

# Municipal Police Training Committee

## Instructor Policies & Procedures



*I understand by accepting a teaching assignment that I am responsible to uphold the Commonwealth of Massachusetts and Municipal Police Training Committee instructor standards outlined below.*

### **Official Endorsement of Primary Employment:**

1. Instructors teaching for the MPTC shall be in good standing with their agency. The Chief Executive Officer is required to verify this good standing as part of the Instructor Certification Application. Instructors who are not in good standing are prohibited from teaching for the MPTC.

### **Executive Order 504:**

1. Paper and electronic records containing personal information that can be readily used to identify a particular individual as defined in M.G.L. 93H and personal data that can be readily associated with a particular individual as defined under the Fair Information Practices Act (FIPA) must be secured by all maximum feasible measures.
2. Instructors must ensure that all student officer personal information remains confidential and secure, including when they are on breaks or at lunch or step out of the classroom for periods of time.
3. The security and care of this information applies to files, rosters, etc. that are removed from the training site by the instructor.

### **Attire:**

1. To insure the uniform and professional appearance of the Municipal Police Training Committee (MPTC) instructors, the MPTC puts forth the following standards that will apply to all instructors, including contract and volunteer.
  - a. For classroom – only presentations, when no practical skills other than role-play exercises are involved, the following dress requirements apply:
    - i. Men are required to wear courtroom attire, including a collared shirt with a tie, dress pant neatly pressed (which may include cotton khaki), and dress shoes. Sandals are not permitted.

- ii. Women are required to wear courtroom attire, such as a pant suit, dress, or a skirt with blouse, including dress shoes. Shoes may be open-toed or professional-looking sandals.
  - iii. In all cases, instructors may wear the department uniform.
  - iv. Hats and sunglasses are not allowed in the classroom.
  - v. Jewelry and other accessories shall be modest, conservative, and professional.
  - vi. Casual open-collared shirts, short pants, denim pants, and sneakers are not allowed.
- b. For practical skills classes, including Defensive Tactics, Firearms, and CPR/First Responder, the following dress requirements apply for both men and women:
- i. Pants must be BDU – type, black, navy or tan in color. Camouflage designs are not allowed.
  - ii. Shirts shall be a knit three-button, open-collared golf style or a buttoned, non-camouflage tactical shirt, such as a 5.11 tactical shirt.
  - iii. When more than one instructor is involved, they are to select a common color and style of shirt and pants for consistency of appearance; however, the style, color, and logo must be preapproved by the MPTC.
  - iv. Shoes must be soft-soled and dark in color. Both high and low tops are allowed. Sneakers or running shoes are not allowed.
  - v. In all cases, instructors may wear the department uniform.
- c. For Physical Fitness Training in a recruit class, the following requirements apply for both men and women:
- i. All instructors, including staff instructors when participating in PT, must wear matching PT gear appropriate for the workout session and season. The style, color and logo will be preapproved by the MPTC.
  - ii. Stocking hats, gloves, and sunglasses are allowed at the discretion of the Academy Director, but must be consistent with requirements set forth for student officers.
- d. Exceptions to these standards must be approved by the Director of Training.

### **Instructor Attendance:**

- a. Instructors are expected to arrive at their training site at least 30 minutes prior to the start time of their class to allow time to check in with the program coordinator, to make sure the classroom is arranged, and to test any presentation aids, such as laptop computers, projectors, and breath testing devices.
- b. Instructors are expected to be in their respective classroom and prepared to begin teaching, at least 5 minutes prior to the start time of their class and to start the class at the designated time unless otherwise directed by MPTC staff.
- c. All instructors are expected to cover all assigned material, making sure to completely cover all instructional objectives. Instructors will be paid for the actual time that they teach. If instructional objectives are completely covered more quickly than anticipated and all questions have been answered prior to the allotted time, instructors

- may dismiss the class earlier with approval by the MPTC coordinator/academy director. However, in such cases, the instructor's pay voucher is to reflect the actual hours of instruction, rather than the scheduled hours. If not, their pay voucher will be adjusted accordingly.
- d. Instructors will provide breaks to student officers. These breaks will consist of no more than 15-minute breaks approximately every hour. When agreed upon by the instructor, the student officers, and the MPTC program coordinator/academy director, breaks can be skipped or adjusted to accommodate curriculum.
  - e. Instructors will provide a lunch break to student officers. The amount of time of the lunch break will be no less than 30 minutes. Instructors will not be paid for lunch break.
  - f. The practice of shorter breaks and/or lunch to complete training in a shorter period of time than scheduled is prohibited.
    - a. Exception to this rule is during inclement weather (delayed start/early closing), with coordinator/academy director's permission. Even then, a midday break is required.
  - g. Instructors will remain in their classroom to make themselves accessible to the students for at least 15 minutes after the end of the training.
  - h. In the event that an instructor is unable to teach a scheduled class, instructors must notify the coordinator/academy director as soon as possible. Instructors should keep in mind that classes often have overtime considerations for departments and their attendees so it is important to keep with the regularly scheduled classes. With Coordinator/Academy Director prior authorization, it is important to have a back up instructor if an emergency or illness were to arise.
  - i. In the rare event that an instructor is running late they shall notify the coordinator or academy director, by necessity, as soon as possible by calling the training site they are scheduled to teach at. If the instructor is teaching with other instructors, they shall notify those instructors, out of courtesy, of their late arrival.

