

SEXUAL AND OTHER HARASSMENT

Sexual and other forms of harassment are unlawful and are prohibited by chapter 151B of the General Laws, section 1C of chapter 214 of the General Laws and by Title VII of the U.S. Civil Rights Act of 1964. It is the policy of the Massachusetts Senate that all employees have a right to work in an atmosphere free from harassment. An employee who engages in harassment is subject to disciplinary action. An employee who may be a victim of harassment is urged to report the incident to the employee's supervisor or to the Senate Office of Human Resources immediately. Appendix A contains the Senate's policy on harassment, including detailed procedures.

ANTI-HARASSMENT POLICY OF THE MASSACHUSETTS SENATE

It is the goal of the Massachusetts Senate to promote a workplace that is free of sexual and other forms of discriminatory harassment. Each employee has a responsibility to ensure that harassment based on an individual's gender, race, color, national origin, ancestry, religion, disability, age, gender identity, sexual orientation, genetic information, active military status, and any other characteristic protected by federal, state or local law, does not occur in the workplace. Discriminatory harassment of employees in the workplace or in other settings in which employees may find themselves in connection with their employment is unlawful and will not be tolerated by this organization. Further, any retaliation against an individual who has complained about discriminatory harassment or retaliation against individuals for cooperating with an investigation of a discriminatory harassment complaint is similarly unlawful and will not be tolerated. To achieve our goal of providing a workplace free from discriminatory harassment, the conduct that is described in this policy will not be tolerated and the Senate has provided a procedure by which inappropriate conduct will be dealt with, if encountered by employees.

Because the Massachusetts Senate takes allegations of discriminatory harassment seriously, there will be a prompt response to complaints of such harassment and where it is determined that such inappropriate conduct has occurred, the Senate will act quickly to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate.

Please note that while this policy sets forth the Senate's goals of promoting a workplace that is free of discriminatory harassment, the policy is not designed or intended to limit the Senate's authority to discipline or take remedial action for workplace conduct which is deemed unacceptable, regardless of whether that conduct satisfies the definition of sexual or other discriminatory harassment.

Definition of Harassment

Discriminatory harassment includes behavior that is not welcomed by an individual and is considered by the individual, and would be by any reasonable individual, to be humiliating, demeaning or offensive, when such conduct has the purpose or effect of unreasonably interfering with a member's work performance or creating an intimidating, hostile or offensive working environment based on an individual's gender, race, color, national origin, ancestry, religion, disability, age, gender identity, sexual orientation, genetic information, active military status, or any other characteristic protected by federal, state or local law. Discriminatory harassment can be physical or verbal behavior and can include stereotypical statements, derogatory statements about protected characteristics, abusive and discriminatory remarks that are offensive or objectionable to the recipient and/or cause the recipient humiliation, and interfere with the recipient's job performance.

Definition of Sexual Harassment

In Massachusetts, the legal definition for sexual harassment is as follows: "sexual harassment" means unwelcome sexual advances, requests for sexual favors and verbal or physical conduct of a sexual nature when:

1. submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions; or,
2. such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment.

Under this definition, direct or implied requests by a supervisor for sexual favors in exchange for actual or promised job benefits, such as favorable reviews, salary increases, promotions, increased benefits or continued employment, constitutes sexual harassment.

The legal definition of sexual harassment is broad and in addition to the above examples, other sexually oriented conduct, whether it is intended or not, that is unwelcome and has the effect of creating a work environment that is hostile, offensive, intimidating or humiliating to male or female workers may also constitute sexual harassment.

While it is not possible to list all those additional circumstances that may constitute sexual harassment, the following are some examples of conduct, which if unwelcome, may constitute sexual harassment depending upon the totality of the circumstances, including the severity of the conduct and its pervasiveness:

- unwelcome sexual advances, whether or not that involves physical touching;
- sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life, comment on an individual's body, comment about an individual's sexual activity, deficiencies or prowess;
- displaying sexually suggestive objects, pictures or cartoons;
- viewing, transmitting or printing electronic or computer material of a sexual or sexist nature, including, but not limited, to e-mails, graphics and material from the internet;
- unwelcomed leering, whistling, brushing against the body, sexual gestures and suggestive or insulting comments;
- inquiries into one's sexual experiences; and
- discussion of one's sexual activities.

All employees should take special note that, as stated above, retaliation against an individual who has complained about sexual harassment and retaliation against individuals for cooperating with an investigation of a sexual harassment complaint unlawful and will not be tolerated by the Massachusetts Senate.

Complaints of Harassment

If Senate employees believe they have been subjected to sexual or other discriminatory harassment, those employees have the right to file a complaint with the Massachusetts Senate. This may be done verbally or in writing.

If an employee would like to file a complaint, that person may do so by contacting Cathy Flewelling, Director of the Senate Office of Human Resources, in room 16 or at extension 1212. Cathy is also available to discuss any concerns an employee may have and to provide information to employees about the Senate's policy on discriminatory harassment and the complaint process.

Investigation

When a complaint is received, the Senate will promptly investigate the allegation in a fair and expeditious manner. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances. The Senate's investigation will ordinarily include a private interview with the person filing the complaint and with witnesses. The Senate will also ordinarily interview the person alleged to have engaged in the discriminatory harassment. When the investigation is completed, the Senate will, to the extent appropriate, inform the person filing the complaint and the person alleged to have committed the conduct of the results of that investigation. Employees are required to cooperate with investigations under this section.

If it is determined that inappropriate conduct has occurred, the Senate will act promptly to eliminate the offending conduct, and where it is appropriate, will also impose disciplinary action.

Disciplinary Action

If it is determined that inappropriate conduct has been committed by an employee, the Senate will take such action as is appropriate under the circumstances. That action may range from counseling to termination from employment and may include such other forms of disciplinary action as is deemed appropriate under the circumstances.

State and Federal Remedies

If Senate employees believe they have been subjected to discriminatory harassment, those employees may also file a formal complaint with either or both of the government agencies set forth below. Using the Senate complaint process does not prohibit an employee from filing a complaint with these agencies. Each of the agencies has a 300-day period for filing a claim.

1. The United States Equal Employment Opportunity Commission ("EEOC")

John F. Kennedy Federal Building 475 Government Center Boston, MA 02203
(617) 565-3200

2. The Massachusetts Commission Against Discrimination ("MCAD")

Boston Office

One Ashburton Place, Rm. 601
Boston, MA 02108
(617) 994-6000

Springfield Office:

436 Dwight Street, Rm. 220
Springfield, MA 01103
(413) 739-2145

Worcester Office:

484 Main Street, Room 320
Worcester, MA 01608
(508) 453-963