

University of Utah

Legislative History for

Interim Policy 1-021-- Respectful Conduct in the Academic and Work Environment. Revision 0.

Interim Rule 1-021A

Interim Rule 1-021B

Interim Rule 1-021C

Effective January 1, 2021.

Prepared by Bob Flores, Senate Policy Liaison, for the Institutional Policy Committee.

Contents:

- Overview
- Memorandum from Human Resources to President Watkins, Dec 1, 2020.
- Slide show for presentation to Academic Senate, January 11, 2021.
- Interim Policy and Rule copies.
- House Bill 12

Overview: Interim Policy 1-021, Revision 0, and the accompanying Interim Rules 1-021A, 1-021B, and 1-021C, were adopted on December 8, 2020, by University President Ruth Watkins, with designated effective date of January 1, 2021. This set of Interim Regulations was subsequently presented to the Academic Senate Executive Committee December 10, 2020, presented for the Information and Recommendations of the Academic Senate, January 11, 2021, and presented for approval of the Board of Trustees February 9, 2021. These were enacted as Interim Regulations (in accord with Policy 1-001) in order to comply with recently changed state law (Utah House Bill 12). They will remain in effect until a permanent version is adopted, which is anticipated to occur by December 2021, after review by appropriate internal University groups.



University of Utah Human Resource Management

250 East 200 South, Suite 125, Salt Lake City, Utah 84111

December 1, 2020

Ruth V. Watkins
President, the University of Utah
201 President's Circle
Salt Lake City, Utah 84112

RE: Interim Policy 1-021 Respectful Conduct; Rule R1-021A University Staff and Academic Non-Faculty

Dear President Watkins:

Earlier this year, the Utah Legislature passed the Abusive Conduct Reporting Amendments, H.B. 12. This bill addresses abusive conduct by and towards employees in state government; it requires the judicial branch and any employer within the Utah System of Higher Education to provide training to their employees regarding abusive conduct and to create a policy for reporting and resolving abusive conduct among their employees. The deadline for compliance is January 1, 2021.

To create this policy, University Human Resource Management (UHRM) has worked with University of Utah Hospitals and Clinics Human Resources (UUHC HR), Campus Academic Affairs, and University of Utah Health Academic Affairs. The UHRM Training and Development team is working on the mandatory training. Training will be sent to all employees in January 2021.

Due to the quick timeline given by the State Legislature, an interim policy has been created along with an interim rule for Campus Staff/Academic Non-Faculty. UUHC-HR, Campus Academic Affairs, and University of Utah Health Academic Affairs are also developing interim rules regarding processes for resolution of reported cases.

Attached, please find the draft interim policy and rules that provide the necessary clarifications. I am requesting that you use your authority as President to implement this policy and rules on an interim basis. The draft has been vetted and approved by the Office of General Counsel, Office of Equal Opportunity and Affirmative Action, and Robert Flores. It will be presented as an informational matter to the Institutional Policy Committee, the Executive Committee of the Senate and the Full Senate at their next meetings. UHRM, UUHC HR, Campus Academic Affairs, and University of Utah Health Academic Affairs will then continue to work on a more complete rewrite of the Respectful Conduct Policy, along with rules regarding the process for resolution with the goal of moving those rewrites through the approval process (including the issues clarified in the interim policy and rules) by January 1st 2022.

Sincerely,



University of Utah Human Resource Management

250 East 200 South, Suite 125, Salt Lake City, Utah 84111

Jeff C. Herring
Chief Human Resources Officer

Enclosure

cc: Robert Flores

Abusive Conduct

House Bill 12

300 (3) Each higher education entity shall, beginning on January 1, 2021:

301 (a) provide annual training to all covered employees on abusive conduct in the
302 workplace; and

303 (b) implement a policy prohibiting, and for reporting and resolving, abusive conduct
304 within the higher education entity.

Request to President Watkins

- University Human Resources requested authority as President to implement required interim policy and associated rules
- Approval provided December 8, 2020

Abusive Conduct is:

- Physical, verbal, or nonverbal conduct, such as derogatory remarks, insults, or epithets made by an employee that a reasonable person would determine
 - Were intended to cause intimidation, humiliation, or unwarranted distress
 - Exploit a known physical or psychological disability; or
 - Result in substantial physical or psychological harm caused by intimidation, humiliation, or unwarranted distress

Abusive Conduct is not:

- A single act
- Appropriate disciplinary or administrative actions
- Developmental, critical, performance-related feedback
- Reasonable work assignments or job assignments
- Reasonable differences in styles of management, communication, expression, or opinion

Unless determined to be especially severe and/or egregious

Policy and Rules

- Policy Establishes
 - Definitions
 - Non-retaliation
 - Annual training requirement
- Rules Establish
 - Process for reporting and resolution for
 - University Staff (non UUHC) and Academic Staff, Educational Trainees, Postdoctoral Fellows and Medical Housestaff
 - Faculty
 - University of Utah Hospitals and Clinics

Rule 1-021-A Reporting and Resolution Process for University Staff (non UUHC), Academic Staff, Educational Trainees, Postdoctoral Fellows and Medical House Staff

- Report is submitted by employee or Administrative Filer on their behalf
- University HR receives and reviews report
 - Denies if definition of abusive conduct is not met; or
 - Refers to University Authority for resolution
- University Authority resolves within 10 working days

