
MANAGEMENT DIRECTIVE

505.30
Amended
Number

COMMONWEALTH OF PENNSYLVANIA GOVERNOR'S OFFICE

Subject:

Prohibition of Sexual Harassment in Commonwealth Work Settings

By Direction Of:



Fritz Bittenbender, Secretary of Administration

Date:

June 19, 2002

This directive provides detailed policy and procedures to fulfill the mandate expressed in *Executive Order 2002-4, Prohibition of Sexual Harassment in the Commonwealth*. This directive requires all employees under the jurisdiction of the Governor to read and sign a copy of Enclosure 1. The signed copy should be given to the employee's supervisor and is to be maintained in the employee's Official Personnel Folder. This amendment contains minor changes.

1. PURPOSE. To announce the Commonwealth's policy on sexual harassment, define sexual harassment, and identify steps which agencies should take to reduce the chances of sexual harassment occurring.

2. SCOPE. This directive applies to all departments, boards, commissions, and other agencies under the Governor's jurisdiction and to all employees of those agencies.

3. OBJECTIVES.

a. Define the Commonwealth's policy on sexual harassment.

b. Outline reporting procedures for violations of policy on sexual harassment.

c. Define the Commonwealth's policy on retaliation regarding sexual harassment.

d. Provide an acknowledgment procedure to ensure that employees are aware of the policy on sexual harassment.

4. POLICY.

a. *Executive Order 2002-4* and this directive constitute the Commonwealth's sexual harassment policy. The policy is based on federal and state law, court decisions, and a commitment that sexual harassment will not be tolerated in Commonwealth workplaces and work settings. Sexual harassment in the workplace is a form of employment discrimination.

b. It is the policy of the Commonwealth of Pennsylvania that sexual harassment of employees, applicants for employment, or clients of or individuals conducting business with or receiving services from the Commonwealth is strictly prohibited and will not be tolerated.

c. Sexual harassment is a violation of state and federal law. Therefore, all federal and state laws relating to sexual harassment or sex discrimination, or both, will be enforced. Under this policy, all employees share responsibility for ensuring that the workplace is free from all forms of sexual harassment.

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d. The Commonwealth will not tolerate sexual harassment by any employee against another employee, applicant for employment, client of or any person conducting business with or receiving services from the Commonwealth or any representative thereof.

e. Individuals not employed by the Commonwealth will be held responsible for any acts of sexual harassment they may commit within the Commonwealth work settings or upon employees of the Commonwealth while in the performance of their duties.

f. Any employee who engages in or knowingly condones sexual harassment shall be subject to disciplinary action, up to and including dismissal.

g. Retaliation in any form against an employee or applicant, or against any client or other person receiving services or conducting business with the Commonwealth, who exercises his or her right to make a complaint under this policy or who cooperates in the investigation of any such complaint is strictly prohibited, and will itself be cause for appropriate disciplinary action. Any employee who believes that he or she has been the victim of retaliation should report his or her concerns as stated in Section 7.a.

5. DEFINITION. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and/or other verbal, visual, or physical conduct of a sexual nature where:

a. submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or

b. submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individuals; or

c. 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.

EXAMPLES

Examples of acts of sexual harassment which shall not be tolerated include, but are not limited to the following, particularly when they are repeated or part of a general pattern of behavior:

Written: Unwelcome suggestive, sexually explicit, or obscene letters, poems, notes, or invitations.

Verbal: Derogatory, sexually explicit, or offensive comments, epithets, slurs or jokes; inappropriate comments about an individual's body or sexual activities; repeated unwelcome propositions or repeated sexual flirtations; direct or subtle pressures or repeated unwelcome requests for dates or sexual activities.

Physical: Impeding or blocking movements, touching, patting, pinching, or any other unnecessary or unwanted physical contact.

Visual: Sexually oriented gestures, display of sexually suggestive or derogatory objects, pictures, cartoons, posters, or drawings.

Prohibited sexual harassment may include actions by members of the opposite sex of an employee as well as members of an employee's own sex. Managers and supervisors are responsible for inspecting their respective work areas for materials which might be offensive to others and for removing all such materials. Prohibited sexual harassment may include actions which are overtly sexual or facially neutral if such conduct constitutes gender-based discrimination.

No manager, supervisor, or other employee shall threaten or suggest, either explicitly or implicitly, that the refusal by another employee or applicant for employment to submit to sexual advances in any form will adversely affect that person's employment, performance evaluation ratings, wages, compensation, advancement, assigned duties, work assignments, work schedules, training, or any other term or condition of employment or career development. In addition, offering, promising, or granting favored treatment

to any employee or applicant for employment as a result of that person's engaging in or agreeing to engage in sexual conduct, as well as seeking in any way to make the performance of a person's job more difficult because of that person's refusal to submit to sexual advances are strictly prohibited.

