

# Georgia Department of Public Safety

## Policy Manual

SUBJECT <b>ANTI-HARASSMENT AND PROHIBITED WORKPLACE BEHAVIOR</b>	POLICY NUMBER <b>5.01</b>
DISTRIBUTION <b>ALL EMPLOYEES</b>	REVISED DATE <b>9/24/2019</b>
	POLICY REVIEWED <b>9/24/2019</b>

### 5.01.1 Purpose

- A. To communicate to all employees the Department's policy prohibiting harassment, sexual harassment, discrimination, and retaliation.
- B. To communicate to all employees the procedure to report allegations of harassment, sexual harassment, discrimination, and retaliation.
- C. To communicate the Department's expectations of supervisory employees to maintain the workplace free from harassment, sexual harassment, discrimination, and retaliation.
- D. To communicate to all supervisors and managers their obligation to immediately report any allegations of harassment, sexual harassment, discrimination, and retaliation.

### 5.01.2 Policy

The Department is committed to creating and maintaining a work environment in which all individuals are treated with dignity and respect. The Department prohibits harassment, sexual harassment, discriminatory practices, and retaliation, and seeks to promptly prevent, correct and discipline behavior that violates this policy.

### 5.01.3 Prohibited Behavior

- A. Discrimination
  - 1. Discrimination is unequal treatment of an otherwise qualified applicant or employee in hiring, promotion, discharge, or terms and conditions of employment when the decision is based on an individual's race, color, creed, national origin, ancestry, citizenship, religion, political opinions or affiliations, age, disability, genetic information, sex, pregnancy, childbirth or related conditions, military or veteran status, or other status protected by federal or state law or regulation.
  - 2. Discrimination, as defined in this policy, is strictly prohibited and a violation of both this Policy and Policy #5.02 Equal Employment Opportunity.
  - 3. It is a violation of this policy to discriminate against any qualified individual with a disability.

- a. Disability means a physical or mental impairment that substantially limits one or more of an individual's major life activities. Qualified individual means an individual who, with or without reasonable accommodation, can perform the essential functions of the position that an individual holds or for which he/she has applied.
  - b. The Department seeks to provide reasonable accommodation to all qualified individuals with disabilities.
4. The Department strives to reasonably accommodate employees' religious needs.
  5. Discrimination in violation of this policy will be subject to severe sanctions up to and including termination.

#### B. Harassment

1. Harassment is physical, verbal or non-verbal/visual conduct that is either directed toward an individual or reasonably offensive to an individual, because of his/her race, color, creed, national origin, ancestry, citizenship, religion, political opinions or affiliations, age, disability, genetic information, military or veteran status, or other status other than sex protected by federal, state, or local law or regulation. Note: Harassment based on sex is also strictly prohibited under 5.01.3.C Sexual Harassment.
2. Harassment, as defined in this policy, is strictly prohibited.
3. All harassment, including conduct that would not rise to the level of unlawful conduct under state or federal anti-harassment laws, is prohibited under this policy. This includes contact with all persons an employee interacts with in the performance of his/her duties, including, but not limited to, other Departmental employees, citizens, violators, visitors, and vendors. This prohibition also applies to conduct occurring in or otherwise affecting the workplace. As such it includes conduct occurring both on and off the work premises and during or outside of work hours.
4. Examples of harassment include, but are not limited to:
  - a. Verbal: Offensive and/or derogatory comments regarding a person's race, color, creed, national origin, ancestry, citizenship, religion, political opinions or affiliations, age, disability, genetic information, military or veteran status, or other status protected by federal, state, or local law or regulation, including, but not limited to, epithets, slurs and/or negative stereotyping.
  - b. Non-verbal: Distribution, display or discussion of any written or graphic material that ridicules, denigrates, insults, belittles, or shows hostility toward an individual or group because of race, color, creed, national origin, ancestry, citizenship, religion, political opinions or affiliations, age, disability, genetic information, military or veteran status, or other status protected by federal, state, or local law or regulation.
5. Harassment in violation of this policy will be subject to severe sanctions up to and including termination.

