

**University of Maryland Eastern Shore**  
**POLICY/PROCEDURES PROHIBITING WORKPLACE BULLYING**

**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.

**Workplace Bullying includes, but is 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);
- 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.

**APPLICABILITY**

This Policy prohibits Workplace Bullying, irrespective of an employee's membership in a protected class, that has the effect of creating a hostile work environment for a member of the University Community and/or adversely impacts employment of a member of the University Community. Nothing in this Policy is intended to supersede or conflict with any federal or state compliance obligations.

## **GOOD FAITH REQUIREMENT**

Reports or complaints of bullying must be made in good faith because they are so serious and have the potential to cause great harm if made without justification. Accordingly, it is a violation of the Policy and Procedure for an individual to make a complaint or report in bad faith or without justification. Any individual found to have made a complaint or report in bad faith or without justification may be subject to disciplinary or other action.

## **COMPLAINT BY WITNESS**

Workplace Bullying affects everyone. An employee who witnesses bullying in the workplace should report that information to their supervisor and the Office of Institutional Equity and Compliance, without delay. A witness to Workplace Bullying may make this report anonymously. Anonymous complaints may be more difficult to investigate, but the Office of Institutional Equity and Compliance has a duty to do so to the best of their ability.

## **COMPLAINT PROCESS**

### **A. No Protected Class Status**

An employee who feels they have been a victim of bullying/harassment 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 the Office of Institutional Equity and Compliance (OIE) or the Office of Human Resources (HR), as appropriate.

A complaint filed internally:

- Is encouraged to be filled in written format; if a verbal complaint is made, the OIE will prepare a written statement of the allegations and the Complainant will be required to confirm its accuracy in writing.
- Must be filed with the EEO Officer and/or their designee in the Office of Institutional Equity and Compliance or with the Office of Human Resources.
- The decision may be a dismissal of the complaint, Alternative Dispute Resolution, or formal administrative investigation.

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Upon receipt of a report or complaint and subsequent assessment, when appropriate, OIE can present parties with the option to resolve the matter through Alternative Dispute Resolution (ADR). To pursue ADR, both parties must agree while the OIE must deem it appropriate. If the

parties resolve the matter through Alternative Resolution, OIE may summarize the resolution in writing and close the case. In addition, OIE remains available to assist the parties with concerns that may arise from the informal agreement (result of ADR process). If Alternative Resolution does not succeed within forty-five (45) business days of the complaint or report, OIE will proceed as appropriate.

In a joint effort, the Office of Institutional Equity and Compliance will serve as the investigative entity of any and all Workplace Bullying allegations, while the Office of Human Resources will have an advisory role in various steps of the process. OIE will make recommendations to the supervisor, who will serve as the deciding authority regarding the appropriate disciplinary action, if any. The University endeavors to resolve complaints within ninety (90) days of gaining knowledge of the alleged bullying.

### **INVESTIGATION**

Upon receiving the complaint, the Office of Institutional Equity and Compliance 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 allegation of Workplace Bullying. If requested, the Complainant shall have a right to representation. During this meeting, the individual designated with investigating the complaint should:
  - a. Listen to the concerns being expressed by the Complainant with an open mind;
  - b. Ask open-ended questions to solicit as much information as possible;
  - c. Ask whether there were any witnesses to the incidents being complained of;
  - d. Consider any documentary evidence the Complainant may provide; and,
  - e. 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 (Respondent) and provide them with a summary of the allegations.

### **Results of Investigation**

1. If the investigation results in a finding that bullying occurred, the Office of Institutional Equity and Compliance, shall:
  - a. Consider any mitigating circumstances;
  - b. Share the findings of the investigation and subsequent recommendations for disciplinary action (if any) with the corresponding supervisor to be shared with the employee. Any action taken will be added to the employee's personnel records.
2. In addition to, or in lieu of, discipline, OIE may exercise management's prerogative to reassign an individual who has filed a complaint upon request of the Complainant. Additionally, OIE 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.

3. 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, unless the violation in question is egregious enough to warrant termination.
4. 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 through the Human Resources office through a referral process.
5. Every step in the process will be documented.
6. No matter the outcome, the Complainant will 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.
7. Within five (5) days after receiving the written decision from OIE, an employee who filed the complaint and believes that the deciding authority misinterpreted or misapplied the Bullying in the Workplace policy to them, may file a grievance pursuant to Title 12 of the State Personnel and Pensions Article.

## **B. Protected Class Status**

For an employee who feels they have been a victim of bullying/harassment **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.

A complaint filed internally:

- Is encouraged to be filled in written format; if a verbal complaint is made, the OIE will prepare a written statement of the allegations and the Complainant will be required to confirm its accuracy in writing.
- Must be filed with the EEO Officer in the Office of Institutional Equity and Compliance or the designee.
- The decision may be a dismissal of the complaint, Alternative Dispute Resolution (ADR), or formal administrative investigation.

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## **INVESTIGATION**

Upon receipt of a report or complaint and subsequent assessment, when appropriate, OIE can present parties with the option to resolve the matter through Alternative Dispute Resolution. To pursue ADR, both parties must agree and OIE deem it appropriate. If the parties resolve the matter through Alternative Resolution, OIE may summarize the resolution in writing and close the case. In addition, OIE remains available to assist the parties with concerns that may arise from the informal agreement (result of ADR process). If Alternative Resolution does not succeed within forty-five (45) business days of the complaint or report, OIE will proceed as appropriate.

