

DHMH POLICY

<http://dhmh.maryland.gov/pages/op02.aspx>

OFFICE OF EQUAL OPPORTUNITY PROGRAMS

DHMH POLICY 01.02.02
Version Effective March 15, 2016

SEXUAL HARASSMENT POLICY

I. EXECUTIVE SUMMARY

The Department of Health and Mental Hygiene (DHMH) prohibits sexual harassment in the workplace. This policy applies to all facilities and programs operated by the DHMH; grant-in-aid programs; and health services providers/contractors/subcontractors receiving Federal or State funds. No administration or DHMH component shall do business with firms, organizations, businesses or entities that engage in or allow sexual harassment. DHMH employees shall cooperate with the Director, Office of Equal Opportunity Programs ("OEOP"), in the implementation of this policy.

DHMH employees are prohibited from engaging in conduct that would constitute sexual harassment. Examples of potential sexual harassment conduct are cited in this policy. An employee, job applicant or an individual doing business with DHMH, may file a sexual harassment complaint with DHMH's OEOP, within thirty (30) days of the alleged act or with an external agency, such as the Maryland Commission on Civil Rights ("MCCR") or the U.S. Equal Employment Opportunity Commission ("EEOC") without fear of reprisal. An employee who files a sexual harassment complaint with the MCCR must do so within six months from when the alleged harassment occurred, or within 300 calendar days with the EEOC.

The Director, DHMH Office of Human Resources, shall have lead responsibility for assuring that new employees are informed about this policy. Supervisors shall communicate this policy to employees annually and to prospective employees during the interview process.

This policy establishes guidelines for supervisors, managers, and/or Equal Employment Opportunity Officers when investigating complaints of sexual harassment. Supervisors shall seek guidance from the Director, OEOP, before determining the appropriate disciplinary action to impose against an employee when an allegation of sexual harassment is substantiated and/or founded. This policy shall become part of the agreement/contract between DHMH and prime contractors/subcontractors who receive DHMH, State, or Federal funds for fulfilling any type of contract.

DHMH has a zero tolerance policy on sexual harassment, will not condone discriminatory practices within DHMH and will not conduct business with firms, organizations, businesses or entities that allow sexual harassment. This policy is established to ensure that every employee clearly understands that sexual harassment is illegal and will not be tolerated.

Department of Health & Mental Hygiene

OFFICE OF REGULATION AND POLICY COORDINATION (ORPC)

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II. BACKGROUND

This version effective March 15, 2016 supersedes and replaces DHMH Policy 01.02.02 dated March 7, 2011 which replaced DHMH 02.06.02 dated March 15, 2002. That version replaced DHMH 4144, "Policy on Sexual Harassment", which was issued January 23, 1989 and which was last revised April 19, 1997. The changes to this version are administrative and clarifying in nature and include changing office names and updating references and hyperlinks.

Included by reference are the following codes that prohibit sexual harassment in the workplace:

- Title VII of the Civil Rights Act of 1964, as amended;
- Equal Employment Opportunity Commission Policy Guidance on Sexual Harassment;
- State Government Article, Title 20, Annotated Code of Maryland;
- State Personnel and Pensions Article, Title 5, Subtitle 2, Annotated Code of Maryland;
- Executive Order 01.01.2007.16 – Code of Fair Employment Practices; and
- State of Maryland Sexual Harassment Policy and Procedure, Department of Management and Budget.

II. POLICY STATEMENTS

A. GENERAL PROVISIONS

1. It is unlawful to harass a person because of that person's sex. Harassment can include "sexual harassment" or unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature. Harassment does not have to be of a sexual nature, however, and can include offensive remarks about a person's sex. Sexual harassment is an infringement upon an employee's right to work in an environment free from unwanted sexual attention and sexual pressure. Sexual harassment is typically categorized as a male supervisor harassing a female subordinate, but the accused, as well as the victim, may be a female or a male. The victim does not have to be of the opposite sex and includes conduct initiated by a supervisor, employee or an individual conducting business with the State, against a supervisor, employee or an individual conducting business with the State, of the same or opposite sex. In addition to being a personal violation, sexual harassment, especially between the supervisor and the employee, threatens a person's livelihood and can create a hostile work environment. Any person can be affected by sexual harassment. Victims do not only entail the intended target or individual of interest, but also third party witnesses to the harassing behavior. Sexual harassment is a form of sex discrimination and it is illegal.

- a. Sexual harassment is prohibited in the DHMH workplace by Federal and State laws, State regulations and policies, Executive Order, and this Departmental policy.
 - b. The Department of Budget and Management (“DBM”), Office of the Statewide Equal Employment Opportunity Coordinator (“OSEEOC”) publication entitled State of Maryland Sexual Harassment Policy and Procedure <http://dbm.maryland.gov/eoo/Documents/SexHarrassPolicy.pdf>, offers guidance on sexual harassment, and promotes a work environment that is free from sexual harassment.
 - c. An employee, DHMH job applicant, or any individual who is conducting business with DHMH, who believes that he or she has been sexually harassed, may file a complaint at any of the offices or agencies listed in Section III D of this policy.
 - d. Employees shall refrain from conduct such as asking other employees for sexual favors; making sexual advances toward employees; making lewd remarks or telling obscene jokes; touching, stroking in a sexual nature and displaying or sharing sexually explicit pictures, drawings, emails, etc.
 - e. Employees shall be required to sign an acknowledgement form and/or acknowledge receipt of this policy, in Workday, upon being hired. The form is to be kept in the employee’s Personnel file.
 - f. This policy shall apply to all DHMH facilities and programs operated by the Department; grant-in-aid programs; health services providers, contractors/sub-contractors receiving DHMH, State or Federal funds; and all individuals conducting business with DHMH and its partners.
 - g. DHMH prohibits the transaction of business with any individuals or entities that engage in or permit sexual harassment.
 - h. Each deputy secretary, program director, facility director, unit head, and supervisor shall fully cooperate with the Director, OEOP, in implementing this policy.
2. DHMH supervisors/managers/directors must act promptly upon receipt of a sexual harassment complaint and either:
 - a. Thoroughly investigate all allegations in coordination with OEOP; or
 - b. Cooperate, as appropriate, with OEOP’s investigation.

