

Utah Tech University Policy

322: Abusive Conduct



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I. Purpose

- 1.1 This policy communicates expectations for workplace conduct at Utah Tech University (“the University”) and the procedures to be followed when there are allegations of Abusive Conduct.

II. Scope

- 2.1 This policy applies to all University Employees and Official University Volunteers, as defined by University Policy 301 (collectively referred to as “Personnel”).
- 2.2 Nothing in this policy shall be interpreted to alter the status of an At-Will Employee or of an Official University Volunteer.
- 2.3 Conduct and retaliation defined in and prohibited by University Policies 154, 164, and 330 are subject to the procedures set forth in the applicable policy.

III. Definitions

- 3.1 **Abusive Conduct:** Verbal, nonverbal, or physical conduct of an Employee or Official University Volunteer to another Employee or Official University Volunteer that, based on the severity, nature, or frequency of the conduct, a reasonable person would determine:
 - 3.1.1 Is intended to cause intimidation, humiliation, or unwarranted distress;
 - 3.1.2 Exploits an Employee or Official Campus Volunteer’s known physical or psychological disability; or
 - 3.1.3 Results in substantial physical or psychological harm as a result of

intimidation, humiliation, or unwarranted distress.

Abusive Conduct does not mean a single act, unless the act is an especially severe and egregious act that meets the standard described above in 3.1.1, 3.1.2, or 3.1.3.

- 3.2 **Complainant:** An Employee or Official University Volunteer who alleges Abusive Conduct and/or retaliation for alleging Abusive Conduct under this policy.
- 3.3 **Hostile Work Environment:** An environment where harassing or discriminatory conduct is so severe and pervasive that it interferes with an individual's ability to perform their job; creates an intimidating, offensive, threatening, or humiliating work environment; or causes a situation where a person's psychological well-being is adversely affected.
- 3.4 **Personnel:** An Employee or Official University Volunteer as defined in University Policy 301.
- 3.5 **Respondent:** An Employee or Official University Volunteer against whom a complaint of Abusive Conduct and/or retaliation for alleging Abusive Conduct is asserted under this policy.
- 3.6 **Retaliation:** An act, performed directly or through others, aimed to dissuade a reasonable person from engaging in a protected activity or is done in retribution for engaging in a protected activity, that has a materially adverse effect on an individual's University work or academic environment, and would not have occurred absent the protected activity.
- 3.7 **University Community Member:** An individual employed by or affiliated with the University or a participant in any University program or activity, including but not limited to, administrators, faculty, staff, students, independent contractors, volunteers, trustees, advisory board members, and guests or visitors to any University Premises.
- 3.8 **University Premises:** All land, buildings, facilities, and other properties in the possession of, or owned, used, leased, or controlled by the University.
- 3.9 **Workspace:** Space used or required for one's work or volunteer service, as in an office, cubicle, conference room, athletic complex, etc.

IV. Policy

- 4.1 Utah Tech University strives to provide a workplace free from Abusive Conduct and expects all Personnel to demonstrate respect and fairness to other Personnel.

- 4.2 Utah Tech University promotes the respect and dignity of its Personnel and encourages interpersonal cooperation and support among Personnel.
- 4.3 All Personnel have an affirmative duty to avoid engaging in Abusive Conduct, and to comply with all federal and state regulations, laws, and administrative guidelines.
- 4.4 Personnel are prohibited from engaging in Abusive Conduct, even if the Abusive Conduct occurs outside of scheduled work/volunteer hours or off University Premises.
- 4.5 In the event that a complaint of Abusive Conduct is filed, the Respondent may not communicate with the Complainant regarding the allegations.
- 4.6 The following actions do not constitute Abusive Conduct unless they are particularly egregious and severe:
 - 4.6.1 Appropriate administrative or disciplinary actions.
 - 4.6.2 Appropriate feedback or coaching.
 - 4.6.3 Reasonable job-related assignments.
 - 4.6.4 Reasonable differences in styles of communication, management, expression, or opinion.
- 4.7 Human Resources will provide regular training on Abusive Conduct to all Employees on an annual basis, in accordance with Utah Code Section 67-26-203(3).

V. References

- 5.1 University Policy 151: Staff Grievances
- 5.2 University Policy 154: Title IX Sex-Based Discrimination, Sexual Harassment, and Retaliation
- 5.3 University Policy 164: Protected Class and Non-Title IX Discrimination, Harassment, Sexual Harassment, and Retaliation
- 5.4 University Policy 301: Personnel Definitions and Classifications
- 5.5 University Policy 330: Whistleblower Protections
- 5.6 University Policy 371: Faculty Termination
- 5.7 University Policy 372: Corrective and Disciplinary Action

- 5.8 University Policy 373: Termination and Reduction in Workforce
- 5.9 Utah Code Section 63G-2-101 (Government Records Access and Management Act (GRAMA))
- 5.10 Utah Code Section 67-26-2 (Utah Public Employees)
- 5.11 Utah Code Section 67-26-203(3) (Abusive Conduct Training)

