

State of Maryland

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Sexual Harassment Policy and Procedures

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STATE OF MARYLAND POLICY ON SEXUAL HARASSMENT IN THE WORKPLACE

Maryland State government is dedicated to a strong policy against discrimination on the basis of any factor prohibited by law, including sex, as set forth in Title VII of the Civil Rights act of 1964; the Annotated Code of Maryland State Personnel and Pensions Article, Title 5, Subtitle 2; Title 20 of the State Government Article, Annotated Code of Maryland; Maryland Code of Fair Employment Practices (Executive Order 01.01.2007.16) and the United States Equal Employment Opportunity Commission Policy Guidance on Sexual Harassment. Sexual harassment is a type of discrimination that is not only illegal, but is in conflict with the personnel practices of the State of Maryland.

Sexual Harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal, non-verbal or physical conduct of a sexual nature when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) submission to or rejection of such conduct by an individual is used as the basis of employment decisions affecting an individual or; (3) such conduct has the effect of interfering with an individual's work performance or creating an intimidating hostile or abusive work environment. Tangible psychological injury is not a necessary element of a hostile work environment; rather, an environment that is perceived by the victim as hostile or abusive, and that a reasonable person would find hostile or abusive is sufficient to meet the standard.

An employee who believes that he/she is the victim of sexual harassment should report the alleged incident promptly to the agency's Fair Practices Officer, Equal Employment Opportunity (EEO) Officer, supervisor or any other management representative. A prompt and thorough investigation of the complaint must be conducted by the EEO Officer or other designee assigned to investigate the complaint to determine whether a violation has occurred. Any employee found to have engaged in sexual harassment will be subject to appropriate disciplinary action, up to and including dismissal from employment. Retaliation against an employee for filing a complaint or participating in an investigation is not permitted.

All State government employees are provided the opportunity to work in an environment free from sexual harassment. Cabinet Secretaries and other agency heads have the responsibility to ensure compliance with this policy, including the prompt investigation and resolution of all complaints of sexual harassment.

All employees are to be given a copy of this policy and advised of the name and telephone number of the agency's Fair Practices Officer and EEO Officer. This policy should be posted conspicuously in all State work sites.

STATE OF MARYLAND PROCEDURE FOR REPORTING COMPLAINTS OF SEXUAL HARASSMENT

I. PURPOSE

The State of Maryland is dedicated to full compliance with laws, policies and guidelines that prohibit sexual harassment. Sexual harassment is an unlawful employment practice that ***will not be tolerated*** in any form in the workplace. No employee shall be retaliated against for filing a complaint of sexual harassment or participating in an investigation.

II. LEGAL AUTHORITY

- A. Title VII of the Civil Rights Act of 1964, as amended
- B. Title 20 State Government Article, Annotated Code of Maryland
- C. Title 5, Subtitle 2, Annotated Code of Maryland State Personnel and Pensions Article
- D. Executive Order – 01.01.2007.16, Maryland Code of Fair Employment Practices
- E. EEOC Policy Guidance on Sexual Harassment, Number N-915-050

III. DEFINITION OF SEXUAL HARASSMENT

A. Sexual harassment is unwelcome sexual advances, requests for sexual favors, and other verbal, non-verbal or physical conduct of a sexual nature. Sexual harassment may be ***verbal*** (sexual innuendo, threats, jokes, sexual propositions, or suggestive comments, etc.); ***non-verbal*** (making suggestive or insulting noises, leering, whistling or making obscene gestures, or displaying sexually explicit or offensive pictures or other illustrations, etc.); or ***physical*** (touching, pinching, brushing the body, assaulting, or any other contact of a sexual nature).

B. Types of Sexual Harassment

1. Quid Pro Quo

- Unwelcome sexual advances, requests for sexual favors, and other unwelcome verbal, non-verbal or physical conduct of a sexual nature constitute “quid pro quo” sexual harassment when:
 - a. submission to such conduct is made either explicitly or implicitly a term or condition of a individual’s employment; or
 - b. submission to or rejection of such conduct by an individual is used as the basis for an employment decision that affects an individual.

2. Hostile Work Environment

- Sexual advances, requests for sexual favors, and other verbal, non-verbal or physical conduct of a sexual nature constitutes “hostile environment” sexual harassment when the conduct :
 - a. was unwelcome;
 - b. was based on the victim’s gender;
 - c. was sufficiently severe or pervasive to alter the conditions of the victim’s employment and create a work environment that is reasonably perceived as hostile or abusive and that the victim perceives as hostile or abusive; and
 - d. is imputable to the employer.
- C. The victim, as well as the accused, may be a female or a male. The victim does not have to be of the opposite sex. The accused may be an employee’s direct supervisor, a supervisor in another division, a co-worker, or a non-employee. The victim does not have to be the person harassed but could be anyone affected by the offensive conduct.
- D. Sex-based offensive behavior in the work place is prohibited by law. Even if the behavior may be tolerated by some individuals outside of the workplace, ***it will not be tolerated within the workplace***. The ignorance or intentions of the harasser are irrelevant.

IV. EMPLOYEE RESPONSIBILITIES

If an employee believes that sexual harassment has occurred, the employee shall take the following steps:

- A. Inform the offending person that his/her conduct is unwelcome and should cease immediately. It is important for the victim to communicate that the conduct is unwelcome, particularly when the alleged harasser may have some reason to believe that the behavior may be welcome. However, a victim of harassment need not confront his/her harasser directly, so long as the victim’s *conduct* demonstrates that the harasser’s behavior is unwelcome.
- B. If the alleged harassment does not cease, report it promptly to the agency’s Fair Practices Officer, EEO Officer, supervisor or another management representative.
- C. If an employee’s immediate supervisor is the alleged harasser, report the incident to the person directly in charge of the supervisor, the agency’s Fair Practices Officer, EEO Officer or other management representative.

V. AGENCY RESPONSIBILITIES

- A.** When an alleged incident of sexual harassment is reported, the agency has 30 days in which to thoroughly investigate the complaint, and issue a written decision.
- B.** The agency shall take immediate and appropriate corrective action when it determines that sexual harassment has occurred.
- C.** The Office of the Statewide Equal Employment Opportunity Coordinator (OSEEOC) may be consulted to assist with the investigation, if necessary.
- D.** The agency must inform the Complainant of his/her right to pursue an allegation of sexual harassment with the Maryland Commission on Civil Rights or the U.S. Equal Employment Opportunity Commission.
- E.** The agency should also inform the Complainant that it will take every reasonable effort to handle the complaint in a manner that protects the confidentiality of all parties.
- F.** The agency should follow-up with the Complainant and any other individuals implicated in the investigation to ensure that no further incidents have occurred. Follow-up efforts should be documented.
- G.** The agency must ensure that employees who make complaints of sexual harassment or provide information related to such complaints will be protected against retaliation.