

STATE OF MARYLAND POLICY

SUBJECT: Bullying in the Workplace

Effective: 1/1/17


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AUTHORITY

Annotated Code of Maryland, State Personnel and Pensions Article, Title 2, Section 2-302; Title 4, Section 4-106; Title 5, Section 5-211, *et seq.*; Title 6, Section 6-102; and Title 11, Sections 11-104 and 11-105.

DEFINITION

Workplace Bullying

Intentional, persistent, malicious, unwelcome, severe or pervasive conduct that harms, intimidates, offends, degrades or humiliates an employee, whether verbal (including written or electronic) or physical, at the place of work or in the course of employment. Workplace bullying is behavior that a reasonable person would find to be hostile, offensive, and not related to an employer's legitimate business interests. Examples of workplace bullying include, but are not limited to:

- Personal attacks (angry outbursts, excessive profanity, or name-calling);
- Personal insults and use of offensive nicknames;
- Public humiliation;
- Encouragement of others to turn against the targeted employee;
- Spreading rumors and gossip about the targeted employee;
- Sabotage of a coworker's work product or undermining of an employee's work performance;
- Threats of abuse to an individual or an individual's property (defacing or marking up property);

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- Being unjustifiably offensive toward fellow employees, wards of the State, or the public;
- Making threats about job security without foundation; or
- Repeated infliction of verbal abuse, such as the use of derogatory remarks, insults and epithets.

Bullying conduct does not include:

- A single incident of unreasonable behavior;
- Disciplinary action taken in accordance with applicable law, regulation or policy;
- Routine coaching and counseling, including feedback about and correction of work performance or conduct;
- Exercising management's prerogative to appoint, promote, transfer, or reassign an employee, to direct or assign work, and to determine and redetermine the methods and means by which an agency's functions will be carried out;
- Individual differences in styles of personal expression which may lead to conflict, provided that the expression is not meant to intimidate; and
- Having differences of opinion on work-related concerns.

TRAINING AND EDUCATION

Training is a significant factor in preventing and managing workplace bullying, particularly to enable early intervention in workplace conflict before it potentially escalates into bullying. Training protocols for both supervisors and employees should include the definition of workplace bullying, reporting and investigation procedures and available resources for those who have been affected by workplace bullying. Workers, including managers and supervisors, should be aware of their roles in relation to

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prevention and responses to workplace bullying and appropriate skills to take action where necessary.

MANAGER AND SUPERVISOR TRAINING

Managers and supervisors need the skills to be able to identify psychological hazards and put the right control measures in place. They should be trained in how to prevent and respond to workplace bullying, and in skills that will help develop productive and respectful workplace relationships, for example training that covers:

- Communicating effectively and engaging workers in decision-making;
- Managing difficult conversations and providing constructive feedback both formally and informally;
- Conflict management;
- Effectively managing workloads and performance; and
- Diversity and tolerance.

DATA COLLECTION

It is imperative that the data on complaints and the outcome of investigations be collected by agency HR departments and shared with DBM. This could be tabulated by work site and department in order to pinpoint specific problem locations.

RETALIATION PROHIBITED

Reprisal or retaliation against any employee who files a report about bullying is strictly prohibited. Any employee who harasses or intimidates another employee who has reported bullying behavior in the workplace may be subjected to disciplinary action, up to and including termination from State service.

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COMPLAINT PROCESS

An employee who feels s/he has been a victim of bullying that is not because of the individual's age, ancestry, color, creed, gender identity and expression, genetic information, marital status, mental or physical disability, national origin, race, religious affiliation, belief or opinion, sex, sexual orientation or any other protected status, should file a complaint with their appointing authority or agency head/Secretary, as appropriate.

Upon receiving the complaint, the appointing authority or agency head/Secretary, as appropriate, shall:

- Investigate the alleged bullying;
- Meet with the alleged bully;
- Consider any mitigating circumstances;
- Determine the appropriate disciplinary action, if any, to be imposed; and
- Give the employee a written notice of the disciplinary action to be taken and the employee's appeal rights.

The appointing authority or agency head/Secretary, as appropriate, must investigate and take appropriate disciplinary action, if any, within 30 days of gaining knowledge of the alleged bullying.

COMPLAINT PROCESS – PROTECTED STATUS BASIS

For an employee who feels s/he has been a victim of bullying and/or discrimination because of the individual's age, ancestry, color, creed, gender identity and expression, genetic information, marital status, mental or physical disability, national origin, race, religious affiliation, belief or opinion, sex, sexual orientation or any other protected status, there are a number of options for pursuing a complaint. Whether a complaint is filed internally with DBM or externally (through the federal Equal Employment Opportunity Commission or the Maryland Commission on Civil Rights) the employee should be aware of the deadlines.

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A complaint filed internally:

- Must be filed in writing;
- Must be filed with the head of the principal unit or the EEO Officer;
- Must be filed within 30 days after the employee knew or reasonably should have known of the alleged violation.

After the complaint has been received:

- Within 30 days, the EEO Officer shall investigate the complaint and make a recommendation to the head of the principal unit;
- The head of the principal unit or designee shall issue a written decision to the complainant, and may grant any appropriate relief;
- The decision may be a dismissal of the complaint;
- A decision may be appealed to the Office of the Statewide EEO Coordinator in writing and filed within 10 days after receiving a decision;
- The Statewide EEO Coordinator shall review both the complaint and decision, conduct any necessary investigation, and shall issue a final decision within 30 days. The decision may grant an appropriate relief to the complainant or dismiss the complaint.

COMPLAINT BY WITNESS

Workplace bullying affects everyone. An employee who witnesses bullying in the workplace should report that information to his or her appointing authority or agency head/Secretary, as appropriate, without delay. A witness to workplace bullying may make this report anonymously. Anonymous complaints may be more difficult to investigate, but the appointing authority or agency head/Secretary, as appropriate, has a duty to do so to the best of his or her ability.