### **Classroom Decorum:**

- a. Instructors will conduct themselves in a professional manner at all times.
- b. Instructors will instruct to the Municipal Police Training Committee approved material and lesson plans only.
  - a. Although all instructors are encouraged to utilize their personal experiences to enhance the lesson plan, any changes (additions or deletions) an instructor would like to make to an MPTC-approved lesson plan, must be submitted to and approved by the MPTC Programs and Standards prior to it being presented in a MPTC classroom.
  - b. All handouts must be approved by the MPTC staff prior to distribution to student officers.
- c. Instructors will respect and ensure student respect and care of MPTC equipment and property at all times.

- d. Profanity of any kind will not be tolerated in the classroom. While the nature of police training often involves the realism of street jargon, swearing and inappropriate language is prohibited.
- e. The use of tobacco products is prohibited in the training environment and in the presence of the students.
- f. Cell phones must be turned off when teaching in the classroom.
  - a. If expecting an emergency call, phone must be on vibrate.
- g. Under no circumstances will the MPTC tolerate a hostile, offensive, or harmful training environment. Instructors will conduct themselves in a behavior that is respectful of diversity and does not include horseplay, bias, sexual innuendo, or harassment of any type.
- h. Instructors will conduct themselves at all times in a manner consistent with the highest ethical standards. Dishonesty, untruthfulness, promoting personal business interests or discourtesy will not be tolerated.
- i. Recognizing that police training is inherently risky, classes will be conducted with a high level of safety and instructors will, to the best of their ability, do all they can to prevent injury and avoid physical, mental or emotional harm to all student officers in their classroom.
- j. Instructors are representatives of police agencies and the police profession and will conduct themselves in a manner that will bring credit to the profession. Standards of behavior will reflect taste, courtesy, consideration and respect for the rights and privileges of fellow instructors, academy staff and guests, and student officers.

## **Agency Policy of Zero Tolerance for Workplace Violence:**

### **Policy Statement**

Workplace violence undermines the integrity of the workplace and the personal safety of the individual employee. Therefore, the Commonwealth maintains a zero tolerance policy for workplace violence. Effective immediately, it is the policy of the Commonwealth that all of its employees work in an environment free from workplace violence.

### **Authority**

Executive Order #442 establishes a zero tolerance policy for workplace violence and requires state agencies to promptly disseminate written copies of the policy to all employees. The Executive Order applies to individuals employed on a full time or part time basis by the Office of the Governor or any state agency under the Executive department.

The Human Resources Division (HRD) requests agencies adopt this policy, as written, in compliance with Executive Order #442. This policy does not prohibit agencies from continuing more stringent policies that may currently be in effect, such as those implemented by public safety agencies. This policy is not intended to replace or supersede agency or department policies relative to the lawful use of force.

## **Definition of Workplace Violence**

For the purposes of this policy, “workplace” is defined as:

- Any Commonwealth owned or leased property;
- Any location where Commonwealth business is conducted;
- Commonwealth vehicles or private vehicles being used for Commonwealth business;
- In addition, workplace violence can occur at any location if the violence has resulted from an act or decision made during the course of conducting Commonwealth business.

Workplace violence includes but it not limited to the following:

- Physical assault and/or battery;
- Threats and/or acts of intimidation communicated by any means that cause an employee to be in fear of their own physical safety or that of a colleague;
- Disruptive or aggressive behavior that places a reasonable person in fear of physical harm and/or that causes a disruption of workplace productivity; and/or
- Property damage.

Violent behavior can include actions or communication in person, by letter or note, telephone, fax, or electronic mail. Incidents of workplace violence may be acted out individually or take place between employees, employees and clients/customers, employees and acquaintances/partners and employees and the general public.

## **Roles and Responsibilities:**

### **HRD shall:**

- Issue, update and advise agency personnel how to implement the statewide Workplace Violence Policy;
- Coordinate and deliver training to agency senior executive staff, managers, supervisors, and employees on the Commonwealth’s policy and workplace violence awareness, using curriculum developed by HRD’s Training and Development Group in coordination with the Executive Office of Public Safety;
- Disseminate informational materials for all employees, managers, and supervisors;
- Convene and conduct regular meetings of the HRD Critical Incident Workplace Safety Team comprised of senior managers representing HRD’s Office of Employee Relations, Legal, Executive, Civil Service, and Training and Development Group to respond to individual agency requests for assistance in specific workplace violence cases; and
- Designate a workplace violence coordinator to support the implementation of Executive Order #442.