#### C. Sexual Harassment

1. Sexual Harassment is physical, verbal or non-verbal/visual conduct that is

either directed towards an individual or reasonably offensive to an individual because of his or her sex. Sexual harassment includes physical, verbal, or non-verbal/visual conduct constituting:

- a. Unwanted sexual attention, sexual advances, requests for sexual favors, sexually explicit comments, and other conduct of an expressed or obviously implied sexual nature, by an individual who knows, or reasonably should know, that such conduct is unwanted and offensive; and
  - b. Conduct that is hostile, threatening, derogatory, demeaning, or abusive, or intended to insult, embarrass, belittle, or humiliate an individual because of his/her sex, regardless of whether the underlying reason for the conduct is apparent.
2. All sexual harassment, including conduct that would not rise to the level of unlawful conduct under state or federal anti-harassment laws, is prohibited under this policy and the Statewide Sexual Harassment Prevention Policy. This includes contact with all persons an employee interacts with in the performance of his/her duties, including, but not limited to, other Departmental employees, citizens, violators, visitors, and vendors. This prohibition also applies to conduct occurring in or otherwise affecting the workplace. As such it includes conduct occurring both on and off the work premises and during or outside of work hours.
3. Sexual harassment may take different forms. Examples of prohibited conduct include, but are not limited to the following:
- a. Denying or threatening to deny (directly or indirectly) an employment benefit or employment related opportunity to an employee for refusing to comply with a sexually-oriented request. Providing or promising (directly or indirectly) to provide an employment related opportunity to an employee in exchange for complying with a sexually-oriented request.
  - b. Using sexually-oriented language or making sexually-related jokes, remarks, or innuendos, including graphic verbal commentary about an individual's body or clothing. Making sexual propositions, lewd remarks, and/or threats. Making romantic advances and persisting despite rejection of the advances. Jokes and/or teasing of an unwelcome nature, discussing sexual exploits, or continued requests for social or sexual contact.
  - c. Distributing, displaying, transmitting or discussing of any written or graphic material (such as internet or social media postings, calendars, posters and cartoons, email, text messages, photos, letters, etc.) that are pornographic, sexually suggestive, or show hostility toward an individual or group because of sex.
  - d. Making obscene gestures, suggestive or insulting sounds, leering, staring, or whistling. Engaging in indecent exposure.
  - e. Engaging in unwelcome physical contact, including but not limited to, touching, tickling, pinching, patting, brushing up against, restricting someone's movement, hugging, cornering, kissing, fondling, forced sexual intercourse or assault.
4. Sexual harassment does not refer to behavior or occasional compliments of a socially acceptable nature. It refers to behavior that is unwelcome, personally offensive, lowers morale and therefore interferes with work effectiveness.

5. Normal, courteous, mutually respectful, pleasant, non-coercive interactions between employees that are acceptable to and welcomed by both parties are not considered to be sexual harassment.
6. Employees in consensual relationships should recognize the risks and complications that arise from intimate relationships with other employees and proactively address any concerns that might arise. At a minimum, employees are expected to ensure that the relationship does not jeopardize job performance, create a conflict of interest, or result in employment related favoritism.
7. Sexual harassment in violation of this policy will be subject to severe sanctions up to and including termination.

#### D. Retaliation

1. Retaliation is an act or omission intended to, or having the reasonably foreseeable effect of, punishing or otherwise negatively impacting an individual for:
  - a. Submitting (or assisting with submitting) a complaint of or reporting prohibited conduct as outlined in this policy.
  - b. Participating in an investigation or proceeding, or
  - c. Otherwise opposing harassment, sexual harassment, or discrimination (for example, disclosing the plan or desire to file a complaint of discrimination, harassment, or sexual harassment).
2. Retaliation or attempted retaliation is a violation of this policy and shall result in severe sanctions up to and including termination.

#### E. Consensual Relationships between supervisors and subordinates

1. Consensual romantic or sexual relationships are prohibited between a manager or supervisor and an employee who reports directly or indirectly to that person or who works within the same unit (for example, a Lieutenant and a Troop Secretary). If there is such a relationship, the Department may separate the involved individuals, including moving one or both to a different work location or assignment.
2. An employee must notify the Commissioner, through his/her chain of command in the following circumstances:
  - a. Before a manager or supervisor and an employee decide to enter into a consensual romantic or sexual relationship that would be in violation of this policy.
  - b. Before a manager, supervisor, or employee accepts a position where he/she will be in violation of this policy due to a current consensual romantic or sexual relationship.
3. A failure to timely report is a violation of this policy and will be subject to disciplinary action up to and including termination.
4. Once the relationship is known, the Limited Appointing Authority will determine how to separate the employees in the manner that will be least disruptive to the Department as a whole. The Limited Appointing Authority shall consult with the

Director of Human Resources. If no position is available, the parties will be given the option of resigning.

