

Office of Human Resources
State of Louisiana
Division of Administration

JOHN BEL EDWARDS
GOVERNOR



JAY DARDENNE
COMMISSIONER OF ADMINISTRATION

DIVISION OF ADMINISTRATION

PERSONNEL POLICY NO. 106

EFFECTIVE DATE: October 16, 2019

PREVIOUS VERSION: March 5, 2018

SUBJECT: Policy Prohibiting Sexual Harassment

AUTHORIZATION: 
Barbara Goodson, Deputy Commissioner

I. POLICY

Employees of the State of Louisiana have an expectation and right to be treated with respect and dignity, and to work in a professional environment free of harassment and discrimination. Left unchecked, harassment and discrimination, regardless of nature or degree, undermine the integrity of the employment relationship, debilitate morale, dedication and loyalty, compromise equal employment opportunities, and significantly interfere with the mission of state government.

The Division of Administration (DOA) strives to maintain a workplace that fosters mutual respect and promotes harmonious, productive working relationships. To accomplish this, DOA prohibits and will not tolerate sexual harassment or any behavior of a sexual nature that intimidates, exploits, insults, demeans, disrespects, or embarrasses any employee or other individual in the workplace.¹

Prevention and elimination of sexually inappropriate behavior requires the personal involvement and commitment of every DOA employee. Unless and until management is apprised of its occurrence, corrective action to address such behavior cannot be taken. Through this policy and related training requirements, DOA seeks to reinforce its unyielding intolerance of sexually inappropriate behavior, and encourage employees who

¹ This policy specifically addresses sexual harassment and behavior of a sexual nature in the workplace which are collectively referred to as "sexually inappropriate behavior". Employees should review DOA Personnel Policy No. 107, entitled "Policy Prohibiting Discrimination and Harassment", for a comprehensive understanding of the prohibitions against other forms of discrimination and harassment.

experience, observe or are informed of such behavior to promptly initiate the reporting process set forth in this policy. Employees can be assured that DOA will objectively and thoroughly investigate reports; implement preventive measures to protect against recurrence; impose corrective action to address violations; and protect complainants and individuals involved in the investigative process from any form of harassment, reprisal, or retaliation.

II. PURPOSE

Through this policy and the mandatory training required of all employees, DOA seeks to:

- Unequivocally state intolerance for sexually inappropriate behavior
- Identify the broad scope of such prohibited behavior
- Establish an effective, uniform reporting process
- Establish an effective, uniform investigative process
- Trigger prompt action to protect against recurrence of the prohibited behavior
- Ensure resolution that imposes appropriate corrective action
- Protect complainants and individuals involved in the investigative process from harassment, reprisal, or retaliation
- Respect confidentiality and the privacy rights of employees

This policy establishes a procedure to administratively report and address complaints of sexually inappropriate behavior. It is not in any way intended to replace or supersede the statutory or regulatory rights regarding sexual harassment available to employees under federal and state law, including Title VII of the Civil Rights Act (42 U.S.C. § 2000e et seq.) and the Louisiana Employment Discrimination Law (La. R.S. 23:301 et seq.). Specific timelines and requisites of law apply to filing a complaint with the Equal Employment Opportunity Commission (EEOC) or the Louisiana Commission on Human Rights (LCHR).

III. APPLICABILITY

This policy applies to all DOA employees regardless of position, status, or authority. This includes classified and unclassified employees, full-time, part-time, seasonal, and temporary employees. The prohibitions of this policy are equally applicable to appointing authorities, executive management, administrators, directors, managers, supervisors, staff, students, and interns.

In keeping with DOA's intention and duty to maintain a work environment free of harassment and discrimination, this policy also applies to non-employees, including visitors and individuals who transact business with DOA such as vendors, maintenance personnel, clients, contractors, and consultants. These non-employees are prohibited from engaging in the behavior prohibited by this policy, and also are protected from experiencing such behavior by DOA employees.

