



WILLIAM & MARY

CHARTERED 1693

OFFICE OF COMPLIANCE & EQUITY

TO: William & Mary Managers

FROM: Kiersten Boyce, Chief Compliance Officer

RE: Preventing Retaliation: We Depend on Educated Managers and Supervisors

As a manager or supervisor you are on the front lines of William & Mary's efforts to prevent retaliation. We depend on you to do the right thing and to help protect those who bring concerns forward. This memo is designed to help you identify and prevent retaliation.

Managers and supervisors are critical to anti-retaliation efforts

Training and awareness of how to spot retaliation—as well as knowing how to prevent it—are crucial for all organizations. At William & Mary, retaliation violates our Code of Ethics, our Whistleblower Policy, and other policies designed to respect and protect employees' rights to raise concerns and problems. As a manager or supervisor you need to know how to receive and handle reports without retaliating and how to spot and halt any retaliation you may observe.

Respondents to the Ethics Resource Center's 2013 National Business Ethics Survey ("ERCBES") indicated that employees initially report issues to their managers or supervisors over 60% of the time. However, if employees perceive that their "reward" for internal reporting will be retaliation, they are much less likely to report concerns to their manager. They may bypass internal reporting and go directly to a regulator or to the media. In these cases we are denied the first opportunity to fix the problem.

The ERCBES statistics also showed that 21% of respondents reported being retaliated against for reporting misconduct. We must strive to ensure that this statistic does not apply to the way we handle reports or complaints.

Sensitivity to retaliation is particularly important when the reporter is a student (including a student employee). Whether you are a member of W&M's faculty or an administrator who supervises students, students can and do raise complaints against employees or other students – and they may raise these complaints with you.

How can we significantly reduce the instances and perception of retaliation at William & Mary?

Managers and supervisors have a crucial role to play in identifying and eliminating retaliation. We need you to:

1. Understand What “Retaliation” Means

You need to be able to recognize retaliation when you see it. Retaliation isn’t just firing or disciplining someone. There are more subtle ways of retaliating such as:

- Giving an unmerited negative performance review
- Assigning the reporter less attractive projects or duties
- Excluding the reporter from routine meetings or professional development opportunities
- Reducing the reporter’s chances to earn overtime.

These kinds of behaviors are considered retaliation and are unacceptable.

Even actions that you take with good intentions may be retaliation. For example, if a student worker reported a concern to you about another employee, you might think it best to move that student worker to a different work location. If that different work location is reasonably viewed as worse in some way to the original location, that is retaliation.

2. Support Employees and Keep an Open Mind

Communicate to your employees how important it is to you and to the university that they feel free to come to you and discuss any violations. Remember that under the Code of Ethics, all employees are required to report illegal and unethical activities. That means that when an employee makes a report, he or she isn’t causing trouble—he or she is doing what we ask.

Make sure employees know that if they do report to you, the report will be properly handled, and there will be no retaliation by you, even if you are named or involved in the alleged violation. (See more on handling reports under #4, below.)

Even if you don’t agree with what an employee is telling you, you need to keep an open mind. You may think that the employee is wrong—that there isn’t a problem—but there may be more to the situation than you know. Or he or she may not be doing a good job explaining the concern to you. Emotions often run high when someone is reporting misconduct, and this can make it hard for the reporter to present a convincing narrative. Emotion can also make it difficult for you to hear the concern dispassionately. Be mindful of this, and be receptive to the employee’s concern.

Remember that appropriately responding to reports is part of your responsibility as a manager and supervisor. You must avoid doing anything that seems like you are discouraging them from reporting. That can be a form of retaliation.

3. Be on the Lookout for Peer-to-Peer Retaliation

In addition to retaliation by a manager or supervisor, the next most likely source of retaliation can be the reporter’s peers. Co-workers may believe that a peer reporter “sold them out” or got their work group or favorite co-worker in trouble. Or they may become aware that the reporter is involved in an investigation and see this as an opportunity to “bring him down.” This peer response can unleash subtle retaliation, often to devastating effect.

By demonstrating a receptive, respectful attitude towards complaint and grievance processes, you may prevent peer-to-peer retaliation. You also have a duty to be on the lookout for this peer-to-peer retaliation and put a stop to any action that might be perceived as retaliation, such as:

- Employees excluding the reporter from meetings or office activities
- Co-workers making negative, critical comments about the reporter
- Co-workers trying to get the reporter in trouble, such as by complaining to you about the reporter.

4. Follow and Document Good Processes

A culture of integrity hinges on how we respond to grievances and complaints. Respond promptly and fairly by:

- Thanking the person for coming forward and reporting the issue and assuring them that retaliation is not acceptable and violates William & Mary policy
- Maintaining confidentiality and handling the matter with discretion
- Promptly determining the appropriate process for responding to the report; information on different procedures is available on the [Compliance & Equity website](#), or you may consult with Human Resources, Compliance & Equity, and/or University Counsel
- Documenting your actions
- Remaining alert for retaliation
- Cooperating with senior management on remedial actions if appropriate.

5. Remember the Protocols for Responding to Reports of Sexual Harassment and Violence.

There are special protocols you must follow when someone comes to you with a concern about sexual harassment, sexual violence, dating or domestic violence, or stalking. Please make sure you are aware of your duties as a “responsible employee” by reviewing the information available on W&M’s [sexual violence website](#) or participating in any available training.

Conclusion

William & Mary is committed to excellence and integrity. To live up to this commitment, we must work together to prevent retaliation.

Thank you for your help building a culture in which employees and students are comfortable, knowing that they can and should report issues to faculty, managers and supervisors.

This memorandum includes content from Compliance Communicator, NAVEX Global, modified with permission.