



SEXUAL HARASSMENT PROHIBITED

MnDOT ADDENDUM to MMB Policy #1329

POLICY HR018 EFFECTIVE 01-12-2018

POLICY STATEMENT

The Minnesota Department of Transportation (MnDOT) is committed to having a work environment free from sexual harassment of any kind.

Sexual harassment in any form is strictly prohibited. Individuals who believe they have been subject to sexual harassment are encouraged to file a complaint with the MnDOT's Office of Equity and Diversity (OED).

Any form of retaliation directed against an individual who complains about sexual harassment or who participates in any investigation concerning sexual harassment is strictly prohibited and will not be tolerated.

MnDOT fully adopts the state policy, [Sexual Harassment Prohibited, HR/LR Policy #1329](#), to build and maintain a workplace that is respectful and professional toward all employees and third parties. Violations of this policy by State employees will be subject to discipline, up to and including discharge. Violations of this policy by third parties will be subject to appropriate action.

MnDOT's Sexual Harassment Prohibited policy addresses only sexual harassment. The [MnDOT Discrimination Policy](#) addresses harassment based on race, color, creed, religion, national origin, sex, marital status, familial status, disability, sexual orientation, age, genetic information, or status with regard to public assistance.

REASON FOR POLICY

- Create a work environment free from sexual harassment of any kind
- Identify the types of behavior that constitute workplace violations of sexual harassment
- Define roles and responsibilities of all MnDOT employees and third parties
- Clarify reporting procedures for policy violations

WHO NEEDS TO KNOW THIS POLICY?

- All MnDOT employees
- All third parties conducting business with MnDOT

SENIOR OFFICER

Sue M. Mulvihill, P.E.
Deputy Commissioner/Chief Engineer

POLICY OWNER

Seema Desai
Director, Office of Equity and Diversity

POLICY CONTACT

Kimberly Malone
*Discrimination Case Manager
Office of Equity and Diversity
kimberly.malone@state.mn.us
651-366-4288*

POLICY HISTORY

01-12-2018, Established

[MnDOT Policy Website](#)

MnDOT INVESTIGATION PROCEDURES

Complaint Step 1 - Complainant

Employees and third parties are encouraged to report all incidents of sexual harassment. Individuals are encouraged to report incidents of sexual harassment as soon as possible after the incident occurs. Individuals who wish to submit a complaint in writing are encouraged to use the [OED Discrimination Complaint Form](#). Individuals may make a complaint of sexual harassment to:

- The Office of Equity and Diversity (OED);
- The Office of Human Resources (OHR);
- Any supervisor, manager, or director who then contacts the OED;
- The Commissioner or Deputy Commissioner, who then contacts the OED; or
- If the complaint concerns an agency head, the complainant may contact Minnesota Management and Budget, Enterprise Human Capital, Office of Equal Opportunity, Diversity, and Inclusion.

Complaint Step 2 – Office of Equity and Diversity (OED)

OED will determine if the claim falls within OED’s purview by determining whether the complaint alleges sexual harassment and whether the complaint is proper for resolution through the complaint procedure. If the complaint is found to allege conduct that falls outside of OED’s purview, OED will refer the complaint appropriately.

If the Complainant is suffering, or may be subject to irreparable harm in the absence of immediate action, the OED Director, the Human Resources Director, the Deputy Commissioner, or the Commissioner may take whatever action is appropriate to address the situation while the complaint is under investigation.

Complaint Step 3 – Office of Equity and Diversity (OED)

OED will conduct an impartial investigation which may include a limited inquiry, interviews with, or statements from parties involved, including the complainant, subject, complainant’s supervisor(s), witnesses, and co-workers; and/or a review of all pertinent records or documents relating to the complaint. Matters may be resolved using less formal procedures as well.

OED will make reasonable efforts to complete an investigation and provide a written notice of completion within 60 days of determining purview.

Complaint Step 4 – Office of Equity and Diversity (OED)

Upon completion of the investigation, OED will prepare a written investigation report determining whether the complaint was substantiated. OED will provide the written report to the Human Resources Director and/or other management staff as appropriate. OED will provide written notification to the complainant and to the subject stating the investigation is completed.

Complaint Step 5 – Office of Equity and Diversity (OED) and Office of Human Resources (OHR)

OED will meet with the OHR and/or appropriate management staff to discuss the investigation and follow up action. Human Resources and/or the appropriate management staff will review the investigation report and, if deemed necessary, take proper corrective action up to and including discharge when the investigation findings give merit to the allegations in the complaint.

