

## STATE OF MARYLAND POLICY

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**SUBJECT: Bullying in the Workplace**

**Effective: 1/1/17**

**Revised: 1/1/18**

  
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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 6, Section 6-102; and Title 11, Sections 11-104 and 11-105.

### **GENERAL STATEMENT OF INTENT**

It is the intent of the State of Maryland to educate all employees about Bullying in the Workplace and to ensure that bullying is not tolerated. Where it is found to have occurred, it will be dealt with in an appropriate manner, which may include the imposition of disciplinary action, up to and including termination from State service.

### **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;

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- 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);
- 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.

### **MANAGEMENT RESPONSIBILITIES**

It is the duty of every manager and supervisor to immediately report to the appointing authority any incident of workplace bullying that is witnessed by the manager or supervisor or brought to his/her attention by another employee.

### **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 shall include the definition of workplace bullying, reporting and investigation procedures and available

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resources for those who have been affected by workplace bullying. All State of Maryland employees shall be required to take refresher Workplace Bullying training every two (2) years. Workers, including managers and supervisors, should be aware of their roles in relation to 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 bullying behavior in the workplace and put the right control measures in place. They shall 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.

### **COMPLAINT PROCESS – EMPLOYEES NOT IN A PROTECTED STATUS**

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 designee shall investigate the complaint in the following manner:

1. Meet with the complainant in a confidential setting to collect information that the complainant believes is pertinent to the charge of workplace bullying. If requested, the complainant shall have a right to representation. During this meeting, the individual charged with investigating the complaint should:

- Listen to the concerns being expressed by the complainant with an open mind;
- Ask open-ended questions to solicit as much information as possible;

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- Ask whether there were any witnesses to the incidents being complained of;
  - Consider any documentary evidence the complainant may provide; and,
  - Explain the next steps to the complainant.
2. Meet with any witnesses to the incidents being complained of.
  3. Meet with the employee against whom the complaint was lodged and provide him/her with a summary of the allegations.

### **Results of Investigation**

1. If the investigation results in a finding that bullying occurred, the appointing authority or agency head/Secretary, as appropriate, shall:
  - 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.
2. 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, except that if a suspension without pay is imposed the suspension must be imposed no later than 5 workdays following the close of the employee's next shift after the appointing authority acquires knowledge of the misconduct for which the suspension is imposed, in accordance with State Personnel and Pensions Article §11-106(c).
3. In addition to, or in lieu of, discipline, an appointing authority or head of the principal unit, as appropriate, may exercise management's prerogative to reassign an individual who has filed a complaint upon request of the complainant. Additionally, an appointing authority or head of the principal unit, as appropriate, may exercise management's prerogative to reassign the alleged bully; such reassignment is not a disciplinary action within the meaning of Title 11 of the State Personnel and Pensions Article.
4. An individual who has been found to have committed a violation of this Policy shall be required to participate in retraining relating to the requirements of this Policy and the prohibitions against bullying.
5. If the behavior giving rise to the complaint does not rise to the level of workplace bullying, the individual investigating the matter should determine whether there are workplace issues that should be addressed and take appropriate action to do so.
6. Every step in the process should be documented.

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7. No matter the outcome, the complainant should receive a written decision that addresses the complaint and outlines the steps that were taken to address the complaint. This decision should provide sufficient information to support the outcome.

8. Within twenty (20) days after receiving the written decision, an employee who filed the complaint and believes that the appointing authority misinterpreted or misapplied the Bullying in the Workplace policy to him/her, may file a grievance pursuant to Title 12 of the State Personnel and Pensions Article.

### **COMPLAINT PROCESS – PROTECTED STATUS BASIS** (Authority: SPP Title 5, § 5-211, *et seq.*)

For an employee who feels s/he has been a victim of bullying/harassment 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 pursuant to Title 5 of the State Personnel and Pensions Article or externally (through the federal Equal Employment Opportunity Commission or the Maryland Commission on Civil Rights) the employee should be aware of the deadlines.

#### **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 meet with the complainant and 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 or a finding that a violation has occurred;
- A decision may be appealed to the Office of the Statewide EEO Coordinator in writing and filed within 10 days after receiving a decision;

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- The Statewide EEO Coordinator shall review both the complaint and decision, conduct any necessary investigation, and shall recommend to the DBM Secretary or designee a finding of whether a violation has occurred within 30 days after the appeal is received. 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 behavior as defined in this policy 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.

### **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.

### **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 shall be tabulated by work site and department in order to pinpoint specific problem locations.