SEXUAL HARASSMENT INVESTIGATIONS AND COMPLAINT PROCEDURES FOR EXECUTIVE BRANCH AGENCIES

Issued by the Human Resources Division
Commonwealth of Massachusetts

All complaints of sexual harassment (written or oral) will be promptly investigated in a fair and expeditious manner, even in cases where the employee asks that the complaint not be investigated. The Sexual Harassment Officer will conduct the investigation in such a way as to maintain the privacy of those involved to the extent practicable under the circumstances. Employers should inform complainants that they have a legal duty to investigate allegations of sexual harassment, and that, while the matter will be kept as confidential as possible, it may not be possible to withhold the complainant’s identity from the alleged harasser. Investigations will include a private interview with the complainant and with any witnesses. In addition, the investigation may include a review of any documents, journals, recordings, voicemails, e-mails or other items that may be relevant to the allegations of harassment.

The Sexual Harassment Officer will also interview the person alleged to have committed sexual harassment. In all interviews, parties will be given a copy of the Commonwealth’s policy, and will be given an opportunity to discuss the complaint procedure. The Sexual Harassment Officer will document all interviews, collect evidence and maintain an investigation file.

Upon the conclusion of the investigation, the agency will notify both the complainant and the person alleged to have committed the harassment, of the results of the investigation.

The Sexual Harassment Officer will make a determination as soon as possible following the investigation of a complaint. The Sexual Harassment Officer will draft a full report outlining the following:

- The complainant’s allegations of harassment, including a record of the date of the report and date of occurrence(s);
- The response of the alleged harasser to the complaint
- The details of the investigation, including all witness statements
- Supporting documentation
- Finding and recommended resolution

The finding of the Sexual Harassment Officer does not in any way affect the complainant’s right to pursue a sexual harassment complaint with any appropriate state or federal authority.

Possible determinations include, but are not limited to: a substantiated complaint, an unsubstantiated complaint, or a knowingly false claim.

Disciplinary and Remedial Actions

When the investigator concludes that sexual harassment has occurred, the agency must take prompt remedial action designed to end the harassment and prevent future harassment.

Remedial actions may consist of the following:

- Promptly halting an ongoing harassment.

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• Taking prompt, appropriate disciplinary action against the harasser.

• Taking effective actions to prevent the recurrence of harassment, including conducting sexual harassment prevention training.

The Agency Head will impose discipline where appropriate, and consistent with existing policies and collective bargaining agreements. If either party to the complaint is an Agency Head, the complaint may be reviewed by HRD in order to determine appropriate disciplinary action or case resolution.

Any employee who engages in behavior which constitutes a violation of this policy may be subject to remedial or disciplinary action ranging from mandatory training and counseling, up to, and including, termination from employment.

Roles and Responsibilities

The Human Resources Division:

▪ Annually review, reissue, update, and ensure implementation of the statewide Sexual Harassment Policy.

▪ Coordinate training for Sexual Harassment Officers, assess and respond to agency training needs on a regular basis.

▪ Provide policy and case consultation to Agency Heads to ensure the appropriate implementation of the Sexual Harassment Prevention statewide policy.

▪ Determine appropriate disciplinary or remedial action in cases involving Agency Heads.

Agency/Department Heads:

▪ Designate employees in their agency to function as Sexual Harassment Officers.

▪ Ensure that all Sexual Harassment Officers receive training either through the Massachusetts Commission Against Discrimination or its designated published list of vendors, or through the Human Resources Division.

▪ Ensure that the procedures for receiving, investigating, and resolving allegations of sexual harassment are adopted and implemented.

▪ Ensure that each employee receives the Commonwealth's policy on a yearly basis, the name and telephone number of the agency's Sexual Harassment Officers, and notification to employees of any changes to the above, as soon as possible.

▪ Ensure new employees receive a copy of policy and that policy is posted in a conspicuous area in the workplace.

Sexual Harassment Officers:

▪ Publicize their availability to all agency employees and maintain and accessible office.

▪ Attend training offered by HRD, and/or the Massachusetts Commission Against Discrimination.

▪ Receive and investigate reports of alleged sexual harassment in a confidential and expeditious manner and make recommendations to Agency Heads.

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Maintain accurate and current written records of reports of sexual harassment and their disposition.

**Employees:**

- Ensure that his or her conduct does not involve any form of sexual harassment, and does not sexually harass any applicant for employment, recipient of public services, or any other person in the workplace.
- Promptly report any/all behavior he/she believes to be sexual harassment. Every employee has the right to file a complaint, either orally or in writing, with the agency/department.
- Cooperate with any investigation of alleged harassment by providing any/all information requested by the department concerning the matter under investigation.
- Actively support and participate in the Department’s efforts to prevent sexual harassment.

**Managers and Supervisors:**

- Managers and supervisors have a responsibility to act promptly and affirmatively when they observe behavior that violates this policy and/or when they receive complaints of sexual harassment. Managers and supervisors are encouraged to seek information and guidance from the Sexual Harassment Officers. In addition, managers and supervisors are required to immediately report any sexual harassment complaint received, whether written or oral, to a designated Sexual Harassment Officer.

**Procedures for Maintaining Records of Complaints**

- The Sexual Harassment Officer will keep a complete record of all complaints, their supporting documentation and their resolution in files separate from official personnel files.
- The Sexual Harassment Officers should be prepared to advise employees on their rights to access any of the above complaint procedures.

A list of Sexual Harassment Officers is available at [https://www.mass.gov/guides/sexual-harassment-officers-list](https://www.mass.gov/guides/sexual-harassment-officers-list).

For questions about the policy or complaint, please contact:

Melissa Thomson  
HRD Legal  
One Ashburton Place, 2nd floor  
Boston, MA 02108  
(617) 878-9888

For questions about Training, please contact:  
Hrdtraining@massmail.state.ma.us