Rule 1-021-C Reporting and Resolution Process for Faculty

- Governed by Code of Faculty Rights and Responsibilities (6-316) and the Functions and Procedures of the Senate Consolidated Hearing Committee (6-011)

Communication

- Annual Training - January 2021
 - All paid employees (this will include Adjuncts)
- [Abusive Conduct and Culture of Respect Website](#)
- @theU article on January 4th
- UUHA HR Newsletter
- UUHC Newsletter

[Interim] University Policy 1-021: Respectful Conduct in the Academic and Work Environment.
REVISION 0. EFFECTIVE DATE JANUARY 1, 2021

I. Purpose and Scope

A. Purpose: The University of Utah (University) is committed to an academic and work environment that promotes, facilitates, and encourages mutual respect and collegial relationships. The University is committed to maintaining and promoting trust amongst all University employees in an ongoing effort by all employees to be collectively responsible, set a positive example, and treat each other with professionalism, courtesy, civility and respect in all interactions. This creates the strong culture that is vital for the success of the individual as well as the whole organization. The University complies with state laws that prohibit Abusive Conduct in the workplace.

B. Scope: This Policy applies to all University of Utah employees and all academic and administrative units of the University, including University of Utah Hospitals and Clinics.

[User note: See the associated Rules, Guidelines, and Procedures for implementation of this Policy for specific categories of personnel.]

II. Definitions

A. For the purposes of this Policy, the terms, as defined in Policy 5-001 – Employee Definitions, apply.

B. “Abusive Conduct” includes physical, verbal or nonverbal conduct, such as derogatory remarks, insults, or epithets made by an employee that a reasonable person would determine:

1. Were intended to cause intimidation, humiliation, or unwarranted distress;
2. Exploit a known physical or psychological disability; or
3. Result in substantial physical or psychological harm caused by intimidation, humiliation or unwarranted distress.

C. Administrative Filer - Employee submitting a report of abusive conduct on behalf of the recipient of the abusive conduct.

D. Reporting Employee - recipient of the abusive conduct.

E. Respondent - Individual accused of having perpetuated abusive conduct towards another employee.

F. University Authority – A supervisor, manager, or other leadership within the reporting employee’s chain of command, including authorized designees.

III. Policy

A. The University is committed to providing an environment for employees that promotes mutual respect and is free from Abusive Conduct.

1. The following actions do not constitute Abusive Conduct unless they are determined to be especially severe and/or egregious:

- a. A single act;
- b. Appropriate disciplinary or administrative actions;
- c. Developmental, critical, performance-related feedback;

- d. Reasonable work assignments or job reassignments; or
 - e. Reasonable differences in styles of management, communication, expression, or opinion.
- 2. An employee may be subject to discipline under this Policy even if the conduct occurs outside of scheduled work time or work location.
 - 3. Once a report of Abusive Conduct has been filed, the respondent and reporting employee or any administrative filer may not communicate regarding the allegations in the report. Further, the respondent and the respondent's supervisor or other University Authority on behalf of the respondent may not retaliate against the reporting employee or any administrative filer based on filing a report of Abusive Conduct.

B. Abusive Conduct Training.

- 1. The University shall provide annual training to all covered employees regarding Abusive Conduct in the workplace.
 - a. Training shall include information regarding what constitutes Abusive Conduct, how to prevent it, and options available under this Policy.
 - b. Departments and Units shall ensure employees complete training within a reasonable time after hire and at least every year thereafter.
 - c. Training records shall be kept by University Human Resources Management (UHRM) and University of Utah Hospitals and Clinics Human Resources (UUHC HR) regarding completion of training and the date training was last completed.

IV. Rules, Procedures, Guidelines, Forms and other related resources.

A. Rules.

- 1. [R1-021-A](#) Abusive Conduct Reporting and Resolution Process for University Staff (non-UUHC), Academic Staff, Educational Trainees, Postdoctoral Fellows and Medical Housestaff.
- 2. [R1-021-B](#) Abusive Conduct Reporting and Resolution Process for UUHC Staff.
- 3. [R1-021-C](#) Abusive Conduct Reporting and Resolution Process for University Faculty.

B. Procedures. [reserved]

C. Guidelines. [reserved]

D. Forms. [reserved]

E. Other related resource materials. [reserved]

V. References

Abusive Conduct Reporting Amendments ("ACRA") is [Utah Code Section 67-26-101 et seq., Utah Public Employees Healthy Workplace Act](#), as amended

[Board of Regents Rule R831](#)

School of Medicine Professional Conduct Policy for Faculty

Professional Conduct of University of Utah Health Medical Providers
Ethical Standards and Code of Conduct Handbook

[Policy 5-001](#): Personnel Definitions

[Policy 5-106](#): Equal Opportunity and Nondiscrimination in Employment

[Policy 5-111](#): Corrective Actions and Termination Policy for Staff

[Policy 5-205](#): Code of Conduct for Staff

[Policy 1-012](#): University Non-discrimination Policy

[Policy 6-309](#): Academic Staff, Educational Trainees, Postdoctoral
Fellows and Medical Housestaff

[Policy 6-316](#): Code of Faculty Rights and Responsibilities

VI. Contacts

The designated contact officials for this Policy are:

- A. Policy Owner (primary contact person for questions and advice): [Director of Employee Relations](#) for Human Resources.
- B. Policy Officer: [Chief Human Resource Officer](#).

