



Sexual Harassment Awareness and Prevention

Maryland General Assembly
2018

General Assembly Policy

It is the policy of the Maryland General Assembly that harassment based on an individual's race, color, religion, gender, gender identity, sexual orientation, national origin, age, disability, marital status, citizenship, sex, or any other characteristic protected by law is prohibited.

Law

Under federal and State law, it is unlawful for an employer to discriminate against an individual with respect to the terms, conditions, or privileges of employment on the basis of an individual's characteristic protected by law.

Note: Sexual harassment is a form of sex discrimination.

Legislators

Members of the General Assembly have a *right* to be free from sexual harassment and, at the same time, members have a *responsibility* to help ensure that the workplace is free of sexual harassment.

Elements of a Sexual Harassment Claim

1. Employee was subject to unwelcome sexual harassment.
2. The harassment complained of was based upon sex.
3. The employee's reaction to the harassment affected tangible aspects of compensation, terms, conditions, or privileges of employment.
4. The employer knew or should have known of the harassment and took no effective remedial action.

Note: Whether an action was "welcome" in this context is determined by the recipient of the behavior not by the person engaging in the behavior.

Types of sexual harassment

1. Quid Pro Quo
2. Hostile Work Environment

Definition of Quid Pro Quo Sexual Harassment

A situation where a supervisor explicitly makes submission to the supervisor's unwelcome sexual advance a condition of employment, or where rejection of such an advance is the underlying motivation of an employer's decision to take an adverse employment action against an employee.

Definition of a Hostile Work Environment

Offending, unwelcome conduct, on the basis of sex, that is sufficiently pervasive or severe to alter the conditions of employment and create a hostile work environment. As the Fourth Circuit explained, “*A work environment consumed by remarks that intimidate, ridicule, and maliciously demean the status of women can create an environment that is as hostile as an environment that contains unwanted sexual advances.*”

Retaliation is Against the Law

Whether it is against the person who has complained, or against anyone who participated in the investigation, retaliation is prohibited.

The Legislature Has an Obligation to Address Complaints of Harassment

To succeed on a claim against an employer, an employee must show that the employer knew about the harassment but did not respond with remedial action reasonably calculated to end the harassment.

All complaints of harassment should be addressed because inappropriate behavior if left unchecked could rise to the level of illegal harassment.

Handling a Sexual Harassment Claim

A good first step is telling the offender that the behavior is unwanted or inappropriate—but this is not necessary.

If you receive a complaint, you should notify Lori Mathis, Human Resources Manager, 410-946-5120.

- Employees are advised that all complaints are taken seriously and will be handled promptly and thoroughly, and corrective action, if needed, will be taken.
- Employees are also informed that retaliation against them for bringing forward a complaint is prohibited.
- Employees are also told that they should go to the Human Resources Manager of the Department of Legislative Services, the Administrative Assistant to either Presiding Officer, or the Chief of Staff to either Presiding Officer.

Once a complaint is received, an investigation is conducted promptly by HR.

A complaint involving a member of the legislature will be brought to the attention of the relevant Presiding Officer, and also to the relevant minority leader, if applicable.

A complaint involving a DLS employee will be brought to the attention of the DLS Executive Director.

Note: The investigation will be conducted as confidentially as possible.

If a violation is found, immediate remedial action will be taken, which could include: training, counseling, warning, reprimand, suspension without pay, reassignment, or termination.

Note: In accordance with the Article III, Section 19 of the Maryland Constitution, each house shall handle any punishment against a member.

Both the person making the complaint and the individual against whom the complaint was made will be advised about the action taken.

Under the policy, there is an appeal process.
