


Sexual Harassment Policy

	Louisiana Department of Health (LDH)	
	Policy Number	56.4
	Content	LDH Policy on Sexual Harassment in the Workplace
	Revised Effective Date	January 1, 2019
	Inquiries to	Office of Management and Finance Division of Human Resources, Training & Staff Development P.O. Box 4818 Baton Rouge, Louisiana 70821 - 4818 (225) 342-6477 FAX (225) 342-6892

If there is a discrepancy between an LDH Policy and a Program Office or facility policy, the LDH policy shall govern/overrule/supersede the conflicting section within the Program Office or facility policy.

I. NOTICE OF PERSONAL LIABILITY

Louisiana law requires government agencies to develop and implement policies and related training to prevent sexual harassment in the workplace. The prohibitions and requirements within these policies apply to all public servants – employees, appointees and elected officials.

Louisiana’s taxpayers have been financially burdened by judgments and settlements arising from claims of workplace sexual harassment. To reduce this impact, La. R. S. 42:351, enacted in the 2019 Regular Session (Act No. 43), declares that consideration be given to requiring that a public servant, determined to have engaged in sexually inappropriate behavior, personally reimburse all or a portion of any judgment or settlement resulting from such behavior. La. R. S. 42:353 sets forth the process and factors to be considered in making this determination, and authorizes the Attorney General to file suit against a public servant to enforce the state’s right to reimbursement and indemnification.

This notice of potential personal liability contained in this policy is disseminated to every newly hired LDH employee. This notice is also disseminated, on an annual basis, to all current

employees of LDH through review of this policy. Reference to this potential personal liability also is included in the mandatory annual CPTP training on sexual harassment available through LEO. (See Section VII of this policy – Training).

II. STATEMENT OF 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 sexual harassment. To accomplish this, LDH prohibits and will not tolerate sexual harassment or any behavior of a sexual nature that intimidates, exploits, insults, demeans, disrespects, or embarrasses any LDH employee.¹

Prevention and elimination of sexually inappropriate behavior requires the personal involvement and commitment of every LDH employee. Through this policy and related training requirements, LDH encourages employees who experience, observe or are informed of such behavior to promptly initiate the reporting process set forth in this policy. Employees may be assured that LDH will objectively and thoroughly investigate reports; implement preventive measures to protect against recurrence; impose corrective action to address substantiated violations; and protect complainants and employees involved in the investigative process from any form of harassment, reprisal, or retaliation.

III. PURPOSE

Through this policy and the mandatory training required of all employees, LDH 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 employees involved in the investigative process from harassment, reprisal, or retaliation
- Respect confidentiality and the privacy rights of employees

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 LDH Personnel Policy No. 34.2, entitled “Equal Employment Opportunity” and all subsequent updates thereto, for a comprehensive understanding of the prohibitions against other forms of harassment and discrimination.

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).

IV. APPLICABILITY

- A. This policy applies to all LDH 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 (both statutory and delegated), executive management, administrators, directors, managers, supervisors, staff, students, and interns.
- B. This policy applies not only to the customary workplace and work locations where LDH 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 that impacts the workplace.
- C. Third-party sexual harassment - Sexual harassment complaints against non-LDH employees will be referred to the appropriate authorities and/or handled as LDH management deems appropriate.

V. POSTINGS

This policy is available for review by all employees at all times on LDH's website at: <http://www.ldh.louisiana.gov/>. Notices related to workplace harassment and discrimination are conspicuously posted at LDH work locations throughout the state.

VI. EMPLOYEE RELATIONS DESIGNEE

Sexual harassment complaints will be handled within the Office of Human Resources by the Human Resources Director or designee. Human Resources Directors and their designees are located at the following offices and facilities:

1. Louisiana Department of Health, Office of the Secretary/Office of Management and Finance

2. Pinecrest Supports and Services Center (PSSC)
3. Eastern Louisiana Mental Health Systems (ELMHS)
4. Central Louisiana State Hospital (CLSH)
5. Villa Feliciana Medical Complex (VFMC)
6. Central Louisiana Supports and Services Center (CLSSC)

The Human Resources Director or designee is available to discuss the content of this policy, answer questions related to the reporting process, receive complaints, and coordinate the investigative process.

VII. TRAINING

To support this policy, LDH requires all employees to successfully complete training on this policy upon hiring and on a continuing basis thereafter. At a minimum, LDH mandates the following training for its employees:

- Upon hiring, all new employees will be provided a copy of this policy and instructed to carefully review it.
- All current employees are required to review this policy annually.
- Within ninety (90) days of the hiring date, all new employees are required to complete the Comprehensive Public Training Program's (CPTP) most recent training on sexual harassment. Certification of successful completion will be documented through CPTP.
- All employees, on an annual basis thereafter, are required to complete the CPTP's most recent training on sexual harassment. Certification of successful completion will be documented through CPTP.
- Supervisors and any persons designated by the agency to accept or investigate a sexual harassment complaint are required to complete CPTP's additional education and training on sexual harassment for supervisors on an annual basis. Certification of successful completion will be documented through CPTP.

VIII. PROHIBITED CONDUCT

- A. Unwelcome sexual advances, requests for sexual favors and other verbal, physical or inappropriate conduct of a sexual nature constitute sexual

harassment when the conduct explicitly or implicitly affects an employee's employment, unreasonably interferes with an employee's work performance or creates an intimidating, hostile or offensive work environment. Sexual harassment shall not be tolerated.