This policy applies not only to the customary workplace and work locations where DOA employees may be assigned, but also prohibits such behavior while traveling to a work

location, at conferences, workshops, trainings, business trips, and business-related social events. Additionally, the behavior prohibited by this policy applies to off-duty, off-premises behavior which has an impact upon and relation back to the working relationship.

IV. POSTINGS

This policy is available for review by all employees at all times on DOA's website at: <http://www.doa.la.gov/Pages/ohr/Polices/Policies.aspx>. Notices related to workplace harassment and discrimination are conspicuously posted at DOA work locations throughout the state.

V. EMPLOYEE RELATIONS MANAGER

DOA recognizes that an employee experiencing sexually inappropriate behavior may be reluctant to file a complaint. DOA has designated an Employee Relations Manager within the Office of Human Resources to serve as a central point of contact. This individual has specialized training and expertise in handling employment concerns. DOA's designee as Employee Relations Manager is:

Christina Cardona
Division of Administration
Claiborne Building, Suite 3-130
P. O. Box 94095
Baton Rouge, LA 70804
(225) 342-6060 (voice)
Christina.Cardona@la.gov (email)

In the event of the unavailability of the Employee Relations Manager, an employee needing immediate assistance should contact DOA's Human Resources Director at the telephone number provided.

This individual is available to discuss the content of this policy, answer questions related to the reporting process, receive complaints, and coordinate and conduct the investigative process. Generalized inquiries and questions regarding this policy will be maintained in strict confidence. In some instances, follow-up inquiries or initiation of the investigative process by the Employee Relations Manager may be required. Investigation may be necessary even when the employee desires to maintain anonymity, requests that no action be taken, or insists that a formal complaint not be lodged. In general, informal complaints or requests to delay investigation unless or until a future occurrence cannot be honored and will be treated the same as a formal complaint, thus triggering the investigative process.

VI. TRAINING

DOA recognizes that implementation of a policy prohibiting sexually inappropriate workplace behavior standing alone is insufficient to prevent and address such behavior. To support this policy and create a culture wherein employees willingly report concerns and lodge complaints, DOA requires all employees to successfully complete training on

this policy upon hiring and on a continuing basis thereafter. At a minimum, DOA mandates the following training for its employees:

- Upon hiring, all new employees will be provided a copy and instructed to carefully review this policy. Within thirty (30) days of the hiring date, all new employees are required to meet with their hiring manager to discuss any concerns or uncertainties regarding their responsibilities under this policy. The employee and hiring manager are required to sign the attached Acknowledgement and Certification to verify that this process has been successfully completed.
- Within thirty (30) days of the hiring date, all new employees are required to complete the online training on sexual harassment provided through the Comprehensive Public Training Program (CPTP). Certification of successful completion will be documented through CPTP.
- All employees, on an annual basis thereafter, are required to complete the online training on sexual harassment provided through CPTP. Certification of successful completion will be documented through CPTP.
- Within thirty (30) days of attaining a supervisory position, all new supervisors are required to complete the online training on sexual harassment designated for management personnel provided by CPTP. This training, which emphasizes identifying, preventing, and responding to sexually inappropriate behavior, is thereafter to be completed every two years. Certification of successful completion will be documented through CPTP.

VII. PROHIBITED CONDUCT

Sexually inappropriate behavior takes many forms. It can be explicit and overt, such as a demand for sexual favors, or subtle and implied, such as leering and innuendo. It can be intended or unintended, with the determination of inappropriateness evaluated from the perspective of the complainant and without regard for the purpose or motive of the accused. It can involve behavior by a person of either gender towards a person of the same or opposite gender. It can involve conduct by a supervisor or manager towards a subordinate employee, or conduct by one employee towards another employee of equal, lesser, or greater rank, status or authority. It can involve words or actions by a person external to DOA such as a visitor, vendor, maintenance personnel, client, contractor, or consultant. An employee may experience sexually inappropriate behavior merely as an observer of behavior directed towards another.