These officials are designated by the University President or delegee, with assistance of the Institutional Policy Committee, to have the following roles and authority, as provided in University Rule 1-001:

"A 'Policy Officer' will be assigned by the President for each University Policy, and will typically be someone at the executive level of the University (i.e., the President and his/her Cabinet Officers). The assigned Policy Officer is authorized to allow exceptions to the Policy in appropriate cases.... "

"The Policy Officer will identify an 'Owner' for each Policy. The Policy Owner is an expert on the Policy topic who may respond to questions about, and provide interpretation of the Policy; and will typically be someone reporting to an executive level position (as defined above), but may be any other person to whom the President or a Vice President has delegated such authority for a specified area of University operations. The Owner has primary responsibility for maintaining the relevant portions of the Regulations Library... [and] bears the responsibility for determining -requirements of particular Policies... ." University

VII. History

Renumbering: [not applicable]

Revision History:

- A. Current Version: Revision 0. This Interim Policy 1-021, Revision 0, and the accompanying Interim Rules 1-021A, 1-021B, and 1-021C, were adopted on December 8, 2020, by University President Ruth Watkins, with designated effective date of January 1, 2021. This set of Interim Regulations was subsequently presented to the Academic Senate Executive Committee December 10, 2020, presented for the Information and Recommendations of the Academic Senate, January 11, 2021, and presented for approval of the Board of Trustees February 9, 2021. These were enacted as Interim Regulations (in accord with Policy 1-001) in order to comply with recently changed state law (Utah House Bill 12). They will remain in effect until a permanent version is adopted, which is anticipated to occur by December 2021, after review by appropriate internal University groups.

Legislative History of Revision 0 [{link to legislative history file}](#)

- B. Earlier versions:

[reserved]

,[Interim] R1-021-A Abusive Conduct Reporting and Resolution Process for University Staff (non-UUHC), Academic Staff, Educational Trainees, Postdoctoral Fellows and Medical Housestaff

I. Purpose and Scope

To provide a reporting and resolution process that gives employees and University authorities the tools to resolve abusive conduct reports. This Rule is applicable to all University Staff Members, with the exception of University of Utah Hospitals and Clinics (UUHC) Staff Members (see Rule R1-021-B). This Rule is also applicable to Academic Staff, Educational Trainees, Postdoctoral Fellows and Medical Housestaff.

A. This Rule applies to all University Staff Members, including Staff Members who are “at-will” as defined by Policy 5-001 and applies to Academic Staff, Educational Trainees, Postdoctoral Fellows and Medical Housestaff as defined in policy 6-309.

B. Definitions (reserved)

II. Rule

A. Reporting and Resolution Process

1. Reporting employee or administrative filer completes the Abusive Conduct Reporting Form. University Human Resource Management (UHRM) will conduct an initial review of the report filed, which may include an initial interview with the reporting employee or administrative filer, and one or a more of the following:

- a) Referral to appropriate University Authority for resolution.
 - i. Resolution may be informal such as, mediation, coaching, or other resolution resources, or resolution may be formal such as implementation of corrective and disciplinary actions. Egregious behavior will be resolved in accordance with policy 5-111C – Egregious Behavior.
 - ii. Upon receipt of a referral, the University Authority should determine a resolution within ten (10) working days. This will be the final decision, and the matter will be considered closed. A notice will be sent to the reporting employee and the respondent if a report cannot be resolved within 10 working days. Resolution will be reported to UHRM.
- b) Deny a referral to University Authority due to failure to meet the definition of abusive conduct.
- c) Refer reporting employee and case to the Title IX/OEO Office in cases of discrimination or harassment. Resolution of the report under this policy will be held until completion of Title IX/OEO determination.
- d) Refer reporting employee and case to Public Safety in cases of violence or the threat of violence. Resolution of the report under this policy will be held until completion of Public Safety determination.

- III. Procedures, Guidelines, Forms, and other Related Resources
 - A. Procedures (reserved)
 - B. Guidelines (reserved)
 - C. Forms (reserved)
- IV. References (reserved)

DRAFT

[Interim Rule] R1-021-B for Abusive Conduct Reporting and Resolution Process for University of Utah Health Hospitals and Clinics Staff Members.

I. Purpose and Scope

To provide a reporting and resolution process that gives University of Utah Health Hospitals and Clinics (UUHC) staff and University Authorities the tools to report and resolve abusive conduct. This Rule is applicable to all University of Utah Health Hospitals and Clinics (UUHC) staff members.

II. Definitions (reserved)

III. Rule

A. Reporting and Resolution Process

1. Reporting employee or administrative filer completes the Abusive Conduct Reporting Form. UUHC Human Resources (HR) will conduct an initial review of the report filed, which may include an initial interview with the reporting employee or administrative filer, and one or a more of the following:

- a) Referral to appropriate University Authority for resolution.
 - i. Resolution may be informal such as, mediation, coaching, or other resolution resources. Resolution may be formal and occur through the issuance of corrective action in accordance with Policy 5-111. Any other applicable University policies and procedures will be adhered to for resolution.
 - ii. Upon receipt of a referral, the University Authority should determine a resolution within ten (10) working days. The University Authority will notify the reporting employee or administrative filer, the respondent, and HR regarding the findings. This will be the final decision, and the matter will subsequently be considered closed. Parties will not have the option to grieve findings, unless formal corrective action is issued per policy _____.
 - i. A notice will be sent to the reporting employee or administrative filer and the respondent if a report cannot be resolved within 10 working days.
- b) UUHC HR may deny a referral and not send to the University Authority due to failure to meet the definition of abusive conduct.
- c) UUHC HR may refer reporting employee and case to the Office of Equal Opportunity, Affirmative Action, and Title IX (OEO) in cases of discrimination or harassment.
 - a. If taken for investigation, referral will follow OEO/AA process
 - b. If not taken for investigation, referral will return to the process outlined in this procedure.

d) UUHC HR may refer reporting employee and case to Public Safety, in cases of violence or the threat of violence.

