

WORKPLACE HARASSMENT

Application: Full-time and part-time classified, "at will" and hourly employees.

POLICY

It is the policy of the Commonwealth to provide its employees with a workplace free from harassment and/or retaliation against employees who either complain of harassment or aide in the investigation of such a complaint.

PURPOSE

To educate employees in the recognition and prevention of illegal workplace harassment and to provide an effective means of eliminating such harassment from the workplace.

AUTHORITY

The Director of the Department of Human Resource Management (DHRM) issues this policy and is responsible for the official interpretation of this policy pursuant to the authority provided in § 2.2-1201 of the Code of Virginia. DHRM reserves the right to revise or eliminate this policy as necessary.

Agencies may supplement this policy to accommodate specific business needs. Supplemental policies must be consistent with the provisions of DHRM policy and must be communicated to all agency employees.

RELATED POLICIES

Policy 1.60, Standards of Conduct
Policy 1.80, Workplace Violence
Policy 2.05, Equal Employment Opportunity

ADMINISTRATIVE PROCEDURES

WORKPLACE HARASSMENT

A. Prohibited Conduct

1. Harassment

The Commonwealth strictly forbids harassment of any employee, applicant for employment, vendor, contractor or volunteer on the basis of an individual's race, sex, color, national origin, religion, age, veteran status, political affiliation or disability.

2. Retaliation

The Commonwealth will not tolerate any form of retaliation directed against an employee or third party who either complains about harassment or who participates in any investigation concerning harassment.

B. Harassment Complaint Procedure

Employees and third parties should report incidents of workplace harassment as soon as possible after the incident occurs.

Employees and applicants for employment seeking to remedy workplace harassment may file a complaint with the agency human resource director, the agency head, their supervisor(s), or any individual(s) designated by the agency to receive such reports.

Under no circumstances shall the individual alleging harassment be required to file a complaint with the alleged harasser.

1. State Complaint Procedure

The employee or applicant may follow the Commonwealth Employees' Discrimination Complaint Procedure, which is administered by the Office of Equal Employment Services within the Department of Human Resource Management.

2. Grievance Procedure

Eligible employees also may use the State Employee Grievance Procedure, which is administered by the Department of Employment Dispute Resolution, to address harassment.

3. Federal Complaint Process

Employees (and applicants for Commonwealth employment) also may file a complaint with the federal Equal Employment Opportunity Commission

4. Assurance Against Retaliation

Employees and third parties who make complaints of workplace harassment or provide information related to such complaints will be protected against retaliation. If retaliation occurs, the complainant(s) should report the retaliation through the harassment complaint procedure

C. Policy Violations

1. Engaging In Harassment

Any employee who engages in conduct determined to be harassment or encourages such conduct by others shall be subject to corrective action, up to and including termination, under Policy 1.60, Standards of Conduct.

2. Allowing Harassment to Continue

Managers and/or supervisors who allow workplace harassment to continue or fail to take appropriate corrective action upon becoming aware of the harassment may be considered parties to the offense, even though they may not have engaged in the harassment behavior.

3. Failure to Respond

Managers and/or supervisors who allow workplace harassment to continue or who fail to take appropriate action should be subject to disciplinary action, including demotion or termination, under Policy 1.60, Standards of Conduct.,.

D. Agency Responsibilities

Agencies must communicate this policy to employees and third parties.

Communication must include:

- educating employees about the types of behavior that can be considered workplace harassment, and
- explaining procedures established for filing workplace harassment complaints.

Agency managers and supervisors are required to:

- stop any workplace harassment of which they are aware, whether or not a complaint has been made;
- express strong disapproval of all forms of workplace harassment;
- intervene when they observe any acts that may be considered workplace harassment;
- take immediate action to prevent retaliation towards the complaining party or any participant in an investigation; and
- take immediate action to eliminate any hostile work environment where there has been a complaint of workplace harassment.

GLOSSARY

Retaliation

Overt or covert acts of reprisal, interference, restraint, penalty, discrimination, intimidation, or harassment against an individual or group exercising rights under this policy.

Sexual Harassment

Any unwelcome sexual advance, request for sexual favors, or verbal, written or physical conduct of a sexual nature by a manager, supervisor, co-workers or non-employee (third party).

- **Quid pro quo** – A form of sexual harassment when a manager/supervisor or a person of authority gives or withholds a work-related benefit in exchange for sexual favors. Typically, the harasser requires sexual favors from the victim, either rewarding or punishing the victim in some way.
- **Hostile environment** – A form of sexual harassment when a victim is subjected to unwelcome and severe or pervasive repeated sexual comments, innuendoes, touching, or other conduct of a sexual nature which creates an intimidating or offensive place for employees to work.

Third Parties

Individuals who are not state employees, but who have business interactions with state employees. Such individuals include, but are not limited to:

- customers, including applicants for state employment or services;
- vendors;
- contractors; or
- volunteers.

Workplace Harassment

Any unwelcome verbal, written or physical conduct that either denigrates or shows hostility or aversion towards a person on the basis of race, sex, color, national origin, religion, age, veteran status, political affiliation, or disability, that: (1) has the purpose or effect of creating an intimidating, hostile or offensive work environment; (2) has the purpose or effect of unreasonably interfering with an employee's work performance; or (3) affects an employee's employment opportunities or compensation.