Sexual harassment, a form of prohibited discrimination, is defined by the Equal Employment Opportunity Commission (EEOC) as unsolicited and unwelcomed sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature wherein:

- 1) Submission to such conduct is explicitly or implicitly a term or condition of employment; or

- 2) Submission to or rejection of such conduct is used as a basis for employment decisions (hiring, firing, advancement, evaluations, wages, duty assignments, shifts, training opportunities, or other such conditions of employment or career development); or
- 3) Such conduct has the purpose or effect of unreasonably interfering with the employee's work performance or creates an intimidating, hostile, or offensive work environment.

However, DOA's focus is upon a more broad and general prohibition against sexually inappropriate behavior. DOA rightfully recognizes the inappropriateness of even occasional and non-sensational words or actions of a sexual nature. While not satisfying the legal standard to constitute sexual harassment, such behavior can be offensive and negatively impact the work environment. For this reason, DOA prohibits all sexually inappropriate behavior, regardless of severity, pervasiveness, or identifiable impact.

For illustration purposes only, sexually inappropriate behavior, even on an occasional basis, includes, but is not limited to:

- **Verbal:** Unwelcomed sexual flirtations, advances, propositions, or demands; unwelcomed sexual remarks, teasing, jokes, pranks, innuendo, insults, or inquiries; sexually insensitive or derogatory comments; unwelcomed repeated requests for dates or social engagement; inappropriate comments regarding a person's physical attributes; comments regarding sexual activities, exploits, prowess, or accomplishments; use of vulgar, crude or sexually offensive language; sexually insulting noises, catcalls, or whistling; stereotypical comments; repeatedly referring to an individual as "honey", "babe", "sugar", "dear", etc.
- **Non-Verbal:** Gestures of a sexual nature; lustful looks, staring and leering; displaying sexually revealing or suggestive pictures, cartoons, caricatures, drawings, photographs, magazines, books, graffiti, or objects; transmitting sexually oriented emails, texts, letters, writings, communications, and images.
- **Physical:** Unwelcomed physical contact including kissing, touching, embracing, hugging, massaging, rubbing, fondling, groping, tickling, pinching, and patting; invading another's space by cornering, leaning over, or blocking passage; sexual assault, battery, and rape.

VIII. CONFRONTING THE ACCUSED

An employee experiencing unwelcomed behavior may choose to tell the offender to cease the behavior. Doing so may be sufficient to prevent recurrence. However, if the behavior continues, the concern should be reported promptly.

DOA recognizes that confronting an offender in this fashion can be discomfoting, especially in those situations in which the offender is within the employee's supervisory chain of command. Therefore, DOA does not require employees to do so, and certainly does not require that this be done before using the reporting procedure provided in this policy.

IX. REPORTING PROCEDURE

Early reporting of sexually inappropriate behavior enhances the credibility of the complainant and facilitates the investigative process. Prompt initiation of the investigation enhances the ability to identify witnesses and preserve evidence, and protects against faltering memories occasioned by the passage of time. For these reasons, employees are encouraged to report such behavior as soon as possible, and discouraged from waiting to cumulate offenses or the recurrence "one more time" of the offensive behavior.

DOA does not require a fixed reporting time or deadline – the sooner, the better is preferred, and contemporaneous reporting is the ideal. The initial report need only convey the occurrence of words or actions that are offensive and need not provide details. This report can be verbal (in person or via telephone) or in writing (letter, memo, email, text), and need not utilize a specific form. Most importantly, DOA does not require a rigid reporting protocol. The report can be made to the employee's direct supervisor. However, if the complaint involves the supervisor or, regardless of reason, the employee prefers to not involve that supervisor, the report can be made to any supervisor or manager in DOA, or directly to the Employee Relations Manager. Supervisory personnel receiving a report of sexually inappropriate behavior are required to immediately inform the Employee Relations Manager of the information provided.

X. INVESTIGATION OF COMPLAINTS

All reports and complaints of sexually inappropriate behavior will be directed to the Employee Relations Manager who shall assess the information provided. Management personnel in a need-to-know capacity will be apprised of the complaint. An assessment of the preliminary information provided will be done to determine whether action should be taken to prevent further occurrence of the offensive behavior. For example, it may be appropriate to authorize leave or temporarily reassign personnel.

