



# **BULLYING, DISCRIMINATION, AND HARASSMENT**

## **Directive: 5-111**

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### **I. PURPOSE**

The purpose of this directive is to set forth a uniform practice to effectively report, investigate, and address situations in which bullying, discrimination or harassment is alleged to have occurred.

### **II. POLICY**

The Maryland Capitol Police (MCP) is dedicated to a strong policy against discrimination on the basis of any factor prohibited by law, as set forth in Title VII of the Civil Rights act of 1964; the Annotated Code of Maryland State Personnel and Pensions Article, Title 5, Subtitle 2; Title 20 of the State Government Article, Annotated Code of Maryland; Maryland Code of Fair Employment Practices (Executive Order 01.01.2007.16) and the United States Equal Employment Opportunity Commission Policy.

Additionally, pursuant to 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, acts of harassment and bullying in the workplace will not be tolerated

### **III. DEFINITIONS**

A. **DISCRIMINATION** - Unfair treatment or denial of normal privileges to persons because of their race, age, sex nationality or religion. A failure to treat all persons equally where no reasonable distinction can be found between those favored and those not favored.

1. Federal statutes prohibit discrimination in employment on basis of sex, age, race, nationality, religion, or being handicapped.
2. Discrimination includes those acts prohibited by State and Federal law and includes:
  - a. Expressions of racial/ethnic/religious insults and epithets;
  - b. Gender based derogatory comments;
  - c. Sexual harassment; and
  - d. Retaliation against a person for filing a complaint of discrimination.

B. **HARASSMENT** – To disturb or irritate persistently, including actions to inflict distress or create a hostile environment.

1. Harassment includes, but is not limited to the following actions:

- a. Using words, phrases, or gestures which may be interpreted as derogatory or demeaning;
- b. Post/distributing literature, bulletins, cartoons, or other written material which may be interpreted as derogatory or demeaning;
- c. Mimicking, imitating or miming oral or physical characteristics considered stereotypical of individuals or groups of individuals which may be interpreted as derogatory or demeaning;
- d. Participating in and/or encouraging any retaliatory acts directed at individuals or groups exercising their rights against such discriminatory acts or policies.
- e. Condoning any activities defined as harassment and/or discrimination by this order:
- f. Retaliating against an employee for opposing any unlawful employment practice, making a charge, testifying, assisting or participating in any manner in an investigation, proceeding, or hearing under 42 U.S.C, Section 2000e-3(a).

C. 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.

1. Examples of workplace bullying include, but are not limited to:

- a. Personal attacks (angry outbursts, excessive profanity, or name-calling);
- b. Personal insults and use of offensive nicknames;
- c. Public humiliation;
- d. Encouragement of others to turn against the targeted employee;
- e. Spreading rumors and gossip about the targeted employee;
- f. Sabotage of a coworker's work product or undermining of an employee's work performance;
- g. Threats of abuse to an individual or an individual's property (defacing or marking up property);
- h. Being unjustifiably offensive toward fellow employees, wards of the State, or the public;
- i. Making threats about job security without foundation; or
- j. Repeated infliction of verbal abuse, such as the use of derogatory remarks, insults and epithets.

2. Bullying conduct does not include:

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

## **IV. PROCEDURES**

### **A. GENERAL RESPONSIBILITIES**

- 1. All employees are forbidden from participating in, encouraging or supporting in any way acts of bullying, discrimination, or harassment.
- 2. Any employee that becomes aware, or has reason to believe, that any form of bullying, discrimination or harassment has occurred will immediately notify their supervisor or commander.
- 3. It is the duty of every manager and supervisor to:
  - a. Immediately report any incident of workplace bullying that is witnessed by the manager or supervisor or brought to his/her attention by another employee;
  - b. Monitor the work environment of subordinates for signs that bullying, harassment or other forms of discrimination may be occurring;
  - c. Stop observed acts that may be considered bullying, harassment, discrimination, and/or retaliation and take appropriate steps to intervene, regardless of whether the involved members are within the line of supervision or command.

