiding the identity of the complainant and by the loose and vague definitions that have been provided for bullying and abusive behavior, would itself be a vehicle to promote unethical behavior by providing a mechanism for frivolous, malicious and retaliatory complaints.

2c) Related to 2b, this policy would provide administrators with excessive latitude and prove to be a potentially dangerous extension of disciplinary powers. This policy as written parallels deeply flawed whistleblower policies and duplicates existing protocols. It is a highly questionable expansion of administrative power when historically administrators themselves have used their position to bully and intimidate students, faculty and staff without adequate transparency and without following existing policies to conduct investigations beyond the purview of university business and interests.

Again, the Committee on Charges requires additional explanation before being able to complete its response. As it stands now, the Committee on Charges does not have a favorable view of the proposed policy.



**COMMITTEE ON DIVERSITY, EQUITY, AND INCLUSION**

July 20, 2020

To: Dylan Rodriguez  
Riverside Division Academic Senate

From: Xuan Liu, Chair  
Committee on Diversity, Equity, and Inclusion

Re: [Campus Review] Proposed Policy: Prohibition on Bullying and Abusive  
Conduct by Employees and Non-Affiliates

The Committee on Diversity, Equity and Inclusion reviewed proposed Prohibition on Bullying and Abusive Conduct by Employees and Non-Affiliates policy. In general, the Committee is supportive of the policy. However, we also have some concerns:

1. The definition of bullying and abusive conduct seems loose in the document, and basically boils down to "we know it when we see it". The Committee feels the definition should be tightened, so it can stand against potential legal challenges to the policy.
2. The Committee is concerned whether the policy will actually serve to curtail bullying and abusive conduct because people may not report and the standards for discipline seem ambiguous. It seems like available help (e.g. mediation) needs to be sustained for any systemic change to occur. The Committee recommends deans and chairs receiving extensive training to fulfill their responsibility in mediation.
3. Under Reporting & Resolution, the grievance option per Bylaw 335 and APM 015 should be included.

In addition to those concerns, there are several typos in the document. For example, when citing APM 015 (page 13), Section II A.4 should be A.5.....



**COMMITTEE ON PRIVILEGE & TENURE**

July 31, 2020

To: Dylan Rodríguez, Chair  
Riverside Division

From: Luca Ferrero, Chair  
Committee on Privilege & Tenure

**Re: Proposed Campus Policy: Prohibition on Bullying and Abusive Conduct by Employees and Non-Affiliates**

The Committee on Privilege and Tenure reviewed the proposed campus policy regarding the prohibition on bullying and abusive conduct by employees and non-affiliates over two meetings. This memo is not the Committee's final response regarding the proposed policy and respectfully requests responses from the policy's author(s) regarding the below so that we can provide our final comments before the policy's implementation. The proposed policy has many implications related to the purview of committees of the Academic Senate. Please provide this information by August 26, 2020.

The robust and deliberate discussion resulted in the following:

**Comments**

Several offices appear to be involved when reporting or seeking help regarding faculty bullying: Ombuds, Academic Personnel Office, and Vice Provost for Administrative Resolution. It would be very useful if there were a single office and point of contact both to receive reports of violations and to advise on appropriate actions. Additionally, a diagram or flow chart of the reporting steps would be a welcome addition, which would make the policy easier to understand. Also, the Committee discussed the suggestion that if the policy were to be adopted, information about the policy and its procedures should be made accessible in as easy a manner as possible to those who might be affected, including potential victims and supervisors (for instance, by clear summaries available on a central web page for easy access).

**General Requests for Clarification**

The committee seeks clarification on the following matters (by August 25, 2020)

1. What is the source and motivation for the proposed policy?
2. How does this policy interact, precede, or succeed other related policies and procedures (involving staff, faculty, and students)?
3. Does this policy cover the actions of graduate students? Does it cover their actions only when they are acting as 'employees' (such as serving as Teaching or Research Assistants)?