If sexual harassment is proven, the offending employee's supervisor must receive guidance from the Director, OEOP, who will consult with the Office of Human Resources ("OHR"),

Employee Relations Unit, before taking disciplinary action against the offending employee. Depending upon the seriousness of the sexual harassment act, disciplinary action may include, but is not limited to suspension or termination of the offending employee.

B. EXAMPLES OF POTENTIAL SEXUAL HARASSMENT CONDUCT

1. Employees are prohibited from engaging in questionable conduct that could be construed as sexual harassment including, **but not limited to**:
 - a. Unwelcome sexual advances; requests for sexual favors; and conversations about sex or physical conduct of a sexual nature;
 - b. Discrimination based upon sex that results in economic or privilege loss to the employee(s);
 - c. Unwelcome sexually explicit remarks or unwelcome sexual advances against a fellow employee, applicant for employment or an individual doing business with DHMH at any time while on DHMH's premises, or off the premises when an employee may be on a work assignment.
2. Prohibited remarks or sexual advances may include, **but not limited to**:
 - a. Lewd expressions, catcalls, whistles, obscene gestures, or references to an individual's anatomy;
 - b. Unwanted physical advances, touching, brushing, pinching, or contact by one individual to another;
 - c. Requests or demands for kisses, petting, or sexual intercourse from one individual to another;
 - d. Repeated propositions for dates by one individual to another;
 - e. Requiring an individual to listen to sexually suggestive jokes or remarks whether the individual wishes to or not;
 - f. Threats of rape or attempted rape;
 - g. Displaying or sharing sexually explicit or offensive materials, pictures, drawings, e-mails, etc.

C. GUIDELINES FOR AN INDIVIDUAL WHO FEELS THAT HE OR SHE HAS BEEN SEXUALLY HARASSED

An individual who feels that he or she has been sexually harassed should take the following steps:

1. Inform the offending person that the remark or behavior is unwelcome and should cease immediately;
2. Document when, where, how, and who committed the alleged sexual harassment act(s) and any witnesses present when these events occurred.
3. Keep a record of:
 - a. Whom the sexual harassment allegations were reported to; and
 - b. When, where, and how sexual harassment complaints were reported to supervisory/management personnel, the OHR, or the OEOP.

D. REPORTING OF PROHIBITED CONDUCT

1. If an employee, job applicant or an individual doing business with DHMH, feels that he or she has been sexually harassed, he or she has the right to file a sexual harassment complaint with any of the following individuals or entities:
 - a. The employee's supervisor, the supervisor of the alleged sexual harasser, the union, or the OHR;
 - b. Director, DHMH Office of Equal Opportunity Programs (OEOP), 201 West Preston Street, Baltimore, Maryland 21201;
 - c. Maryland Commission on Civil Rights ("MCCR"), 6 Saint Paul Street, 9th Floor, Baltimore, Maryland 21202;
 - d. United States Equal Employment Opportunity Commission ("EEOC"), 10 S. Howard Street, Baltimore, Maryland 21201.
2. OEOP's procedures for handling sexual harassment complaints shall be consistent with the State of Maryland Sexual Harassment Policy and Procedures.
3. An employee, applicant for employment or an individual doing business with DHMH may seek assistance from a DHMH Facility or Administration Director, a union representative, OHR's Employment Services Division or the Director, OEOP, prior to filing a complaint.

4. An individual, who files a sexual harassment complaint with the OEOP, must file within 30 days of the alleged occurrence; an individual, who files a sexual harassment complaint with the MCCR must file within 6 months of the alleged occurrence, and an individual, who files a sexual harassment complaint with the with EEOC must file within 300 days of the alleged occurrence.

IV. REFERENCES

- Annotated Code of Maryland
 - State Government Article, Title 20
<http://mgaleg.maryland.gov/webmga/frmStatutesText.aspx?article=gsg§ion=20-101&ext=html&session=2016RS&tab=subject5>
 - State Personnel and Pensions Article, Title 5, Subtitle 2
http://www.dbm.maryland.gov/eoo/Documents/Fair_Practices_Professionals/TitleV_RolesResponsibilities.pdf
- EEOC Facts on Sexual Harassment
<http://eeoc.gov/eeoc/publications/fs-sex.cfm>.
- Executive Order 01.01.2007.16 – Code of Fair Employment Practices,
<http://www.dbm.maryland.gov/employees/Documents/Policies/EOCodeFairPractices.pdf>
- State of Maryland Sexual Harassment Policy and Procedure, Department of Budget and Management
<http://dbm.maryland.gov/eoo/Documents/SexHarrassPolicy.pdf>
- Title VII, Civil Rights Act of 1964, as amended
<http://www.eeoc.gov/laws/statutes/titlevii.cfm>
- U.S. Equal Employment Opportunity Commission, Policy Guidance on Sexual Harassment,
http://eeoc.gov/laws/types/sexual_harassment.cfm.

APPROVED:



Van T. Mitchell, Secretary

March 15, 2016
Effective Date

This version effective March 15, 2016 supersedes DHMH 01.02.02 dated March 7, 2011, which replaced DHMH 02.06.02 dated March 15, 2002 and DHMH 4144 issued January 23, 1989 and revised April 19, 1997.