#### **5.01.4 Supervisor/Management Responsibility**

##### **A. Prohibited Behavior by a Supervisor**

1. Supervisors must understand the imbalance of power between themselves and non-supervisory employees due to their rank and/or position of authority, even with employees who are not their direct subordinates, or in their chain of command.
2. Supervisors must avoid conduct that could reasonably be construed as offensive, intimidating, harassing, or coercive by an employee.
3. Inappropriate behavior and/or conduct in violation of this policy by a supervisor is particularly unacceptable and will not be tolerated. Supervisors who violate this policy shall be subject to severe disciplinary action, up to and including termination.

##### **B. Responsibility to immediately report information of prohibited behavior to Human Resources.**

All supervisors have the responsibility and duty to immediately report to Human Resources all information pertaining to prohibited behavior, as discussed in this Policy and as follows:

1. In every circumstance that the information pertains in any way to a Departmental employee;
2. Whether the information is reported or provided by a citizen, violator, visitor, vendor, or Departmental employee;
3. Whether the supervisor witnessed conduct or behavior that may be suggestive of prohibited behavior, or received information in the form of a written or verbal complaint, allegation, report, statement, discussion or conversation, any of which suggests prohibited behavior;
4. Regardless of whether the supervisor has any belief, question or concern about the validity, reliability, or sufficiency of the information or the credibility of the complainant or reporting party; and
5. Regardless of whether the complainant or reporting party explicitly states that he/she seeks to keep the information confidential or advises that he/she does not wish to file a complaint or become involved in an investigation of the matter.

##### **C. Other Management Responsibilities**

It is the responsibility of each supervisory and management level employee of the Department to maintain a workplace free of sexual and other harassment. This duty includes discussing this policy with all employees and assuring them that they are not to endure insulting, degrading or exploitative sexual or harassing treatment in violation of this policy, and to report perceived violations of this policy to the Human Resources Director, or other representatives of the Department as identified in this policy.

#### **5.01.5 Employee Rights and Responsibilities**

- A. No employee who, in good faith, exercises their right to make a complaint of prohibited behavior addressed in this Policy will be subjected to any retaliatory act or incur any penalty or adverse consequence.
- B. Employees shall cooperate with investigations of conduct in violation of this policy.
- C. All employees involved in an investigation, including witnesses, are expected to refrain from discussing the matter outside of the investigation process during an active investigation.
- D. Any employee who knowingly makes a false statement during an investigation will be subject to disciplinary action, up to and including termination.
- E. Any employee who interferes with or intimidates an individual or witness for exercising their right to report conduct in violation of this policy shall be subject to severe disciplinary action, up to and including termination.

### **5.01.6 Reporting Procedure**

- A. Employees who believe they have been subjected to prohibited behavior addressed in this Policy, are strongly encouraged to report this immediately to the Human Resources Director, the Office of Professional Standards Director, the GSP or MCCD Commanding Officer, any supervisor in the employee's chain of command, the Deputy Commissioner, or Commissioner.
- B. Employees who believe they have witnessed such conduct, or otherwise have reason to believe that another employee is being or has been subjected to prohibited behavior addressed in this Policy shall report this information immediately to the Human Resources Director, the Office of Professional Standards Director, the GSP or MCCD Commanding Officer, any supervisor in the employee's chain of command, the Deputy Commissioner or Commissioner.
- C. Supervisors and managers are obligated to immediately report all complaints or incidents of prohibited behavior addressed in this Policy to the Human Resources Director.
- D. Employees may report complaints as provided in this policy without adverse consequences for violating the chain-of-command.
- E. If any of the above officials are the alleged harasser or retaliator, or if any employee has a reasonable fear of retaliation by one of the above officials, an employee may submit a complaint or report of sexual harassment or retaliation directly to the state Office of the Inspector General (OIG).
- F. It is extremely important that any allegations of conduct in violation of this policy be reported immediately. Failure to report conduct in violation of this policy, or a delay in the reporting of same, may impede the Department's ability to implement preventive or corrective measures when appropriate.

### **5.01.7 Investigative Procedure**

- A. Any reported allegations of conduct in violation of this policy will be investigated promptly and thoroughly, and the ongoing investigation shall be confidential, with disclosure only to those who have a legitimate, business-related need to know.
- B. Any complaint of sexual harassment, regardless of who has made the complaint

(employee, citizen, etc.) will be investigated in accordance with the procedures outlined in the Statewide Sexual Harassment Prevention Policy and appendix.

- C. If the investigation concludes that improper conduct has occurred, corrective and remedial action commensurate with the circumstances, up to and including termination will be taken. Appropriate action will also be taken to deter any future prohibited behavior addressed in this Policy.

**The Department encourages any employee to raise questions they may have regarding discrimination, retaliation or harassment with the Human Resources Division. Questions may be directed to the Human Resources Director.**