



COMMONWEALTH of VIRGINIA
DEPARTMENT OF MILITARY AFFAIRS

Date: December 15, 2017

Policy Number- DMAHR-123-012
Policy Name: Sexual Harassment Policy

Policy Statement:

The Virginia Department of Military Affairs (DMA) is committed to providing a work environment that is conducive to the effective performance of job duties and one that is free from intimidation or coercion in any form.

DMA is dedicated to a stringent policy against discrimination. Harassment on the basis of race, color, gender, national origin, religion, age, or disability is a form of discrimination prohibited by federal and state law, as well as DMA policy. It is the intent of this policy to further clarify DMA policy and expectations as it relates to the topic of sexual harassment.

Sexual harassment is an unlawful practice which potentially can subject both the agency and the harasser to liability, and is in contradiction to the values and teamwork upon which this agency is built. DMA policy, clearly and without exception, prohibits the practice of sexual harassment of any employee, applicant for employment, contractor, or volunteer. DMA employees are expected to treat others with respect, tolerance, and professionalism, and will in all cases refrain from conduct that could give rise to allegations of sexual harassment.

This policy shall apply to all DMA state employees.

References:

TAG Command Policy 15-016, Sexual Harassment Prevention Policy

Definitions:

What Constitutes Sexual Harassment

- A. Sexual harassment is defined by the Equal Employment Opportunity Commission (EEOC) as any unwelcome sexual advance, request for sexual favors, or other verbal or physical conduct of a sexual nature, when:
 1. Submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment;
 2. Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting that individual, or;
 3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.
- B. Forms of behavior which may be considered sexual harassment include, but are not limited to:
 1. Verbal - Specific demands for sexual favors, sexual innuendoes, sexually suggestive comments, jokes of a sexual nature, sexual propositions, and sexual threats.
 2. Non-Verbal - Sexually suggestive objects or pictures, graphic commentaries, suggestive or insulting sounds, leering, whistling, obscene gestures.

3. Physical - Unwelcome physical contact, including touching, pinching, brushing the body, coerced sexual intercourse, and sexual assault.
- C. In addition to being prohibited in the work environment, these behaviors are also not tolerated at agency-sponsored activities, such as conferences, workshops, retreats, etc. Employees are expected to abide by this policy when representing the agency in an event.
 - D. Sexual harassment does not refer to behavior or occasional compliments of a socially acceptable nature. Sexual harassment refers to behavior that is not welcome, that is personally offensive, and that fails to respect the rights of others. In addition to being personally offensive, the behavior must be severe or pervasive enough to create a work environment that a reasonable person would find abusive.

Procedures:

I. Avenues of Redress

A. Internal

1. Employees who believe they are sexually harassed should make it clear that such behavior is unwelcome and should report the harassment to the appropriate supervisory level. In instances where the alleged harasser is the immediate supervisor, the violation should be reported to the harasser's supervisor by the most expeditious means possible. Allegations may also be reported directly to the Human Resource Manager or to the Director of Personnel and Administration.
2. Employees may utilize the Employee Grievance Procedure (classified, non-probationary employees). Sexual harassment is a violation of Title VII of the Civil Rights Act of 1964 and is thus a grievable issue because it is a complaint of discrimination on the basis of sex. Per the Grievance Procedure, if a grievance deals with a charge of discrimination against the immediate supervisor, the employee shall be permitted to initiate the grievance with the next higher level of management. As specified in the Commonwealth of Virginia Employee Grievance Procedure, a grievance must be initiated within 30 calendar days of the action giving rise to the grievance. Questions may be directed to the state's Office of Equal Employment and Dispute Resolution at 804-786-7994.

B. External

1. Employees can utilize the State Employee's Discrimination Complaint Procedure, which is administered by the Office of Equal Employment and Dispute Resolution Services of the Department of Human Resource Management. The complaint must be filed within 180 days of the alleged discrimination.
2. Employees can file a complaint with the US Equal Employment Opportunity Commission. A complaint must be filed within 300 days of the alleged discrimination.

II. Agency Responsibility

- A. All employees of the Department of Military Affairs are encouraged to ensure enforcement of this policy by reporting any known or suspected violations.
- B. Agency managers and supervisors must immediately investigate an allegation of sexual harassment with the counsel and assistance of the HR staff in order to ensure that all instances of sexual harassment are addressed swiftly, fairly, and effectively. All allegations of sexual harassment must immediately be reported to the Human Resource Manager or Director of Personnel and Administration. HR will recommend the appropriate investigator on a case-by-case basis.

- C. All managers and supervisors of DMA are directed to take affirmative action to ensure that the principles of this policy are fully implemented at all levels and locations of DMA and to ensure an environment free from sexual harassment.

III. Response to Policy Violators

- A. Sexual Harassment is a serious offense. As a consequence, any employee who engages in such conduct shall be subject to corrective action. Depending on the circumstances involved, such corrective action may include dismissal from State service. Consultation with the Human Resource Manager or Director of Personnel Administration is required to determine if the Standards of Conduct should be applied as corrective action in any case of sexual harassment.
- B. Managers and supervisors who fail to respond appropriately to allegations of sexual harassment may also be subject to corrective action, including demotion or discharge.

IV. Distribution and Maintenance of Policy Statement

This policy statement will be disseminated to all agency employees and it will be available on the DMA HR SharePoint site. Additionally, state employees will complete a module on sexual harassment within the Workplace Violence training, as part of the annual training for all state employees.

V. Resources for Information

For questions regarding this policy or any issues related to harassment employees may contact any of the following: DMA Human Resource Department, the Virginia Department of Human Resource Management, the Department of Employment Dispute Resolution, and the US Equal Employment Opportunity Commission.

Agency Right:

The Virginia Department of Military Affairs reserves the right to revise or eliminate this policy.