VI. Procedures

6.1 Filing an Abusive Conduct Complaint

- 6.1.1 Personnel who experience or witness alleged Abusive Conduct are entitled to file a complaint and engage in a review process free from bias, collusion, intimidation, or retaliation. The following process should be followed:
 - 6.1.1.1 Document the situation.
 - 6.1.1.2 Continue to report to work.
 - 6.1.1.3 Identify a witness if possible or applicable.
 - 6.1.1.4 File a written complaint with the Complainant's immediate supervisor or Human Resources.
- 6.1.2 Any supervisor with knowledge of Abusive Conduct should, in consultation with Human Resources, document the action taken.
- 6.1.3 If the reported Abusive Conduct involves allegations of violence or potentially violent behavior, Utah Tech Police Department (UTPD) should be notified. UTPD will promptly and thoroughly investigate all reports of a potentially violent act, as well as threats of, or acts of, violence.
- 6.1.4 To maintain workplace safety, a supervising senior administrator may place the Respondent on non-disciplinary paid administrative leave pending the University's investigation under this policy. Any such administrative leave will be limited in scope (e.g., trespass from particular buildings or offices, or limiting contact with specific persons) as much as practicable to sufficiently mitigate the identified risks to safety and/or operations.
- 6.1.5 Any decision to put a Respondent employee on administrative leave shall be based on an individualized assessment by the Respondent's

supervisor and Human Resources, considering the best available information at the time, as to whether Respondent poses a credible, substantial risk of harm to any University Community Member or the University as a whole; or poses a credible, substantial risk of impeding the lawful activities, educational processes, or regular activities or functions of other University Community Members.

6.2 Investigation of Abusive Conduct

- 6.2.1 If the Complainant's allegations potentially involve Sex-Based Discrimination, Sexual Harassment, or Retaliation, the matter will be referred by the recipient of the Complaint (e.g., the supervisor or Human Resources) to the Office of Equity Compliance and Title IX, as required by Policy 154, for review and processing.
- 6.2.2 If the Complainant's allegations potentially involve Protected Class or Non-Title IX Discrimination, Harassment, Sexual Harassment, or Retaliation, the matter will be referred by the recipient of the Complaint (e.g., the supervisor or Human Resources) to the Office of Equity Compliance and Title IX, as required by University Policy 164, for review and processing.
- 6.2.3 If the complaint does not warrant referral to the Office of Equity Compliance and Title IX, a full investigation will be conducted by a representative from Human Resources or by an external investigator, as needed.
- 6.2.4 All parties and participants in the University's investigation of the Abusive Conduct complaint are expected to treat information pertaining to the complaint as strictly confidential, subject to the rights and obligations of the parties or participants.
- 6.2.5 If the University's investigation reveals evidence of potential criminal conduct, the matter may be referred to the appropriate police agency.
- 6.2.6 If the University's investigation substantiates the allegations of Abusive Conduct, appropriate administrative action will be taken, up to and including termination, in accordance with corrective and disciplinary actions found in University Policies 371, 372, and 373. Administrative action taken against Official Campus Volunteers is final and not subject to appeal.
- 6.2.7 At the conclusion of the University's investigation, the parties will be notified of the outcome of the investigation. If an Employee is a

Complainant or Respondent, they will be given the procedure to request administrative review of the findings, which is as follows:

- 6.2.7.1 Employee will contact the Human Resources Director, in writing, within ten (10) University business days of the parties receiving notification of the investigative findings.
- 6.2.7.2 If the investigation was conducted by Human Resources staff, and the administrative action taken does not include termination, such administrative review will occur by an external investigator.
- 6.2.7.3 If the investigation was conducted by an external investigator, and the administrative action taken does not include termination, such administrative review will occur by Human Resources staff (or a different external investigator, if needed).
- 6.2.7.4 Both types of administrative reviews that do not include termination (whether conducted by an external investigator or Human Resources staff) will consist of the following:
 - 6.2.7.4.1 Review the investigative file and rule upon the findings of the Abusive Conduct investigation.
 - 6.2.7.4.2 In addition to reviewing the investigative file, the administrative reviewer may only request additional relevant documents from and interview the party who initiated the administrative review, as well as request additional relevant documents from and interview the other party and the investigators who conducted the investigation, prior to ruling.
 - 6.2.7.4.3 The administrative review may overturn the findings of the Abusive Conduct investigation if the reviewer determines that the findings are not reasonable, rational, or sufficiently supported by the evidence, or the facts on which the findings are based are inaccurate.
 - 6.2.7.4.4 The administrative review may uphold the findings of the Abusive Conduct investigation if the reviewer determines that the findings are reasonable, rational, and sufficiently supported by the evidence, and the facts on which the findings are based are accurate.

6.2.7.4.5 Within thirty (30) days after the day on which a party initiates an administrative review, the administrative reviewer shall issue a notice stating whether the Abusive Conduct investigative findings were upheld or overturned. The administrative reviewer's determination is final and not subject to appeal.

6.2.7.5 If the administrative action does include termination, the administrative review will occur per the grievance procedures for termination outlined in University Policy 151 for staff and Policy 371 for faculty.

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

VII. Addenda – N/A

Policy Owner: Executive Director of Human Resources
Policy Steward: Executive Director of Human Resources

History:
Approved 01/27/23