

RESOLUTION ON A WORKPLACE BULLYING POLICY

March 7, 2022 Faculty Senate Meeting

The Faculty Affairs Committee has advocated for a workplace bullying policy for several years. At the November 18, 2019 Faculty Senate meeting a [Bullying Resolution](#) was passed to establish a policy, which was informed by a survey on [Bullying Policy Language from Multiple Universities](#). As a result of this resolution, then Provost David Manderscheid established a task force to examine bullying policies and education programs for faculty and staff. The Faculty Affairs Committee expresses our appreciation to the task force co-chairs, Mary Lucal and Lisa Yamagata-Lynch.

The task force was comprised of both staff and faculty, and its members included: Joan Heminway, Susan Pritchard, Kimberly Hardaway, Katrice Morgan, Nathalie Histrov, Todd Freeberg, Stefanie Benjamin, Sharon Couch, Erin Darby, Lettie Flores, Mitsunori Misawa, Jenny Richter, Joan Thomas, Diane Kelly, John Zomchick, Jean Derco, and Lisa Muller. Each member was active in one or more of the task force subgroups that included: Research, Training, Definition, and Policy.

The task force members began to meet in person in January 2020, then throughout COVID remote working conditions met roughly once a month until June 2021. Due to the large membership of the task force, not all members were present at each meeting, however, they were present in subgroup meetings.

Much of the task force work focused on: (1) defining workplace bullying as it made sense in the context of our campus, (2) drafting a proposed workplace bullying policy, and (3) generating ideas for education programming when the workplace bullying definition and policy were adopted by university leaders.

The proposed policy (as it appears below) has been endorsed after input from the Faculty Senate Faculty Affairs Committee (2-14-2022) and the Faculty Senate Executive Council (2-21-2022). Campus leadership advocates the policy, which applies to both faculty and staff, should be implemented as a UTK Human Resources Policy. Faculty Senate Leadership also advocates that the policy should be referenced in the *UTK-UTIA Faculty Handbook* (2.2.5 Professional Conduct). At present, implementing a Workplace Bullying Policy awaits a UT System Code of Conduct Policy and determining its impact on the campuses.

Proposed Workplace Bullying Policy

UTK values the well-being of its employees and recognizes that bullying in the workplace can significantly impact a person's dignity and their physical and mental health. Hence, UTK is committed to maintaining a healthy educational and work environment. We recognize that there are many possible work locations for UTK faculty and staff, whether on or off campus, and that the impact of bullying is the same regardless of work location. All employees, as well as those interacting with employees in the course of UTK's operations, have the right to be treated with dignity and respect. As part of an overall effort to have a workplace free from abusive conduct, UTK prohibits employees from engaging in bullying, as defined below, while conducting campus business.

This policy applies to faculty or staff who may be the subject of the complaint, regardless of the complainant's role at UT.

Definitions used in this policy

Bullying, a type of abusive conduct, includes acts or omissions that would cause a reasonable person, based on the severity, nature, and/or frequency of the conduct, to believe that they are subject to an abusive work environment. Bullying may include but is not limited to the following, whether directed towards an individual or a group:

- Verbal abuse in the workplace, including derogatory remarks, insults, and epithets;
- Verbal, nonverbal, or physical conduct of a threatening, intimidating, or humiliating nature in the workplace; or
- The sabotage or undermining of an employee's work performance in the workplace.

A single act generally will not constitute bullying, unless the conduct is determined to be severe and egregious.

Behaviors that constitute bullying, if directed towards an individual or group, may include:

- Physical, verbal, or written (print and/or electronic) acts;
- Behaviors that exclude, ignore, dismiss, or ostracize;
- Tampering, damaging, or destroying work output;
- Using condescending, humiliating, or vulgar language;
- Shouting or using obscene, derogatory, mocking gestures and language;
- Knowingly making false statements, verbally or in writing; or,
- Frequent criticizing or blaming that is unfounded.

Bullying behavior does not include:

- Rude or inconsiderate behavior that does not single out an individual or group;
- Disciplinary procedures undertaken in accordance with applicable campus policies;
- Routine coaching and counseling, including feedback about and correction of work performance;
- Conveying reasonable work assignments, including shift and overtime assignments;
- Exercising individual differences in styles of personal expression;
- Engaging in passionate, loud expression with no intent to harm others;
- Expressing differences of opinion on work-related concerns; or,
- The non-abusive exercise of managerial prerogative.

