



## UTAH VALLEY UNIVERSITY Policies and Procedures

<b>POLICY TITLE</b>	Workplace Conduct (Temporary Emergency)	<b>Policy Number</b>	326
<b>Section</b>	Human Resources	<b>Approval Date</b>	December 11, 2020
<b>Subsection</b>	Conditions of Employment	<b>Effective Date</b>	December 11, 2020
<b>Responsible Office</b>	Office of the Vice President of Planning, Budget, and Human Resources		

### 1.0 PURPOSE

1.1 Utah Valley University is committed to maintaining a work environment that encourages mutual respect and facilitates collegial relationships. This policy defines and prohibits abusive conduct in the workplace; describes the reporting of a violation of this policy; prohibits certain types of retaliation complaints; and outlines fact-finding, disciplinary actions, and procedures for responding to violations of this policy.

### 2.0 REFERENCES

- 2.1 *Government Records Access and Management Act (GRAMA)*, Utah Code § 63G-2-101 (2008)
- 2.2 Utah Code Ann. § 67-21-1 et seq. *Utah Protection of Public Employees Act*
- 2.3 Utah Code Ann. § 67-26-203 *Utah Public Employees Healthy Workplace Act*
- 2.4 *Abusive Conduct Prevention*, Utah Admin. Code § 477-16-1 (2015)
- 2.5 UVU Policy 162 *Title IX Sexual Harassment*
- 2.6 UVU Policy 165 *Discrimination, Harassment, and Affirmative Action*
- 2.7 UVU Policy 371 *Corrective Actions and Termination for Staff Employees*
- 2.8 UVU Policy 648 *Faculty Personnel Reduction (Interim Policy)*

### 3.0 DEFINITIONS

3.1 **Abusive conduct:** An employee’s verbal, nonverbal, or physical conduct toward another university employee that, based on the severity, nature, or frequency of the conduct, a reasonable person would determine



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- 1) Is intended to cause intimidation, humiliation, or unwarranted distress;
- 2) Results in substantial physical harm or substantial psychological harm as a result of intimidation, humiliation, or unwarranted distress; or
- 3) Exploits a university employee's known physical or psychological disability.

**3.2 Complainant:** An employee who alleges conduct or retaliation prohibited by this policy.

**3.3 Formal complaint:** A document submitted by a complainant alleging violations of this policy. This document may be a physical document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the University) that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.

**3.4 Protected Activity:** Any activity required, encouraged, or otherwise protected under UVU policy. Examples of protected activities, include, but are not limited to, participating in retention, tenure, promotion processes; conducting annual performance reviews; reporting or assisting others in making a good-faith complaint (internally or externally) of policy violation; and participating in good faith as an investigator, witness, decision maker, or otherwise assisting in any UVU fact-finding, dispute resolution, or proceeding related to a policy violation.

**3.5 Respondent:** An employee against whom an alleged complaint of conduct or retaliation prohibited by this policy has been made.

**3.6 Retaliation:** An action, performed directly or through others, that is aimed to dissuade a reasonable person from engaging in a protected activity or is done in retribution for engaging in a protected activity. Action in response to a protected activity is not retaliatory unless (1) it has a materially adverse effect on the working, academic, or other university-related environment of an individual; and (2) it would not have occurred in the absence of (but for) the protected activity.

### 4.0 POLICY

#### 4.1 Scope of Policy

**4.1.1** This policy applies to all Utah Valley University employees, including full-time and adjunct faculty, executives, full-time and part-time staff, and student employees.

**4.1.2** Nothing in this policy shall be interpreted to alter the status of otherwise at-will employees.

#### 4.2 Relationship to Other Policies

**4.2.1** Conduct and retaliation defined in and prohibited by UVU Policy 162 *Title IX Sexual Harassment*, UVU Policy 165 *Discrimination, Harassment, and Affirmative Action*, and UVU



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Policy 168 *Complaints under the Utah Protection of Public Employees Act* are subject to the procedures set forth in the applicable policy.

### 4.3 Policy Statement

**4.3.1** The University strives to provide and maintain a workplace environment free from abusive conduct and expects all employees to demonstrate respect and fairness to others.

**4.3.1.1** Employees are prohibited from engaging in retaliation because of another employee's past or future engagement in a protected activity, as defined in this policy.

**4.3.1.2** Employees are prohibited from engaging in abusive conduct toward another employee even if the conduct occurs outside of scheduled work time or work location.

**4.3.1.3** Employees shall promptly report to their immediate supervisor or campus police all threats of or acts of violence, both direct and indirect, by employees, students, or other members of the university community.

**4.3.2** The University shall respond promptly and effectively to reports of abusive conduct prohibited by this policy and shall take appropriate action to stop and prevent the recurrence of such conduct.