### **Agency Heads shall:**

- Ensure that the Workplace Violence Policy is adopted and implemented;
- Ensure that each employee receives a copy of the Workplace Violence Policy;
- Foster a climate in which victims feel comfortable reporting incidents of workplace violence;
- Contact HRD’s Training and Development Group to arrange workplace violence awareness training targeting senior executive staff, managers, and supervisors and subsequently to all employees within the agency;
- Strongly encourage employees to report workplace violence behavior to the appropriate supervisors/managers;
- Ensure that managers appropriately document and swiftly investigate reports of workplace violence;

- When necessary, notify state/and or local police in response to serious incidents of workplace violence;
- Establish a Safety Incidence Team comprised of senior executive staff representing agency human resources, labor relations, security, training, and legal to devise and review policies, procedures and safety protocols, and to ensure consistent, coordinated responses to acts of workplace violence;
- Ensure written workplace protection plans are devised for employees who are victims of workplace violence; and implement any necessary workplace safety protocols designed to further protect employees from harm; and
- Provide the names of the designated workplace violence coordinator and the names of members of the safety incidence team to the Personnel Administrator.

**Employees shall:**

- Ensure that they do not participate in any form of workplace violence
- Cooperate in the investigation of alleged workplace violence; and
- Report behavior in the workplace they believe to be workplace violence to their supervisor, or the police when appropriate.

**Procedures for Investigation and Disciplining Perpetrator**

As stated above, the Commonwealth maintains a zero tolerance policy for workplace violence. All agencies are mandated to take all instances of workplace violence seriously. The following are guidelines for disciplining perpetrators:

- All agencies shall immediately report incidents of workplace violence that include physical assault and/or battery, and/or threats to do physical harm, to the appropriate law enforcement authorities;
- All investigations of workplace violence will be conducted in a manner that is sensitive to the safety concerns and privacy of the victim(s), the perpetrator, and all witnesses.
- Agencies must follow existing provisions in the collective bargaining agreements when disciplining perpetrators;
- Acts of workplace violence are among the most serious forms of misconduct and may result in discipline commensurate with the severity of the misconduct, including, but not limited to:
  - An oral reprimand;
  - A written reprimand to be placed in the perpetrator's personnel file;
  - Loss of accrued vacation time (where not prohibited by statute, regulation or collective bargaining agreement);
  - Suspension, demotion, or termination, or;
  - Any combination of the above.
- In the interim, between a charge and the final disposition of a workplace violence case, agency heads may take action to address employees' safety concerns. Depending on the severity of the charge, such action may include placing the alleged perpetrator on leave with or without pay.
- In addition to the measures mentioned above, disciplinary measures may include the successful completion of counseling, anger management education or other equivalent programs.

# **Sexual Assault and Domestic Violence Agency Policy:**

## **Policy**

The Commonwealth has a zero-tolerance policy for sexual assault, domestic violence, and stalking occurring within or outside the workplace. Effective immediately, it is the policy of the Commonwealth that all employees work in an environment free from all forms of sexual assault and domestic violence. Sexual assault and domestic violence undermine the integrity of the work place and the personal safety of the individual.

## **Authority**

Executive Order 491 establishes a zero tolerance policy for sexual assault, domestic violence **and stalking and requires state agencies to issue written policies and to provide copies of the policy** to all employees. The Executive Order applies to all individuals employed on a full-time or part- time basis by the Office of the Governor or any state agency under the Executive Department.

The Human Resources Division (HRD) is requesting agencies adopt this policy as written in order to comply with the Executive Order. This policy does not prevent agencies from adopting more stringent policies or continuing more stringent policies currently in effect, such as those implemented by public safety agencies.

## **Definition of Domestic Violence**

Chapter 209A of the Massachusetts General Laws defines domestic violence as a form of abuse among family or household members, which includes those individuals who are or have been involved in a substantive dating relationship. Abuse is defined as the occurrence of one or more of the following acts between family or household members:

- attempting to cause or causing physical harm; or
- placing another in fear of imminent serious physical harm; or
- causing another to engage involuntarily in sexual relations by force, threat of force, or duress.

### **Family or household members are persons who:**

- are or were married to one another;
- are or were residing together in the same household;
- are or were related by blood or marriage;
- have a child in common regardless of whether they have ever married or lived together; or
- are or have been in a substantive dating or engagement relationship.

Chapter 209A provides a victim protection from an abuser through the issuance of a restraining order. Such an order may order the abuser to refrain from abuse, to vacate the home, to comply with temporary custody and support orders, and/or to have no contact with the victim at all times. Although Chapter 209A orders are civil in nature, violations of certain provisions are criminal in nature for which arrest is mandatory.

For the purposes of initiating disciplinary action against an employee accused of abuse, there must be a judicial finding of probable cause that the employee committed an act of abuse against a family or household member. The employer may require an employee who is an abuser to accept reassignment to a different geographic location, if the employer determines that such reassignment will help better ensure the safety of the victim or others in the workplace. While maintaining confidentiality to the extent practicable, agencies are encouraged to consult with

appropriate legal staff, human resource/labor relations directors and/or domestic violence professionals for guidance in these matters.

