

UCLA Academic Senate

Committee on Privilege and Tenure

December 17, 2021

To: Jody Kreiman, Chair
Academic Senate

From: Sandra Graham, Chair 
Committee on Privilege and Tenure

Re: (Systemwide Senate Review) Proposed Systemwide Policy on Abusive Conduct/Bullying in the Workplace

Dear Chair Kreiman,

At its meetings on November 18, 2021 and December 2, 2021, the Committee on Privilege and Tenure (P&T) had an opportunity to discuss the proposed new systemwide Policy on Abusive Conduct/Bullying in the Workplace. Given that California law now requires that employers include “prevention of abusive conduct” as part of their “interactive training and education regarding sexual harassment,”¹ Committee members appreciate the intent of the policy, but have several concerns.

A principal concern is that the proposed systemwide policy goes far beyond training and education for prevention purposes, and mandates a specific formal investigation and adjudication process. This effectively removes the Senate from review of faculty conduct, a violation of one of the core faculty rights under shared governance. The policy should specify instead that investigation and adjudication of conduct under the policy will fall under existing conduct policies for faculty and staff. The policy also gives no consideration to resources for the described investigation process.

Apart from the investigation sections of the proposed policy, the Committee appreciates the effort to provide definitions of “abusive conduct” and “bullying.” Insofar as it might be helpful to have a policy providing further definition of bullying and abusive conduct, the Committee was concerned that words and phrasing in the proposed policy for “unallowable” conduct go beyond the definition in the California Code, which reads as follows:

(2) For purposes of this section, “abusive conduct” means conduct of an employer or employee in the workplace, with malice, that a reasonable person would find hostile, offensive, and unrelated to an employer’s legitimate business interests. Abusive conduct may include repeated infliction of verbal abuse, such as the use of derogatory remarks, insults, and epithets, verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, or the gratuitous sabotage or undermining of a person’s work performance. A single act shall not constitute abusive conduct, unless especially severe and egregious.²

¹ See [Cal.Govt.Code section 12950.1](#)(a)(1)(2); (h)(2).

² *Ibid.* §(h)(2).

The policy's expanded definition adds words with variable definitions, some of which could even invite a form of discrimination based on how different individuals might interpret them. Some examples include:

- civility³
- respect
- cohesive (could conflict with coerced agreement)
- honor compliance (to what or whom?)
- intention (who defines it and decides when it matters?)
- gestures
- yelling, screaming
- frighten (what about cultural misunderstanding?)
- teasing and practical jokes
- personal space

The Committee also found that some of the items listed as conduct that is “allowable” under the policy could have variable interpretations:

- assertive behavior
- a simple disagreement (does this mean complex disagreements are not allowed?)

Additional comments:

- The “Scope” does not include students. Although the policy seems to be aimed as a “workplace” policy for employees, students are often also employees. The policy should specify that when students are employees, they are responsible to follow this policy.
- Members suggested that the policy could clarify the academic freedom exception by specifying that comments about scholarship, different approaches to curriculum, opposing opinions about policy issues, or academic achievement are permissible, even if the content is considered insulting by the recipient and even if delivered passionately, but comments about a person's character are not permissible, even if delivered quietly. These are mentioned in the “allowable” list, but without qualification.
- Section III.E mentions academic freedom in the title, but not in the paragraph body.

Thank you for the opportunity to review the proposed revisions.

cc: Jessica Cattelino, Vice Chair/Chair-Elect, Academic Senate
April de Stefano, Executive Director, Academic Senate
Shane White, Immediate Past Chair, Academic Senate
Members of the Committee on Privilege and Tenure
Marian M. Olivas, Principal Policy Analyst, Judicial Committees

³ See, for example, the [Academic Council's statement on civility \(2015\)](#)