

Purpose:

This policy will establish VITA's complaint procedures pursuant to the Department of Human Resource Management (DHRM) [Civility in the Workplace policy](#). The policy details VITA's expectations and guidelines for addressing complaints of discrimination and workplace harassment; including sexual harassment, bullying, cyberbullying, workplace violence, and retaliation, in addition to behavior that undermines team cohesion, staff morale, individual self-worth, productivity, and safety.

Scope:

This policy applies to all VITA classified and wage employees, applicants, customers, clients, contractors, volunteers, and other third parties in the workplace.

Review and Approval:

This policy will be periodically reviewed by HR and approved by VITA's Agency Head.

Policy Summary:

In alignment with DHRM's [Civility in the Workplace policy](#), this policy will establish and manage complaint procedures to address prohibited conduct that prevents VITA from fostering a culture that demonstrates key principles of civility, diversity, equity, and inclusion. This policy outlines the roles and responsibilities for all employees, applicants, customers, clients, contractors, volunteers, and other third parties to promote behavior that cultivates mutual respect, inclusion, and a healthy work environment. The policy also addresses consequences of any policy violation.

Roles and Responsibilities:

- Employees should complete the required [Civility in the Workplace Policy](#) training and report any concerns or violations of this policy as soon as possible to their managers, supervisors, or human resources (HR).
- Customers, clients, contractors, volunteers, and other third parties should complete any related training and report any concerns to their points of contact at VITA or HR as soon as possible.
- Managers and supervisors must ensure that their employees are familiar with these procedures and all applicable policies. Leaders are expected to promote proper behavior and should not condone prohibited conduct, to include retaliation. Additionally, they are required to:
 - Stop any prohibited conduct of which they are aware, whether or not a complaint has been made;
 - Intervene when they observe any acts that may be considered prohibited conduct;
 - Take immediate action to eliminate any hostile work environment when there has been a complaint of workplace harassment;
 - Take immediate action to address any threats or violent behavior that could endanger the safety of employees and others in the workplace or result in damage to physical structures, and/or other state property.
- HR is responsible for:
 - Distribution, interpretation, and revision of this policy;
 - Ensuring that all employees complete the required Civility in the Workplace Policy training;
 - Ensuring that contract workers or other third parties are made aware of this policy and are provided with related training;
 - Conducting an investigation if a concern or complaint is brought forth;
 - Providing guidance regarding the need for disciplinary/corrective action, if any; and

- Coordinating any disciplinary/corrective actions issued for violating this policy with.

Procedures:

Agency Procedures

VITA has established the following procedures for reporting complaints of prohibited conduct and behavior, to include acts of retaliation against employees and third parties who, in good faith, make complaints of inappropriate workplace conduct or provide information related to such complaints.

Prohibited conduct that may be considered discriminatory and non-discriminatory:

- **Discriminatory workplace harassment** is behavior that targets individuals in protected classes and is illegal. Federal and legal complaint procedures are available for individuals subject to illegal discriminatory conduct, in addition to those available in the agency or administered by DHRM.
- **Non-discriminatory workplace harassment** is demeaning, intimidating, or insensitive behavior that is not targeted specifically toward individuals based on their characteristics or affiliation with a particular group, class, or category.

**Please note these terms are explicitly defined in later in the 'Definitions' section of the policy.*

Examples of prohibited conduct can be located within the [Policy Guide – Civility in the Workplace; Policy 2.35 Prohibited Conduct/Behaviors](#).

The agency will treat all aspects of the procedure confidentially in accordance with applicable law.

- Any incident of discriminatory or non-discriminatory harassment, to include acts of retaliation, should be reported immediately to a supervisor, manager, or HR.
- Once a complaint is initiated, HR will review it to determine whether there is a reasonable basis for believing that the alleged violation of this policy occurred.
- Depending on the severity of the complaint, the complainant and respondent will be temporarily separated during the course of the investigation.
- During the investigation, HR may partner with other stakeholders to interview the complainant, the respondent and any witnesses to determine whether the alleged conduct occurred.
- Upon conclusion of the investigation, HR will prepare a written report of its findings. If it is determined that a violation of this policy occurred, HR will recommend appropriate discipline.

Upon completion of the investigation and subsequent report, the appropriate director(s) will be advised regarding any final remedial action. The complainant is informed of the general outcome of any fact-finding investigation, but may not be privy to specific actions of disciplinary/corrective actions that may occur as a result of the complaint.

- Any employee who engages in prohibited conduct under this policy or encourages or ignores such conduct by others shall be subject to disciplinary/corrective action, up to and including, termination of employment.
- Individuals who are not state employees and who engage in such conduct, will be approached, as deemed appropriate by HR and applicable stakeholders.
- Managers and/or supervisors who allow prohibited conduct to continue or fail to take appropriate corrective action upon becoming aware of the prohibited conduct addressed in this policy may be considered parties to the offense, even though they may not have directly engaged in the prohibited conduct. This will lead to disciplinary/corrective action for the manager and/or supervisor, up to and including, termination of employment.

If the investigation is inconclusive or if it is determined that there has been no violation of policy, but potentially problematic conduct may have occurred, HR may recommend appropriate preventive action.