IV. Procedures, Guidelines, Forms, and other Related Resources

A. Procedures (reserved)

B. Guidelines (reserved)

C. Forms (reserved)

V. References (same as policy?)

DRAFT

Interim R1-021-C Abusive Conduct Reporting and Resolution Process for Faculty

I. Definitions:

Faculty Member: The term "faculty member" includes a person employed by the university as the president, vice president, director of libraries, dean, professor, associate professor, assistant professor, instructor, librarian, associate librarian, and assistant librarian, including a person holding a Career-line (research, clinical, lecturer), Adjunct and/or Visiting faculty appointment, whether or not that person is employed by the university in a full-time capacity.

II. Process:

The process for filing an initial complaint and a formal complaint is governed by the Code of Faculty Rights and Responsibilities ([6-316](#)) and the Functions and Procedures of the Senate Consolidated Hearing Committee ([6-011](#)). A summary of the processes are below. Please see full policies for specifics.

III. Initial Concern:

The University encourages informal resolution of problems and affected persons are urged to discuss their concerns with the following:

1. The involved faculty member and/or
2. The relevant department chair and/or dean (unless either is the complainant or respondent).

Please note that informal resolution of concerns by mutual consent of all parties is highly desired and is appropriate at any time. Use of a qualified mediator should also be considered as part of this process.

Please see the [university directory](#) to determine the appointment home of the faculty member.

IV. Formal Complaint (if informal resolution not reached through the process above):

If informal resolution is inappropriate or not achieved within 30 days, any person directly aggrieved by the allegation or any faculty member, student or staff member may file a complaint alleging a violation of the rules of the faculty code by a faculty member.

Complaints of violations of the abusive conduct policy that have not been able to be resolved informally may be filed in the office of the Senior Vice President for Academic Affairs or the Senior Vice President for Health Sciences, depending on the department of the responding faculty member. If either vice president is the complainant or the respondent, the other vice president shall act under these rules. The cognizant Vice President or their designee shall provide the responding faculty member with a copy of the complaint.

Form: <https://regulations.utah.edu/forms/chc-intake-form.pdf>

Once received, in consultation with the appropriate dean(s) and chair/director (unless either is the complainant or respondent), the cognizant vice president or designee shall determine whether efforts at informal resolution are appropriate and, if so, shall take whatever steps are useful to that end. These steps may include delegation of the informal resolution process to another person, meetings with the complainant and respondent, or any other processes that the vice president or designee thinks will assist in reaching an informal resolution.

If informal resolution is inappropriate, or if additional efforts at informal resolution are not successful within 30 days of the filing of the complaint, the vice president shall forward the complaint, with a description of efforts at attaining informal resolution, to the Consolidated Hearing Committee (hereafter "CHC") and notify the respondent and the complainant, and the cognizant department chair/director and dean of the same. From this point forward, the office of the vice president shall be a party to the proceedings.

If a complaint is referred to the Consolidated Hearing Committee, please see [Policy 6-011](#) for the full hearing process.

ABUSIVE CONDUCT REPORTING AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Keven J. Stratton

Senate Sponsor: Daniel W. Thatcher

LONG TITLE

General Description:

This bill addresses abusive conduct among employees in state government.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ expands the type of state employees who may file a complaint of abusive conduct;
- ▶ requires an abusive conduct investigation in relation to an abusive conduct complaint;
- ▶ requires an administrative review process for an abusive conduct complaint;
- ▶ requires the Department of Human Resource Management (department) and other state government employers to provide certain training relating to abusive conduct;
- ▶ requires certain employers to annually report to the department on implementation, numbers, and outcomes of abusive conduct complaints;
- ▶ requires the department to annually report to the Economic Development and Workforce Services Interim Committee regarding implementation and recommendations concerning the provisions of this bill;
- ▶ requires the judicial branch and an employer within the Utah System of Higher Education to provide training to their employees regarding abusive conduct, and to create a policy for reporting and resolving abusive conduct, among their employees;
- and
- ▶ makes technical and conforming changes.

29 **Money Appropriated in this Bill:**

30 None

31 **Other Special Clauses:**

32 This bill provides a special effective date.

33 **Utah Code Sections Affected:**

34 AMENDS:

35 [67-19a-101](#), as last amended by Laws of Utah 2018, Chapter 390

36 [67-19a-102](#), as enacted by Laws of Utah 2018, Chapter 390

37 [67-19a-202](#), as last amended by Laws of Utah 2018, Chapter 390

38 [67-19a-501](#), as enacted by Laws of Utah 2018, Chapter 390

39 ENACTS:

40 [67-26-101](#), Utah Code Annotated 1953

41 [67-26-102](#), Utah Code Annotated 1953

42 [67-26-103](#), Utah Code Annotated 1953

43 [67-26-201](#), Utah Code Annotated 1953

44 [67-26-202](#), Utah Code Annotated 1953

45 [67-26-203](#), Utah Code Annotated 1953

46 RENUMBERS AND AMENDS:

47 [67-26-301](#), (Renumbered from [67-19-44](#), as last amended by Laws of Utah 2018,
48 Chapter 390)



50 *Be it enacted by the Legislature of the state of Utah:*

51 Section 1. Section **67-19a-101** is amended to read:

52 **67-19a-101. Definitions.**

53 As used in this chapter:

54 (1) "Abusive conduct" means the same as that term is defined in Section [~~67-19-44~~]

55 [67-26-102](#).