**4.3.3** This policy does not limit supervisors' rights to manage employees. Performance management, work assignment and evaluation, and disciplinary measures taken by Utah Valley University for a valid reason, including in compliance with university policy, does not constitute abusive conduct.

**4.3.4** Employees violating this policy are subject to disciplinary action up to and including termination of employment per UVU Policy 371 *Corrective Actions and Termination for Staff Employees* and UVU Policy 648 *Faculty Personnel Reduction (Interim Policy)*.

**4.3.5** Employees who, in bad faith, deliberately make false or malicious accusations of conduct in violation of this policy shall be subject to disciplinary action, up to and including termination of employment from the University. A finding of no violation of this policy by the factfinder(s) does not in itself constitute proof of a false or malicious accusation.

**4.3.6** Nothing in the policy shall be construed in a manner that impinges on individuals' rights or privileges protected by the US Constitution, including their protected free speech rights, as set forth in UVU Policy 161 *Freedom of Speech*.



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### 4.4 Roles and Responsibilities

**4.4.1** All employees have an obligation to promote and preserve the reputation of the University by demonstrating respect toward all members of the campus community. Employees are responsible for responding to and reporting perceived conduct prohibited by this policy.

**4.4.2** Supervisors have an obligation to set expectations in their areas to ensure a safe, collegial, and respectful workplace for all employees and address conduct issues as they arise. If a supervisor becomes aware of conduct issues within their area that may violate this policy, the supervisor shall take appropriate steps to informally resolve the conduct issues. If informal resolution is not appropriate to effectively resolve the prohibited conduct, the supervisor shall contact Human Resources.

**4.4.3** Human Resources may advise and assist the supervisor, conduct fact-finding, make recommendations for corrective action, and/or provide mediation between employees to effectively resolve the prohibited conduct.

### 4.5 Training

**4.5.1** Human Resources shall provide annual training to educate all employees and supervisors on abusive conduct in the workplace. This training shall include information on

**4.5.1.1** What constitutes abusive conduct and the ramifications of abusive conduct;

**4.5.1.2** Resources available to employees who are subject to abusive conduct; and

**4.5.1.3** The abusive conduct complaint process.

## 5.0 PROCEDURES

### 5.1 Reporting and Resolution of Abusive Conduct

**5.1.1** Employees are encouraged to bring their disputes or differences with other employees to the attention of their immediate supervisor before the situation escalates into abusive conduct or violence.

**5.1.2** An employee who is subjected to or observes conduct prohibited by this policy may first attempt to informally resolve their concern through discussion with their immediate supervisor who may initiate an effective resolution.

**5.1.2.1** If an employee is not comfortable discussing conduct prohibited by this policy with their immediate supervisor, the employee may contact the immediate supervisor's leader or the Office of Human Resources.



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**5.1.3** Information disclosed by an employee during this process shall be treated as confidential to the greatest degree possible, sharing information only on a need-to-know basis, except as required by public records laws, subpoenas, or court proceedings.

**5.1.4** UVU Police will promptly and thoroughly investigate all reports of potentially violent activity, as well as threats of, or acts of, violence. To maintain workplace safety, the supervising senior executive (Provost, vice president, or President) may place the employee on non-disciplinary paid administrative leave during an investigation under this policy. The administrative leave’s restrictions must be as limited in scope (particular buildings, offices, or contact from specific persons) as practicable to sufficiently mitigate the identified risks to safety and operations.

**5.1.5** Any decision to put an employee on administrative leave shall be based on an individualized determination in consideration of the best available evidence that the employee

- 1) Poses a credible, substantial risk of harm to individuals within the University or to the university community as a whole; or
- 2) Poses a credible, substantial risk of impeding the lawful activities, the educational processes, or the proper activities or functions of other members of the university community.

**5.1.6** All documents, records, recordings, and information associated with the complaint reporting and resolution processes are designated as protected in accordance with the *Utah Government Records and Management Act (GRAMA)*.

### **5.2 Reporting and Resolution of Prohibited Retaliation**

**5.2.1** The employee must file a formal complaint alleging retaliation prohibited by this policy with the Director of Equal Opportunity and Affirmative Action within 180 calendar days of the occurrence of retaliation prohibited by this policy. Late complaints may be dismissed.

**5.2.2** The complaint resolution process—including notices, complaint, investigation, appointment of hearing panel members, hearing, and appeal—shall to the extent feasible follow the procedures described in UVU Policy 165 *Discrimination, Harassment, and Affirmative Action*.

<b>POLICY HISTORY</b>		
Date of Last Action	Action Taken	Authorizing Entity
March 7, 2001	Regular policy approved.	UVU Board of Trustees
December 11, 2020	Temporary Emergency policy ratified.	UVU Board of Trustees Executive Committee