The investigation will be given priority and begin as soon as practicable. In most instances, it will be conducted by the Employee Relations Manager, an attorney from the Office of General Counsel, and a management representative from within the complainant's organizational unit. This team approach permits the investigators to evaluate the information gathered during the investigative process from different perspectives, enhances objectivity, and ensures thoroughness.

The investigation generally will begin with an interview of the complainant who will be required to provide details to facilitate the investigative process, such as the behavior complained of, the date, time, and location of the occurrence, the identity of witnesses, and

any writings, records, logs, recordings, pictures, or other documentation supporting the complaint. Individuals possessing relevant information will be interviewed. Once all available information has been evaluated, the accused will be interviewed.

All individuals called upon to participate in the investigation are required to fully cooperate and provide truthful responses. Employees, including the accused, do not have the option of remaining silent or declining to get involved. Those questioned may be required to prepare a written statement or provide a recorded statement. Employees are hereby informed that polygraph examinations may be employed as an investigative tool.

The investigation will be conducted expeditiously, professionally, and with due regard for the rights of all involved. To the extent allowed by law, the investigation will be conducted in a confidential manner, with only those in a need-to-know position involved. To preserve the integrity of the investigative process, employees will be instructed that the complaint and all information provided during the interview are to remain confidential. Employees are prohibited from obstructing or interfering with the investigation, which includes questioning or confronting any individual participating in the investigation.

Upon completion of the investigation, the Employee Relations Manager will apprise management of the outcome and recommendations for resolution. Until a final decision is made, the investigative team will remain available to receive new information.

Employees must understand that despite the best efforts and thoroughness of the investigative process, not all complaints can be substantiated. This does not indicate, however, that the complaint was contrived or made in bad faith. As such, employees are encouraged to file good faith complaints without regard for the ultimate outcome.

XI. COMPLAINT RESOLUTION

Upon conclusion of the investigation, the complainant and accused will be apprised of the outcome. Management's decision is final and concludes DOA's internal administrative investigative process. Regardless of the outcome, the complainant has the option of pursuing a claim under state or federal law. Initiation of such a claim is not dependent upon the outcome nor completion of DOA's administrative investigation.

To initiate a claim under federal or state law, employees are referred to:

EEOC District Office
Hale Boggs Federal Building
500 Poydras Street, Suite 809
New Orleans, Louisiana 70130
800-669-4000 (Voice)
504-589-2958 (TDD)
504-595-2844 (Fax)
<https://www.eeoc.gov/>

LCHR
1001 N. 23rd Street, Suite 268
Post Office Box 94094
Baton Rouge, Louisiana 70804
225-342-6969 (Voice)
888-241-0859 (TDD)
225-342-2063 (Fax)
<http://gov/page/lchr>

Given the wide range of behaviors prohibited by this policy, the resolution decided upon by management will be determined by a number of factors. Most notably, the nature, frequency, and severity of the behavior, and whether the behavior was previously addressed, will heavily influence the action to be taken. Complainants can be assured that any employee found, after investigation, to have engaged in sexual harassment or other inappropriate behavior of a sexual nature will be subject to corrective action. This may include counseling, reprimand, suspension, reduction in pay, demotion, or dismissal. In conjunction with such corrective actions, other appropriate measures, including re-training, relocation, reassignment, etc., may be utilized to protect against the recurrence of the inappropriate behavior.

XII. NON-RETALIATION AND FOLLOW-UP

Resolution of the complaint via imposition of corrective or other action does not conclude the complaint process. DOA maintains an affirmative duty to protect its employees from harassment, reprisal, or retaliation. This protection extends to any employee making a good faith complaint of sexually inappropriate behavior, as well as those individuals providing information or participating in the investigative process. Employees can be assured that if a complaint is made and an investigation reveals that harassment, retaliation or reprisal has occurred, severe disciplinary action will be imposed.