6. RESPONSIBILITIES.

- **a. The Secretary of Administration** shall
- require each agency to have an effective complaint
- mechanism which ensures that an employee does
- not have to complain to the alleged harasser and
- which provides for prompt and effective investigation of complaints.

b. Agency heads shall:

- **(1)** Support the Commonwealth's sexual harassment policy and reinforce that support, in writing, to their employees. However, agency heads should not restate the policy in different words in written transmittals. It is important that the wording used in this directive and *Executive Order 2002-4* be consistently used and applied among all agencies under the Governor's jurisdiction.

(2) Ensure that all employees under their jurisdiction are educated in the Commonwealth's sexual harassment policy and in sexual harassment issues in general. Education may consist of written materials, formal training, educational videos, orientation sessions, workplace discussions, and/or individual counseling. Education in sexual harassment issues should be considered an ongoing effort, with additional approaches used periodically to reinforce earlier education.

- **(3)** Disseminate names and phone numbers for the agency's Equal Opportunity Manager/Specialist or Human Resource Director or any other individual to whom an employee may report allegations of sexual harassment.

c. The Office of Administration, Bureau of Equal Employment Opportunity, shall make available resources to supplement agency educational efforts.

7. PROCEDURES.

a. Reporting Violations of Policy on Sexual Harassment. Any employee who believes that he or she has been the victim of sexual harassment in any form, by any manager, supervisor, coworker, customer, client, or any other person in connection with his or her employment should bring the problem immediately to the attention of his or her supervisor or someone in the employee's direct line of supervision. If the concern involves the employee's direct supervisor or someone in the employee's direct line of supervision, or if the employee is uncomfortable for any reason with discussing such matters with the supervisor and/or others in the direct line of supervision, or is not satisfied after bringing the matter to such individuals, the employee may take his or her concerns to the agency Equal Opportunity Manager/Specialist or Human Resource Director or other individual designated by the agency head under Section 6.a.(3).

All allegations of sexual harassment will be investigated in a confidential manner. Sexual harassment complaints do not have to be in writing before an investigation is initiated. When warranted, all appropriate corrective action will be taken. Any employee who is found, as a result of such investigation, to have engaged in sexual harassment in violation of this policy is subject to appropriate disciplinary action, up to and including termination of employment. A manager or supervisor will be subject to appropriate disciplinary action, up to and including termination of employment, if he or she fails to take corrective action when it is known, or reasonably should have been known, that an individual in the line of supervision of the manager or supervisor is or was being sexually harassed.

b. Acknowledgment of Receipt of Enclosure 1. Every Commonwealth employee is to be provided with a copy of *Executive Order 2002-4* and this directive. Each employee is asked to read the documents and sign a copy of Enclosure 1, Acknowledgment of Receipt of the Commonwealth of Pennsylvania's Sexual Harassment Policy. Signed copies of the form contained in Enclosure 1 are to be maintained in the employee's Official Personnel Folder (STD-301) by the agency human resource office. The form may be photocopied and provided to the employee for signature.

- **c. Dissemination.** In addition to the dissemination of Enclosure 1, the sexual harassment policy contained in *Executive Order 2002-4* and this directive should be disseminated to all employees by:

(1) Posting the policy in conspicuous places throughout the workplace.

(2) Placing the policy in all employee handbooks and/or policy manuals.

(3) Distributing the policy during new employee orientation programs.

(4) Redistributing the policy each year.

- (5) *Executive Order 2002-4* and this directive can be accessed on the State's Home Page, **www.state.pa.us**. At the top of the screen, go to the block "PA Keyword." Type in Executive Orders or Management Directives (whichever applies). Then, scroll down to the document by the number of the document.

- **d.** Any Commonwealth employee who engages in or knowingly condones sexual harassment related to Commonwealth employment shall be subject to disciplinary action, up to and including dismissal.

Enclosure:

- 1 – Acknowledgment of Receipt of the Commonwealth of Pennsylvania's Sexual Harassment Policy

This directive supersedes Management Directive 505.30 dated May 13, 1999. Please recycle the previous version.

**ACKNOWLEDGMENT OF RECEIPT OF
THE COMMONWEALTH OF PENNSYLVANIA'S
SEXUAL HARASSMENT POLICY**

I acknowledge that I have received and reviewed copies of the Commonwealth of Pennsylvania's policy on sexual harassment which is set forth in *Executive Order 2002-4, Prohibition of Sexual Harassment in the Commonwealth*, and *Management Directive 505.30, Prohibition of Sexual Harassment in Commonwealth Work Settings*.

NAME (PRINT):

SIGNATURE:

DATE:

AGENCY:

Note: This form is to be maintained in my Official Personnel Folder (STD-301) by the agency Human Resource Office.