### **C. INFORMAL RESOLUTION**

- 1. An employee subjected to, or having knowledge of suspected bullying, discrimination or harassment situation, may personally confront the antagonist and make it understood that the behavior(s) or activities are unwanted and a request has been made to cease and that any further similar behaviors will be reported.
- 2. It should be clear that this informal option is available to employees but is not a prerequisite or mandatory step prior to making a formal complaint.

3. If the employee has reason to believe that a direct confrontation with the alleged antagonist might further aggravate the situation, the employee should report the situation as outline below.

#### D. FORMAL COMPLAINT PROCESS – EMPLOYEES IN PROTECTED STATUS

1. An employee who feels he/she has been a victim of bullying, discrimination and/or 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, has several options for making a complaint.
2. 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 that the complaint MUST be filed within 30 after the employee knew or reasonably should have known of the alleged violation.
3. Complaint filed internally must be filed in writing to:
  - a. The Secretary of DGS; or
  - b. The DGS Equal Employment Opportunity (EEO) Officer.
4. Complaints filed externally may be filed with:
  - a. U.S. Equal Employment Opportunity Commission  
10 South Howard Street, 3rd Floor  
Baltimore, Maryland 21201  
(410) 962-3932, (800) 669-4000; or
  - b. The Maryland Commission on Civil Rights  
301 West Preston Street Suite #607  
Baltimore, MD 21201 Phone:  
(410) 767-3800 Fax: (410) 333-5004  
<http://www.dbm.maryland.gov>

#### D. FORMAL COMPLAINT PROCESS – EMPLOYEES IN NON-PROTECTED STATUS

An employee who feels that they have 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 commander.

#### E. COMMANDER'S RESPONSIBILITIES

1. Upon receiving the complaint, the commander or designee shall:
  - a. Meet with the complainant in a confidential setting to collect information that the complainant believes is pertinent to the allegation;

- b. Ensure the complainant and/or the aggrieved employee that the matter will be addressed and that any retaliatory actions should be reported immediately;
- c. Limit the work contact between the victim and the accused while a complaint of bullying, harassment or discrimination is pending resolution.
- d. Ensure the complainant that every reasonable effort will be taken to handle the complaint in a manner that protects the confidentiality of all parties;
- e. Explain to the complainant and/or the aggrieved employee the next steps in the process;
- f. Meet with the employee against whom the complaint was lodged and provide him or her with a summary of the allegations and notify them of the potential disciplinary consequences of a continuance of the alleged conduct or acts of retaliation;
- g. Notify the Investigations Section Supervisor of the allegation; and
- h. After disposition of the case, contact the victim and/or complainant within thirty (30) days to ensure that there has not been a continuation of the improper conduct, threats of retaliation, or retaliation.

#### F. INVESTIGATIONS SECTION SUPERVISOR'S RESPONSIBILITY

- 1. The Investigations Section Supervisor will confer with the Operations Commander to determine if the allegation will be investigated locally or by the Investigations Section.
- 2. The Investigations Section Supervisor will notify the DGS Fair Practices Officer or EEO Officer of the allegation.

#### G. INVESTIGATIVE PROCESS

- 1. The Investigation must be completed and, if appropriate, disciplinary action taken within 30 days.
- 2. The investigation will include:
  - a. Conducting an interview with the complainant and/or victim;
  - b. Conducting interviews with all witnesses;
  - b. Obtaining any documentary evidence of the complaint; and
  - c. Notifying the accused of the allegation and conducting an interview with them regarding the complaint.
- 2. No matter the outcome, the complainant should receive a written decision that addresses the complaint and outlines the steps that were taken to investigate it. This decision should provide sufficient information to support the outcome.

#### E. EMPLOYEE ASSISTANCE PROGRAM

The Employee Assistance Program, which includes counseling and referral services, is available to all employees, and can be used as a tool to assist the involved employees with incidents of bullying, discrimination and harassment.