Board of Supervisors Memorandum

April 16, 2013

Proposed Workplace Bullying Policy

The Human Resources Department has drafted a Workplace Bullying Policy to address abusive activity by employees that is not effectively addressed by existing County policies. This memorandum contains information on why such a policy is necessary, with national survey data, and my recommendation to the Board.

Why the Policy Is Necessary

As Chris May of CBS News wrote on February 6, 2013, "(U)nless it's discrimination, bullying is almost always legal." A 2007 survey conducted by Zogby International for the Workplace Bullying Institute (WBI) found that bullying is four times as common as workplace harassment based on a protected class. Unless bullying activity also meets the definition of an act of unlawful discrimination, there are no laws that address it. So far, workplace bullying legislation, much of it based on the WBI "Healthy Workplace" model, has been introduced in 23 states. No state has yet passed any laws against workplace bullying. However, local entities have adopted policies against workplace bullying. These include two other major urban counties: Hennepin County, Minnesota and Fulton County, Georgia.

Based on the experience of Pima County's Human Resources Department, consisting of anecdotal evidence, workplace bullying is also a problem in Pima County that is not sufficiently addressed by our current workplace harassment and workplace violence policies. There is no reason to believe that the incidence of workplace bullying in Pima County is materially different from experiences in other communities and counties and it is likely that the statistics recited in the WBI/Zogby International survey reflect the impact of workplace bullying in Pima County.

Facts and Figures

Below are the key findings from the 2007 survey:

- 37 percent of American workers have been bullied at work. It affects half (49 percent) of American adults.
- Bullying is four times more prevalent than illegal forms of harassment.
- In 62 percent of the cases, when made aware of bullying, employers worsen the problem or simply do nothing, despite losing an estimated 21-28 million workers because of bullying.
- 72 percent of workplace bullies are supervisory employees; 55 percent of those bullied are rank-and-file workers.

- Women are targeted by bullies more frequently (in 57 percent of the cases), especially by other women (in 71 percent of cases).
- Stress affects the health of 45 percent of individuals who are subjected to workplace bullying; 33 percent suffer health effects for more than a year.
- Only 3 percent of victims of workplace bullying file lawsuits; 40 percent never complain about it, frequently because there is no policy prohibiting it.
- Many victims of workplace bullying wind up losing their jobs as the result of bullying despite the fact that they are the ones to suffer harm; some quit voluntarily and some are dismissed from employment.

The survey notes, "Bullying cuts across boundaries of status group membership. Bullying is status-blind harassment. It must be distinguished from illegal varieties of harassment." The survey notes that bullying generates turnover. It found that 40 percent of bullied workers simply quit their employment to avoid the bully or bullies. Based on an estimate of 54 million workers in the American work force, "that represents the preventable loss of 21.6 million workers."

Organized labor has begun to make workplace bullying prevention a priority. In 2011, concerned about workplace bullying in the Ventura County, California government, the Service Employees International Union Local 721 commissioned a survey of its members. On March 12, 2013, the AFL-CIO Blog addressed workplace bullying. The author quoted David Wehde, who writes a workplace advice column for AFL-CIO's community affiliate, "Working America," and noted that he receives numerous questions about workplace bullying:

> *Workplace bullying is one of the most common categories of questions that people submit to "Dear David," and we hear examples of it from our members way too often. For far too many people, it's like being trapped in an abusive relationship; you can't leave your job because you depend on it for a living, but you are hesitant to stand up to your boss from fear of retaliation. It's an untenable situation.*
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> *But workplace bullying doesn't always come from the boss. We also hear from people who suffer under co-workers who create a hostile work environment. It's easy to understand how this gets even more complicated when those co-workers are a "pet" or relative of the boss. Ultimately, the boss needs to take responsibility for creating a safe work environment for everyone, and that should include protection against workplace bullying. From anyone.*
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> *Even if anti-bullying policies exist at the workplace or if eventually legislation that deals with the issues is passed, it will be just as important for people to stand up and stand together. No one should feel like they should have to go it alone.*

Implementation

Pima County is a leading employer that promotes fair and equitable treatment of its employees. Unfortunately, the absence of a policy specifically addressing workplace bullying means that some employees who suffer from the harmful behavior of others have no remedy under current County Policies. Pima County should join the growing vanguard of counties and communities that recognize and address workplace bullying. Since victims of workplace bullying frequently suffer from health and attendance problems, and occasionally resign their employment to get away from the bullies, there is a substantial avoidable cost to the taxpayers in the form of sick leave and related benefits, reduced productivity, and the expenses related to recruiting and training new employees to replace victims who leave County employment to avoid workplace bullies.