To ensure this protection, DOA will follow-up with the complainant to determine whether there has been a recurrence of the behavior complained of or whether the complainant has suffered any adverse consequence for having filed a complaint. Such follow-up, by the Employee Relations Manager, will occur at periodic intervals. The follow-up inquiries will seek to identify readily identifiable repercussions such as a disciplinary action, poor performance evaluation, etc., as well as more subtle forms of reprisal such as ostracism, avoidance, non-inclusion, etc.

XIII. RESPONSIBILITY

It is the responsibility of all employees, regardless of rank, status or authority, to ensure compliance with this policy. Employees must realize that reporting the behavior prohibited by this policy is mandatory. Similarly, cooperative participation and candor in the investigative process are mandatory.

XIV. VIOLATIONS

Given the devastating impact that sexual harassment and sexually inappropriate workplace behavior have on working relationships, DOA will aggressively address violations of this policy. After investigation and satisfaction of due process requirements, corrective action may be imposed for the following:

- Failure to comply with mandatory training requirements
- Failure by a supervisor or manager to timely report a complaint of sexually inappropriate behavior
- Failure to participate or cooperate in the investigative process

- Providing false or withholding information during questioning
- Filing a false, malicious, or frivolous complaint
- Harassment, reprisal, or retaliation towards a complainant or anyone involved in the investigative process

XV. PERSONAL LIABILITY

An individual experiencing sexually inappropriate behavior in the workplace has the right to file a claim or initiate civil litigation under state or federal law. When this occurs, as an employer, the State of Louisiana may be cast in judgment or a settlement of claims may be negotiated to avoid the risk of litigation. In either event, the financial burden falls upon the taxpayers of this state.

To reduce this impact, upon determination that an employee has engaged in sexually inappropriate workplace behavior, La. R.S. 42:351 mandates that consideration be given to requiring that the employee reimburse all or a portion of any judgment or settlement that may result from a claim or civil litigation. The process and factors to be considered in making this determination are set forth in La. R.S. 42:353, which also authorizes the Attorney General to file suit against an employee to enforce the state's right to reimbursement and indemnification.

Accordingly, DOA's employees are hereby placed on notice that dire consequences, in the nature of employment sanctions and personal financial liability, may result from any violation of the prohibitions and requirements of this policy.

XVI: EXCEPTIONS

Exceptions or deviations from the requirements of this policy require the express approval of the Commissioner of Administration.

XVII. QUESTIONS

Questions, comments, or concerns regarding this policy should be addressed to DOA's Employee Relations Manager.

**DIVISION OF ADMINISTRATION
POLICY PROHIBITING SEXUAL HARASSMENT**

ACKNOWLEDGEMENT AND CERTIFICATION

My signature hereon acknowledges that:

- 1) I received a copy of DOA's Policy Prohibiting Sexual Harassment;
- 2) I read this Policy;
- 3) I understand the content of this Policy;
- 4) I agree to abide by the terms and provisions of this Policy;
- 5) I understand that compliance with this Policy is a condition of employment;
- 6) I understand that corrective action, including the possibility of dismissal, will be imposed for violating the terms and provisions of this Policy; and
- 7) I understand that I may be personally liable and responsible for reimbursing the State of Louisiana for all or a portion of any judgment or settlement if a determination is made that I have engaged in sexually inappropriate workplace behavior.

EMPLOYEE SIGNATURE

DATE

EMPLOYEE NAME (PRINT)

.....
MANAGEMENT CERTIFICATION

My signature hereon acknowledges that:

- 1) I personally discussed in detail DOA's Policy Prohibiting Sexual Harassment with the employee identified above;
- 2) I answered this employee's questions regarding this Policy;
- 3) I confirmed this employee's completion of the online training on sexual harassment provided through CPTP; and
- 4) I informed the employee of the consequences of violating this Policy.

MANAGER SIGNATURE

DATE

MANAGER NAME (PRINT)