



SEXUAL HARASSMENT

Directive 5 - 112

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 harassment.

II. POLICY

It is the policy of DGS-MCP to provide a positive, professional work environment that is conducive to productivity and supports equal employment opportunities for all employees, free of sexual harassment that is prohibited by law. 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.

III. 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

IV. 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 physical 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 harassment are irrelevant.

V. EMPLOYEE RESPONSIBILITIES

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

- 1. 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 unwelcome.

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.

2. If the alleged harassment does not cease, report it promptly to the agency's Fair Practices Officer, EEO Officer, supervisor or another management representative.

VI. AGENCY RESPONSIBILITIES

- A. When an all edged 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 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 Human Relations 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 the employees who make complaints of sexual harassment or provide information related to such complaints will be protected against retaliation.