The proposed policy is narrowly drawn to clarify that workplace bullying is distinct from workplace harassment and workplace violence and makes it clear that activity violating existing policies against such activity will be addressed as such. The proposed policy gives numerous examples of the kind of behavior that constitutes workplace bullying and provides that allegations of workplace bullying will be investigated by the Employment Rights section of Human Resources.

Recommendation

I recommend the Board of Supervisors adopt the attached Preventing, Identifying and Addressing Workplace Bullying policy effective April 16, 2013 and direct staff to take the following actions:

1. Incorporate workplace bullying prevention training in our existing training curricula.
2. Ensure employees understand the consequences of workplace bullying through enforcement, email, eScoop, and consultation with the Human Resources Department.

Respectfully submitted,

C.H. Huckelberry
County Administrator

CHH/mjk – April 5, 2013

Attachment

c: Allyn Bulzomi, Director, Human Resources

PIMA COUNTY, ARIZONA
BOARD OF SUPERVISORS POLICY

Subject: PREVENTING, IDENTIFYING AND ADDRESSING WORKPLACE BULLYING	Policy Number	Page
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PURPOSE

This policy prohibits workplace bullying by and against Pima County employees, applicants for employment and others in the workplace environment, including members of the public. Bullying may be directed toward an employee by a manager, co-worker, subordinate, appointing authority, elected official, vendor, contractor or member of the public. Bullying conduct may be challenged even if the complaining party is not the intended target of the conduct.

POLICY

It is the policy of Pima County to provide a secure work environment for all employees that is free from bullying.

I. DECLARATION

Pima County will not tolerate any behavior in the workplace that constitutes bullying activity as defined in this Policy. This Policy also applies to use of the County email systems, computers, internet access, or any other County electronic communication systems or devices to engage in bullying activity. Any employee violating this policy will be subject to disciplinary action, up to and including dismissal.

II. DEFINITION AND EXAMPLES

A. Definition

Workplace bullying is intentional behavior intended to create an abusive work environment for an employee or employees. Bullying behavior is behavior in the workplace that a reasonable person would find hostile, offensive, and not obviously related to an employer's legitimate business interests.

B. Examples

Workplace bullying can include group bullying, peer to peer bullying, supervisor to subordinate bullying, and situations when a subordinate employee subjects a supervisory-level employee to bullying. Examples of workplace bullying include, but are not necessarily limited to, the following:

1. BULLYING IN GENERAL

   a. Use of disrespectful and devaluing language.
   b. Persistent or constant criticism in front of other persons (including co-workers, vendors, contractors or members of the public) for the purpose of humiliating another employee.
   c. Tampering with an employee's personal belongings or work equipment.

d. Invasions of privacy, such as spying, stalking, rummaging through personal belongings (including unauthorized access of personal email and contents of personal cell phones and employee-owned Personal Digital Assistants). Note: an employee has no expectation of privacy in any items of personal equipment attached to County network devices.
e. Attempting to exploit an employee's known psychological or physical vulnerability (which may also be a violation of the *Americans with Disabilities Act*).
f. Behavior or language that frightens, humiliates, belittles or degrades, including criticism that is delivered with yelling and screaming.

2. BULLYING BY SUPERVISOR

a. Making up arbitrary rules that only apply to the targeted employee.
b. Assigning undesirable work as punishment.
c. Managing by threat and intimidation.
d. Preventing access to opportunities.
e. Being given tasks with unreasonable, impossible or constantly changing objectives and/or deadlines.
f. Removing key areas of responsibility and/or replacing them with more trivial or unpleasant tasks for no business related reason.
g. Denying access to necessary information, consultation, training, or resources.
h. Withholding essential information or purposefully giving incorrect information.
i. Constantly criticizing a subordinate employee's actions outside the scope of reasonable disciplinary efforts.

