

University of Baltimore Policy VI-9.2 Faculty Anti-Bullying Policy

Policy developed through the Faculty Work-Life Committee; UFS approved October 7, 2020
Office of the Attorney General review (January 30, 2020)
Provost October 7, 2020
President and Executive Team December 2020

I. Overview and Purpose

The University of Baltimore community believes all individuals within that community have a right to work in an environment that respects its members as individuals and thereby helps them achieve their personal and professional goals. The impacts of bullying in the workplace are well documented, including the breakdown of trust and morale, the loss of time and productivity, constrictions on feedback needed for institutional health, as well as investigations and litigation. Because workplace bullying signals disrespect and is generally a recipe for organizational dysfunction, this policy clarifies what workplace bullying is and prohibits it at the University.

This policy incorporates elements of the State of Maryland policy on Bullying in the Workplace, which does not apply to University System of Maryland institutions, and adapts the policy for a university environment. The policy defines bullying and prohibits it.

The jurisdiction of this policy is all faculty, whether permanent or contractual, including Deans with a faculty rank and faculty serving in an administrative capacity such as division chair or executive director.

If a faculty member has a bullying Complaint about a staff member, the Complaint goes directly to the Office of Human Resources and does not follow this policy. A Complaint about student bullying behavior would be addressed through the student Code of Conduct policy.

The executive vice president and provost and any vice, associate, or assistant provosts are not included in this policy; should any of those individuals be Respondents, a the Complaint goes to the Office of Human Resources. As Complainants against other staff members, they would file a Complaint through the Office of Human Resources to follow a staff investigation process.

Bullying based on a protected class (sex, gender marital status, pregnancy, race, color, ethnicity, national origin, age, disability, genetic information, religion, veteran status, gender, sexual orientation, gender identity, gender expression, or other legally protected characteristics) is subject to the University Non-discrimination Policy. Additionally, certain behaviors that could be described as bullying may be subject to investigation under the University Sexual Misconduct Policy. See III.C., which includes links to those policies.

II. Definitions

1. *Bullying* - Bullying is 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. Such behavior intimidates, offends, degrades, humiliates, isolates or undermines a person or group of people.

Bullying includes either 1) sustained action or comments over a period of time, and 2) a situation in which the respondent has more physical or social power while the person or persons targeted have difficulty stopping the behavior.

i. Examples of bullying include, but are not limited to

- Verbal abuse or personal attacks (angry outbursts, excessive profanity, derogatory remarks, or name-calling);
- Unwarranted or excessive monitoring,
- Purposeful exclusion or isolation in the workplace,
- 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's property (defacing or marking up property);
- Being unjustifiably offensive toward fellow employees; or
- Making threats about job security without foundation.

ii. Certain activities that are normally outside the scope of bullying, such as giving constructive criticism for the purpose of instruction or mentoring, may become bullying if they are accompanied by or delivered through bullying actions such as the examples listed above.

iii. 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, so long as it is not conducted in a bullying manner;
- Exercising management's prerogative to appoint, promote, transfer, discipline, terminate, or reassign an employee or to direct or assign work;
- Individual differences in styles of personal expression which may lead to conflict, provided that the expression is not bullying as defined above; and
- Having differences of opinion on work-related concerns.

2. *Complainant* – the person who was the victim of alleged bullying

3. *Reporting Party* – a person who reports an act of bullying but is not the alleged victim of the bullying

4. *Respondent* – the person against whom a complaint of bullying has been raised
5. *Retaliation* - means taking an adverse action against an employee because the employee engaged in an activity under the policy. An adverse action may include disciplinary actions, up to and including termination, changes in terms and conditions of employment, or otherwise harassing, intimidating, threatening, restraining, coercing, or discriminating against the employee. Activities under this policy include making a report; testifying, assisting, or participating in any manner in an investigation or proceeding related to workplace bullying; and opposing workplace bullying.
6. *Working day* – with respect to the timelines in this policy, a day when University offices and/or classes are operating, exclusive of weekends but including holidays when offices are open (e.g., Veterans Day) and periods during the summer or other seasons when classes may not be in session.