### **Definition of Sexual Assault and Stalking**

“Sexual assault” includes any action causing another to engage in sexual relations by force, threat, or duress in violation of Chapter 209A or chapter 265 of the General Laws, or any other applicable law of the Commonwealth.

“Stalking” includes any pattern or series of acts, conduct or threats causing or intended to cause alarm or fear in violation of chapter 209A or chapter 265 of the General Laws, or any other applicable law of the Commonwealth.

The Commonwealth’s view of sexual assault, domestic violence, and stalking reflects, but is not limited to, the following considerations:

- A man as well as a woman may be the victim of sexual assault, domestic violence, or stalking, and a woman as well as a man may be the abuser.
- The victim does not have to be the opposite sex from the abuser.

### **Roles and Responsibilities:**

#### **The Human Resources Division shall:**

- Issue and update the statewide policy addressing sexual assault and stalking to all Agency Heads, Cabinet Secretaries, Human Resource Directors, and other designated Employers;
- Assist agency personnel in how to effectively implement the statewide Sexual Assault and Domestic Violence Policy;
- Through the Director of Domestic and Workplace Violence Prevention, provide and/or approve training curriculum and delivery initiatives developed by the Human Resources Division in conjunction with the Executive Office of Public Safety and Security to agencies on the Commonwealth’s policy and domestic violence and sexual assault awareness;
- Disseminate informational materials for all employees, managers and supervisors.

#### **Employers shall:**

- Ensure that the policy of Zero Tolerance for Sexual Assault and Domestic Violence is adopted and implemented;
- Review their existing personnel policies and procedures and to revise them as necessary to ensure they are responsive to the needs of victims;
- Forward a copy of their department policy to the Director of Domestic and Workplace Violence Prevention within the Human Resources Division;
- Designate an employee to coordinate the policy dissemination, training, and benefits provided through this policy.
- Ensure that each employee receives:
  - A copy of the Commonwealth’s policy and Executive Order No. 491.
  - Notification of any changes to the policy as soon as administratively possible.
  - Foster a climate in which victims can be comfortable disclosing abuse, including posting resource information where victims and abusers can go for assistance;
  - Strongly encourage employees to report behavior which occurs in the workplace which they believe to be domestic violence, sexual assault or stalking;
  - When appropriate, ensure written workplace safety plans are completed in response to reports of domestic violence, sexual assault, and stalking;



- When appropriate, while maintaining confidentiality to the extent practicable, work with victims in consultation with agency domestic violence coordinator(s), HR personnel, and/or Legal Counsel in addressing workplace safety and security plans that may impact victims and/or co-workers.
- Determine the nature of disciplinary action to be taken against employee abusers;
- After receiving approval from the Director of Workplace Violence Prevention, implement the Domestic Violence and Sexual Assault in the Workplace Prevention Training curriculum and delivery program developed by the Human Resources in coordination with the Executive Office of Public Safety.
- Respect the privacy of victims and preserve confidentiality at all times, to the extent possible, in dealing with situations involving sexual assault, domestic violence or stalking;
- When notified of a restraining order in effect, utilize all reasonable efforts to address the employee's concerns about safety and report any workplace violations of such order to the police.

**Employees shall:**

- Ensure that they do not participate in any form of domestic violence, sexual assault, or stalking either within or outside the workplace;
- Cooperate in the investigation of alleged domestic violence, sexual assault, and stalking by providing information they possess concerning such matters;
- Report behavior in the workplace which they believe to be sexual assault, domestic violence, or stalking to their supervisor, or the police when appropriate.

**Protection to domestic violence, sexual assault, and stalking victims**

The Commonwealth recognizes that victims of domestic violence, sexual assault, and stalking may suffer from physical, mental, emotional, and sexual abuse. In an effort to afford victims of domestic violence, sexual assault, and stalking the ability to protect themselves and their families, and to ensure the safety of all employees, the Commonwealth has established the following policies:

- An employee who is a victim of domestic violence, sexual assault or stalking or whose children are victims and the employee is not the abuser shall be entitled to up to fifteen (15) days of paid leave per calendar year for the purposes of counseling, obtaining medical treatment, attending legal proceedings, or carrying out other necessary activities resulting from domestic violence, sexual assault, or stalking.
- The fifteen (15) days of paid leave will not be charged to sick, vacation or personal leave accrual. Agencies should use time reporting code LWP "Leave with Pay" and to preserve confidentiality avoid entering any comments about this leave in HR/CMS time and attendance as comments can be found in the Information Warehouse)
- An employee who is a victim of sexual assault, domestic violence, or stalking and/or whose children are victims and the employee is not the abuser may be granted up to six (6) months of unpaid leave, where the employee requests such leave as a result of domestic violence, sexual assault or stalking. Leave accruals and insurance benefits shall be handled in the same way as is done for any other type of leave without pay. Upon the employee's return from leave, the agency shall restore the employee to the same position or to an equivalent position, with equivalent employment benefits, pay, and other terms and conditions of employment, provided that the employee has not been displaced from his/her position in the interim due to a reduction in force.

