



DISCRIMINATION AND HARASSMENT

Directive 5 - 111

Date of Issue: July 2013 Amends/Cancel: Chapter V Sec 2

I. PURPOSE

The Department of General Services Maryland Capitol Police (DGS-MCP) is dedicated to full compliance with laws, policies and guidelines that prohibit discrimination, and harassment.

II. POLICY

It is the policy of the Department of General Services Maryland Capitol Police Department to provide a positive, professional work environment that is conducive to productivity and supports equal employment opportunities for all employees, free of discriminatory practices and harassment that is prohibited by law. Discrimination and 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 discrimination or harassment or participating in an investigation.

III. DEFINITIONS

A. Harassment

1. Harass means to disturb or irritate persistently, and has been defined by such terms as badger, bother, pester, bait, torment, etc.
2. Harassment includes actions to inflict distress or vexation or create a hostile environment by besetting an individual with annoyances, distractions, insults, threats, heckling, or unreasonable or unlawful demands. Harassment includes, but is not limited to the following actions:
 - (a) Using words, phrases, or gestures which may be interpreted as derogatory or demeaning;
 - (b) Post/distributing literature, bulletins, cartoons, or other written material which may be interpreted as derogatory or demeaning;
 - (c) Mimicking, imitating or miming oral or physical characteristics considered stereotypical of individuals or groups of individuals which may be interpreted as derogatory or demeaning;
 - (d) Participating in and/or encouraging any retaliatory acts directed at individuals or groups exercising their rights against such discriminatory acts or policies.

- (e) Condoning any activities defined as harassment and/or discrimination by this order:
- (f) Retaliating against an employee for opposing any unlawful employment practice, making a charge, testifying, assisting or participating in any manner in an investigation, proceeding, or hearing under 42 U.S.C, Section 2000e-3(a)

B. Discrimination

1. Discrimination is defined as: “Unfair treatment or denial of normal privileges to persons because of their race, age, sex nationality or religion. A failure to treat all persons equally where no reasonable distinction can be found between those favored and those not favored. Federal statutes prohibit discrimination in employment on basis of sex, age, race, nationality, religion, or being handicapped.
2. Discrimination includes those acts prohibited by State and Federal law. It may include discrimination based on:
 - (a) expressions of racial/ethnic/religious insults and epithets;
 - (b) gender based derogatory comments;
 - (c) sexual harassment;
 - (d) retaliation against complainant for filing a complaint of discrimination.

IV. PROCEDURES

- A. The Department of General Services Maryland Capitol Police Department expects all employees to treat all persons with dignity, respect, and fairness. It is the policy of the Department that no person will be discriminated against on the basis of age, ancestry, citizenship, color, creed, marital status, mental or physical disability, national origin, race, religious affiliation, belief or opinion, sex or sexual orientation, union membership in the work place. This Directive shall insure that equal opportunity encompasses all aspects of employment practices to include, but not limited to, recruiting, hiring, training, compensation, benefits, promotion, transfers, layoff, recall from layoffs, and department sponsored educational, social and recreational programs.
- B. Harassment of employees for any reason prohibited by law, is employment discrimination and will not be tolerated. Whenever an employee becomes aware that any form of sexual harassment or discrimination of any type has occurred, the employee will immediately notify the detachment commander. The detachment commander will make sure that the matter is investigated properly and promptly, and take whatever rectifying, preventive and /or disciplinary action that may be appropriate when the investigation is concluded. Threats or acts of retaliation against persons reporting, testifying, or cooperating with or supporting a complaint of discrimination, including sexual harassment, are strictly prohibited.

C. Maryland State Personnel and Pensions Article

The State Personnel and Pensions Article, §2-302, of the Annotated Code of the State of Maryland states:

1. A personnel action may be taken with regard to age, sex, or disability to the extent that age, sex, or physical or mental qualification is required by law or is a bona fide occupational qualification.
2. Notwithstanding the exception stated in (A), all personnel actions concerning a State employee or applicant for employment in State government shall be made without regard to:
 - (a) age;
 - (b) ancestry;
 - (c) color;
 - (d) creed;
 - (e) martial status;
 - (f) mental or physical disability;
 - (g) national origin;
 - (h) race;
 - (i) religious affiliation, belief, or opinion; or
 - (j) sex.
3. Each State employee is expected to assume personal responsibility and leadership in ensuring fair employment practices and equal employment opportunity in Maryland State government.
4. Employment discrimination and harassment by State managers, supervisors, or other employees is prohibited.
5. A state employee who violates this law is subject to disciplinary action by the employee's appointing authority, including the termination of State employment.

D. Employee Duties and Responsibilities

1. All employees are forbidden from participating in, encouraging or supporting in any way discriminatory conduct, including harassment, which is prohibited by law.

2. Any employee that becomes aware, or has reason to believe, that any form of discrimination or harassment has occurred will immediately notify the detachment commander in writing. This memorandum will accurately and thoroughly detail the facts and circumstances of the incident, including the names of all persons that may have witnessed the incident, participated in the incident, or supported or encouraged the incident in some way. The memorandum will also list the name(s) of any person(s) targeted during the incident. The only exception to this mandate would be in the event that an employee chooses to exercise, at his or her discretion, the informal option permitted by this order. Such an option might be preferred in a situation that has recently developed and the employee feels it appropriate to put the actor on notice and give him or her opportunity to correct the behavior and cease any further offensive and unwanted behaviors.
3. Informal Option – An employee subjected to, or having knowledge of a suspected harassment situation, may personally confront the antagonist and make it understood that the behavior(s) or activities are considered to be a form of harassment, unwanted and a request has been made to cease, any further similar behaviors may then constitute harassment and would have to be reported as required in (B). It should be clear that the informal option is available to employees and certainly not a prerequisite or mandatory step to formally notifying the detachment commander about an incident or situation. If the employee has reason to believe that a direct confrontation with the alleged antagonist might further aggravate the situation, the employee should report the incident to the detachment commander as stated in (B).

E. Supervisor Duties and Responsibilities

1. Monitor the work environment of subordinates for signs that harassment or other forms of discrimination may be occurring.
2. Stop observed acts that may be considered harassment, discrimination, and/or retaliation and take appropriate steps to intervene, regardless of whether the involved members are within the line of supervision or command.
3. Report incidents of suspected discrimination and sexual harassment as outlines herein, and encourage alleged victims of harassment or other forms of discrimination to report the incident.
4. Limit the work contact between the victim and the accused while a complaint of harassment or discrimination is pending resolution.
5. After disposition of the case, contact the victim and/or complainant within thirty days to ensure that there has not been a continuation of the improper conduct, threats of retaliation, or retaliation.

F. Investigation of Complaints

1. The Chief of Police or his designee will determine if the complaint is to be investigated as illegal discrimination as opposed to some other form of misconduct. An internal investigation will be ordered and a case number will be assigned.

2. In addition to determining what did or did not occur involving the complainant and the accused, the investigator will determine whether other employees were harassed or discriminated against by the person, and whether other employees participated in, encouraged, or supported the harassment or discrimination.
3. The investigator will complete the investigation in a timely manner and will submit a report of investigation to the Office of the Chief of Police. The report will thoroughly detail all facts and circumstances of the case, including the names and identifying information of all witnesses, written statements of all witnesses and involved parties, description of all evidence, and a conclusion as to the merits of the case.