# POLICY STATEMENT ON WORKPLACE HARASSMENT[1]

The State of Tennessee is firmly committed to the principle of fair and equal employment opportunities for its citizens and strives to protect the rights and opportunities of all people to seek, obtain, and hold employment without being subjected to illegal harassment in the workplace. It is the State's policy to provide an environment free of harassment of an individual because of that person's race, color, national origin, age (over 40), sex, pregnancy, religion, creed, disability or any other category protected by state and/or federal law.

Employees or applicants for employment who believe they have been harassed on any of these bases should lodge a complaint using the procedures set forth in this policy.

## DEFINITIONS OF HARASSMENT IN THE WORKPLACE

### A. Workplace Harassment

Any unwelcome verbal, written, or physical conduct that either degrades or shows hostility or aversion towards a person because of that person's race, color, national origin, age (over 40), sex, pregnancy, religion, creed, or disability that (1) has the purpose or effect of creating an intimidating, hostile, or offensive work environment; (2) has the purpose or effect of unreasonably interfering with an employee's work performance; or (3) affects an employee's employment opportunities or compensation.

To aid employees in identifying prohibited behavior, the following specific examples of workplace harassment are provided. These examples are not exhaustive; they illustrate, however, the types of conduct that violate this policy:

- Unwelcome touching of a personal nature, which can encompass leaning over, cornering, hugging, or pinching; sexual innuendos, teasing and other sexual talk such as jokes, personal inquiries, persistent unwanted courting and sexist put-downs;
- Slurs and jokes about a class of persons, such as persons who are disabled or a racial group;
- Distributing via e-mail epithets, slurs, jokes or remarks that are derogatory or demeaning to a class of persons or a particular person or that promote stereotypes of a class of person;
- Display of explicit or offensive calendars, posters, pictures, drawings or cartoons that reflect disparagingly upon a class of persons or a particular person;
- Derogatory remarks about a person's national origin, race, language, accent.

[1] While the State of Tennessee is committed to the principles embodied in this policy, the policy itself is not intended to state contractual terms and does not constitute a contract between the State and its employees, applicants for employment, or parties who do business with the State. This policy supersedes all policies that conflict with the terms of this policy.

### B. Hostile environment

Hostile environment harassment occurs when a victim is subjected to unwelcome and severe or pervasive comments based on race, color, national origin, age (over 40), sex, pregnancy, religion, creed, disability or any other category protected by law. A hostile work environment may also be created by innuendoes, touching, or other conduct that creates an intimidating or offensive workplace.

### C. Sexual Harassment

Any unwelcome sexual advance, request for sexual favors, or verbal, written, or physical conduct of a sexual nature by a manager, supervisor, co-worker, or non-employee (third party). There are two types of illegal sexual harassment. *Quid pro quo* harassment occurs when a manager or a supervisor gives or withholds a work-related benefit in exchange for sexual favors from the victim. Certain actions may also create a hostile work environment. (See the definition for "hostile work environment" above.)

### D. Retaliation

Retaliation is overt or covert acts of reprisal, interference, restraint, penalty, discrimination, intimidation, or harassment against an individual or individuals exercising rights under this policy.

### E. Third Parties

Third parties are individuals who are not state employees but who have business interactions with state employees. Such individuals include, but are not limited to, customers, such as applicants for state employment or services, vendors, contractors, or volunteers.

## CONDUCT PROHIBITED BY THE STATE OF TENNESSEE

The State of Tennessee strictly forbids and will not tolerate harassment of any employee, applicant for employment, or third party on the basis of an individual's race, color, national origin, age (over 40), sex, pregnancy, religion, creed, or disability. The fact that an alleged offender meant no harm or was teasing will not excuse conduct that violates this policy.

The State of Tennessee strictly forbids and will not tolerate any form of retaliation directed against an employee, applicant for employment, or third party who either complains about harassment or who participates in any investigation concerning harassment.

## HOW TO REPORT HARASSMENT INCIDENTS

Any employee, applicant for employment, or third party must report incidents of workplace harassment as soon as possible after the event occurs.

Employees and applicants for employment may file a complaint with their department's personnel director, the department head, their supervisor(s), or any individual designated by the department to receive such reports. Under no circumstances is the individual alleging workplace harassment required to file a complaint with the alleged harasser. If an employee or applicant believes he/she cannot file a complaint within his/her agency, that person should contact the Department of Personnel, EO/AA Division or Employee Relations Division (615-741-2958).

Individuals who wish to file a complaint are encouraged to submit the complaint in writing and to include a description of the incident(s) as well as the date(s), time(s), place(s) and any witnesses.

If a complaint involves an executive director, assistant commissioner, deputy commissioner, or the commissioner, an employee or applicant for employment may file the complaint directly with the Department of Personnel, EO/AA Division.

## HOW TO REPORT RETALIATION INCIDENTS

Any employee, applicant for employment, or third party must report incidents of retaliation as soon as possible after the event occurs.

Any employee, applicant for employment, or third party who makes complaints of workplace harassment or provides information related to such complaints will be protected against retaliation. If retaliation occurs, the employee, applicant for employment, or third party should report the retaliation in the same manner as he/she would report a workplace harassment complaint.

## HOW COMPLAINTS ARE INVESTIGATED AND RESOLVED

The department will conduct a thorough and neutral investigation of all reported complaints of workplace harassment or retaliation as soon as practicable. Generally, an investigation will include an interview with the complainant to determine if the conduct in issue violates this policy. If the department determines that the conduct falls within the terms of this policy, the department will interview the alleged offender and any other witnesses who have direct knowledge of the circumstances of the allegations.

The department retains the sole discretion to determine whether a violation of this policy has occurred and to determine what level, if any, of disciplinary action is warranted.

If a complaint involves an executive director, assistant commissioner, deputy commissioner, or the commissioner, the Department of Personnel, EO/AA Division will investigate the complaint on behalf of the department and report the results to the appropriate agency or authority.

## HOW CONFIDENTIALITY IS TREATED

To the extent permitted by law, the confidentiality of each party involved in a workplace harassment investigation, complaint or charge will be observed, provided it does not interfere with the department's ability to investigate the allegations or to take corrective action.

## DIRECTIVE TO SUPERVISORY PERSONNEL

Supervisory personnel who receive a complaint alleging workplace harassment or learn by any means of conduct that may violate this policy must immediately report any such event to the department's personnel director or EEO/AA officer.

## PENALTIES FOR VIOLATION OF THIS POLICY

Any employee who engages in conduct that violates this policy or who encourages such conduct by others will be subject to corrective action. Such corrective action includes, but is not limited to, mandatory participation in counseling, training, disciplinary action, up to and including termination, and/or changes in job duties or location.

Supervisory personnel who allow workplace harassment or retaliation to continue or fail to take appropriate action upon learning of such conduct will be subject to corrective action. Such corrective action includes, but is not limited to, mandatory participation in counseling, training, disciplinary action, up to and including termination, and/or changes in job duties or location.

Tennessee Department of Personnel Printing Requisition number 319446. This public document was promulgated at a cost of $0.02 per page October 2004.