Policy Provisions

1. It is important to note that conduct that may constitute unlawful discrimination or harassment should be reported to the Office of Equity and Diversity (865-974-2498 or oed@utk.edu). UTK has a [policy that prohibits unlawful discrimination and harassment](#). While workplace bullying can be intertwined with unlawful discrimination and harassment, bullying behavior can occur apart from these other forms of misconduct. Regardless, workplace bullying is prohibited by this policy and is inconsistent with The

University of Tennessee's [Code of Conduct](#) (HR0580), which prohibits conduct that disrespects others.

2. UTK offers faculty and staff informal resources to assist them when they have concerns regarding bullying incidents. Faculty and staff are welcomed to explore these resources that can help them navigate the workplace situation through either informal conversations or formal processes. These resources include, but are not limited to: the Office of Human Resources, the Office of the Ombuds Services, and the Employee Assistance Program, as well as any other resource offered at the departmental level.

3. If an informal resolution is not feasible or any party wishes to follow a formal process, an official complaint may be submitted directly to the Office of Human Resources. Formal complaints must be in writing and filed within 300 days of the most recent incident. Please call the Office of Human Resources to speak to the Director of Employee Relations (or the director's designee) to file a complaint. In certain circumstances, at the discretion of the HR, complaints filed outside that time limit, or not submitted in writing, may be investigated.

The Office of Human Resources will investigate all formal complaints of workplace bullying within 60 calendar days unless extenuating circumstances prohibit a timely investigation. If the last day of the 60-day deadline falls on a non-business day, the deadline would extend to the following business day. Members of the UTK community shall cooperate with the review and/or investigative process. Even if there is no finding of policy violation, HR may share organizational observations in order to improve working relationships.

4. The Office of Human Resources will report all findings in workplace bullying investigations and make recommendations to the appropriate campus administrators not named in the complaint (supervisor, next-level supervisor, Department Head, Dean, Provost, and/or Chancellor). That administrator, in consultation with the university's Office of the General Counsel, will make any and all final decisions related to the finding, taking corrective action when warranted. While the process is underway, the University may impose interim measures for the duration of the review, including but not limited to administrative leave. All parties named in the complaint will receive a decision letter in writing within one year of the original complaint unless extenuating circumstances prohibit a timely resolution.

5. A Workplace Bullying Advisory Committee, which will be appointed by the Chancellor, will consist of two representatives from the Faculty Senate, two representatives from ERC, and one representative from the Office of Equity and Diversity. The committee is charged with providing outreach and awareness through educational campaigns and activities for the campus community. It may also make suggestions for possible policy revision.

6. UTK values and promotes freedom of expression as provided under applicable law. Nothing in this policy is intended to limit or restrict a person's First Amendment rights, rights to academic freedom, or professional disclosure rights or obligations. However, none of these rights or obligations includes an entitlement to engage in workplace

bullying that disrupts campus business and an employee's ability to perform their duties.

7. UTK is committed to providing a safe and secure campus environment for members of the campus community. Workplace violence impedes these goals and endangers the entire community. Violent behavior is prohibited in or on any campus facility or while participating in any university activity. Any incident that involves a threat of violence or physical harm should be reported immediately and referred to law enforcement.

8. UTK will not tolerate, and this policy expressly prohibits, retaliation against employees making good faith reports as provided for in this policy, even where the concerns are ultimately unsubstantiated. False reports of prohibited behavior that are found to have been made intentionally are also a violation of this policy. Policy violations may result in University disciplinary action in accordance with established policies and procedures, as appropriate.

Compliance with this Policy

Compliance with this policy is mandatory. For assistance with interpreting or applying its provisions, contact your campus HR. Any person covered by this policy who engages in workplace bullying is subject to disciplinary sanctions up to and including termination or dismissal from the University.

RESOLUTION
Be it resolved that the UTK Faculty Senate formally requests the System administration move forward expeditiously to institute a UT System Code of Conduct Policy and that the Faculty Senate President is charged to bring this request to the UT President for action, noting the extensive effort already invested and that incorporation of such a policy would align us with many of our peer higher education systems.