

**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?