III. Policy Statement and Jurisdiction

- A. Bullying is not an acceptable behavior at the University of Baltimore. Bullying can be reported as a policy violation through the processes identified in this policy.
- B. This policy covers behavior on and off campus that affects a person’s work environment, as well as in virtual environments that affect a person’s work environment, such as e-mail, social media, and learning management systems such as Sakai.
- C. The policy covers acts of bullying except (a) when an alleged crime has occurred, then the matter will be referred to the police and (b) instances when there has been an allegation of a violation of the University’s Sexual Misconduct Policy (linked to Title IX), or the Non-discrimination Policy (linked to Title VII), when the adjudication processes for those policies will be applied.
- D. If the supervisor is the Respondent, then the complaint should go to the supervisor at the next level up. For faculty members, this means if the Respondent is the departmental/division chair, then the complaint goes directly to the Dean. If the Respondent is the Dean, then the complaint goes to the Executive Vice President and Provost.

IV. Retaliation

Retaliation against anyone who has made a charge of bullying, or against anyone who has participated in a proceeding related to such a charge, will not be tolerated. Retaliation itself may be an act of bullying subject to this policy or may be a violation of other policies as well.

V. Process

- A. Any faculty member, including certain administrators with a faculty rank who are covered under this policy, may file a written complaint related to workplace bullying by another faculty member, including certain administrators with a faculty rank. The written complaint must contain the following:
1. The name, title, email address, and phone number of the Complainant
 2. The name and title of the person who is alleged to have bullied
 3. The name and title of the person who was bullied if it is not the complainant.
 4. The date(s) of the violation and a detailed description of how the alleged behavior violates the policy and, potentially, other relevant policies.
 5. Any other pertinent information.

Any persons investigating a Complaint should respect privacy and protect confidentiality to the extent possible. The parties cannot be given a guarantee of confidentiality, however.

- B. The Complainant or Reporting Party then has the following options for filing the Complaint:
1. The complaint may be filed directly with the Office of Human Resources (“OHR”). Staff in OHR decide if the Complaint falls within the purview of this policy or if it should be referred to another office. Should OHR decide there should be such a referral or if the Complaint falls outside the policy or both, the Complainant or Reporting Party will be notified within five working days

A copy of the Complaint must go to the Respondent before any investigation begins.

If the Complaint is referred to another office, the Respondent would be notified by the office to which the Complaint is referred.

OR

2a. If the Complainant and the Respondent report to the same Dean, the complaint may be filed with the Dean. The Dean decides if the Complaint falls within the purview of this policy or if it should be referred to another office. Should the Dean decide there should be such a referral or if the Complaint falls outside the policy, the Complainant will be notified within five working days. If the Complaint is referred to another office, the Respondent would be notified by the office to which the Complaint is referred.

A copy of the Complaint must go to the Respondent before any investigation begins.

2 b. If the Complainant and the Respondent report to different Deans, the Complainant may file the Complaint with the Complainant's own Dean, and that Dean will then consult with OHR and the Respondent's Dean in addressing the Complaint. There will be a determination by the Complainant's Dean and OHR if the Complaint falls within the purview of the policy or if it should be referred to another office. If the Dean and OHR decide there should be such a referral or decide the Complaint falls outside the policy, the Complainant will be notified within five working days. If the Complaint is referred to another office, the Respondent would be notified by the office to which the Complaint is referred.

A copy of the Complaint must go to the Respondent before any investigation begins. When consulting with OHR takes place, a person different from the person who would hear an appeal should be consulted.

c. If the Complaint is filed by a Reporting Party, the Complaint should go to the Dean to whom the Respondent reports. The Dean decides if the Complaint falls within the purview of this policy or if it should be referred to another office. Should the Dean decide there should be such a referral or if the Complaint falls outside the policy, the Reporting Party and Complainant will be notified within five working days.