- B. Prohibited conduct relative to sexual harassment includes but is not limited to the following:
1. Unwelcome physical contact, including touching on any part of the body, kissing, hugging or standing close enough to make another person uncomfortable;
 2. Requests for sexual favors either directly or indirectly (for example, requiring a subordinate employee to go out to lunch or to have a drink may be perceived as a request for sexual favors under some circumstances, especially if the conduct has no business purpose);
 3. Requiring sexual favors as a condition of employment, obtaining a raise, obtaining new duties, a better office or any type of advancement in the workplace;
 4. Threatening dismissal or unfairly evaluating performance in retaliation for rejection of sexual advances;
 5. Sexual flirtations, advances or propositions;
 6. Graphic comments about an individual's body;
 7. Sexually degrading words to describe an individual;
 8. The display in the workplace of sexually suggestive objects, pictures, or writings; or,
 9. Other harassment that could rise to the level of sexual harassment.

IX. REPORTING PROCEDURE

- A. An employee experiencing unwelcome behavior may choose to tell the offender to cease the behavior. Doing so may be sufficient to prevent recurrence. LDH 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. However, if the behavior continues, the concern should be reported promptly.
- B. In order that complaints may be investigated timely and effectively, employees are strongly encouraged to report sexual harassment as soon as possible. LDH

does not impose a deadline for reporting sexual harassment, but immediate reporting is ideal.

- C. 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). LDH does not require that the employee use a specific form or adhere to a rigid reporting protocol.
- D. The report may be made to the employee's direct supervisor. However, regardless of reason, if the employee prefers to not involve his or her supervisor, the report may be made to any supervisor or manager in LDH, or directly to the Human Resources Director or designee. Supervisory personnel receiving a report of sexually inappropriate behavior are required to immediately inform the Human Resources Director or designee of the information provided. Non-supervisory personnel receiving a report of sexually inappropriate behavior (such as from a co-worker) are strongly encouraged to report the behavior to any supervisor or to the Human Resources Director or designee.
- E. Anonymous complaints are discouraged; however, if an anonymous complaint is submitted, it should contain as much detail as possible including the names of the accused and all witnesses, the locations, dates, times, and description of all behaviors experienced, and any previous reports of similar behavior to management. Without this level of detail, the ability to conduct a thorough investigation may be impeded.

X. INVESTIGATION OF COMPLAINTS

- A. Human Resources Director or designee - All reports and complaints of sexually inappropriate behavior will be directed to the Human Resources Director or designee who shall assess the information provided. 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. 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 employee participating in the investigation.
- B. Preliminary assessment - The Human Resources Director or designee, in consultation with the Bureau of Legal Services staff, shall conduct a preliminary

assessment of the information provided 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 appropriate appointing authority will be apprised of the general nature of the complaint and any preliminary action to be taken with the utmost confidentiality.

- C. Interviews - The investigation may 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. Other employees possessing relevant information may also be interviewed.
- D. Participant responsibilities - All employees called upon to participate in the investigation are required to fully cooperate and provide truthful responses. Employees 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.
- E. Report and recommendations - Upon completion of the investigation, the Human Resources Director or designee, in consultation with Bureau of Legal Services staff, will report whether the complaint of sexual harassment is substantiated or unsubstantiated to the appropriate appointing authority and provide recommendations for resolution.
- F. Management decision - Complainants may 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. Corrective actions may include counseling, reprimand, suspension, reduction in pay, demotion, or dismissal. If dismissal is recommended, the matter must be referred to LDH executive staff before final action is taken.
- G. In conjunction with such corrective actions, other appropriate measures, including additional training, relocation, reassignment, job restructuring, etc., may also be utilized to protect against the recurrence of the inappropriate behavior.

- H. Unsubstantiated good faith complaints - 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 whether the complaint was substantiated or unsubstantiated. Management's decision is final and concludes LDH'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 LDH's administrative investigation.

To initiate a claim under federal or state law, employees are referred to the Equal Employment Opportunity Commission and the Louisiana Commission on Human Rights:

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>

XII. RETALIATION STRICTLY PROHIBITED

LDH 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 employees providing information or participating in the investigative process. If a complaint of retaliation is made and an investigation reveals that harassment, retaliation or reprisal has occurred, the offender

shall receive corrective action, or disciplinary action shall be imposed up to and including dismissal.

XIII. RESPONSIBILITY

It is the responsibility of all employees to ensure compliance with this policy. Complaints must be truthful and made in good faith. Cooperative participation and candor in the investigative process are mandatory.

XIV. VIOLATIONS

The LDH will aggressively address violations of this policy. After investigation and satisfaction of due process requirements, corrective action, including disciplinary action up to and including termination, may be imposed for the following actions, including but not limited to:

- Failure to comply with mandatory training requirements
- Failure by a supervisor or manager to timely transmit a reported 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. EXCEPTIONS

Exceptions or deviations from the provisions of this policy require the express approval of the LDH Secretary.

XVI. QUESTIONS

Questions, comments, or concerns regarding this policy should be addressed to LDH's Human Resources Director or designee.

XVII. REVISION HISTORY

Date	Revision
March 15, 2002	Policy created
May 5, 2003	Policy revised
July 13, 2016	Policy revised
June 18, 2018	Policy revised
January 1, 2019	Policy revised
February 6, 2019	Housekeeping change (Section VI – Training)
July 7, 2020	Housekeeping change (Section XI – Retaliation Strictly Prohibited)
November 17, 2020	Housekeeping change (Section I – Notice of Personal Liability)
December 28, 2020	Housekeeping Change (Section VI – Employee Relations Designee)