- Due to the emergency nature of leave requests, the employee may not be able to provide such documentation. However, when appropriate, agencies may request the following documentation:
  - A judicial finding of domestic violence, such as a 209A restraining order or pending criminal charges;
  - Signed letter from a district attorney's office, police department, or district, probate, or superior court;
- Signed affidavits from third parties having knowledge of the abuse.
- To the extent possible, all documentation submitted shall be kept in a secure and confidential manner so as to respect the employee's right to privacy. An employee may opt to have their name and job data withheld from being released to any parties as a result of a freedom of information act request (see Payroll Public Records Exemption Memo and Form)
- A victim of domestic violence, sexual assault, or stalking is strongly encouraged to notify his or her agency of the existence of a restraining order protecting the employee. Upon such notification, the agency shall make all reasonable efforts to enforce the restraining order in the workplace. Such efforts may include:
  - Notifying security personnel of the identity of the person against whom the order is issued (defendant);
  - Providing security personnel with a photograph or other identifying information, such as motor vehicle information;
- After notifying the employee, having the employee's calls screened;
- Moving the employee's workstation away from an unsecured entrance.
- If an agency becomes aware that an active restraining order protects an employee, the agency may offer that employee a reassignment to a different geographical location. Where the victim has requested reassignment, the agency shall give the request top priority.
- Agencies shall immediately notify the police if a violation of a restraining order occurs at the workplace.
- Agencies should provide the attached list of "domestic violence, sexual assault assistance programs", including the state-wide *Safe-Link Hotline emergency hotline number* to employees who are victims of domestic violence, sexual assault and/or stalking to assist them in finding available services.

### **Procedures for Investigating and Disciplining Abusers**

All agencies are mandated to take all instances of sexual assault, domestic violence, and stalking seriously. The following are guidelines for disciplining abusers:

- All agencies shall immediately report any incident of domestic violence, sexual assault or stalking that occurs in the workplace, including violation of 209A restraining orders, to the appropriate law enforcement authorities.
- Agencies must follow existing provisions in the collective bargaining agreements when disciplining abusers.
- Agencies are encouraged to consult with appropriate legal staff, human resource/labor relations directors and or domestic violence professionals for guidance in these matters.
- All investigations of domestic violence, sexual assault, or stalking policy violations within the workplace will be conducted in a manner to protect the confidentiality of the victim, the alleged abuser and all witnesses. All parties involved in the proceedings will be advised to maintain strict confidentiality.
- Acts of domestic violence, sexual assault, or stalking, regardless of where they occur, will not be tolerated and may result in discipline, including, but not limited to:

- An oral warning or reprimand;
  - A written warning or reprimand to be placed in a personnel file;
  - Required completion of a certified batterer intervention program;
  - Suspension or termination; or
  - Any combination of the above.
- Incidents of domestic violence, sexual assault, or stalking resulting in the conviction of a felony within the past five years, may be used as a factor in hiring determinations.
  - As with all other such actions, disciplinary actions taken against abusers become part of their work history and will be considered when selecting employees for promotion, new work assignments and other types of personnel actions.

***This policy is posted at:***

***<http://www.mass.gov/anf/docs/hrd/policies/prevention/domestic-violence-sexual-assault.doc>***

***References: Executive Order 491***

***[http://www.mass.gov/Agov3/docs/Executive%20Orders/executive\\_order\\_491.pdf](http://www.mass.gov/Agov3/docs/Executive%20Orders/executive_order_491.pdf)***

***Mass General Laws Chapter 209A***

***<http://www.malegislature.gov/Laws/GeneralLaws/PartII/TitleIII/Chapter209A>***

***Mass General Laws Chapter 265***

***<http://www.malegislature.gov/Laws/GeneralLaws/PartIV/TitleI/Chapter265>***

***Payroll Public Record Exemption Policy Memo***

***<http://www.mass.gov/anf/docs/hrd/policies/files/public-record-exemption-policy-memo.doc>***

***Payroll Public Records Exemption Form***

***<http://www.mass.gov/anf/docs/hrd/policies/files/payroll-public-exemption.doc>***

***Jane Doe – The Massachusetts Coalition Against Sexual Assault and Domestic Violence***

***[www.janedoe.org/](http://www.janedoe.org/)***

***SafeLink 1-877-785-2020***

***[http://www.casamyrna.org/index.php?option=com\\_content&view=article&id=29&Itemid=45](http://www.casamyrna.org/index.php?option=com_content&view=article&id=29&Itemid=45)***

***Massachusetts Department of Public Health - Certified Batterer Intervention Programs***

***[http://www.mass.gov/Eeohhs2/docs/dph/com\\_health/violence/bi\\_directory.rtf](http://www.mass.gov/Eeohhs2/docs/dph/com_health/violence/bi_directory.rtf)***

## **Agency Diversity Executive Order No. 526:**

WHEREAS, the Constitution of the Commonwealth of Massachusetts is based on a belief in freedom and equality for all individuals and in the duty of Government to safeguard and foster these rights;