If the Complaint is referred to another office, the Respondent and Complainant would be notified of the Complaint by the office to which the Complaint is referred.

A copy of the Complaint must go to the Respondent and Complainant before any investigation begins. In the event that the Complainant does not want the Complaint to go forward, the appropriate University official will consider such request, but the University has the discretion to move forward with investigation of the Complaint.

C. After the Complaint is filed and it is determined that the Complaint is to be investigated under this policy, these steps are then followed:

Step 1:

The person receiving the Complaint must share the Complaint with the Respondent and meet with the Complainant, the Reporting Party (as appropriate), the Respondent, and any other relevant parties to investigate the Complaint and to work toward a determination of next steps.

The meeting with the Complainant and Reporting Party (as appropriate) should take place within 10 working days of when the Complaint was filed. Extenuating circumstances on the part of Complainant may allow for delay, but this should be as little time as possible. Other interviews may be conducted after that but should be held timely so the process is not delayed.

Complainants may be accompanied by two members of the University community of their choosing to be present while an investigator discusses the Complaint.

The person receiving the Complaint must also meet with the Respondent who may be accompanied by two members of the University community of the Respondent's choosing to be present while an investigator discusses the Complaint.

If the relevant Dean is away from work because of travel or illness and will not return in 10 working days, the Dean and Complainant may mutually agree to a meeting date, but if the Complainant is not satisfied with a deferral, the Complaint goes to the next level up supervisor (i.e., the provost) OR the Complainant may choose to go to Human Resources.

Step 2:

The person investigating the Complaint must provide a brief update on the investigation every 10 working days to the Complainant and to the Respondent.

Step 3:

A determination as to the merits of the Complaint should be identified within 10 working days from the time of the last interview in the investigation. The standard of review shall be the preponderance of evidence.

At this stage the matter may be ended.

- D. If the person receiving and investigating the complaint finds there has been Bullying, the resolution may include sanctions against the Respondent. Examples include but are not limited to removing someone from a committee or an appointed position; moving an office; or undergoing supervisor training. The sanction should be proportional to the severity of the bullying behavior.
- F. The Respondent must be notified of the result of the process. The Complainant will be notified of the final decision regarding whether there was a violation of the policy, but the Complainant will not necessarily receive information about the sanction, consistent with privacy protections for personnel of the University. Where appropriate, the Assistant Vice President of Human Resources and the Respondent's direct supervisors may be notified of the decision and any resulting sanctions.
- G. If neither party appeals within the deadline set forth in VI below, this decision shall be the final decision of the University with respect to an alleged violation of this Policy.

VI. Appeal Process

Either the Complainant or the Respondent may file an appeal within 10 working days of when the original decision was communicated. The bases for appeal are limited to the following grounds:

1) procedural errors or errors in interpretation of University policies were so substantial as to deny a Complainant or the Respondent notice or a fair opportunity to be heard;

2) new or significant information that became available and could not have been discovered by a properly diligent party before or during the investigation or adjudication or

3) the sanction is deemed disproportional to the offense.

An appeal must include all information in the original Complaint; any documents received as part of the determination of findings of the Complaint; and, if appropriate, any new information, as well as a clear reason for the appeal, along with the information supporting the reason for the appeal.

If a Dean or Provost in the Dean's absence resolved the complaint, then the appeal should be filed with Human Resources ("Appeal Officer").

If Human Resources resolved the complaint, the Complainant or Respondent has ten working days to file an appeal with the Provost ("Appeal Officer").

The Appeal Officer shall review all submitted documentation, and may, if appropriate, request additional information from the Complainant or Respondent or persons identified as witnesses or who may reasonably be thought to have some knowledge of the alleged behavior or other pertinent information. The Appeal Officer will endeavor to provide a final determination within 15 working days. This decision shall be the final decision of the University with respect to an alleged violation of this Policy.

VII. Records pertaining to all such Complaints under this policy should reside in a file of the Respondent held in confidence in the Office of the Provost.