



Frostburg State University Hate-Bias Incidents (HBI) Policy

The U. S. Department of Justice defines **Bias or Hate Incidents (HBIs)** as acts of prejudice that are not crimes and do not involve violence, threats, or property damage. It is the policy of FSU that HBIs, while not legally criminal acts, are contrary to FSU's core values and can create and contribute to a climate of exclusion. As a public, educational institution, FSU is required to uphold the First Amendment which affords free speech and academic freedom in the classroom and scholarship.

The [FSU Policy on Diversity](#) affirms its commitment to a campus environment which values diversity and encourages a climate of inclusion. The University values freedom of expression and the open exchange of ideas and the expression of controversial ideas. Differing views are a vital part of the University discourse. While this value of openness protects controversial ideas and points of view, it does not protect harassment or conduct towards individuals that violates other University policies such as the policy against discriminatory conduct or disruptive behavior contained in the [Community Standards Policy Statements](#). This policy supplements and does not supersede the University's policy against discriminatory conduct. Annually, FSU will provide a report on its website listing the aggregate data regarding HBIs filed.

Reports of Bias or Hate Incidents will be investigated by FSU. If a reported HBI includes conduct that is a potential violation of another University policy, the conduct will be reported to the appropriate University office responsible for investigating those policy violations. Members of the community who are targeted by HBIs will be appropriately supported. The institution continues to engage in appropriate and effective acts to increase the cultural competency of its community members through educational endeavors. HBIs that have escalated to the status of a crime will be reported to the appropriate law enforcement agency immediately.

The University is required to report hate crimes and hate/bias motivated crime incidents by the Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act (the "Clery Act") and the Higher Education Opportunity Act ("HEOA"). That information is located on the [FSU Police Department's web page](#).

Definitions:

Complainant is an individual, group, or organization who experienced the reported HBI regardless of whether that individual, group, or organization made the report, participated in the University's review and investigation, or filed a formal complaint alleging violations of this Policy.

Hate Bias Incidents (HBIs) are incidents involving verbal, written, or physical behaviors which are not criminal offenses, but target a person because of their actual or perceived identity or group membership(s).

Hate Crime is a criminal offense defined under Title 10, subtitle 3, of the Maryland Criminal Article and as defined under federal law. Hate crimes are criminal offenses committed against a person(s) or property which are motivated, in whole or in part, by the offender's bias towards the actual or perceived group membership(s). A hate crime is more than offensive speech or conduct; it is specific criminal behavior that ranges from property crimes like vandalism and arson to acts of intimidation, assault, and murder.

Hate Speech is speech that is intended to insult or offend another person because of their actual or perceived identity or group membership(s). Hate speech by itself does not constitute a hate crime. Generally speaking, the First Amendment to the U.S. Constitution protects all speech, including speech that expresses ideas that are hateful or offensive. Courts extend this protection on the grounds that the First Amendment requires the government to strictly protect robust debate on matters of public concern even when such debate devolves into distasteful, offensive, or hateful speech that causes others to feel grief, anger, or fear.

Protected Class includes race, color, ancestry or national origin, sex, gender identity or sexual orientation, age, political or religious opinion or affiliation, disability, genetic information, marital status, or other legally protected characteristics.

Respondent is an individual, group, or organization accused of an HBI.

Policy and Procedures for the Reporting of Hate Crimes and Bias Incidents (HBIs)

Policy:

This policy outlines and affirms Frostburg State University's commitment to providing a welcoming educational environment that fosters critical evaluations of the intersections of individual and community identities and values, while at the same time safeguarding individual freedom in the exchange of ideas and viewpoints. FSU prohibits all students, staff, and faculty from committing or engaging in any hate crimes as defined under state and federal law, or any acts of bias, hate, or prejudice exhibited in conduct that is in violation of University policy on campus, on University property, or at University-sponsored events. This Policy provides guidance for those who may have witnessed or experienced such acts and who wish to report them.

Procedures:

Filing a Complaint

Complaints may be submitted by

- using the [Frostburg State University Complaint Form](#);
- by contacting the Office of Diversity, Equity and Inclusion (ODEI), at ODEI@frostburg.edu or 301-687-4050; or
- contacting the Frostburg State University Police Department (FSUPD) at 301-687-4222/4223.

Written complaints are encouraged. If a verbal complaint is made, the Senior DEI Officer (**or designee**) will work with the Complainant to complete the Frostburg State University Complaint Form and require that the Complainant acknowledge its accuracy in writing. The Senior DEI Officer will acknowledge receipt of the complaint by sending a notification letter, email, or contacting the Complainant directly within five (5) business days of receipt. A complaint must be registered with ODEI within 60 calendar days of reasonable knowledge of the occurrence of the alleged act(s). The time limit may be waived by the Senior DEI Officer upon showing of good cause.

Initial Assessment

Upon receipt of a report or complaint, ODEI will ensure that the Reporting Party(ies) is provided with a copy of these HBI Reporting Procedures, informed of their rights and responsibilities, and given the opportunity to participate in an Intake Meeting with the Senior DEI Officer (**or designee**) to discuss available options, including but not limited to interim actions, and resources.

Upon receipt of a report or complaint of a Hate Crime or Bias Incident, the Senior DEI Officer will conduct an Initial Review of the reported information. The Initial Review will determine whether further action is warranted based on the reported conduct, and whether the University has jurisdiction over the parties.

Factors considered during an Initial Review include, but are not limited to:

- The nature and circumstances reported in the complaint;
- The safety of the Reporting Party(ies) and of the University community;
- Patterns of evidence or conduct as relevant to a safety assessment;
- A Reporting Party's expressed preference, if known, regarding further action, including any request that no action be taken;
- A Reporting Party's request for privacy or anonymity; and
- Assessing the complaint for possible referral to FSUPD.