The Office of Institutional Equity and Compliance will serve as the investigative entity of any and all Workplace Bullying allegations, as well as serve as the deciding authority regarding the appropriate disciplinary action, if any. The University endeavors to resolve complaints within ninety (90) days of gaining knowledge of the alleged bullying.

Upon receiving the complaint, the Office of Institutional Equity and Compliance 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 allegation of Workplace Bullying. If requested, the Complainant shall have a right to representation. During this meeting, the individual designated with investigating the complaint should:
  - a. Listen to the concerns being expressed by the Complainant with an open mind;
  - b. Ask open-ended questions to solicit as much information as possible;
  - c. Ask whether there were any witnesses to the incidents being complained of;
  - d. Consider any documentary evidence the Complainant may provide; and,
  - e. 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 (Respondent) and provide them with a summary of the allegations.

### **Results of Investigation**

1. If the investigation results in a finding that bullying occurred, the Office of Institutional Equity and Compliance, shall:
  - a. Consider any mitigating circumstances;
  - b. Determine the appropriate disciplinary action, if any; and
  - c. Give the employee a written notice of the disciplinary action to be taken and the employee's appeal rights.
2. In addition to, or in lieu of, discipline, the OIE may exercise management's prerogative to reassign an individual who has filed a complaint upon request of the Complainant. Additionally, the OIE may exercise management's prerogative to reassign the alleged bully.
3. 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, unless the violation in question is egregious enough to warrant termination.

4. 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 through other offices through a referral process.
5. Every step in the process will be documented.
6. No matter the outcome, the Complainant will receive a written decision that addresses the complaint and outlines the steps that were taken to address the complaint. This decision will provide sufficient information to support the outcome.
7. Within five (5) days after receiving the written decision from OIE, an employee who filed the complaint and believes that the deciding authority misinterpreted or misapplied the Bullying in the Workplace policy to them, may file an appeal in writing. Appeal details can be found in the APPEALS section of this Policy and Procedures (below).

### **DUE PROCESS RIGHTS OF THE PARTIES**

The University provides fundamental fairness to the parties. Among other things, this means they are provided notice of the charges and evidence, the right to present information and identify witnesses relevant to their case, to take part in an impartial Investigation, and to appeal the findings and/or sanctions. In addition, a party may have an Advisor present during meetings related to an investigation.

### **STANDARD OF REVIEW**

The University investigates allegations of Bullying to determine whether there is evidence to indicate a policy violation is “more likely than not.” This standard, called the preponderance of the evidence, corresponds to an amount of evidence indicating that a policy violation is more than 50% likely. Investigations are conducted to take into account the totality of all evidence available, from all relevant sources.

### **APPEALS**

A party may appeal an OIE finding regarding a violation of the Policy. Appeals are not intended to allow for a review of the entire investigation, with the exception of new evidence, as referenced above. Dissatisfaction with a finding or sanction is not a valid basis for appeal. However, either party may appeal an OIE finding on the following grounds:

1. A flaw or denial of due process rights;
2. New evidence or insufficient consideration of all aspects of the situation; and/or
3. Evident bias in the Investigation.

A party must submit a written statement of their intent to appeal and grounds within five (5) business days of the date of receipt of the notice of finding to the appropriate appeal authority, represented by the corresponding Vice President, Provost, or President, who shall review both the complaint and the decision. If an appeal is received, the other party will be notified and given five (5) business days to submit a written statement. All appeals and responses shall include the party's name and contact information. All appeal documents submitted by a party will be shared with the other party. The appeal authority shall review both the complaint and the OIE decision and issue a final decision within ten (10) days.

If neither party submits an appeal, the decision will be considered final five (5) business days after the last date either party received the findings. Appeals submitted after five (5) business days shall be denied, except upon a showing of good cause.

### **RETALIATION**

Means intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy promulgated by USM and/or the University relating to Bullying and/or Discrimination or because an individual has made a report, testified, assisted, or participated in any manner in an Investigation or proceeding related to Bullying and/or Discrimination. Retaliation includes retaliatory harassment.

### **PRIVACY**

The University supports an individual's general interest in privacy. Private information is sensitive or personal information that is not usually disseminated. A member of the University Community may request that private information not be disclosed to others. UMES will evaluate requests for privacy in light of its responsibility to provide a safe and secure environment. In certain situations, UMES may override a request for privacy in order to meet its obligations. The University will act reasonably and in good faith to limit such disclosures, maintain them in a secure manner, and only share them with individuals who are responsible for handling the University's response to the allegations of Bullying and/or Discrimination. To the extent practicable, the University will notify individuals when private information will be disclosed, to whom it will be disclosed, and why.

### **CONFIDENTIALITY**

Confidential information cannot be disclosed without authorization or considered as part of OIE's Investigation (and finding) and/or an appeal. The University will not make disclosures that violate confidentiality requirements. Failure to exercise care in the disclosure of confidential information may constitute a violation of the law or University policy.

### **MANAGEMENT RESPONSIBILITIES**

It is the duty of every manager and supervisor to immediately report to the Office of Institutional Equity and Compliance any incident of Workplace Bullying that is witnessed by the manager or supervisor or brought to their 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. All UMES employees are required to complete Workplace Bullying training and complete a refresher 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 will 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 the Office of Institutional Equity and Compliance and shared with HR. This could be tabulated by work site and department in order to pinpoint specific problem locations.