

**Georgia Department of Public Safety  
Policy Manual**

<b>SUBJECT</b> <b>UNLAWFUL HARASSMENT AND PROHIBITED WORKPLACE BEHAVIOR</b>	<b>POLICY NUMBER</b> <b>5.01</b>
<b>DISTRIBUTION</b> <b>ALL EMPLOYEES</b>	<b>DATE REVISED</b> <b>6/10/2014</b>

**5.01.1 Purpose**

- A. To communicate to all employees the Department’s policy prohibiting unlawful harassment and discrimination in the workplace.
- B. To communicate to all employees the Department’s policy prohibiting inappropriate workplace behavior.
- C. To communicate the Department’s expectations of supervisory employees to maintain the workplace free from unlawful discrimination, harassment and inappropriate workplace behavior.
- D. To communicate to all employees their obligation to immediately report allegations of unlawful harassment and discrimination.

**5.01.2 Policy**

The Department is committed to creating and maintaining a work environment that promotes equal employment opportunities and is free from unlawful harassment, discriminatory practices, and inappropriate workplace behavior.

The Department seeks to promptly prevent, correct and discipline behavior that violates this policy.

All employees are responsible for immediately reporting alleged acts of unlawful harassment, discrimination or inappropriate workplace behavior and may do so as provided in this policy without adverse consequences for violating the chain-of-command.

**5.01.3 Definitions**

- A. Unlawful Harassment - Creating an intimidating, hostile or offensive working environment for another on the basis of one’s race, color, religion, gender, national origin, disability, pregnancy, genetic information or age. Unlawful harassment includes verbal or physical conduct when:
  - 1. Enduring the conduct becomes, directly or indirectly, a term or condition of a person’s continued employment, or
  - 2. The conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile or abusive.

- B. Unwelcome –the offended employee did not solicit or incite the conduct and regarded it as undesirable or offensive.
- C. Hostile Work Environment –written, verbal, or physical conduct directed toward an employee on the basis of one’s race, color, religion, gender, national origin, disability, pregnancy, genetic information or age that is sufficiently severe or pervasive to unreasonably interfere with an individual’s work performance and create an abusive work environment.
- D. Reasonable Person Standard – the standard used to determine whether harassment is sufficiently severe or pervasive to create a hostile environment. Conduct is viewed from the objective standpoint of a reasonable person and should consider the victim’s perspective and not stereotyped notions of acceptable behavior.

#### **5.01.4 Unlawful Harassment**

##### **A. Discrimination**

1. It is a violation of this policy to discriminate in the provision of employment opportunities, benefits, or privileges; to create discriminatory work conditions; or to use discriminatory evaluative standards in employment if the basis of the discriminatory treatment is, in whole or in part, the person’s race, color, religion, gender, disability, national origin, pregnancy, genetic information or age.
2. Discrimination of this kind is prohibited by a variety of federal, state and local laws, including Title VII of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, and the Americans with Disabilities Act of 1990. This policy is intended to comply with the prohibitions stated in these anti-discrimination laws.
3. Discrimination in violation of this policy will be subject to severe sanctions up to and including termination.

##### **B. Harassment**

1. Harassment, including sexual harassment, is prohibited by federal and state laws. This policy prohibits harassment of any kind and the Department will take appropriate action swiftly to address any violations of this policy.
2. Examples of inappropriate behavior and/or unlawful harassment include, but are not limited to:
  - a. Verbal: Offensive and/or unwelcome comments regarding a person’s race, color, religion, gender, national origin, disability, age, 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, religion, gender, national origin, disability, or age.

##### **C. Sexual Harassment**

1. Sexual harassment in any form is prohibited under this policy. Sexual harassment is a form of discrimination and is unlawful under Title VII of the Civil Rights Act of 1964.

2. Sexual harassment includes unsolicited and unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, when such conduct:
  - a. Is made explicitly or implicitly a term or condition of employment.
  - b. Is used as a basis for an employment decision.
  - c. Is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile or abusive.
3. 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.
4. Normal, courteous, mutually respectful, pleasant, non-coercive interactions between employees that are acceptable to and welcomed by both parties are not considered to be harassment, including sexual harassment.
5. Sexual harassment may take different forms. Examples of inappropriate conduct that may constitute harassment are:
  - a. Verbal: Sexual innuendos, suggestive comments, jokes of a sexual nature, sexual propositions, lewd remarks, and/or threats. Requests for any type of sexual favor (this includes repeated, unwelcome requests for dates). Jokes and/or teasing of an unwelcome nature, discussing sexual exploits, or continued requests for social or sexual contact.
  - b. Non-verbal: The distribution, display or discussion of any written or graphic material, including calendars, posters and cartoons that are sexually suggestive or who hostility toward an individual or group because of sex. Suggestive or insulting sounds, leering, staring, whistling, obscene gestures, content in letters and notes, facsimiles, email, photos, text messages, internet postings, etc. that is sexual in nature.
  - c. Physical: Unwelcome physical contact or impeding movement, including but not limited to, touching, tickling, pinching, patting, brushing up against, hugging, cornering, kissing, fondling, forced sexual intercourse or assault.
6. There are two types of sexual harassment:
  - a. "Quid pro quo" harassment – where submission to harassment is used as the basis for employment decisions or employee benefits such as raises, promotions, better working hours, etc., are directly linked to compliance with sexual advances. Therefore, only someone in a supervisory capacity (with the authority to grant such benefits) can engage in quid pro quo harassment. Example: A supervisor promising an employee a raise if he goes on a date with her; a manager telling an employee he will fire her if she does not have sex with him.
  - b. "Hostile work environment" – where the harassment creates an offensive and unpleasant working environment. Hostile work environment can be created by anyone in the work environment, including supervisors, other employees or customers. Hostile environment harassment consists of verbiage of a sexual nature, unwelcome sexual materials or even unwelcome physical