FORMS/INSTRUCTIONS

[Discrimination Complaint Form](#)

RELATED INFORMATION

[MnDOT Discrimination Policy](#)

[Employee Assistance Program \(EAP\)](#)

POLICY OWNERSHIP AND AUTHORIZATION

Policy Owner

Seema Desai, *Director, Office of Equity and Diversity*

Signature and Date  01/12/2018

Governance Council

Sue Stein, *Assistant Commissioner Corporate Services Division, on behalf of the Governance Council*

Signature and Date  1-12-18

Susan M. Mulvihill, P.E., *Deputy Commissioner/Chief Engineer*

Signature and Date  1-12-2018

HR/LR Policy #1329

Sexual Harassment Prohibited

Date Issued: 06/17/1996

Date Revised: 02/12/2016

Rebrand Date*: 11/30/2017

Authority: Enterprise Human Resources

OVERVIEW

Objective

To create a work environment free from sexual harassment of any kind.

Policy Statement

Sexual harassment in any form is strictly prohibited. Individuals who believe they have been subject to sexual harassment are encouraged to file a complaint with an appropriate authority. Any form of retaliation directed against an individual who complains about sexual harassment or who participates in any investigation concerning sexual harassment is strictly prohibited and will not be tolerated. Violations of this policy by State employees will be subject to discipline, up to and including discharge. Violations of this policy by third parties will be subject to appropriate action.

Scope

This policy applies to all employees of, and third parties who have business interactions with, executive branch agencies and the classified employees in the Office of the Legislative Auditor, Minnesota State Retirement System, Public Employee Retirement Association, and Teachers' Retirement Association.

Definitions and Key Terms

Complainant

An individual who complains about sexual harassment or retaliation.

Public service environment

A location that is not the workplace where public service is being provided.

Sexual harassment

Unwelcome sexual advances, unwelcome requests for sexual favors, or other unwelcome verbal, written, or physical conduct or communication of a sexual nature.

Third party

Individuals who are not State employees but who have business interactions with State employees, including, but not limited to:

- Applicants for State employment
- Vendors
- Contractors
- Volunteers
- Customers
- Business Partners

Exclusions

N/A

Statutory References

42 U.S.C. § 2000e, et al.

M.S. Ch. 363A

M.S. Ch. 43A

Minn. Rule 3905.0500

GENERAL STANDARDS AND EXPECTATIONS

I. Prohibition of Sexual Harassment

Sexual harassment of any employee or third party in the workplace or public service environment, or which affects the workplace or public service environment, is strictly prohibited.

Sexual harassment under this policy is any conduct or communication of a sexual nature which is unwelcome. The victim, as well as the harasser, can be of any gender. The victim does not have to be of the opposite sex as the harasser. Sexual harassment includes, but is not limited to:

1. Unwelcome sexual innuendoes, suggestive comments, jokes of a sexual nature, sexual propositions, degrading sexual remarks, threats;
2. Unwelcome sexually suggestive objects or pictures, graphic commentaries, suggestive or insulting sounds, leering, whistling, obscene gestures;
3. Unwelcome physical contact, such as rape, sexual assault, molestation, or attempts to commit these assaults; unwelcome touching, pinching, or brushing of or by the body;
4. Preferential treatment or promises of preferential treatment for submitting to sexual conduct, including soliciting or attempting to solicit an individual to submit to sexual activity for compensation or reward;
5. Negative treatment or threats of negative treatment for refusing to submit to sexual conduct;
6. Subjecting, or threatening to subject, an individual to unwelcome sexual attention or conduct.

II. Employee and Third Party Responsibilities and Complaint Procedure

Sexual harassment will not be tolerated. All employees and third parties are expected to comply with this policy.

Employees and third parties are encouraged to report all incidents of sexual harassment. Individuals are encouraged to report incidents of sexual harassment as soon as possible after the incident occurs. Individuals may make a complaint of sexual harassment with:

1. An agency supervisor;
2. The agency's affirmative action officer;
3. An agency's human resource office;
4. Agency management, up to and including the commissioner.

If the complaint concerns an agency head, the complainant may contact Minnesota Management & Budget, Enterprise Human Resources, Office of Equal Opportunity, Diversity, and Inclusion.

To ensure the prompt and thorough investigation of a complaint of sexual harassment, the complainant may be asked to provide information in writing, which may include, but is not limited to:

1. The name, department, and position of the person(s) allegedly causing the harassment;
2. A description of the incident(s), including the date(s), location(s), and the presence of any witnesses;
3. The name(s) of other individuals who may have been subject to similar harassment;
4. What, if any, steps have been taken to stop the harassment;
5. Any other information the complainant believes to be relevant.

Individuals are encouraged to use the agency's internal complaint procedure, but may also choose to file a complaint externally with the Equal Employment Opportunity Commission (EEOC) and/or the Minnesota Department of Human Rights (MDHR) or other legal channels.

III. Supervisor Responsibility

Supervisors are responsible for the following:

1. Modeling appropriate behavior;
2. Treating all complaints of sexual harassment seriously, regardless of the individuals or behaviors involved;
3. When a complaint of sexual harassment has been made to the supervisor, or when the supervisor is otherwise aware that a problem exists, the supervisor must appropriately respond to the complaint or problem;
4. Immediately report all allegations or incidents of sexual harassment to human resources or the agency Affirmative Action Officer so that prompt and appropriate action can be taken;
5. Complying with their agency's complaint and investigation procedures and/or their Affirmative Action Plan to ensure prompt and appropriate action in response to complaints of sexual harassment.

