

MAINE STATE GOVERNMENT POLICY AGAINST HARASSMENT

I. Policy Statement

The State of Maine recognizes the dignity of the individual employee and the right of employees to work in an environment which is free of intimidation and harassment. Such intimidation or harassment based on a person's protected class or protected activity is a violation of State policy and constitutes illegal employment discrimination. Because such harassment seriously undermines the integrity of the workplace and adversely affects employee morale, it is unacceptable and will not be tolerated by the State of Maine. In addition, it is considered ***grounds for disciplinary action up to and including discharge***.

II. Definition of Protected Class and Protected Activity

A protected class refers to a group of individuals protected by anti-discrimination laws based on certain characteristics. A protected class includes people who belong to the protected class, are perceived as belonging to the protected class, or have a known relationship or association with a member of a protected class. Protected classes include race, color, sex, sexual orientation, gender identity, physical or mental disability, religion, age, ancestry, national origin, familial status, genetic information, and marital status. Likewise, traits that are associated with protected class status, such as natural hair textures, Afro styles, protective hair styles (such as braids, twists, and locks), head coverings, and protected class-related body modifications are also included as part of a person's protected class.

Protected activity is activity that an employee may engage in without fear of discrimination or retaliation from their employer or its agents. Protected activity includes whistleblower activity, previous assertion of a claim or right under the Maine Workers' Compensation Act, and receiving an order of protection from abuse under Title 19-A, Section 4007 of the Maine Revised Statutes.

III. Definition of Harassment

Harassment includes verbal or physical conduct related to a protected class or protected activity directed at a person because of that status when:

- A. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's access to employment or any of the terms, conditions, or privileges of employment;
- B. Submission to or rejection of such conduct by an individual is used as the basis

for an individual's access to employment or any of the terms, conditions, or benefits of employment;

C. Such conduct has the purpose or effect of unreasonably interfering with an individual's access to employment or any of the terms, conditions, or benefits of employment, or creating an intimidating, hostile, or offensive environment in those settings; or

D. Such conduct constitutes an assault, as defined by Title 17-A M.R.S. § 207.

IV. Unprofessional Behavior Prohibited

As a matter of State policy, any conduct that degrades, ridicules or otherwise draws unwanted attention to any employee or other person having dealings with any State agency or department on the basis of their protected class or protected activity is considered unprofessional regardless of whether it constitutes unlawful harassment.

Such unprofessional conduct includes any behavior of a sexual nature and will not be tolerated in the workplace because it undermines morale, interferes with performance and demeans the persons affected by the conduct. Disciplinary action, up to and including termination, may result regardless of whether the recipient finds the conduct offensive. Each employee is personally responsible for compliance with this policy.

V. Examples of Harassment

Workplace harassment can take many forms, and it does not always look the same. This section helps identify the various ways that workplace harassment can manifest. Workplace harassment can include:

- Unwelcome advances, gestures, comments, or contact (See Section VI below);
- Name calling, insults, or putdowns;
- Physical assaults, threats, or intimidation;
- Offensive jokes, objects, or pictures;
- Subjecting employees to ridicule, slurs, or derogatory actions;
- Basing employment decisions or practices on submission to such harassment;
- Refusal to cooperate with employees in performing work assignments;

- Inequitable disciplinary actions and/or work assignments; or
- Digital harassment such as posting threats or demeaning comments on social media, creating a fake persona to harass someone online, creating a webpage to mock and belittle a person, and/or making false allegations online.

Under this policy, harassment may be a series of incidents or a single occurrence. The harasser may be the employee's supervisor, a supervisor in another area, an agent of the employer, a co-worker, or a non-employee. The individual offended does not have to be the person harassed but can be anyone affected by the offensive conduct.

VI. Definition and Examples of Sexual Harassment

Sexual harassment is a category of workplace harassment and is illegal. It is defined in the Maine Human Rights Commission's Regulations as follows:

"Harassment on the basis of sex is a violation of [Section 4572 of the Act](#). Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when:

- a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- b. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- c. Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment."

Examples of sexual harassment include: behavior that is **verbal** and sexual in nature – such as comments about a person's looks, personal inquiries, sexual jokes; use of derogatory sexual stereotypes; uttering sexually suggestive sounds; writing sexual notes; use of State computer equipment to send, receive, and/or download material of a sexual nature; **non-verbal** sexual behavior – such as looking someone up and down, staring or leering at someone's body, deliberate blocking of a person's path, displaying sexual visuals, and making sexual gestures; or **physical sexual behavior** – such as pinching, patting, grabbing, sexual assault, or any physical contact of a sexual nature.

VII. Retaliation

Any form of retaliatory action or threat or suggestion of retaliation by either employees or supervisors against any person filing a complaint under this policy or assisting in an investigation is a violation of State policy and a violation of the Maine Human Rights Act. See [subsection 10, paragraph D](#).

Any discriminatory action against any individual because the individual has opposed a practice that would be a violation of the Maine Human Rights Act, Title VII of the Civil Rights Act, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act of 2008, or the Age Discrimination in Employment Act, or because the individual has made a charge, testified, or assisted in any investigation, proceeding, or hearing under the Maine Human Rights Act, Title VII of the Civil Rights Act, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act of 2008, or the Age Discrimination in Employment Act is illegal.

A complainant and any witnesses are protected from retaliation regardless of the merits of the original complaint. Retaliation should be reported in the same manner as described below for complaints of harassment and will be promptly investigated. ***Such retaliatory conduct may be grounds for disciplinary action up to and including discharge.***

VIII. Supervisory Responsibilities

As part of their supervisory responsibilities, supervisors are required to actively prevent or stop inappropriate, unprofessional conduct in the workplace regardless of whether the conduct rises to the level of illegal harassment. Therefore, if they become aware of any such conduct occurring through personal observation or information from another party, they must consult with the Department's EEO Coordinator and take immediate and appropriate corrective action as advised, including discipline, to end the conduct.

Corrective action is required regardless of whether a complaint is made, or the conduct appears to be unwelcome. Even if the person providing information requests that no action be taken, the supervisor must contact the departmental EEO Coordinator.

Managers and supervisors who fail to fulfill their obligations under this policy will be subject to disciplinary action, up to and including discharge.

IX. Applicability

This policy applies to: co-workers and supervisors; outside parties having

dealings with the department (i.e., customers, vendors, contractors); interactions between individuals of the same protected class; interactions in the workplace during work hours; outside activities related to the workplace (i.e., parties, trips, conferences); and activities unrelated to the workplace that have a nexus to employment.

X. Complaint Procedure

All complaints made for alleged violations of this Policy shall be made in accordance with the State of Maine's Equal Employment Opportunity Complaint Policy.

XI. Effective Date

This Policy is effective August 1, 2023