contact as a regular part of the work environment. Text messages, emails, cartoons or posters of a sexual nature, vulgar or lewd comments or jokes or unwanted touching all fall into this category.

### **5.01.5 Prohibited Workplace Behavior**

- A. Inappropriate workplace behavior
  - 1. It is against this policy for any employee to engage in inappropriate workplace behavior of a sexual or harassing nature. Through enforcement of this policy, the Department seeks to address incidents of improper or disrespectful behavior before they escalate into unlawful behavior.
  - 2. Members will not use coarse, violent, profane or insolent language or gestures, and will not express any prejudice concerning race, religion, politics, national origin, lifestyle or similar personal characteristics.
- B. Consensual Sexual Relationships between supervisors and subordinates
  - 1. Consensual romantic or sexual relationships between a management or other supervisory employee and his or her staff (an employee who reports directly or indirectly to that person) are prohibited. If there is such a relationship, the parties need to be aware that actions may be taken by the Department to separate the involved individuals, including moving one or both to a different division, unit or work location.
  - 2. If any employee enters into a consensual relationship that is romantic or sexual in nature with a member of his or her staff (an employee who reports directly or indirectly to him or her), or if one of the parties is in a supervisory capacity in the same unit in which the other party works (for example, a Lieutenant and a Troop Secretary), the parties must notify the Commissioner, through their chain of command (see Policy 5.05 – Nepotism and Favoritism). This requirement does not apply to employees who do not work in the same unit, or to parties who do not supervise or otherwise manage responsibilities over the other.
  - 3. Once the relationship is made 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.

### **5.01.6 Retaliation**

- A. No retaliatory act, penalty or adverse action may be imposed on an employee as punishment for:
  - 1. Filing or responding to a bona fide complaint of prohibited conduct as outlined in this policy.
  - 2. Appearing as a witness in the investigation of a complaint.
  - 3. Serving as an investigator.
- B. Retaliation or attempted retaliation is a violation of this policy and anyone who does so will be subject to severe sanctions up to and including termination.

### **5.01.7 Supervisor/Management Responsibility**

- A. Inappropriate behavior and/or conduct of a harassing nature by a supervisor is particularly unacceptable and will not be tolerated. Supervisors are strictly prohibited from making any employment decision, directly or indirectly, based upon submission to, or rejection of, a request for a sexual favor. Supervisors are also strictly prohibited from engaging in any conduct that could reasonably be construed by another employee as threatening, offensive or intimidating so as to constitute a hostile working environment in violation of this policy. Any supervisor who engages in such conduct shall be subject to disciplinary action, up to and including termination.
- B. 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.
- C. Any supervisor who retaliates against an individual or a witness for exercising their right to report inappropriate conduct and/or sexual or other harassment shall be subject to severe disciplinary action, up to and including termination.
- D. Any supervisor who receives a complaint of conduct in violation of this policy must immediately report the complaint to the Human Resources Director.

### **5.01.8 Employee Rights and Responsibilities**

- A. Harassment in the workplace will not be tolerated and employees, who believe they have experienced such harassment, or have witnessed the harassment of another, have an obligation to report such conduct immediately.
- B. No employee who, in good faith, exercises their right to make a complaint of sexual or other harassment will be subjected to any retaliatory act or incur any penalty or adverse consequence.
- C. Any employee who knowingly makes a false statement during a sexual or other harassment investigation will be subject to disciplinary action, up to and including termination.

### **5.01.9 Employee Reporting Procedure**

- A. Employees who believe they have been subjected to inappropriate workplace behavior, discrimination, sexual harassment, and other unlawful harassment, or believe they have witnessed such conduct, must report this immediately to their immediate supervisor, other supervisor(s) in the chain-of-command, the Colonel, the Lt. Colonel, the GSP Commanding Officer, the Human Resources Director, MCCD Commanding Officer or the Director of the Office of Professional Standards.
- B. 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.

- C. 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.
- D. 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.

**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.**