

DEPARTMENT OF STATE
SECRETARY OF STATE
POLICY # 20 – Sexual Harassment in the Workplace

EFFECTIVE DATE: May 1, 2002
Revised: November 28, 2005
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Revised: July 1, 2013
Revised: May 1, 2018
Revised: October 28, 2019

SUBJECT: Sexual Harassment in the Workplace

AUTHORIZATION: 
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I. PHILOSOPHY

Employees of the State of Louisiana deserve to be treated with respect and dignity, and to work in a professional environment free of harassment and discrimination. The Louisiana Department of State is committed to providing its employees a work environment free from inappropriate and offensive behavior of a sexual nature. To accomplish this, DOS has formulated this policy to define sexual harassment and conduct of a sexual nature that is prohibited in the workplace, and the procedure for effectively reporting such conduct. Employees should realize that the behavior proscribed by this policy includes words and conduct that are inappropriate, offensive or create a hostile working environment. As such, any behavior of a sexual nature or connotation which negatively impacts the workforce is prohibited even though such behavior may not constitute actionable sexual harassment as defined by law.

Prevention and elimination of sexually inappropriate behavior requires the personal involvement and commitment of every DOS employee. Unless and until management is apprised of its occurrence, corrective action to address such behavior cannot be taken. Through this policy and related training requirements, DOS seeks to reinforce its intolerance of sexually inappropriate behavior, and encourages employees who experience, observe, or are informed of such behavior to promptly initiate the reporting process set forth in this policy. Employees can be assured that DOS will objectively and thoroughly investigate reports; implement preventive measures to protect against recurrence; impose corrective action to address violations; and protect complainants and individuals involved in the investigative process from any form of harassment, reprisal, or retaliation.

II. PURPOSE

All DOS employees have a right to a work environment free of harassment and discrimination. For this reason, employees must refrain from offensive and inappropriate conduct, especially of a sexual nature, within the workplace. Managers and supervisors

are responsible for disseminating and discussing this policy with subordinates and ensuring that the workplace is free of such behavior.

Through this policy and the mandatory associated training required for all employees, the DOS seeks to:

- Unequivocally state intolerance for sexually inappropriate behavior
- Identify the scope of such prohibited behavior
- Establish an effective, uniform reporting process
- Require prompt action to protect against recurrence of the prohibited behavior
- Ensure resolution that imposes appropriate corrective action
- Protect complainants and individuals involved in the investigative process from harassment, reprisal, or retaliation
- Respect confidentiality and the privacy rights of employees

III. APPLICABILITY

This policy applies to all DOS employees regardless of rank or status. This includes classified and unclassified employees, full time, part time, seasonal and temporary employees. The tenets of this policy are equally applicable to appointing authorities, executive management, administrators, directors, managers, supervisors, staff members, student workers, and interns.

This policy also applies to non-employees, including visitors and individuals who transact business with DOS such as vendors, maintenance personnel, clients, contractors, and consultants. These non-employees are prohibited from engaging in the behaviors prohibited in this policy and are also protected from experiencing such behavior by DOS employees.

This policy applies not only to the customary workplace and work locations where DOS employees may be assigned, but also prohibits such behavior while traveling for work, while attending conference or off-site meetings, workshops, training, business trips, and business related social events. In addition, this policy applies to off-duty, off-premises behaviors which has an impact on and a relation back to the workplace.

IV. PROHIBITED CONDUCT

Sexually inappropriate behavior proscribed by this policy can take many forms, including unwelcomed sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature. Such inappropriate behavior may be by a person of either gender against a person of the same or opposite gender. Such behavior may include conduct of a supervisor, manager or administrator towards a subordinate employee, or conduct by one employee towards another employee of equal or greater rank. It may also include words or conduct by a vendor, contractor, client or visitor to DOS. Finally, an employee may be the victim of inappropriate behavior even though not the target of such behavior.

Sexual harassment, a form of prohibited discrimination, is defined by the Equal Employment Opportunity Commission (EEOC) as unsolicited and unwelcomed sexual

advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature wherein :

- A) Submission to such conduct is explicitly/implicitly a term or condition of employment; or
- B) Submission to or rejection of such conduct is used as a basis for employment decisions (i.e. continued employment, evaluations, wages, advancements, assigned duties, shifts, training opportunities, or any other condition of employment or career development); or
- C) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

Inappropriate, unacceptable words or conduct which may constitute sexual harassment could be verbal, non-verbal, or physical. Examples include, but are not limited to, the following:

- A) Unwelcomed sexual flirtations, advances or propositions;
- B) Unwelcomed request for sexual favors;
- C) Unwelcomed sexual teasing, jokes, remarks, insults, innuendo or inquiries;
- D) Unwelcomed physical contact (i.e. touching, rubbing, leaning over, pinching, invading another's space by leaning over, purposefully cornering, or blocking passage);
- E) Unwelcomed sexual looks or gestures;
- F) Verbal, written or physical abuse of a sexual nature;
- G) Graphic verbal or sexual comments about an individual or to describe an individual's appearance;
- H) Degrading words and demeaning or inappropriate terms (i.e. referring to a person as Babe, Honey, etc.);
- I) Sexually insulting noises;
- J) Using crude and offensive language;
- K) Discussing sexual activities, or exploits;
- L) Inappropriate commenting on a person's attributes; and/or
- M) Displaying sexually suggestive objects, statements, graffiti, books, magazines, photographs, cartoons or pictures.
- N) Unwelcomed repeated requests for dates or social engagement