At the conclusion of the Initial Assessment and, if applicable, an Intake Meeting, the Senior DEI Officer will identify the appropriate next steps, including but not limited to, a determination that:

- The alleged conduct may constitute a Hate Crime and should be referred to FSUPD; and/or
- The alleged conduct may violate the Code of Student Conduct and should be referred to the Dean of Students, Office of Student Affairs as a potential student conduct violation; and/or
- The alleged conduct may violate the Policy Prohibiting Discriminatory Behavior and further investigation by ODEI is warranted; and/or
- Interim Measures should be provided as implemented; and/or
- the reported incident should be considered for further Investigation, consistent with the factors described above; or
- Consistent with the information available and the request of the Reporting Party, no further investigation proceed and a request for Interim Measures be considered; or
- The alleged conduct does not constitute a potential HBI or violation of another University policy, and no further action should be taken.

These steps above will be taken within fifteen (15) business days of the Complainant receiving receipt of the complaint. If it is determined that the complaint is not appropriately filed, the Complainant will be informed in writing of the reason. An investigation may also commence at the University's discretion.

Investigation

An investigation will begin when the Initial Assessment results in a determination that a DEI investigation trained staff member will investigate the complaint. The Senior DEI Officer shall issue Notice of Investigation and provide the Complainant and Respondent **written notice** of the Complaint.

The Complainant and Respondent will be advised of their rights including the following:

- both parties have a right to an impartial investigation;
- both parties have a right to produce relevant documents, witnesses, and other material they would like the investigation to include and,
- both parties may have a support person of their choice present to provide advice and support during the investigation. However, the support person may not speak or act on behalf of the party (**failure on the part of the support person to respect these guidelines may result in them being removed from the procedure**).

The assigned investigator will conduct an adequate, reliable, and impartial investigation of the complaint. The Complainant and the Respondent and any other available relevant witnesses will be interviewed, and available relevant documents will be reviewed.

Confidentiality

To the extent permitted by law, the confidentiality of all persons involved in the investigation or complaint will be observed, except in so far as information needs to be disclosed so that the University may effectively investigate the matter or take corrective measures. Confidentiality during and after the conclusion of an investigation is of utmost importance and is the responsibility of all involved persons. Unauthorized disclosures in violation of university policies may result in disciplinary action and/or other sanctions.

Standard of Review

In making the determination of whether a Policy violation has occurred, the standard of review is "preponderance of the evidence," which means it is more likely than not that an HBI occurred.

Expectation of Cooperation

Absent good cause, all parties and identified witnesses shall cooperate during the investigation by being available during reasonable business hours to discuss the complaint and by making available any relevant information requested by investigator.

Investigation Timeline

The assigned investigator seeks to complete an investigation within forty-five (45) business days and may extend the time frames set forth in this Policy for good cause. Exceptions to this time frame may vary depending on the complexity of the investigation, access to relevant parties, and the severity and extent of the alleged HBI.

False Information

Anyone who knowingly files a false complaint or who knowingly provides false information during an investigation will be subject to appropriate disciplinary action.

Written Notice of Findings

The DEI Investigating Officer shall prepare a written report of the investigation, *Notice of Findings*, including a summary of the allegations, evidence reviewed and witness statements, findings of material fact, an analysis of those facts, and a conclusion. If applicable, the report will provide options for substantive resolution of the complaint and recommendations for corrective measures or sanctions.

Possible conclusions include the complaint resulted in:

- an HBI occurred that is a potential violation of another University policy.
- the HBI did occur but did not violate a university policy; or
- insufficient evidence that an HBI occurred under this policy.
- No HBI occurred

Next Step for Notice of Findings

The Senior DEI Officer will provide a copy of the *Notice of Findings* to the parties. Information within the *Notice of Findings* may be redacted to comply with applicable privacy act.

The Complainant and/or Respondent may submit a written appeal to the Senior DEI Officer within five (5) business days of the date of receipt of the *Notice of Findings*. The scope of the appeal is limited to new relevant, material evidence that a reasonably diligent person could not have discovered prior to the issuance of the *Notice of Findings*. Appeals filed by more than one party will be considered together in one appeal review process. All appeal documents submitted by a party will be shared with the other party(ies).

If neither party submits an appeal, the decision will be considered final five (5) business days after the last date either party received the *Notice of Findings*. Appeals submitted after five (5) business days shall be denied, except upon a showing of good cause. The Senior DEI Officer will review and rule on any appeal and the appeal will be included in the *Notice of Findings*.

The *Notice of Findings* will be provided to all parties and, if appropriate, forwarded as noted below:

- In cases where another University policy may have been violated, the Office or Individual responsible for oversight of that Policy shall receive the report and any further actions taken

must be appended to the *Notice of Findings*.

- In cases where the Respondent is a faculty member, the Vice President for Academic Affairs and Provost (or designee) shall receive the report and ***determine any further actions to be taken, which may include personnel actions in accordance with the law.***
- In cases in which the Respondent is a student, the Vice President for Student Affairs (or designee) shall receive the report and ***any further actions taken must be appended to the Notice of Findings.***
- In cases in which the Respondent is a staff member (non-Faculty), The Chief Human Resources Officer (or designee) shall receive the report and ***determine any further actions to be taken, which may include personnel actions in accordance by law.***

Related Policies:

USM Policy VI-1.00, Policy on Non-Discrimination and Equal Opportunity

[Frostburg State University Community Standards Policy Statements](#)

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