3. BULLYING BY CO-WORKERS (TO INCLUDE SUPERVISORS)

In addition to the behaviors listed in number 2 above:

a. Using confidential information to humiliate privately or publicly.
b. Withholding information that affects an employee's performance.
c. Intimidating an employee through inappropriate personal comments, disparaging opinions or criticism with no basis in fact.
d. Taking credit for another employee's work.
e. Repeatedly belittling a co-worker (whether publicly or privately).

4. BULLYING BY SABOTAGE

a. Falsely accusing an employee of making errors.
b. Ensuring failure of an employee's project by not performing required tasks, such as sign-offs, taking calls, working with collaborators, etc.
c. Undermining or deliberately impeding an employee's work.

5. BULLYING BY SHUNNING

a. Isolating an employee from co-workers, in workplace social events or physically.
b. Launching a campaign not based on facts to provoke an employee to leave or be removed.
c. Purposely excluding an employee from an essential meeting.
d. Excluding employees from matters in which they would be expected to be included as part of the job.

III. PROCEDURE

A. Reporting

1. *Targets*: When an employee believes that he or she is the target of behavior that may satisfy the definition of workplace bullying (as defined herein), the employee must report any and all incidents immediately to a supervisory level employee, to include their supervisor, division manager, appointing authority, elected official, the supervisor of the alleged bully, or to Human Resources Employment Rights. Employees who believe they are the target of bullying are not required to confront the alleged bully.

2. *Witnesses*: When an employee has witnessed or was made aware of behavior that may satisfy the definition of workplace bullying (as defined herein), the employee must report any and all incidents immediately to their supervisor, division manager, appointing authority, elected official, the supervisor of the alleged bully, or to Human Resources Employment Rights.

3. *Supervisors*: When a supervisory level employee is notified about possible workplace bullying behavior (as defined herein), the supervisor must immediately notify Human Resources.

4. *Human Resources:* Employees always have the right to report potential bullying activity directly to Human Resources. For example, if the supervisory level employee fails to take immediate appropriate corrective action, or if circumstances are such that reporting the possible workplace bullying activity to a supervisory level employee is inappropriate, the employee shall report the bullying directly to Human Resources.

B. Investigation

1. Human Resources will conduct a thorough and impartial investigation of the reported workplace bullying activity and apply the "reasonable person" or "reasonable victim" standard to the investigative record.

2. Human Resources may also determine whether the behavior may be more appropriately addressed as Workplace Violence under Board of Supervisors Policy D 23.11, or as Workplace Harassment under Board of Supervisors Policy D 21.3 or Sexual Harassment under Board of Supervisors Policy D 21.2.

3. Human Resources will prepare a report of its investigative findings and make recommendations to the County Administrator for further action.

4. The County Administrator shall issue a final decision and notify the alleged target(s) and perpetrators(s) and the department(s) of the outcome of the investigation.

C. Corrective Action for Employees Found in Violation

1. The County Administrator will direct the department to refer the known perpetrator(s) to the Human Resources Training Officer for coaching or to the Employee Assistance Program (EAP) for counseling for more serious infractions.

2. Appointing Authorities will take appropriate corrective action with any employee(s) found to have violated this policy.

3. If necessary, any employees exhibiting emotional stress from the incident in question should be referred to EAP.

IV. MANDATORY COOPERATION

All employees, supervisors, managers, appointing authorities, and agents of Pima County Government shall cooperate with any investigative process or resolution, whether informal or formal. Any County employee who fails to cooperate and/or attempts to undermine and/or discourage participation in an investigation will be subject to discipline, up to and including dismissal. To enable the County to achieve the goals of this policy, Human Resources shall have access to all relevant and necessary information.

V. NON-RETALIATION

This policy prohibits retaliation against employees who report potential workplace bullying or participate in the investigation of the complaint. Any employee bringing a complaint under this policy, or assisting in the investigation of such a complaint, will not be adversely affected in terms and conditions of employment, nor discharged because of the complaint. Anyone who engages in retaliatory action will be subject to discipline, up to and including dismissal. Retaliation is defined as activity that may dissuade a reasonable person from exercising his or her rights under this Policy.

VI. CONFIDENTIALITY

To the extent feasible, information provided in the complaint and investigation process at both the informal and formal level will be treated as confidential. However, the County will disclose information if deemed reasonably necessary to investigate and take appropriate corrective action, or to defend such corrective action, and/or if required by law.

Adopted Date: DATE , 2013
Effective Date: DATE , 2013