56 (2) "Administrator" means the person appointed under Section 67-19a-201 to head the
57 Career Service Review Office.

58 (3) "Career service employee" means a person employed in career service as defined in
59 Section 67-19-3.

60 (4) "Department" means the Department of Human Resource Management.

61 (5) "Employer" means the state of Utah and all supervisory personnel vested with the
62 authority to implement and administer the policies of an agency.

63 (6) "Excusable neglect" means harmless error, mistake, inadvertence, surprise, a failure
64 to discover evidence that, through due diligence, could not have been discovered in time to
65 meet the applicable time period, misrepresentation or misconduct by the employer, or any other
66 reason justifying equitable relief.

67 (7) "Grievance" means:

68 (a) a complaint by a career service employee concerning any matter touching upon the
69 relationship between the employee and the employer;

70 (b) any dispute between a career service employee and the employer;

71 (c) a complaint by a reporting employee that a public entity has engaged in retaliatory
72 action against the reporting employee; and

73 (d) a complaint that the employer subjected the employee to conditions that a
74 reasonable person would consider intolerable, including abusive conduct.

75 (8) "Office" means the Career Service Review Office created under Section
76 67-19a-201.

77 (9) "Public entity" means the same as that term is defined in Section 67-21-2.

78 (10) "Reporting employee" means an employee of a public entity who alleges that the
79 public entity engaged in retaliatory action against the employee.

80 (11) "Retaliatory action" means to do any of the following to an employee in violation
81 of Section 67-21-3:

82 (a) dismiss the employee;

- 83 (b) reduce the employee's compensation;
- 84 (c) fail to increase the employee's compensation by an amount that the employee is
- 85 otherwise entitled to or was promised;
- 86 (d) fail to promote the employee if the employee would have otherwise been promoted;

87 or

- 88 (e) threaten to take an action described in Subsections (11)(a) through (d).

89 (12) "Supervisor" means the person:

- 90 (a) to whom an employee reports; or
- 91 (b) who assigns and oversees an employee's work.

92 Section 2. Section **67-19a-102** is amended to read:

93 **67-19a-102. Work environment policy.**

94 As recognized and provided in Section [~~67-19-44~~] [67-26-201](#), it is the policy of the

95 state of Utah to provide and maintain a work environment free from abusive conduct.

96 Section 3. Section **67-19a-202** is amended to read:

97 **67-19a-202. Powers -- Scope of authority.**

98 (1) The office shall serve as the final administrative body to review a grievance from a

99 career service employee and an agency of a decision regarding:

- 100 (a) a dismissal;
- 101 (b) a demotion;
- 102 (c) a suspension;
- 103 (d) a reduction in force;
- 104 (e) a dispute concerning abandonment of position;
- 105 (f) a wage grievance if an employee is not placed within the salary range of the
- 106 employee's current position;
- 107 (g) a violation of a rule adopted under Chapter 19, Utah State Personnel Management
- 108 Act; or
- 109 (h) except as provided by Subsection (4), equitable administration of the following

110 benefits:

- 111 (i) long-term disability insurance;
- 112 (ii) medical insurance;
- 113 (iii) dental insurance;
- 114 (iv) post-retirement health insurance;
- 115 (v) post-retirement life insurance;
- 116 (vi) life insurance;
- 117 (vii) defined contribution retirement;
- 118 (viii) defined benefit retirement; and
- 119 (ix) a leave benefit.

120 (2) The office shall serve as the final administrative body to review a grievance by a
121 reporting employee alleging retaliatory action.

122 (3) The office shall serve as the final administrative body to review, without an
123 evidentiary hearing, the findings of an abusive conduct investigation [~~without an evidentiary~~
124 ~~hearing~~] described in Section 67-26-202 of a state executive branch agency employee.

125 (4) The office may not review or take action on:

- 126 (a) a personnel matter not listed in Subsections (1) through (3);
- 127 (b) a personnel matter listed in Subsections (1) through (3) that alleges discrimination
128 or retaliation related to a claim of discrimination that is a violation of a state or federal law for
129 which review and action by the office is preempted by state or federal law; or

130 (c) a personnel matter related to a claim for which an administrative review process is
131 provided by statute and administered by:

132 (i) the Utah State Retirement Systems under Title 49, Utah State Retirement and
133 Insurance Benefit Act;

134 (ii) the Public Employees' Benefit and Insurance Program under Title 49, Chapter 20,
135 Public Employees' Benefit and Insurance Program Act; or

136 (iii) the Public Employees' Long-Term Disability Program under Title 49, Chapter 21,

137 Public Employees' Long-Term Disability Act.

138 (5) The time limits established in this chapter supersede the procedural time limits
139 established in Title 63G, Chapter 4, Administrative Procedures Act.

