

Call for a Workplace Bullying Policy
by
the USC Faculty Senate
as Proposed by the Faculty Welfare Committee (FWC)

June 2013

The University of South Carolina is dedicated to the mission of teaching, research, creative activity, and service. The University is also committed to the establishment of a working environment that fosters academic freedom for all faculty members. Consistent with these commitments, the University aspires to cultivate a community in which individual members treat each other with civility and respect. Accordingly, the faculty considers workplace bullying unacceptable. It undermines our values, harms colleagues, limits academic freedom and impedes the mission and commitments of the University.

At the request of the Faculty Senate, the Faculty Welfare Committee has been studying the issue of workplace bullying among faculty. The committee has concluded that workplace bullying is a serious issue that affects faculty members at USC. The University currently has no policy that specifically addresses workplace bullying. Furthermore, existing procedures to handle bullying complaints are often inadequate to protect faculty from bullying. The University has established no clear definition of workplace bullying, nor have the faculty established any position on workplace bullying. Similarly, the faculty manual contains no guidance to faculty who feel that they are a victim of workplace bullying.

To better address this issue the Faculty Welfare Committee has worked with the Faculty Senate to develop a proposed policy on workplace bullying. The Faculty Welfare Committee requests that the Faculty Senate endorse this proposed policy (see below) prior to it being forwarded to the Administration of the University of South Carolina. It should be noted that the Faculty Senate cannot establish policies but they can make strong suggestions for particular policies to the Administration. The resolution from the Faculty Senate would be that a policy on workplace bullying be implemented in a form that is similar in substance to that of the proposed policy that follows.

NUMBER: ACAF #.##
SECTION: Academic Affairs
SUBJECT: Workplace Bullying
DATE: April 15, 2013
REVISED:
Policy for: Columbia Campus
Procedure for: Columbia Campus
Authorized by:
Issued by: Faculty Welfare Committee

I. Policy

- A. The University of South Carolina seeks to create an environment in which members of the University community are civil and respectful of individuals and individual differences and that effectively and efficiently supports the missions of the University of South Carolina. The faculty of the University believes that these goals can only be achieved through adherence to the values expressed in the Carolinian Creed. Accordingly, the faculty of the University considers workplace bullying unacceptable because it undermines these values. Workplace bullying may cause the loss of trained and talented employees, may reduce workplace productivity and morale and can interfere with the missions of the University. This administrative policy creates a process for reporting, investigating and resolving complaints related to workplace bullying. The intent of this policy is to stop workplace bullying as quickly as possible in a just manner. It is further the intent of this policy to stop workplace bullying while protecting academic freedom for all faculty, preserving the highest standards of teaching and scholarship, and advancing the missions of the University as an institution of higher learning.
- B. Workplace Bullying is repeated, unwelcome behavior that intentionally threatens, intimidates, humiliates or isolates the targeted individual(s), or undermines their reputation or job performance. It may take, but is not limited to, one or more of the following forms:
- Verbal abuse
 - Malicious criticism or gossip
 - Unwarranted monitoring
 - Unwarranted physical contact
 - Exclusion or isolation in the workplace
 - Work interference or sabotage
 - Cyberbullying
 - Other offensive conduct/behaviors (including nonverbal) which are threatening, humiliating, harassing or intimidating

- C. In cases of workplace bullying the University has an obligation to act. It is appropriate, however, for the University to respond differently to different types of bullying. The procedures outlined herein are intended to provide a fair and orderly means of handling allegations of workplace bullying and to be a bridge to existing University procedures and policies and the provisions of the Faculty Manual.
- D. Since a charge of bullying, regardless of whether it is justified or not, may seriously damage an individual's career, any such issues must be handled in a confidential manner. Premature disclosure of information concerning an allegation may itself constitute bullying. Only necessary participants should be involved at each stage of the procedure. Any inquiry or investigation must also be handled promptly and expeditiously and with full attention to the rights of all individuals involved. It is understood that anyone conducting an inquiry or investigation must possess the special knowledge necessary to judge the situation, but must also have no immediate personal interest in the case.
- E. The time between reporting of workplace bullying and completion and disposition of an investigation should not exceed 60 business days. Should an inquiry take longer than 60 business days to complete, the record of inquiry should include documentation of the reasons for the extension of the period.

II. Procedure

- A. Complaints of bullying can be addressed through informal or formal processes. Procedures for handling each type of complaint are described below. Faculty are strongly encouraged to seek informal resolution of their concerns through the University Ombudsman before filing a formal complaint.
- B. The Provost in consultation with the Chair of the Faculty Senate will appoint a tenured faculty member to serve in a part-time capacity as the Faculty Civility Advocate (FCA). The charge of the FCA is to adjudicate complaints of workplace bullying as dictated in this policy in an independent and just manner. It is incumbent upon this individual to insure that they have no conflict of interest in any case brought before them. In such instance an alternate will be appointed by the Provost in consultation with the Chair of the Faculty Senate. The FCA will file an annual report with the Chair of the Faculty Senate.
- C. Unit heads and Deans must refer all complaints of bullying to the Ombudsman for informal resolution or the Faculty Civility Advocate for formal resolution.

