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## Workplace Harassment and Violence Policy

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### Repository Citation

University of Maine, "Workplace Harassment and Violence Policy" (2021). *General University of Maine Publications*. 1178.

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# Office of Human Resources

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## **Workplace Harassment and Violence Policy**

### **Purpose**

The purpose of this policy is to communicate The University of Maine's approach to addressing workplace harassment and violence and to establish a "zero tolerance" policy for such behavior.

### **Policy**

It is the policy of The University of Maine that acts of harassment and violence in the workplace will not be tolerated. The safety and well-being of our community is the University's foremost concern. Neither threats of violence nor acts of violence will be tolerated at any time. Acts of violence committed by a University employee, including student employees, may serve as the basis for discipline up to and including termination of employment.

Note: Violence threatened or inflicted against employees on University property or on University business by persons not affiliated with the University should be reported to The University of Maine Department of Public Safety by calling 581-4040, or 911 if an emergency. If such an incident occurs off University property, but while the employee is on University business, it should be reported to the local law enforcement agency having jurisdiction. The employee should also immediately report the behavior to his or her supervisor.

### **Who is Covered by This Policy?**

All employees of The University of Maine, including student employees, are covered by this policy. Supervisors and others in positions of authority, such as faculty members, have a responsibility to avoid behavior that might harass others in the workplace.

Harassment and assault by students are violations of The University of Maine Student Conduct Code. Such violations are investigated and adjudicated through the Office of the Dean of Students.

### **What is Harassment?**

Harassment is unwelcome behavior that is severe, persistent and/or pervasive and has the intent or effect of interfering with a person's educational or work performance or creates an intimidating, or offensive educational, work, or living environment. Such behavior must be severe, persistent, and/or pervasive to be defined as harassment. Questions about these terms should be directed to one of the offices listed below. Harassment includes threatening communication, which is also covered in [The University of Maine Electronic Communication Policy](#).

Discriminatory Harassment is harassment that is based on an individual's or group's race, color, sex, age, religion, national origin, citizenship status, sexual orientation, disability, or veterans status. Discriminatory harassment, which also includes sexual harassment, violates the University's Equal Opportunity Policy and is investigated under the Equal Opportunity Complaint Procedure. This policy and procedure are available from the [Office of Equal Opportunity](#).

### **What is Not Harassment?**

- Everyday Administrative Action

- In order to get work done, supervisors may have to make unpopular decisions, such as changing work assignments or moving people. Such decisions may or may not please others, but they do not constitute harassment. Such decisions may not, however, be used to retaliate against someone for making a complaint under this policy.
- Performance Evaluation
  - Feedback regarding unsatisfactory work conduct and/or negative performance evaluation is not harassment. Supervisors have a responsibility to give appropriate criticism and to take appropriate corrective action when the work of an employee is not satisfactory. Such criticism should, however, be made in a reasonable manner and should be constructive. Performance evaluation may not, however, be used in a retaliatory manner.
- Offensive Behavior
  - There are some behaviors, especially verbal or written communication, which may be viewed as offensive, inappropriate, or crude by some, but do not constitute harassment. Examples include occasional jokes or comments on appearance and discussions of controversial topics. Members of The University of Maine community are entitled to express a wide range of opinions as a matter of free speech. There are no restrictions placed on the fundamental rights to free speech except those necessary to protect the rights of others and to preserve the order necessary for the University to function as an institution of higher learning. However, these concepts do not extend to conduct that creates a hostile environment for working and learning. The University reserves the right to take action in response to complaints where posted material (including material posted on the University's electronic communication system) is threatening or and creates a hostile environment for individuals or classes of individuals. The University has the responsibility to take action when a community member violates University policy or federal, state or local laws. There is a wide range of ambiguous behavior that might offend or alarm some people but not necessarily others. Examples might include, but are not limited to:
    - polite requests for a date from a peer;
    - comments on clothing or compliments about improved appearance;
    - nondestructive practical jokes that most people find reasonable.
 Just as the above behaviors do not constitute harassment, it is also not harassment if an individual stops interacting socially with a person who continually asks him or her out for a date.  
 Note: Even if offensive behavior is not covered under this policy, an individual may be willing to cease if told about the impact of his or her behavior. Members of the community who are offended by speech or expression are encouraged to speak up. They should feel free to get others of similar mind to speak out as well.
- Unfounded Harassment Complaints
  - It is not harassment for a supervisor or administrator to investigate a complaint of harassment or violence in the workplace.
  - An unfounded harassment complaint deemed to have been made with malice is treated as a serious offense by The University of Maine. Dishonesty in the context of an investigation of harassment or retaliation against an individual who files a complaint will also be treated as a serious offense.
- Consenting Relationships
  - Consenting relationships do not in and of themselves constitute harassment. However, such relationships may become harassment where one person is in a position of power or authority over the other (teacher-student, supervisor-subordinate). The University of Maine Policy on Sexual Harassment includes a policy on consenting relationships.