NOTE: Employees must be reminded that the verbal and physical behavior proscribed by this policy is always inappropriate in the workplace and hence, violates departmental policy, although such behavior may not be actionable in a court of law as a civil action for sexual harassment. DOS prohibits all sexually inappropriate behavior, regardless of severity, pervasiveness, or identifiable impact.

V. REPORTING PROCEDURE

Early reporting of sexually inappropriate behavior enhances the credibility of the complainant and facilitates the investigative process. DOS does not require a fixed reporting time or deadline—the sooner the better is preferred and immediately reporting is ideal. The initial report need only convey the occurrence of words or actions that are offensive and need not provide detailed information. This report can be verbal (in person

or via telephone) or in writing (letter, memo, email, text) and need not utilize a specific form.

Any employee experiencing, witnessing or having knowledge, directly or indirectly, of sexually inappropriate behavior by anyone or towards anyone associated with DOS or on department premises, including any administrator, manager, supervisor, co-worker, vendor, client or visitor, should immediately report the occurrence. Any such complaint may be made verbally or in writing. Under most circumstances, complaints should be made by the employee to his/her supervisor. If the complaint involves the employee's supervisor or someone within the direct line of supervision, or if the employee, for any reason, is uncomfortable reporting such behavior to a supervisor, he/she may report the incident to another supervisor or manager, or directly contact the Human Resources Director at Post Office Box 94125, Baton Rouge, Louisiana 70804-9125 or (225) 925-4696.

VI. INVESTIGATION OF COMPLAINT

- A) All reports of sexually inappropriate behavior will ultimately be reported to the Human Resources Director who generally will direct the investigative process. Management personnel in a need to know capacity will be apprised of the complaint.
- B) DOS will investigate **all** complaints. "Informal" complaints or requests to withhold investigation (unless or until a future occurrence) will be treated the same as a formal complaint and investigated immediately.
- C) To prevent further occurrences or to preserve the integrity of the investigation, temporary reassignment, transfers, forced leave or other personnel actions permissible under the Civil Service Rules may be utilized.
- D) The investigation will be thorough and include interviews with the complainant, the accused, witnesses and other individuals possessing relevant information. Records, logs, reports, photos, or other documentation pertinent to the complaint will be reviewed.
- E) The investigative process will be memorialized, thus requiring that all involved prepare written statements or provide verbal statements that will be recorded.
- F) Persons called upon to participate in the investigation are required to answer all questions truthfully and cooperatively. Employees do not have the option of remaining silent or declining to be involved.
- G) The investigative process will be conducted expeditiously and professionally, with appropriate emphasis on the rights of all involved.
- H) To the extent allowed by law, the investigative process will be conducted in a confidential manner, with only those in a need-to-know position involved. Employees who are called on to participate will be instructed that the complaint and all information provided during the investigation are to remain confidential.

- I) Upon completion of the investigation, the Human Resources Director will apprise management of the outcome and recommendations for resolution. The complaining employee and accused will be apprised of the outcome of the investigation, with appropriate emphasis on the rights of all involved.

VII. COMPLAINT RESOLUTION

- A) Any employee found, after appropriate investigation, to have engaged in sexually inappropriate behavior will be disciplined in accordance with applicable law and the Civil Service Rules. Such action may include counseling, reprimand, suspension, demotion, reduction in pay or termination.
- B) In addition to corrective action, other appropriate measures, including follow-up inquiries and re-training, will be utilized to ensure that the inappropriate behavior does not recur.
- C) Regardless of the outcome, the complainant has the option of pursuing a claim under state or federal law. Initiation of such a claim is not dependent upon the outcome nor completion of the DOS's administrative investigation.

VIII. NON-RETALIATION

- A) Any employee making a good faith complaint of sexually inappropriate behavior will be protected from retaliation, reprisal and harassment. Likewise, any employee providing information or otherwise participating in the investigation of such a complaint will be protected from retaliation, reprisal and harassment.
- B) If a complaint is made and the investigation reveals that retaliation, reprisal or harassment has occurred against a complaining employee or anyone participating in the investigative process appropriate, severe disciplinary action will be taken, including the possibility of termination.

IX. TRAINING

DOS recognizes that implementation of a policy prohibiting sexually inappropriate behavior in the workplace alone is insufficient to prevent and address such behavior. To support this policy and encourage a culture where employees willingly report concerns, DOS requires all employees to successfully complete training on this topic upon hire and on a continuing basis thereafter. At a minimum, DOS requires the following training for its employees:

- Upon hire, all new employees must complete the agency onboarding process which contains a copy of this policy and covers the contents of the policy in detail. Supervisors are required to ensure that the onboarding process is completed within 30 days of hire thereby insuring that the new employee has reviewed the contents of this policy.
- Within 30 days of hiring, all new employees are required to complete the most recent CPTP training course on sexual harassment. Certification of successful completion will be documented through CPTP.
- On an annual basis, all employees are required to complete the most recent CPTP training course on sexual harassment. Certification of successful completion will

be documented through CPTP.