140 Section 4. Section **67-19a-501** is amended to read:

141 **67-19a-501. Procedural steps to be followed in an administrative review of an**
142 **abusive conduct investigation.**

143 (1) An employee of a state executive branch agency, as defined in Section 67-26-102,
144 may, under Subsection 67-19a-202(3), initiate an administrative review of the findings of an
145 abusive conduct investigation within 10 days after the day on which the employee receives
146 notification of the investigative findings.

147 (2) (a) An employee bringing an administrative review of the findings described in
148 Subsection (1) may file the request for the administrative review directly with the office.

149 (b) The request for administrative review may [~~set forth~~] describe the reasons for the
150 [~~appeal~~] administrative review and include any submissions the employee desires to submit.

151 (3) (a) When an employee initiates the review described in Subsection (2) with the
152 office:

153 (i) the role of the administrative review is to review and rule upon the [~~department's~~]
154 findings [~~and decision~~] of the abusive conduct investigation; and

155 (ii) an evidentiary hearing is not required.

156 (b) The department shall make the abusive conduct investigative file available for the
157 [~~administrator's~~] office's in camera review.

158 (c) The [~~administrator~~] office may:

159 (i) request additional relevant documents from the department or the affected
160 employee; and

161 (ii) interview the employee who initiated the administrative review and the
162 [~~department's~~] investigators who conducted the investigation.

163 [~~(4) (a) If the administrator determines that the investigator's findings are not~~

164 reasonable, rational, and sufficiently supported by the record, the administrator may overturn
165 the findings and remand to the agency for appropriate action.]

166 ~~[(b) The administrator may uphold the department's investigative findings if, based on
167 the administrative review, the administrator determines that the investigator's findings are
168 reasonable, rational, and sufficiently supported by the record.]~~

169 (4) (a) The office may overturn the findings of the abusive conduct investigation if the
170 office determines that:

171 (i) the findings are not reasonable, rational, or sufficiently supported by the evidence;
172 or

173 (ii) the facts on which the findings are based are inaccurate.

174 (b) The office may uphold the findings of the abusive conduct investigation if the
175 office determines that:

176 (i) the findings are reasonable, rational, and sufficiently supported by the evidence; and

177 (ii) the facts on which the findings are based are accurate.

178 (5) (a) Within 30 days after the day on which an employee initiates an administrative
179 review under this section, the ~~[administrator]~~ office shall issue a notice stating whether the
180 ~~[administrator]~~ office upheld or overturned the investigative findings.

181 (b) The office's determination upon administrative review of the findings resulting
182 from an abusive conduct investigation is final and not subject to appeal.

183 (c) The following are classified as protected under Title 63G, Chapter 2, Government
184 Records Access and Management Act, and any other applicable confidentiality provisions:

185 (i) the request for administrative review and any accompanying documents;

186 (ii) documents that any party provides;

187 (iii) the contents of the administrative review file; and

188 (iv) the office's determination.

189 Section 5. Section **67-26-101** is enacted to read:

190 **CHAPTER 26. UTAH PUBLIC EMPLOYEES HEALTHY WORKPLACE ACT**

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Part 1. General Provisions

67-26-101. Title.

This chapter is known as the "Utah Public Employees Healthy Workplace Act."

Section 6. Section **67-26-102** is enacted to read:

67-26-102. Definitions.

As used in this chapter:

(1) (a) "Abusive conduct" means verbal, nonverbal, or physical conduct of an employee to another employee of the same employer that, based on the severity, nature, or frequency of the conduct, a reasonable person would determine:

(i) is intended to cause intimidation, humiliation, or unwarranted distress;

(ii) results in substantial physical harm or substantial psychological harm as a result of intimidation, humiliation, or unwarranted distress; or

(iii) exploits an employee's known physical or psychological disability.

(b) "Abusive conduct" does not mean a single act unless the act is an especially severe and egregious act that meets the standard described in Subsection (1)(a)(i), (ii), or (iii).

(2) "Abusive conduct complaint process" means the process described in Section [67-26-202](#).

(3) "Administrative review process" means a process that allows an employee, in relation to the findings of an abusive conduct investigation, to seek an administrative review that:

(a) an employer conducts in accordance with Section [67-26-202](#); or

(b) in relation to a state executive branch agency, the office conducts in accordance with Section [67-19a-501](#).

(4) "Department" means the Department of Human Resource Management.

(5) (a) "Employee" means an employee of an employer.

(b) "Employee" includes an elected or appointed official of an employer.

(6) "Employer" means:

- 218 (a) a state executive branch agency; or
- 219 (b) an independent entity, as defined in Section 63E-1-102.
- 220 (7) "Office" means the Career Service Review Office created under Section
- 221 67-19a-201.
- 222 (8) "Physical harm" means the impairment of an individual's physical health or bodily
- 223 integrity, as established by competent evidence.
- 224 (9) "Psychological harm" means the impairment of an individual's mental health, as
- 225 established by competent evidence.
- 226 (10) (a) "State executive branch agency" means a department, division, office, bureau,
- 227 or other organization within the state executive branch.
- 228 (b) "State executive branch agency" includes an agency under the authority of the
- 229 governor, lieutenant governor, state treasurer, state auditor, or attorney general.
- 230 (c) "State executive branch agency" does not include the Utah System of Higher
- 231 Education or an independent entity, as defined in Section 63E-1-102.

