

Healthy Workplace Policy

POLICIES **Issued:** April 15, 2019
Responsible Official: Vice President for Finance and Administration
Responsible Office: Office of Human Resources

Policy Statement

It is the policy of Austin Peay State University that employees have a right to work in a healthy workplace free from abusive conduct (commonly known as workplace bullying), in accordance with the Healthy Workplace Act. [T.C.A. § 5-50-501 et seq.; T.C.A. § 49-8-203(a)(1)(E)]

Purpose

The purpose of this policy is to foster a healthy work environment for faculty and staff at APSU. The University will assess allegations of abusive conduct to determine, through a sound investigation, if credible and specific facts warrant the initiation of formal complaint resolution procedures, including disciplinary actions as appropriate.

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- APSU Policy 6:001
- APSU Policy 6:004
- APSU Policy 2:043

- APSU Policy 5:029
- APSU Policy 1:017
- APSU Policy 5:033
- TN Healthy Workplace Act

Procedures

Overview

Austin Peay State University is committed to maintaining a healthy working, learning, and social environment in which the rights and dignity of all the staff, faculty, and students of the University community are respected. The policy provides the University Administration, as well as the Office of Human Resources, the opportunity to assess allegations of abusive conduct to determine if an incident falls within its definition of abusive conduct and is sufficiently supported by credible and specific facts to warrant the initiation of formal complaint resolution procedures. Abusive conduct at Austin Peay State University is prohibited. The University is committed to promoting and fostering a healthy workplace at Austin Peay State University.

This policy covers all faculty and staff at Austin Peay State University. This policy does not cover complaints based upon protected class status (See APSU Policy 6:001 or 6:004).

Employee Responsibility

All employees have a particular responsibility to ensure that healthy and appropriate behaviors are exhibited at all times and provide good examples by treating all with courtesy and respect.

Supervisors and others in positions of authority have a particular responsibility to:

- A. Provide a working environment as safe as possible by having preventative measures in place and by dealing immediately with threatening or potentially violent situations;
- B. Ensure that all employees have access to and are aware of this policy and explain the procedures to be followed if a complaint of inappropriate behavior at work is made;
- C. Be attentive to signs of inappropriate behaviors at work through observation and information seeking, and take action to resolve the behavior before it escalates;

- D. Respond promptly, sensitively and confidentially to all situations where abusive behavior is observed or alleged to have occurred.

Definitions

Abusive conduct is defined as acts or omissions that would cause a reasonable person, based on the severity, nature, and frequency of the conduct, to believe that an employee was subject to an abusive work environment, and can include, but is not limited to:

- A. Repeated or severe verbal harassment in the workplace, including derogatory remarks, insults, and epithets;
- B. Verbal, nonverbal, or physical conduct of a threatening, intimidating, offensive, or humiliating nature in the workplace;
- C. The sabotage or undermining of an employee's work performance in the workplace;
- D. Arbitrary or capricious behavior on the part of the supervisor.

Abusive conduct does not include:

- A. A single act, unless such conduct is determined to be severe and egregious;
- B. Disciplinary procedures in accordance with Austin Peay State University policies and procedures;
- C. Reasonable coaching and counseling, including feedback about and correction of work performance;
- D. Reasonable work assignments, including shift, post, duty modifications, and overtime assignments;
- E. Differences of opinion on work-related concerns;
- F. The non-abusive exercise of managerial prerogative;
- G. Expressive activity or assembly protected by the federal or state constitution or statute;
- H. Formal or informal mentoring or seeking advice from peers about work related situations.

Retaliation: the imposing of hardship, loss or penalty on an employee in response to:

- A. Filing or responding to a formal complaint;
- B. Appearing as a witness in the investigation of a complaint;
- C. Serving as an investigator of a complaint;

D. Serving as a member of a panel or committee reviewing a complaint.

Lodging a complaint will in no way be used against the employee or have an adverse impact on the individual's employment status. While Austin Peay State University encourages all employees to raise any concern(s) under this policy and procedure, it is recognized that intentional or malicious false allegations can have a serious effect on innocent people. Individuals falsely accusing another of violations of this policy will be disciplined in accordance with APSU policies, such as 5:043 Employee Code of Conduct.

This provision does not apply to complaints made in good faith, even if an investigation of the incident does not find a Policy violation. Similarly, a person who intentionally provides false information to the University during an investigation or disciplinary proceeding action may be subject to disciplinary action.

Scope

This policy is not intended to and will not be applied in a way that would violate constitutional and statutory rights or academic freedom.

If faculty members or staff are unsure whether an action or statement could be considered abusive conduct, they are advised to use the "reasonable person" test, as discussed in the definition section.