Supervisors who knowingly participate in, allow, or tolerate sexual harassment or retaliation are in violation of this policy and are subject to discipline, up to and including discharge.

IV. Human Resources Responsibilities

Agency human resources offices are responsible for the following:

1. Modeling appropriate behavior;
2. Distributing the sexual harassment policy to all employees, through a method whereby receipt can be verified;

3. Treating all complaints of sexual harassment seriously, regardless of the individual(s) or behaviors involved;
4. Complying with the agency's complaint and investigation procedures and/or their Affirmative Action Plan to ensure prompt and appropriate action in response to complaints of sexual harassment.

V. Affirmative Action Officer or Designee Responsibilities

Agency Affirmative Action Officer/designee is responsible for the following:

- Modeling appropriate behavior;
- Treating all complaints of sexual harassment seriously, regardless of the individual(s) or behaviors involved;
- Complying with the agency's complaint and investigation procedures to ensure the prompt and appropriate action in response to complaints of sexual harassment;
- Keeping the agency apprised of changes and developments in the law.

VI. Investigation and Discipline

All complaints of sexual harassment will be taken seriously, and prompt and appropriate action taken. When conducting an investigation, supervisors, human resources, and Affirmative Action Officers must follow their agency's investigation procedures. For a sample investigation procedure, please review the documents available on the [MMB Equal Opportunity, Diversity, and Inclusion website](#), including:

- [Agency AAP Planning Guide](#)
- [For agencies with more than 25 employees](#)
- [For agencies with 25 or fewer employees](#)

Timely and appropriate corrective action will be taken when there is a violation of this policy. Employees who are found to have engaged in sexual harassment in violation of this policy will be subject to disciplinary action, up to and including discharge.

Third parties who are found to have engaged in sexual harassment in violation of this policy will be subject to appropriate action. Appropriate action for policy violations by third parties will depend on the facts and circumstances, including the relationship between the third party and the agency. Agencies may contact MMB Enterprise Human Resources, Office of Equal Opportunity, Diversity, and Inclusion for assistance in determining appropriate action for third parties. MMB may refer agencies to the appropriate resources, which may include, for example, the Department of Administration with respect to policy violations by vendors or contractors.

Employees who knowingly file a false complaint of sexual harassment will be subject to disciplinary action, up to and including discharge.

VII. Non-Retaliation

Retaliation against any person who reports sexual harassment or participates in an investigation of such reports is strictly prohibited. Retaliation will not be tolerated. Any employee who is found to have engaged in retaliation in violation of this policy will be subject to discipline, up to and including discharge. Third parties who are found to have engaged in retaliation in violation of this policy will be subject to appropriate action.

RESPONSIBILITIES

Agencies are responsible for:

- Adopting this policy.
- Disseminating this policy to agency employees through a method whereby receipt can be verified.
- Posting this policy in a manner that can be accessed by third parties.
- Including this policy in their Affirmative Action Plan.
- Implementing this policy, including developing:
 - An educational program;
 - A process for reporting complaints; and
 - A procedure under which complaints will be addressed promptly.
 - Enforcing this policy.

MMB is responsible for:

- Ensuring that state agencies carry out their responsibilities under this policy and updating this policy as necessary.

FORMS AND SUPPLEMENTS

See acknowledgement form, below, which can be used to verify receipt by agency employees.

Acknowledgement

I acknowledge that I have received and read the policy, Sexual Harassment Prohibited, and accompanying complaint procedure. I understand that sexual harassment and retaliation are strictly prohibited. I understand that if I engage in conduct in violation of the policy toward any State employee, applicant for employment, vendor, contractor, volunteer, customer, or business partner, I will be subject to disciplinary action, up to and including discharge.

I understand that if I believe that I have been subjected to sexually harassing or retaliatory conduct as defined by this policy by any State employee, applicant for employment, vendor, contractor, volunteer, customer or business partner, I am encouraged to report that behavior. I understand that I can make a report to agency managers/supervisors, agency human resources, or agency management, up to and including the commissioner. I understand that if my complaint concerns an agency head, I may contact Minnesota Management & Budget.

Signed: _____ Date: _____

Employee Name: _____

REFERENCES

MMB Equal Opportunity, Diversity, and Inclusion Office: <http://www.mn.gov/mmb/employee-relations/equal-opportunity/>.

1. [Affirmative Action Plan Template - More Than 25 Employees \(word version\)](#)
2. [Affirmative Action Plan Template - 25 or Fewer Employees \(word version\)](#)

CONTACTS

Enterprise Human Resources, Office of Equal Opportunity, Diversity, and Inclusion

**Date policy content moved to new document template featuring updated branding, logo, formatting, and corrections to typographical errors. No change to policy content.*