



Board of Supervisors Memorandum

September 9, 2014

Revisions to Board of Supervisors Policy D 23.1 Preventing, Identifying and Addressing Workplace Bullying

The Human Resources Department has revised Policy D 23.1 Preventing, Identifying and Addressing Workplace Bullying by adding a new paragraph related to the integration of the "reasonable Management action" defense language. Other revisions are minor grammatical and formatting corrections.

Section III - PROCEDURE

B. Investigation

2. When the alleged bullying consists of action taken by a supervisory-level employee against a subordinate employee, Human Resources may consider the "reasonable management action" defense if raised by the alleged aggressor or otherwise indicated by the facts. The elements of the defense are: (1) the conduct alleged to constitute bullying must be management action; (2) it is reasonable for the management action to be taken; (3) the management action must be carried out in a reasonable manner. The evaluation of the defense will be based on an objective assessment of the management decision in the context of the circumstances and knowledge of persons involved.

Recommendation

I recommend the Board of Supervisors adopt the recommended changes to Board of Supervisors Policy D 23.1, Preventing, Identifying and Addressing Workplace Bullying.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "C. Huckelberry".

C.H. Huckelberry
County Administrator

CHH/mjk – September 2, 2014

Attachments

c: Allyn Bulzomi, Director, Human Resources



PIMA COUNTY, ARIZONA
BOARD OF SUPERVISORS POLICY

Subject:

PREVENTING, IDENTIFYING AND ADDRESSING WORKPLACE BULLYING

**Policy
Number**

Page

D 23.1

1 of 4

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~~ **WITH THE PURPOSE OF CREATING** an abusive work environment for **AND/OR BY** 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~~ **PROHIBITED CONDUCT** include, but are not necessarily limited to, the following:

1. BULLYING IN GENERAL

- a. Use of disrespectful and devaluing language.
- b. ~~Persistent or constant~~ **REPEATED** 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.

<u>Subject:</u> PREVENTING, IDENTIFYING AND ADDRESSING WORKPLACE BULLYING	Policy Number	Page
	D 23.1	2 of 4

- 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 **FOR OR SELECTIVELY APPLYING RULES** ~~that only apply to~~ the targeted employee.
- b. Assigning undesirable work as punishment.
- c. Managing by threat and/or intimidation.
- d. Preventing **APPROPRIATE OR EQUAL** access to opportunities.
- e. ~~Being given~~ **ASSIGNING** 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~~ **REPEATEDLY** criticizing a subordinate employee's actions outside the scope of reasonable **CORRECTIVE AND/OR** 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, **WHICH MAY OR MAY** not **BE** 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.

<u>Subject:</u> PREVENTING, IDENTIFYING AND ADDRESSING WORKPLACE BULLYING	Policy Number	Page
	D 23.1	3 of 4

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~~ **HIS OR HER** 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~~**BEEN** made aware of behavior that **HE OR SHE BELIEVES** may satisfy the definition of workplace bullying (as defined herein), the employee must report any and all incidents immediately to ~~their~~ **HIS OR HER** 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. **WHEN THE ALLEGED BULLYING CONSISTS OF ACTION TAKEN BY A SUPERVISORY-LEVEL EMPLOYEE AGAINST A SUBORDINATE EMPLOYEE, HUMAN RESOURCES MAY CONSIDER THE “REASONABLE MANAGEMENT ACTION” DEFENSE IF RAISED BY THE ALLEGED AGGRESSOR OR OTHERWISE INDICATED BY THE FACTS. THE ELEMENTS OF THE DEFENSE ARE: (1) THE CONDUCT ALLEGED TO CONSTITUTE BULLYING MUST BE MANAGEMENT ACTION; (2) IT IS REASONABLE FOR THE MANAGEMENT ACTION TO BE TAKEN; (3) THE MANAGEMENT ACTION MUST BE CARRIED OUT IN A REASONABLE MANNER. THE EVALUATION OF THE DEFENSE WILL BE BASED ON AN OBJECTIVE ASSESSMENT OF THE MANAGEMENT DECISION IN THE CONTEXT OF THE CIRCUMSTANCES AND KNOWLEDGE OF PERSONS INVOLVED.**
3. 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.
4. Human Resources will prepare a report of its investigative findings and make recommendations to the County Administrator for further action.

<u>Subject:</u> PREVENTING, IDENTIFYING AND ADDRESSING WORKPLACE BULLYING	Policy Number	Page
	D 23.1	4 of 4

5. 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~~ **MAY** 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

RETALIATION IS DEFINED AS ACTIVITY THAT MAY DISSUADE A REASONABLE PERSON FROM EXERCISING HIS OR HER RIGHTS UNDER THIS POLICY.

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~~ **MAY** 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 levels **S** 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.

Effective Date: April 16, 2013
Revised Date: _____



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<u>Subject:</u> PREVENTING, IDENTIFYING AND ADDRESSING WORKPLACE BULLYING	Policy Number	Page
	D 23.1	2 of 4

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<u>Subject:</u> PREVENTING, IDENTIFYING AND ADDRESSING WORKPLACE BULLYING	Policy Number	Page
	D 23.1	3 of 4

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<u>Subject:</u> PREVENTING, IDENTIFYING AND ADDRESSING WORKPLACE BULLYING	Policy Number	Page
	D 23.1	4 of 4

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Effective Date: April 16, 2013
Revised Date: _____