Section 7. Section **67-26-103** is enacted to read:

67-26-103. Effect of chapter.

This chapter does not:

- 235 (1) exempt or relieve a person from a liability, duty, or penalty provided by another
- 236 federal or state law;
- 237 (2) create a private right of action;
- 238 (3) expand or diminish rights or remedies available to a person before July 1, 2020; or
- 239 (4) expand or diminish grounds for discipline that existed before July 1, 2020.

Section 8. Section **67-26-201** is enacted to read:

Part 2. Abusive Conduct

67-26-201. State policy on abusive conduct.

It is the policy of the state to provide and maintain a work environment free from abusive conduct.

245 Section 9. Section **67-26-202** is enacted to read:

246 **67-26-202. Abusive conduct complaint, investigation, administrative review**
247 **process.**

248 (1) An employee may file a written complaint of abusive conduct with the human
249 resources department of the employee's employer if the complaint is against an employee of the
250 same employer as the employee filing the complaint.

251 (2) If an employee files a written complaint of abusive conduct under Subsection (1),
252 the human resources department of the employee's employer shall conduct an abusive conduct
253 investigation.

254 (3) (a) Each employer that is not a state executive branch agency:

255 (i) shall provide the employer's employees a process for:

256 (A) filing an abusive conduct complaint, including an alternative process if the
257 complaint involves an individual who would otherwise receive or review an abusive conduct
258 complaint; and

259 (B) an administrative review of the findings of an abusive conduct investigation
260 described in Subsection (2) that is substantially similar to the administrative review process
261 described in Section [67-19a-501](#); and

262 (ii) may request assistance from the department, at the department's current consultant
263 rate, or the office, at a reasonable rate established by the office, in developing a process
264 described in this Subsection (3)(a).

265 (b) The department shall provide a process for an employee of a state executive branch
266 agency to file an abusive conduct complaint, including an alternative process if the complaint
267 involves an individual who would otherwise receive or review an abusive conduct complaint.

268 (4) The complaint described in Subsection (1) and a subsequent abusive conduct
269 investigation are subject to:

270 (a) in relation to an employer other than a state executive branch agency, the
271 administrative review process described in Subsection (3)(a); and

272 (b) in relation to a state executive branch agency, the office's administrative review
273 process described in Section 67-19a-501.

274 Section 10. Section **67-26-203** is enacted to read:

275 **67-26-203. Abusive conduct -- Training -- Policy.**

276 (1) As used in this section:

277 (a) "Abusive conduct" means:

278 (i) verbal, nonverbal, or physical conduct of a covered employee to another covered
279 employee of the same covered employer that, based on the severity, nature, or frequency of the
280 conduct, a reasonable person would determine:

281 (A) is intended to cause intimidation, humiliation, or unwarranted distress;

282 (B) results in substantial physical harm or substantial psychological harm as a result of
283 intimidation, humiliation, or unwarranted distress; or

284 (C) exploits a covered employee's known physical or psychological disability.

285 (b) "Covered employee" means:

286 (i) for the judicial branch, a judge or an employee of the judicial branch; or

287 (ii) for a higher education entity, each governing member and each employee of the
288 higher education entity.

289 (c) "Covered employer" means:

290 (i) the judicial branch; or

291 (ii) a higher education entity.

292 (d) "Higher education entity" means an entity within the Utah System of Higher
293 Education, including each member institution, the Board of Regents, and the office of
294 commissioner of higher education.

295 (2) The judicial branch shall, beginning on January 1, 2021:

296 (a) provide annual training to all covered employees on abusive conduct in the
297 workplace; and

298 (b) implement a policy prohibiting, and for reporting and resolving, abusive conduct

299 within the judicial branch.

300 (3) Each higher education entity shall, beginning on January 1, 2021:

301 (a) provide annual training to all covered employees on abusive conduct in the
302 workplace; and

303 (b) implement a policy prohibiting, and for reporting and resolving, abusive conduct
304 within the higher education entity.

305 (4) The judicial branch and each higher education entity shall, before May 1, 2021,
306 submit to the Government Operations Interim Committee a copy of the policies described in
307 Subsections (2)(b) and (3)(b).

308 Section 11. Section ~~67-26-301~~, which is renumbered from Section 67-19-44 is
309 renumbered and amended to read:

310 **Part 3. Training and Reporting**

311 ~~[67-19-44].~~ **67-26-301. Abusive conduct training.**

312 ~~[(1) As used in this section:]~~

313 ~~[(a) (i) "Abusive conduct" means verbal, nonverbal, or physical conduct of an~~
314 ~~employee to another employee that, based on its severity, nature, and frequency of occurrence,~~
315 ~~a reasonable person would determine:]~~

316 ~~[(A) is intended to cause intimidation, humiliation, or unwarranted distress;]~~

317 ~~[(B) results in substantial physical or psychological harm as a result of intimidation,~~
318 ~~humiliation, or unwarranted distress; or]~~

319 ~~[(C) exploits an employee's known physical or psychological disability.]~~

320 ~~[(ii) A single act does not constitute abusive conduct, unless it is an especially severe~~
321 ~~and egregious act that meets the standard under Subsection (1)(a)(i)(A), (B), or (C).]~~

322 ~~[(b) "Employee" means an employee of a state executive branch agency.]~~

323 ~~[(c) "Physical harm" means the impairment of a person's physical health or bodily~~
324 ~~integrity, as established by competent evidence.]~~

325 ~~[(d) "Psychological harm" means the impairment of a person's mental health, as~~

326 established by competent evidence.]