D. Informal Resolution

1. Any faculty member who feels that they are a victim of workplace bullying is encouraged to speak with the University Ombudsman. The Ombudsman can help the faculty member to understand what constitutes bullying and provide options for resolution or, if necessary, direct them to the option of filing a formal complaint. Meetings with the

University Ombudsman are confidential and no records are kept from these meetings. Informal procedures are aimed at stopping the bullying behavior as rapidly as possible.

2. A faculty member who feels that they are a victim of workplace bullying and does not feel that informal resolution has been successful can file a formal complaint as described below.

E. Formal Resolution

1. A faculty member who wishes to file a formal complaint is encouraged to speak with the Faculty Civility Advocate (FCA). The FCA can help the faculty member to understand what constitutes bullying and direct them in the filing of a formal complaint. Formal complaint procedures are initiated with a written request for investigation of workplace bullying which is filed with the FCA. This request may be made by the complainant, the institution, or any of the parties involved.
 - a. The FCA will investigate the allegations in a level of detail sufficient to determine whether there are grounds for a charge of workplace bullying. Following this investigation, the FCA will prepare a confidential, sequestered file indicating what evidence was reviewed, summaries of relevant interviews, and the conclusions of the inquiry. The file must be kept for a minimum of five years. A copy of the report must be made available to the complainant(s) and the respondent(s) for comment. Any comments by the complainant(s) and the respondent(s) should be made part of the file.
 - b. If the FCA concludes that there are no grounds for a charge of workplace bullying then no further inquiry is necessary. The case is considered closed. Appeals of this decision should be directed to the Office of the Provost. Diligent efforts, as appropriate, should be taken at this time to restore the reputation of the respondent(s), and to protect the position and reputation of the person who, in good faith, made the allegation of bullying.
 - c. If the FCA suspects that workplace bullying has occurred they can consult separately with the complainant(s) and the respondent(s) as well as with the unit head or dean to discuss options for resolution, such as reprimand of the suspected bully, separation of the parties involved and/or appropriate counseling for either or both parties. If previous attempts at resolution have been unsuccessful or the bullying is serious in itself or is made serious through its repetition or consequences the FCA must forward the complaint as well as a copy of the case file to the Office of the Provost for resolution.
 - d. If the FCA is unsure whether bullying has occurred based on the available evidence then they should separately consult with the complainant(s) and the respondent(s) as well as the unit head or dean to discuss options for resolution. The FCA will follow

up with the complainant in three months. If the complainant feels that bullying activity has continued, the FCA will reinvestigate the matter.

2. Upon receipt of a formal complaint from the FCA the Office of the Provost will initiate proceedings to investigate the allegations.
 - a. Within 15 business days all parties named in the complaint are notified in writing by the Provost's office that a complaint is being formally investigated. All parties shall also be given a copy of the Carolinian Creed and this policy.
 - b. Within 15 business days of the parties being notified, an Ad Hoc Investigative Committee will be appointed by the Provost, which will include five faculty members at the rank of Professor. Three of these faculty members must be selected from the standing Faculty Committee on Professional Conduct. The Faculty Committee on Professional Conduct will consist of 10 elected faculty members for staggered three year terms. Each member of the Committee must hold the rank of tenured Professor or tenured librarian. The FCA will serve as a non-voting observer in all meetings and facilitate the needs of the committee. The Provost will also appoint an individual to serve as non-voting administrative support in all meetings. This representative will be responsible for recording the proceedings of all meetings. Individuals appointed to the Ad Hoc Investigative Committee must not be from the department of either the complainant(s) or the respondent(s) and have no immediate personal interest in the case. Committee members cannot serve simultaneously on the Faculty Grievance Committee. Voting members of the committee must also have received training in the recognition of workplace bullying. The purpose of the Ad Hoc Investigative Committee is to determine whether workplace bullying as defined herein has occurred.
 - c. Within 30 business days of initial filing, the complaint is sent to the Ad Hoc Investigative Committee for investigation.
3. Action by the Ad Hoc Investigative Committee
 - a. The Ad Hoc Investigative Committee will be supported by the Office of the Provost. This support will include assisting the committee in their needs throughout the investigative procedures and assuring that the investigation is conducted in accordance with the processes and procedures set forth in this document.
 - b. The Ad Hoc Investigative Committee is responsible for all administrative activities required to conduct the investigation of the formal complaint. These include, but are not limited to, informing the parties necessary to the investigation, contacting supervisors regarding subordinate's time away from work to participate in the investigative process, making reports to University officials, and other responsibilities necessary to properly conduct the investigation. The committee may request help from the Office of the Provost to carry out these duties.