WHEREAS, the Executive Branch of the Commonwealth of Massachusetts recognizes the importance of non-discrimination, diversity, and equal opportunity in all aspects of state employment, programs, and activities;

WHEREAS, creating a culture of inclusion that values and promotes diversity and equal opportunity for all individuals is the central objective of this Executive Order and the goal of my administration;

WHEREAS, while acknowledging the many efforts and accomplishments of the past, the Commonwealth can and must do more to ensure that non-discrimination, diversity and equal opportunity are safeguarded, promoted, and reflected in state workplaces, decisions, programs, activities, services, and contracts; NOW, THEREFORE, I, Deval L. Patrick, Governor of the Commonwealth of Massachusetts, by virtue of the authority vested in me by the Constitution, Part 2, c. 2, §I, Art. I, do hereby order as follows:

Section 1. This Executive Order shall apply to all state agencies in the Executive Branch. As used in this Order, "state agencies" shall include all executive offices, boards, commissions, agencies, departments, divisions, councils, bureaus, and offices, now existing and hereafter established.

Section 2. Non-discrimination, diversity, and equal opportunity shall be the policy of the Executive Branch of the Commonwealth of Massachusetts in all aspects of state employment, programs, services, activities, and decisions. Each executive officer and agency head serving under the Governor, and all state employees, shall take immediate, affirmative steps to ensure compliance with this policy and with applicable federal and state laws in connection with both the internal operations of state government as well as their external relations with the public, including those persons and organizations doing business with the Commonwealth. Each agency, in discharging its duties, shall consider the likely effects that its decisions, programs, services, and activities will have on achieving non-discrimination, diversity, and equal opportunity.

Section 3. All state agencies shall develop and implement affirmative action and diversity plans to identify and eliminate discriminatory barriers in the workplace; remedy the effects of past discriminatory practices; identify, recruit, hire, develop, promote, and retain employees who are members of under-represented groups; and ensure diversity and equal opportunity in all facets, terms, and conditions of state employment. Such plans shall set forth specific goals and timetables for achievement, shall comply with all applicable state and federal laws, and shall be updated, at a minimum, every two years.

Section 4. All programs, activities, and services provided, performed, licensed, chartered, funded, regulated, or contracted for by the state shall be conducted without unlawful discrimination based on race, color, age, gender, ethnicity, sexual orientation, gender identity or expression, religion, creed, ancestry, national origin, disability, veteran's status (including Vietnam-era veterans), or background. Equal opportunity and diversity shall be

protected and affirmatively promoted in all state, state-assisted, and state-regulated programs, activities, and services. Non-compliance shall subject violators to such disciplinary or remedial actions as permitted by law. This provision applies, but is not limited to, the use and operation of facilities owned, leased, funded or subject to control by the Commonwealth; the sale, lease, rental, financing, construction, or development of housing; state-licensed or chartered health care facilities, educational institutions, and businesses; education, counseling, and training programs; and public schools.

Section 5. All Executive Branch contracts entered into after the effective date of this Order shall contain provisions prohibiting contractors and subcontractors from engaging in discriminatory employment practices; certifying that they are in compliance with all applicable federal and state laws, rules, and regulations governing fair labor and employment practices; and committing to purchase supplies and services from certified minority or women-owned businesses, small businesses, or businesses owned by socially or economically disadvantaged persons or persons with disabilities. Such provisions shall be drafted in consultation with the Office of the Comptroller and the Operational Services Division, which shall develop and implement uniform language to be incorporated into all Executive Branch contracts. The provisions shall be enforced through the contracting agency, the Operational Services Division, and/or the Massachusetts Commission Against Discrimination. Any breach shall be regarded as a material breach of the contract that may subject the contractor to appropriate sanctions.

Section 6. All state agencies shall exclude from any forms requesting information any item or inquiry expressing or soliciting specifications as to race, color, creed, religion, national origin, ethnicity, gender, age, sexual orientation, gender identity or expression, or disability, unless the item or inquiry is expressly required by statute or is deemed by the Massachusetts Commission Against Discrimination, the Massachusetts Office on Disability, the Human Resources Division, or the Office of Diversity and Equal Opportunity to be a bona fide qualification or otherwise required in good faith for a proper purpose.

Section 7. The Office of Diversity and Equal Opportunity ("ODEO"), as presently established within the Human Resources Division of the Administration and Finance Secretariat, shall be responsible for ensuring compliance with this Executive Order and with all applicable state and federal laws. ODEO shall have a Director (the "Director") who shall be selected by and serve at the pleasure of the Governor. The Director shall report to the Commonwealth's Chief Human Resources Officer and submit periodic written reports to the Governor. The Director shall have the authority to:

- Establish guidelines for agency affirmative action and diversity plans ("plans");
- Review all such plans and either approve, return for amendment, or reject them;
- Establish periodic reporting requirements for agencies concerning the implementation of their plans and all actions taken to ensure compliance with this Executive Order and applicable state and federal laws;
- Provide assistance to agencies in achieving compliance with their plans and with applicable federal and state laws;
- Monitor and assess the status of agency compliance and investigate instances of non-compliance; and

- Where appropriate, determine and impose remedial courses of action, including the potential imposition of a freeze on all personnel requisitions and appointment forms submitted by any non-compliant agency to the Chief Human Resources Officer.