### **What Are Some Examples of Harassment and Violence?**

For the purposes of this policy, acts of harassment and violence are grouped into levels:

- Level I – Non-Physical Harassment Unwelcome behavior which creates a hostile or intimidating work environment or which unreasonably interferes with an individual’s job performance and/or opportunities, but does not involve either physical intimidation or threat of physical harm. Examples may include, but are not limited to:
  - unwanted severe or persistent verbal hostility;
  - profanity that creates a hostile work environment or interferes with job performance;
  - anger expressed by throwing or kicking objects in the workplace.
- Level II – Threats of Harm Behavior which threatens physical violence to others or which physically disrupts University operations. Such behavior may also violate state or federal law. Examples may include, but are not limited to:
  - verbalizing a desire to harm someone, overt threats;
  - possessing a weapon on campus, as prohibited by the University weapons policy, which does not reach the level of violating criminal weapons laws;
  - communicating (whether in oral, recorded, electronic or printed form or by gesture) unwanted violent messages with an intent to intimidate or harm;
  - committing any act against the University or a person which may be classified as a crime against property or public order (including but not limited to sabotage or theft of equipment, data or other University property);
  - degrading public tirades in the workplace;
  - continuing Level I intimidation and harassment, despite prior notice that the behavior is unwanted and offensive.
- Level III – Violence (Physical Harm) Behavior which involves the use of physical violence or an imminent threat to inflict physical violence. Examples may include, but are not limited to:
  - committing any level of criminal assault;
  - illegally possessing a weapon on University property;
  - committing any offense which may be classified as a crime under Maine law, whether against another individual or the University, regardless of prosecution or conviction of the offense (includes stalking);
  - locking up or physically restraining someone against his/her will;
  - forcing oneself into someone’s place of work or residence (on University property);
  - retaliation.

### **How Do You File a Complaint?**

The University is committed to resolving all complaints of harassment or violence, either through alternative dispute resolution or formal investigation. Due to the broad nature of this policy, different administrative offices are designated to resolve different types of complaints, as follows (also see the chart below).

- Complaints alleging discriminatory harassment by a UMaine employee (including sexual harassment and harassment based on a status protected under the University’s Equal Opportunity Policy) should be reported to the Office of Equal Opportunity, 101 North Stevens Hall, 581-1226. The University of Maine system Equal Opportunity Complaint Procedure (available from the Office of Equal Opportunity) will be used to resolve such complaints.
- Complaints alleging any violation under this Policy by a UMaine student should be reported to the Director of Community, Standards, Rights, and Responsibilities, Dean of Students Office, Memorial Union, 581-1409. These complaints will be resolved using procedures outlined in the Student Conduct Code (which is available in the Dean’s Office).
- Complaints alleging violations of this policy by a UMaine employee (other than those of discriminatory harassment and sexual harassment) should be reported to the Assistant Vice President of Human Resources, 101 Corbett Hall, 581-1581.

### **What Are Some Possible Sanctions?**

Those found responsible (through formal investigation) for substantiated incidents of violence or harassment will be sanctioned in accordance with usual University employee and student disciplinary procedures. The following table provides examples of likely sanctions for violations of this policy:

Level	Incident Number	Examples of Possible Sanctions
One	First	Oral or written reprimand
One	Second within one year	Written reprimand or suspension
Two	Any	Suspension or termination
Three	Any	Suspension or termination

### Who Maintains Records of Complaints?

The Office of Human Resources at the University of Maine keeps a record of each formal complaint against an employee, including the relevant names, the nature of the case, the relevant department, the date of the complaint and its disposition.

The complete files are also kept in the offices of the relevant department heads. Supervisors who handle Level I problems should inform the Office of Human Resources. Statistical data on informally handled complaints are also collected by the Office of Human Resources.

Judicial Affairs is responsible for keeping records associated with formal complaints against students. The Dean of Students also keep records of informally handled complaints.

The Department of Public Safety maintains records of complaints filed with them, as does the Office of Equal Opportunity.

Formal case files, statistical data, and related documentation may be reviewed by government agencies and may be sought in legal proceedings.

### Where Do I Go for Help?

A list of University of Maine Resources, and the type of help each provides, is available at: [Resource list](#)

### Definition of Terms

- Complainant
  - A person who is pursuing a complaint of harassment or is using any of the various options to deal with an offense.
- Complaint Handler
  - A third party asked by a complainant to deal with an offense. There are two types of complaint handlers:
    1. Those who may take only informal action, such as helping people prepare to approach an offender directly, assisting with generic action, providing informal intervention, or providing mediation. These complaint handlers do not act to resolve a complaint without the complainant's permission, except under extreme circumstances.
    2. Those who may handle a formal complaint and may take administrative action. These complaint handlers are obligated to work to see that

harassment stops if it is reported to them or to know that some appropriate person is doing so. Under certain conditions they may need to act upon a complaint without the complainant's permission.

- Disciplinary Action
  - Disciplinary action that includes, but is not limited to: admonishing the harasser; oral or written reprimand and warning against further harassment, violence or retaliation; suspension; or dismissal from the University.
  - No disciplinary action for harassment or violence will be taken unless and until a fair process has determined that the respondent did harass. However, measures such as separating the parties or reassigning work are not necessarily considered disciplinary action. Such measures may be implemented by an appropriate complaint handler while a formal investigation is being conducted or as part of an informal problem-solving approach.
- Discriminatory Harassment
  - Harassment that is based on an individual's or group's race, color, sex, age, religion, national origin, citizenship status, sexual orientation, disability, or veteran status.
- Harassment
  - Unwelcome behavior or speech that has the intent or effect of interfering with a person's educational or work performance or that creates an intimidating, or offensive educational, work, or living environment. Such behavior or speech must be severe, persistent, and/or pervasive to be defined as harassment.
- Offender
  - A person who has caused offense, intentionally or unintentionally.
- Respondent
  - A person named as an offender in a harassment incident.
- Retaliation
  - Punitive Action against a person who made a complaint or acted as a witness in good faith. Retaliation against anyone who brings a complaint in good faith is against University of Maine policy and may be a violation of state and federal laws. Substantiated retaliation is treated as a serious offense.
- Threat of Physical Violence
  - The threat of future or immediate physical injury upon another under circumstances where the ability to carry out the threat appears reasonably imminent.
- Violence
  - The actual infliction of legally unjustified physical force with the intent to injure, or actual physical injury.