- c. The Ad Hoc Investigative Committee will review the complaint and conduct the investigation within 30 business days unless unusual circumstances require more time. Extensions should not be for more than 15 additional business days. Any further extensions require the approval of the Provost.
- d. The Ad Hoc Investigative Committee will select a chair from among the three faculty members on the committee who also serve on the Faculty Committee on Professional Conduct.
- e. In conducting an investigation, the Ad Hoc Investigative Committee will follow procedures appropriate to the circumstances needed for both a complete investigation and fairness to all individuals involved. The committee should seek all relevant materials and documents, including, but not be limited to, statements from the complainant(s) and the respondent(s), relevant correspondence, electronic communications, witness testimony and memoranda of telephone calls. Whenever possible, interviews should be conducted of all individuals involved either in making the allegation or against whom the allegation is made, as well as other individuals who might have information regarding key aspects of the allegations. The committee should strive to interview the complainant(s) first. Thereafter, the respondent(s) should be the next person(s) interviewed. Witnesses identified by the complainant and the respondent should be interviewed next. All attempts to interview any of the parties, including all witnesses should be carefully documented. Complete summaries of these interviews should be prepared and provided to the interviewed party for comment or revision and included as part of the investigatory file. Throughout the investigation, the complainant(s) and the respondent(s) should be advised of the progress of the investigation and be afforded the opportunity to respond and provide additional information.
- f. Upon conclusion of the investigation the Ad Hoc Investigative Committee will submit to the Provost a formal written report of the findings. This report must contain all of the following elements: (1) Listing of the complainant's allegations; (2) The complainant's requested relief; (3) Detailed indication of all documentation reviewed by the Ad Hoc Investigative Committee which must be attached as numbered exhibits to the report; (4) Analysis of each allegation containing the statements made by the complainant, the respondent(s) and the witnesses; (5) Conclusion of the matter (the complainant's allegation(s) of workplace bullying are substantiated, are not substantiated, or there is insufficient evidence to make a determination), (6) Recommended remedy and (7) a tally of the final vote of each committee member. A copy of the report, without the vote tally or recommended remedy, should be made available to the complainant(s) and the respondent(s) for comment and any comments by the complainant(s) and the respondent(s) made part of the file.
- g. Final action will be directed by the Provost. This action may include, but is not limited to: mandated counseling, separation of parties, removal of laboratory space, removal of pay increases or salary supplements, removal of an endowed chair or a specific title or administrative position, denial of access to university research funds

or recommendation for dismissal in a manner consistent with the Faculty Manual or University policies. The duration of sanction will be determined by the Provost and will depend upon the cessation of all bullying activity. The action taken will be immediately communicated to the complainant(s), the respondent(s), the Ad Hoc Investigating Committee and the complainant's and respondent's unit head(s). The respondent will also be provided with a statement of grievance rights. A confidential, sequestered file containing the complete report will be maintained in the Provost's office for a period of five years.

- h. If the Provost feels that further investigation is necessary, the matter may be returned to the Ad Hoc Investigative Committee.
- i. If the Ad Hoc Investigative Committee fails to find that bullying has occurred, and if the Provost concurs with these findings, the case is closed, with establishment of a confidential, sequestered file to be maintained in the Provost's office for a period of five years.
- j. If the allegations of bullying are found by the Ad Hoc Investigative Committee to have been malicious or intentionally dishonest, the Provost will determine appropriate disciplinary action, up to and including recommendation for dismissal in a manner consistent with the Faculty Manual or University policies.
- k. If it is decided that a formal inquiry or investigation should be terminated without completing all relevant requirements, a report of such termination, including a description of the reasons for the termination, must be made to the Provost and the Faculty Civility Advocate. It should also be made available to the complainant(s) and the respondent(s) for comment and any comments by the complainant(s) and the respondent(s) made part of the file.

3. Confidentiality

- a. Persons gathering general information, seeking guidance or filing a complaint may be concerned about the confidentiality of the information that they are sharing. While the University wishes to create an environment in which individuals feel free to discuss concerns and make complaints, the University may be legally obligated to take action when its officials are informed that bullying may be occurring.
- b. Identifying information about the parties involved (e.g. names, department or unit), may be necessary in order for action to be taken on the complaint.
- c. The confidentiality of the information received will be protected to the extent allowed by applicable law. The expressed wishes of the complainant regarding confidentiality will be considered in the context of the University's legal obligation to act upon the charge and the right of the alleged offender to be informed. To the extent possible, the

proceedings will be conducted in a manner that protects the confidentiality of all parties involved.

4. Protection for complainant and respondent.

- a. Protection from Retaliation: Department chairs and supervisors will take reasonable action to assure that the complainant, the alleged offender, and those testifying on behalf of either party or supporting either party in other ways are protected from retaliation. Persons who retaliate will be subject to disciplinary action up to and including dismissal. This action can be taken at any time during or following an investigation of a bullying complaint.
 - b. Protection of the complainant and respondent: When a complaint of bullying is filed, the alleged offender will be informed of the allegations, the identity of the complainant and the facts surrounding the allegations. In the event the allegations are not substantiated, reasonable efforts should be taken to restore the reputation of the alleged offender if damaged by the proceedings, and to protect the position and reputation of the person who, in good faith, made the allegation of workplace bullying.
- E. Three months after the resolution of a proven complaint, the FCA will follow up with the complainant to ensure that the bullying activity has ceased. If the complainant feels that bullying activity has continued, the FCA will reinvestigate the matter.