Alternative Resolutions

Employees and applicants bringing forth complaints can also do so through:

- DHRM's [Employee Discrimination Complaint Procedure](#), administered by the Diversity, Equity, and Inclusion Office within DHRM;
- The [State's Employee Grievance Procedure](#), administered by DHRM. This process requires strict adherence to rules and regulations set forth in [The Grievance Procedure Handbook](#);
 - Please note that only non-probationary, classified employees are eligible to use the grievance procedure.
- The [Advice Line](#), administered by DHRM, to discuss concerns and be advised of options and procedures; or
- The [U.S. Equal Employment Opportunity Commission](#).

Exceptions and Accommodations:

- Under no circumstances shall the individual making the complaint be required to file the complaint with the supervisor or manager, if they are the offender.
- Under no circumstances shall the individual alleged to have engaged in prohibited conduct be allowed to investigate the complaint in which they are alleged to have been engaged.
- No employee or other individual shall be allowed to file a complaint on behalf of another employee or individual. However, if complaints come from multiple individuals relating to the similar issues, the complaints will be combined into one investigation.

Files and Records Protection:

- Investigative files, records, or reports will be kept for a period of three (3) years, or until any formal complaint process is completed (e.g. an EEOC complaint or lawsuit), per the appropriate Library of Virginia Records Management series in General Schedule (GS)-101. Until then, all documents will be kept in HR's possession for confidentiality purposes.

Definitions as defined by DHRM:

Bullying - Disrespectful, intimidating, aggressive and unwanted behavior toward a person that is intended to force the person to do what one wants, or to denigrate or marginalize the targeted person. The behavior may involve a real or perceived power imbalance between the aggressor and the targeted person. The behavior typically is severe or pervasive and persistent, creating a hostile work environment. Behaviors may be discriminatory if they are predicated on the targeted person's protected class (e.g., using prejudicial stereotyping or references based on the targeted person's characteristics or affiliation with a group, class, or category to which that person belongs, or targeting people because they are in a protected class).

Complainant - a person who claims to have been injured by a discriminatory employment practice.

Cyber-bullying - Using technology to intentionally harm others through hostile behavior, threatening, disrespectful, demeaning, or intimidating messages, and includes bullying that occurs via the Internet, cell phones, or other devices (e-mails, IMs, text messages, blogs, pictures, videos, posts on social media, etc.) and/or pretending to be the victim or spreading rumors or visual images online in order to denigrate or marginalize the targeted person. Behaviors may be discriminatory if they are predicated on the targeted person's protected class (e.g., using prejudicial stereotyping or references based on the targeted person's characteristics or affiliation with a group, class, or category to which that person belongs, or targeting people because they are in a protected class).

Discriminatory Workplace Harassment - Any unwelcome verbal, written or physical conduct that either denigrates or shows hostility or aversion towards a person on the basis of race; traits historically associated with race including hair texture, hair type, and protective hairstyles such as braids, locks, and twists, sex, color, national origin, genetic information, religion, sexual orientation, gender identity or expression, age, political affiliation, veteran status, pregnancy, childbirth or related medical conditions, or disabilities, that: (1) has the purpose or effect of creating an intimidating, hostile or offensive work

environment; (2) has the purpose or effect of unreasonably interfering with an employee's work performance; or (3) affects an employee's employment opportunities or compensation.

- **Hostile work environment** - A form of sexual harassment when a victim is subjected to unwelcome and severe or pervasive repeated sexual comments, innuendos, touching, or other conduct of a sexual nature that creates an intimidating or offensive place for the employees to work.
- **Quid pro quo** - A form of sexual harassment by a manager/supervisor or a person of authority in which an employee's receipt of a job benefit or the imposition of a tangible job detriment is conditioned on the employee's acceptance or rejection of the harassment.
- **Sexual Harassment** - Any unwelcome sexual advance, request for sexual favors, or verbal, written or physical conduct of a sexual nature by a manager, supervisor, co-workers or non-employee (third party).

Non-Discriminatory Workplace Harassment (harassment not based on protected classes) - Any targeted or directed unwelcome verbal, written, social, or physical conduct that either denigrates or shows hostility or aversion toward a person not predicated on the person's protected class.

Respondent - a person against whom a complaint of discriminatory employment practices is filed.

Retaliation - Overt or covert acts of reprisal, interference, restraint, penalty, discrimination, intimidation, or harassment against an individual or group exercising rights under this policy.

Third Parties - Individuals who are not state employees, but who have business interactions with state employees. Such individuals include, but are not limited to: customers, clients, students, interns, vendors, contractors, volunteers, applicants for state employment or services and the general public.

Workplace - Any location, either permanent or temporary, where an employee performs any work-related duty or is representing the agency. This includes, but is not limited to, the buildings and surrounding perimeters, including parking lots, field locations, alternate work locations, clients' homes or offices, outside meetings, conferences and conventions, and travel to and from work assignments. It also applies to written, verbal, or graphic communications delivered in person, via phone, message, computer or social media.

Workplace Violence - Any physical assault, threatening behavior, or verbal abuse occurring in the workplace by employees or third parties. Threatening behaviors create a reasonable fear of injury to another person or damage to property or subject another individual to extreme emotional distress.

Associated Policies and Procedures:

[DHRM Civility in the Workplace, Policy 2.35](#)

- [Checklist for Contract Workers' Required to Complete DHRM Sexual Harassment Training](#)
- [Policy Guide – Civility in the Workplace Prohibited Conduct/Behaviors](#)

[DHRM Standards of Conduct, Policy 1.60](#)

[Library of Virginia Records Retention and Disposition Schedule](#)

[VITA EEO Policy Statement](#)

Approved:

Agency Head Signature: Nelson P. Moe

Date: 3/31/2021