

DEPARTMENT OF
DEFENSE, VETERANS AND EMERGENCY MANAGEMENT
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(207) 430-6000

Inter-Departmental Memorandum

March 1, 2013

TO: All Defense, Veterans and Emergency Management Employees

FROM: Brigadier General James D. Campbell, Commissioner/Adjutant General

SUBJECT: DVEM Policy 13-02, Policy Statement Against Harassment

1. This memorandum of policy is effective immediately and remains in effect until renewed or revoked.

2. General Policy Statement

The State of Maine recognizes the dignity of the individual employee and the right of employees to work in an environment that is free of intimidation and harassment. Such intimidation or harassment based on sex, race, color, religion, national origin, age, marital status, physical or mental disability, or sexual orientation is a violation of State policy. Harassment based on sex, race, color, religion, national origin, age, physical or mental disability or sexual orientation also constitutes illegal employment discrimination. Because harassment on the basis of sex, race, color, religion, national origin, age, marital status, physical or mental disability, or sexual orientation seriously undermines the integrity of the work place 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.

Examples of harassment related to race, color, sex, national origin, age, religion, marital status, physical or mental disability or sexual orientation include the following, which may be a series of incidents or a single occurrence:

- Unwelcome sexual 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.

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Harassment based upon race, color, sex, national origin, age, marital status, religion, physical or mental disability or sexual orientation is unprofessional and cannot be tolerated in the work place. Managers and supervisors must take prompt action to eliminate such harassment, because it undermines morale and interferes with performance, as well as demeans its victims. Lack of corrective action by managers and supervisors may be perceived by the victims as condoning such harassment. Corrective action is required regardless of whether the victim makes a formal complaint. Appropriate disciplinary procedures should be utilized in resolving incidents of such harassment.

3. Policy Prohibiting Sexual Harassment

"Sexual harassment" is defined as unwelcome sexual conduct that is a term or condition of employment. Unwelcome sexual conduct is sexual harassment when submission to such conduct is expressly or implicitly made a term or condition of employment.

"Quid pro quo" harassment occurs when submission or rejection of such conduct is used as the basis for employment decisions affecting an individual, *such as promotions in exchange for sexual favors, or an unfavorable change of duties in response to rejected sexual advances.*

"Hostile Work Environment." Unwelcome sexual conduct which unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive working environment also constitutes illegal sexual harassment. Conduct which is not sexual in nature may still create a sexually hostile work environment if it is based on the victim's gender. Such conduct may include excluding or isolating employees, tampering with belongings or equipment, or physical or verbal abuse based on gender.

As a matter of State policy, any behavior of a sexual nature in the workplace is considered unprofessional regardless of whether it constitutes illegal sexual harassment. Public service demands of each of us the highest standards of honesty, impartiality, and conduct in the performance of our duties. Each employee, therefore, is personally responsible for compliance with this policy.

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 sexual harassment. If they become aware of any such conduct occurring, they must take immediate and appropriate corrective action, including discipline, to end the conduct. Corrective action is required regardless of whether a complaint is made or the conduct appears to be unwelcome.

The Department's EEO Coordinator may be consulted for advice and direction and **must** be contacted if a complaint is received, even if the complainant requests that no action be taken. Managers and supervisors who fail to fulfill their obligations under this policy will be subject to disciplinary action, up to and including discharge.

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Examples

Behavior that is sexual in nature may be **verbal** – such as comments about a person’s looks, personal inquiries, sexual jokes, use of derogatory sexual stereotypes (“babe”, “hunk”, “doll”, “testosterone poisoning”), uttering sexually suggestive sounds, writing sexual notes, use of State computer equipment to send, receive and/or download material of a sexual nature; **nonverbal** - 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 massaging, touching, deliberate brushing up against someone, hugging, pinching, grabbing, or actual sexual assault.

4. **Applicability**

Sections I, III, IV and V of this policy are applicable to all forms of harassment covered by this policy. 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
- Interactions in the workplace during work hours as well as outside activities related to the workplace (i.e., parties, trips, conferences)

5. **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.

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 Coordinator
- Departmental Human Resource Manager

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.

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

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discrimination complaint alleging harassment on the basis of sex, race, color, religion, national origin, age or physical or mental disability may also be submitted to the Maine Human Rights Commission at any time within 180 days of the alleged discriminatory incident. 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.

For more information, contact:

Maine Human Rights Commission	(207) 624-6050 (207) 624-6064 (TTY)
State EEO Coordinator	(207) 624-7368 (207) 287-4537 (TTY)
DVEM EEO Coordinator	(207) 623-6735 (207) 287-4537 (TTY)

6. 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. 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 alleging discrimination or harassment on the basis of sex, race, color, religion, national origin, age, or physical or mental disability 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 above for complaints of harassment and will be promptly investigated. Such retaliatory conduct will be grounds for disciplinary action.

Each State agency has a designated EEO Officer who is responsible for handling complaints and providing technical assistance to staff regarding these issues. For the Department of Defense, Veterans and Emergency Management, contact DVEM Deputy Commissioner at (207) 430-6000.

Michaela Loisel, the state DVEM EEO Coordinator in the Bureau of Human Resources, is also available as a resource to any state employee or supervisor. She may be reached at (207) 623-6735 (TTY (207) 287-4537).

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Brigadier General James D. Campbell
Commissioner and The Adjutant General