

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 race or color, sex, sexual orientation, gender identity, physical or mental disability, genetic information, religion, age, ancestry or national origin, whistleblower activity, or previous assertion of a claim or right under the Maine Workers' Compensation Act is a violation of State policy and constitute illegal employment discrimination. Discrimination on the basis of marital status is a violation of State policy.

Because such harassment seriously undermines the integrity of the workplace and adversely affects employee morale, it is unacceptable and will not be tolerated. In addition, it is considered *grounds for disciplinary action up to and including discharge*.

II. 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 the department on the basis of race or color, sex, sexual orientation, gender identity, physical or mental disability, genetic information, religion, age, ancestry or national origin, whistleblower activity, previous assertion of a claim or right under the Maine Workers' Compensation Act, or marital status 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 its victims. Disciplinary action may result regardless of whether the recipient finds the conduct offensive. Each employee is personally responsible for compliance with this policy.

III. Examples of Harassment

The following is a non-extensive listing of examples of harassment related to the protected categories of race or color, sex, sexual orientation, gender identity, physical or mental disability, genetic information, religion, age, ancestry or national origin, whistleblower activity or previous assertion of a claim or right under the Maine Workers' Compensation Act. Harassment may be a series of incidents or a single occurrence.

- Unwelcome advances, gestures, comments, or contact;
- Threats;
- Offensive jokes;
- 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 work assignments.

IV. Definition and Examples of Sexual Harassment

Sexual harassment is illegal. It is defined in the Maine Human Rights Regulations as follows:

Harassment on the basis of protected class is a violation of [Section 4572 of the Act](#). Unwelcome advances because of protected class (e.g., sexual advances or requests for sexual favors), comments, jokes, acts and other verbal or physical conduct related to protected class (e.g., of a sexual, racial, or religious nature) or directed toward a person because of protected class constitute unlawful harassment when:

- A. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or union membership;
- B. Submission to or rejection of such conduct by an individual is used as the basis for employment or union membership decisions affecting such individual; or
- C. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working or union 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; making sexual gestures; or **physical** – such as pinching, patting, grabbing, sexual assault or any physical contact of a sexual nature.

V. 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 at: <https://www.mainelegislature.org/legis/statutes/5/title5sec4553.html>

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, 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, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act of 2008 or the Age Discrimination in Employment Act is illegal.

A complainant is 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 will be grounds for disciplinary action up to and including discharge.***

VI. 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.

Supervisors who become personally involved with a subordinate are required to report the relationship to their supervisors so that a change in reporting structure can be considered.

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

VII. 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 sex as well as of the opposite sex; interactions in the workplace during work hours; and outside activities related to the workplace (i.e., parties, trips, conferences).

VIII. Internal Complaint Process

The State of Maine is committed to preventing harassment prohibited by this policy through education and dissemination of information as well as employee accountability. Such harassment may be reported by any employee, regardless of whether that employee is the recipient of the harassment, a witness or otherwise becomes aware of harassment prohibited by this policy.

Each State agency has an EEO Designee within their [human resources unit](#) who is responsible for handling complaints and providing technical assistance to staff regarding these issues. Laurel Shippee, the State EEO Director in the Bureau of Human Resources, and Jodie Craig, Assistant State EEO Director, are also available as a resource to any state employee or supervisor. Laurel may be reached at (207) 287-4651 or (TTY) 711 or Laurel.J.Shippee@Maine.gov. Jodie may be reached at (207) 287-4652 or (TTY) 711 or Jodie.Craig@Maine.gov.

Internal complaints may be filed by contacting any of the following individuals:

- Immediate supervisor or any supervisor/manager in the chain of command
- Departmental EEO Designee, Human Resources Director or any human resources professional assigned to your agency
- State EEO Director

Although every attempt will be made to resolve complaints at the lowest possible level, if an investigation is warranted, it will be conducted promptly and with as much confidentiality as possible, respecting the rights of all parties involved. All employees are expected to cooperate in any departmental investigation of harassment.

IX. External Complaint Processes

In addition to initiating the internal complaint procedure, employees covered by collective bargaining agreements may file a grievance through the applicable grievance procedure.

A discrimination complaint alleging illegal harassment on the basis of race or color, sex, sexual orientation, gender identity, physical or mental disability, genetic information, religion, age, ancestry or national origin, whistleblower activity or previous assertion of a claim or right under the Maine Workers' Compensation Act may also be submitted to the Maine Human Rights Commission at any time within 300 days of the alleged discriminatory incident. They can be contacted at 207-624-6290. For information of legal recourse and complaint process available through the Commission, see: <https://www.maine.gov/mhrc/file> In instances where the prior workers' compensation claim or right is made against the State of Maine, the complaint may be submitted to the Maine Workers' Compensation Board. They can be contacted at 207-287-3751.

It is not required that any of the above procedures be utilized first or in any sequence, nor is it required that any procedure be exhausted before the other is used.