Section 8. Each Secretariat shall appoint a Diversity Director. Each agency shall appoint a Diversity Officer. Diversity Directors and Officers shall have a direct reporting relationship to their Secretary or Agency head; shall also report to the Director of ODEO; and shall coordinate their component's compliance with the requirements of this Order and applicable federal and state laws. Through the Diversity Directors and Officers, and in compliance with the reporting guidelines and requirements established by ODEO, all state agencies shall submit periodic reports to the Director of ODEO concerning the status and implementation of their affirmative action and diversity plans.

Section 9. The Massachusetts Office on Disability ("MOD"), through its Director, shall be responsible for advising, overseeing and coordinating compliance with federal and state laws protecting the rights of persons with disabilities, including but not limited to the Americans with Disabilities Act ("ADA"), 42 U.S.C. §§12131-12134; Section 504 ("504") of the Rehabilitation Act of 1973, 29 U.S.C. § 794; Article CXIV of the Massachusetts Constitution; and Chapter 6, §§ 185-87; Chapter 93, § 103; Chapter 151B; and Chapter 272, §§ 92, 98, and 98A of the Massachusetts General Laws. MOD shall serve as the Executive Branch's designated ADA and Rehabilitation Act Coordinator, and shall provide information, training, and technical assistance and promulgate guidelines reflecting best practices, policies and procedures concerning persons with disabilities. Each agency shall appoint an ADA/504 Coordinator who shall report directly to the agency head and work with MOD concerning issues involving persons with disabilities. Notification of such appointment shall be made to MOD's Director.

Section 10. Pursuant to guidelines established by ODEO and MOD, all agency heads, managers, supervisors, and employees shall attend mandatory diversity training within one year of the effective date of this Order. For future hires, such training shall be part of the standardized orientation provided to new employees.

Section 11. ODEO and MOD shall promulgate guidelines establishing a complaint resolution process for individuals who allege non-compliance by state agencies with applicable federal and state laws prohibiting discrimination. In instances where this process does not resolve the complaint, the Director of ODEO may refer to the Massachusetts Commission Against Discrimination ("MCAD") or to MOD any information concerning conduct that the Director believes may constitute a violation of the law. The MCAD shall initiate investigations and, where necessary; file complaints against those agencies and persons whom it has reason to believe are in violation of the laws of the Commonwealth or the United States.

Section 12. In performing their responsibilities under this Order, ODEO, MOD, and the MCAD shall have the full cooperation of all state agencies, including compliance with all requests for information.

Section 13. The Governor's Non-discrimination, Diversity and Equal Opportunity Advisory Council ("Advisory Council") is hereby established to advise the Governor concerning

policies, practices, and specific actions that the Commonwealth should implement to ensure that the objectives of this Executive Order are accomplished.

13.1 The Advisory Council shall consist of fifteen persons, including a Chair, each of whom shall be appointed by the Governor. All members shall serve without compensation at the pleasure of the Governor in a solely advisory capacity.

13.2 The Advisory Council's work shall include, but need not be limited to, making written recommendations to the Governor concerning actions, policies, and practices that the Commonwealth should implement to ensure that the objectives of this Executive Order are accomplished.

13.3 The Advisory Council shall meet at such times and places as determined by the Chair and shall submit an initial report containing its written recommendations to the Governor no later than 60 days following the appointment of the Council's 15 members. Thereafter, the Advisory Council shall meet at least semi-annually and submit supplemental reports to the Governor no less than once per year.

Section 14. Nothing in this Executive Order shall be construed to preclude or otherwise limit the continuation or implementation of any lawful affirmative action programs or other programs that support the objectives of this Executive Order.

Section 15. This Executive Order shall take effect immediately and shall continue in effect until amended, superseded or revoked by subsequent Executive Order.

## **Commonwealth of Massachusetts Sexual Harassment Policy:**

### **I. Introduction**

It is the goal of the Commonwealth of Massachusetts to promote a workplace that is free of sexual harassment. Sexual harassment of employees occurring in the workplace or in other settings related to their employment is unlawful and will not be tolerated by the Commonwealth. Further, any retaliation against an individual who has complained about sexual harassment or retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is similarly unlawful and will not be tolerated. To achieve our goal of providing a workplace free from sexual harassment, the conduct that is described in this policy will not be tolerated and we have provided a procedure by which inappropriate conduct will be dealt with, if encountered by employees.

Because the Commonwealth of Massachusetts takes allegations of sexual harassment seriously, we will respond promptly to complaints of sexual harassment and where it is determined that such inappropriate conduct has occurred, we will act promptly to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate.