4. How are staff and faculty protected in cases of bullying *by* students (undergraduate and graduate students who are not acting as employees)?

### **Potential Impact on the Merit and Promotion Process and Request for Clarification**

Please also note that the Committee is particularly concerned about how this policy might impact the merit and promotion process and how this would interact with the existing procedures for addressing faculty grievances (Senate Bylaw 335), disciplinary actions (Senate Bylaw 336), and early termination (Senate Bylaw 337).

The policy appears to be inspired by the laudable goal of trying to prevent and address bullying and abusive conduct as early as possible. But the present proposal, in the absence of a very clear specification of the kind of acceptable documentation and procedures to be used at all stages of the merit and promotion process, might easily give rise to grievances by an affected faculty. These grievances are onerous to adjudicate according to Senate Bylaw 335: they would increase the workload of this committee, make use of scarce university resources, risk escalating tensions within departments and units, and possibly invite litigation.

In light of these concerns, we also ask for clarifications on the following issues:

1. The proposed policy allows for the candidate in the merit and promotion process to address allegations of bullying/abuse in the candidate letter. However, how can the candidate be assured that all the relevant evidence be included and objectively assessed by Chairs, Deans, CAP, and VPAP?
2. With the possible exception of student evaluations, the documentation that is currently allowed to be included in a merit and promotion process does not contemplate many of the documents that could be used as evidence of bullying/abusive conduct and its effects on research, teaching, and service. Should the introduction of this proposed policy be reflected in 'The Call' by allowing for different and/or additional documentation? If so, which kinds of documents?
3. Could the candidate in a merit and promotion (M/P) action be allowed to add any documentation to rebut the allegation of bullying/abuse and its impact on their research, teaching, and service? Should the candidate be given a longer deadline to collect documentation and address the allegation?
4. According to the proposed policy, alleged bullying and abusive conduct might affect the M/P process for the perpetrators of bullying and abuse. If the policy were to be adopted, shouldn't a similar consideration be given to the victims of that conduct as well? That is, couldn't a member of the Senate whose service, teaching, and/or research might have been negatively affected by being a victim of bullying and abuse, be allowed to raise this matter and have it taken into consideration in their own M/P process? If so, according to which procedures? What policies govern these procedures? Consider, for instance, a candidate who makes allegations of being the victim of bullying and abuse in their self-statement. How are they supposed to document it? Are the alleged perpetrators of the abuse and bullying allowed to present counter evidence? How is the chair supposed to present and/or adjudicate these matters in the chair's letter?



5. This committee seeks clarification on the interaction between the proposed policy and the disciplinary actions as they apply to the M/P process. According to current policies and procedures, disciplinary action is a *confidential* action that has no bearing on the substance of the M/P process (but for a temporary suspension of that process while the action is pending). According to the proposed policy, however, allegations of non-egregious violations would be granted only limited confidentiality since they become part of the personnel file in the M/P process. There is a potential for various conflicts and inconsistencies. For instance, if the bullying and abusive conduct rise to the level of a violation of APM 015 and a disciplinary procedure is initiated while an M/P procedure is also undergoing, could any of the evidence that bears on the disciplinary action be used at the same time in the documentation allowed by the M/P process? Would the use of this documentation be a violation of the confidentiality of the disciplinary action procedures? Should the determination of the disciplinary process be granted priority given that it uses much higher standards of proof in adjudication than the standards that are used in the M/P process?
6. Could any of the determinations made and documentation used in disciplinary action, including disciplinary hearings, be used to either document or rebut allegations of the effects of bullying/abusive conduct in past, present, or future M/P actions? If so, would this violate confidentiality? On the other hand, how could these determinations and documents be excluded from any M/P process when they can bear directly on the substance of the M/P decisions and are produced through a much more rigorous process of fact-finding as codified in bylaws 336?
7. Finally, how would the proposed policy interact with the procedure for early termination (bylaws 337)? Would alleged violations of this policy be relevant to those procedures? If so, how should they be documented?