Faculty or Staff should not raise claims of abusive conduct when a reasonable person cannot identify specific abusive conduct. Claims raised to harass, annoy, or embarrass another party or that do not contain evidence of specific abusive conduct can be treated as abusive conduct under this policy.

University Ombudsperson

Parties concerned about potential abusive conduct also have the option to use the University Ombudsperson. For further information about the role of the University Ombudsperson, refer to the Faculty Senate or Staff Senate webpage.

Procedure for Filing a Complaint

Alleged violations of the Healthy Workplace policy should be communicated to the appropriate supervisor or to the University's Office of Human Resources. When the allegation of abusive conduct is against an individual who reports directly to the President or an employee assigned to Human Resources, the President will identify an individual who has been trained in investigating such complaints to investigate the complaint and carry out the responsibilities assigned pursuant to this policy. When the allegation of abusive conduct is against the President, the human resources officer shall notify the Chair of the Board of Trustees who will assign an investigator who will make his/her report to the Executive Committee of the Board.

Any formal complaint of abusive conduct *must be made in writing* and include specific examples of conduct including dates, times, locations, and any witnesses. Complaints may also be filed by a third party witness.

Supervisors must be aware that they are responsible for ensuring that an employee who files a complaint is free from retaliation, coercion, and/or discrimination arising from the employee's filing of or intent to file a complaint. No employee shall retaliate or discriminate against another employee because of the latter employee's filing of a complaint. In addition, no employee shall coerce another employee or interfere with action of another employee in the latter employee's attempt to file a complaint.

Concerns and questions about possible violations should be communicated to the Office of Human Resources for consultation.

- Procedure for Investigation**
- A. Each complaint must be properly and promptly investigated and, when warranted, appropriate disciplinary action taken against the Respondent.
 - B. Upon receiving a written complaint of abusive conduct, the Office of Human Resources or the President/Board designee will assess the allegation(s) to determine if the alleged misconduct falls within the definition of abusive conduct, and is sufficiently supported by credible and specific facts to warrant the initiation of Office of Human Resources' formal complaint resolution procedures. Complaints filed based on discrimination against protected classes will be investigated by EEO/AA (Policy 6:001) and do not fall under this policy.

- C. The Office of Human Resources or the President/Board designee will appoint a lead investigator who has the appropriate training and is free from conflicts of interest.
- D. When an investigation is initiated, as a first step, the lead investigator shall notify all parties and provide them with copies of the complaint and relevant human resources policies.
- E. Upon completion, the investigator, in accordance with HR policies, will write a report to file with all concerned parties and the appropriate supervisors that will include the findings and supporting evidence.
- F. If the allegation is founded, the appropriate supervisor will use the report, in consultation with HR, to implement suitable corrective action.

Corrective Action

Except in egregious situations, an attempt should be made to remediate the situation and educate/counsel the involved parties before resorting to disciplinary measures. Sanctions should only be imposed in conjunction with appropriate supervisors at least two supervisory levels above the parties involved. There should be a time frame for the sanctions to remain in place based on the conduct of the offender. Any employee who engages in conduct that violates this policy or who encourages such conduct by others will be subject to corrective action. Such corrective action may include but is not limited to participation in counseling, training, and disciplinary action up to and including termination (following standard University procedures 2:043 Termination of Faculty Members for Adequate Cause and 5:029 Discipline Procedures for Non-Faculty Employees), or changes in job duties or location.

Appeal Process

Corrective actions taken under this policy are subject to the appropriate Austin Peay State University Grievance policy. (See, for instance, 1:017 and 5:033.)

Links

- APSU Policy 6:001** http://www.apsu.edu/policy/6s_nondiscrimination_harassment_and_sexual_misconduct_policies/6001-sexual-violence-and-stalking.php
- APSU Policy 6:004** http://www.apsu.edu/policy/6s_nondiscrimination_harassment_and_sexual_misconduct_policies/6004-discrimination-and-harassment-complaints-other-complaints-sexual-violence-and-stalking-compla.php
- APSU Policy 2:043** https://www.apsu.edu/policy/2s_academic_policies/2043-termination-faculty-members-adequate-cause.php
- APSU Policy 5:029** https://www.apsu.edu/policy/5s_personnel_policies/5029-discipline-procedures-non-faculty-employees.php
- APSU Policy 1:017** https://www.apsu.edu/policy/1s_governance_organization_and_general_policies/1017-grievance-and-complaint-procedures-employees.php
- APSU Policy 5:033** https://www.apsu.edu/policy/5s_personnel_policies/5033-support-staff-grievance.php
- TN Healthy Workplace Act** <http://www.capitol.tn.gov/Bills/110/Bill/SB2088.pdf>

Revision Dates

APSU Policy 5:028 – Issued: April 15, 2019

Subject Areas:

Academic	Finance	General	Human Resources	Information Technology	Student Affairs
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Approved

President: signature on file