Please note that while this policy sets forth our goals of promoting a workplace that is free of sexual harassment, the policy is not designed or intended to limit our authority to discipline or take remedial action for workplace conduct which we deem unacceptable, regardless of whether that conduct satisfies the definition of sexual harassment.

### **II. Definition Of Sexual Harassment**

In Massachusetts, "sexual harassment" means sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature when:

(a) submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions; or,

(b) such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment.

Under these definitions, direct or implied requests by a supervisor for sexual favors in exchange for actual or promised job benefits such as favorable reviews, salary increases, promotions, increased benefits, or continued employment constitutes sexual harassment.

The legal definition of sexual harassment is broad and in addition to the above examples, other sexually oriented conduct, whether it is intended or not, that is unwelcome and has the effect of creating a work place environment that is hostile, offensive, intimidating, or humiliating to male or female workers may also constitute sexual harassment.

While it is not possible to list all those additional circumstances that may constitute sexual harassment, the following are some examples of conduct, which if unwelcome, may constitute sexual harassment depending upon the totality of the circumstances including the severity of the conduct and its pervasiveness:

\*Unwelcome sexual advances -- whether they involve physical touching or not;

\*Sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life; comment on an individual's body, comment about an individual's sexual activity, deficiencies, or prowess;

\*Displaying sexually suggestive objects, pictures, cartoons;

\*Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments;

\*Inquiries into one's sexual experiences; and,

\*Discussion of one's sexual activities.

The complainant does not have to be the person at whom the unwelcome sexual conduct is directed. The complainant, regardless of gender, may be a witness to and personally offended by such conduct. The harasser may be anyone including a supervisor, a co-worker, or a non-employee, such as a recipient of public services or a vendor.

All employees should take special note that, as stated above, retaliation against an individual who has complained about sexual harassment, and retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is unlawful and will not be tolerated by the Commonwealth of Massachusetts.

### **III. Complaints of Sexual Harassment**



If any Commonwealth employee believes that he/she has been subjected to sexual harassment, the employee has the right to file a complaint. This may be done in writing or orally.

If you would like to file a complaint you may do so by contacting your agency's Sexual Harassment Officer. The Sexual Harassment Officer is also available to discuss any concerns you may have and to provide information to you about the Commonwealth's policy on sexual harassment and the Commonwealth's complaint process. The procedures for reporting sexual harassment can be located on the HRD website at or by contacting the Human Resources Division.

#### **IV. Sexual Harassment Investigation**

When a state agency receives a complaint it will promptly investigate the allegation in a fair and expeditious manner. The investigation will be conducted by the Sexual Harassment Officer in such a way as to maintain confidentiality to the extent practicable under the circumstances. The investigation will include a private interview with the person filing the complaint and with witnesses. The Sexual Harassment Officer will also interview the person alleged to have committed sexual harassment. When the investigation is completed, the agency will, to the extent appropriate, inform the person filing the complaint and the person alleged to have committed the conduct of the results of that investigation.

If it is determined that inappropriate conduct has occurred, the state agency will act promptly to eliminate the offending conduct, and where it is appropriate will impose disciplinary action.

#### **V. Disciplinary Action**

If it is determined that an employee has engaged in inappropriate conduct, the state agency will take such action as is appropriate under the circumstances. Such action may range from counseling to termination from employment, and may include such other forms of disciplinary action deemed appropriate under the circumstances.

#### **VI. State and Federal Remedies**

In addition to the above, if you believe you have been subjected to sexual harassment, you may file a formal complaint with either or both of the government agencies set forth below. Using our complaint process does not prohibit you from filing a complaint with these agencies. Each of the agencies has a short time period for filing a claim (EEOC - 300 days; MCAD - 300 days).

1. The United States Equal Employment Opportunity Commission ("EEOC") One Congress Street, 10th Floor Boston, MA 02114, (617) 565-3200.
2. The Massachusetts Commission Against Discrimination ("MCAD") Boston Office: One Ashburton Place, Rm. 601, Boston, MA 02108, (617) 994-6000. Springfield Office: 424 Dwight Street, Rm. 220, Springfield, MA 01103, (413) 739-2145.

#### **VII. Employee Acknowledgement of the Sexual Harassment Prevention Policy:**

By signing below, I acknowledge that I have read, understand, and agree to abide by the provisions set forth in the Commonwealth of Massachusetts Sexual Harassment Prevention Policy.

\_\_\_\_\_

Print Name

\_\_\_\_\_

Signature

\_\_\_\_\_

Date

*I acknowledge that the MPTC, in keeping with standards in training, has the right and responsibility to amend instructor training standards as necessary. I also acknowledge that I have read all the policies and procedures above and understand that if I have questions or concerns, I am obligated to clarify them with the MPTC Director of Training. I further understand that my failure to comply by all of the laws, regulations, policies, and procedures of the Commonwealth of Massachusetts and the MPTC can be cause for disciplinary action up to and including revoking my instructor certification and immediate termination of my state fiscal contract.*

X \_\_\_\_\_

Instructor Signature

\_\_\_\_\_

Date

X \_\_\_\_\_

Instructor Name Printed