- Within 30 days of attaining a supervisory position, all new supervisors are required to complete the most recent CPTP training on sexual harassment designated for supervisory personnel. This training, which emphasizes identifying, preventing, and responding to sexually inappropriate behavior, is thereafter to be completed on an annual basis. Certification of successful completion will be documented through CPTP.

X. FEDERAL AND STATE LAWS

This policy establishes a procedure to administratively report and address complaints of sexually inappropriate behavior. This policy is intended to supplement rather than replace or supersede the private and/or statutory procedures regarding sexually inappropriate workplace behavior available to employees under state and federal law, including Title VII of the Civil Rights Act and La. R.S. 23:331 et seq. Employees should be aware that there are certain procedures and time delays, including the filing of a complaint with the Equal Employment Opportunity Commission (EEOC) or the Louisiana Commission on Human Rights (LCHR), which must be satisfied prior to initiating civil litigation regarding inappropriate workplace sexual behavior.

For more information or to initiate a claim under federal or state law, employees are referred to the EEOC and the LCHR:

- EEOC
800-669-4000 (voice)
504-589-2958 (TDD)
504-595-2844 (fax)
<https://www.eeoc.gov>
- LCHR
225-342-6969 (voice)
888-241-0859 (TDD)
225-342-2063 (fax)
<http://gov/page/lchr>

XI. VIOLATIONS

Any employee, regardless of rank or status, found to have violated the prohibitions of this policy will be subject to disciplinary action, up to and including termination. After investigation and satisfaction of due process requirements, corrective action may be imposed for the following:

- Failure to comply with mandatory training requirements
- Failure by a supervisor or manager to timely report a complaint of sexually inappropriate behavior
- Failure to participate in or cooperate with the investigative process
- Providing false information or withholding information during questioning
- Filing a false, malicious, or frivolous complaint
- Harassment, reprisal, or retaliation towards a complainant or anyone involved in the investigative process

Any employee, regardless of rank or status, who intentionally fails to properly and timely report sexually inappropriate workplace behavior will be subject to disciplinary action, up to and including termination.

Any employee found to have intentionally or maliciously falsely accused another of sexually inappropriate workplace behavior will be subject to disciplinary action, up to and including termination. This prohibition is not intended to discourage employees from filing good faith complaints of behavior proscribed by this policy.

XII. PERSONAL LIABILITY

An Individual experiencing sexually inappropriate behavior in the workplace has the right to initiate civil litigation under state or federal law. When this occurs, as an employer, the State of Louisiana may be cast in judgement or a settlement of claims may be negotiated to avoid the risk of litigation. In either event, the financial burden falls upon the taxpayers of the State of Louisiana.

To reduce this impact, upon determination that an employee has engaged in sexually inappropriate workplace behavior, La. R.S. 42:351 mandates that consideration be given to requiring that the employee reimburse all or a portion of any judgment or settlement that may result from a claim or civil litigation. The process and factors to be considered in making this determination are set forth in La. R.S. 42:353, which also authorizes the Attorney General to file suit against an employee to enforce the state's right to reimbursement and indemnification.

Accordingly, Department of State employees are hereby placed on notice that dire consequences, in the nature of employment sanctions and personal financial liability, may result from any violation of the prohibitions and requirements of this policy.

XIII. QUESTIONS/COMMENTS

This policy shall remain available to employees for review at all times on the DOS intranet site. Notices related to workplace harassment and discrimination are conspicuously posted at DOS work locations throughout the state.

Questions or comments concerning sexual harassment, sexually inappropriate behavior or the interpretation or enforcement of this policy should be addressed to the Human Resources Director. To the extent possible, such inquiries will be maintained in strict confidence. Employees are reminded that complaints will be appropriately investigated notwithstanding the employee's request that no action be taken or that the investigative process be delayed.

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EMPLOYEE ACKNOWLEDGMENT

My signature hereon acknowledges that:

- 1) I have received a copy of the Sexual Harassment in the Workplace Policy #20, Revised October 28, 2019, of the Department of State;
- 2) I have read this Policy;
- 3) I understand the content of this Policy;
- 4) I agree to comply with the terms and provisions of this Policy;
- 5) I understand that compliance with this Policy is a condition of employment/continued employment.
- 6) I understand that disciplinary action, including the possibility of termination, will be imposed for violating the terms and conditions of this policy; and
- 7) I understand that I may be personally liable and responsible for reimbursing the State of Louisiana for all or a portion of any judgement or settlement if a determination is made that I have engaged in sexually inappropriate workplace behavior.

EMPLOYEE (SIGNATURE)

EMPLOYEE NAME (PRINTED)

DATE