327 [~~(2) It is the policy of the state of Utah to provide and maintain a work environment~~
328 ~~free from abusive conduct.~~]

329 [~~(3) An employee may file a written complaint of abusive conduct with the department~~
330 ~~and subject to further administrative review in accordance with Section [67-19a-501](#).~~]

331 [~~(4) By July 1, 2019, the department shall amend the department's rule, in accordance~~
332 ~~with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consistent with the~~
333 ~~definitions in Subsection (1) and Title 67, Chapter 19a, Grievance Procedures.~~]

334 [(5)] (1) (a) The department shall provide biennial training to educate all state
335 executive branch agency employees and supervisors about how to prevent abusive workplace
336 conduct.

337 (b) The training described in Subsection (1)(a) shall include information on:
338 (i) what constitutes abusive conduct and the ramifications of abusive conduct;
339 (ii) resources available to employees who are subject to abusive conduct; and
340 (iii) the [~~grievance~~] abusive conduct complaint process described in Section [67-26-202](#).

341 (2) (a) The department shall create a baseline training module for employers that are
342 not state executive branch agencies to educate the employers' respective employees and
343 supervisors about how to prevent abusive workplace conduct.

344 (b) The baseline training module described in Subsection (2)(a) shall include
345 information on what constitutes abusive conduct and the ramifications of abusive conduct.

346 (c) Each employer that is not a state executive branch agency shall create and provide
347 supplemental training to educate the employer's employees and supervisors that supplements
348 the department's baseline training module with information regarding:

349 (i) resources available to employees who are subject to abusive conduct; and
350 (ii) the employer's abusive conduct complaint process described in Section [67-26-202](#).

351 (d) An employer may request assistance from the department, at the department's
352 current consultant rate, in developing the training described in Subsection (2)(c).

353 ~~[(6)]~~ (3) (a) Each ~~[state agency]~~ employer shall provide professional development
354 training ~~[approved by the department]~~ to promote:

- 355 (i) ethical conduct;
- 356 (ii) organizational leadership practices based in principles of integrity; and
- 357 (iii) the state policy described in ~~[Subsection (2)]~~ Section 67-26-201.

358 (b) ~~[A state agency]~~ An employer may request assistance from the department, at the
359 department's current consultation rate, in developing training ~~[under]~~ described in this
360 Subsection ~~[(6)]~~ (3).

361 ~~[(7)]~~ (4) (a) Employers shall provide and employees shall participate in the training
362 described in ~~[-Subsections (5) and (6)]~~ this section:

363 (i) at the time the employee is hired or within a reasonable time after the employee
364 [commences] begins employment; and [in alternating years thereafter.]

365 (ii) at least every other year after the employee begins employment.

366 ~~[(b) The requirement in Subsection (7)(a) includes notification to all employees at the~~
367 ~~time of hiring or within a reasonable time after the employee commences employment and in~~
368 ~~alternating years thereafter of the abusive conduct complaint procedures and the grievance~~
369 ~~procedures provided in Title 67, Chapter 19a, Grievance Procedures.]~~

370 (b) An employer shall, at the times described in Subsection (4)(a), provide notification
371 to the employee of the abusive conduct complaint process.

372 ~~[(8)]~~ (5) The department may use money appropriated to the department or access
373 support from outside resources to:

- 374 (a) develop policies against workplace abusive conduct; and
- 375 (b) enhance professional development training on topics such as:
 - 376 (i) building trust;
 - 377 (ii) effective motivation;
 - 378 (iii) communication;
 - 379 (iv) conflict resolution;

- 380 (v) accountability;
- 381 (vi) coaching;
- 382 (vii) leadership; or
- 383 (viii) ethics.

384 [~~(9)~~ This section does not:]

385 [~~(a)~~ exempt or relieve a person from a liability, duty, or penalty provided by another
386 federal or state law;]

387 [~~(b)~~ create a private right of action;]

388 [~~(c)~~ expand or diminish rights or remedies available to a person before July 1, 2015;
389 or]

390 [~~(d)~~ expand or diminish grounds for discipline that existed before July 1, 2015.]

391 (6) (a) Beginning in 2021, and each year after 2021, an employer that is not a state
392 executive branch agency shall, on or before July 31, report to the department regarding:

393 (i) the employer's implementation of this chapter, including the requirement to provide
394 a process under Section [67-26-202](#); and

395 (ii) the total number and outcomes of abusive conduct complaints that the employer's
396 employees filed and that the employer investigated or reviewed.

397 [~~(10)~~] (b) The department shall annually report to the Economic Development and
398 Workforce Services Interim Committee [by], no later than the November interim meeting
399 [regarding], the following:

400 [~~(a)~~ ~~the~~] (i) a description the department's implementation of this [section] chapter;

401 [~~(b)~~] (ii) the department's recommendations, if any, to:

402 (A) appropriately address and reduce workplace abusive conduct; or [to]

403 (B) change definitions or training required by this section; [and]

404 [~~(c)~~] (iii) an annual report of the total number and outcomes of abusive conduct
405 complaints that employees filed and the department investigated[-]; and

406 (iv) a summary of the reports the department receives under Subsection (6)(a).

407 Section 12. **Effective date.**
408 This bill takes effect on July 1, 2020.