

**SUBJECT
CLAIMS OF
DISCRIMINATION
TO INCLUDE SEXUAL
HARASSMENT**

**POLICY NUMBER
3.05**



POLICY MAINTENANCE ADMINISTRATOR: Chief, Bureau of Personnel Services

PURPOSE/SCOPE: To establish department policy and procedures for resolving claims of unlawful discrimination, including sexual harassment claims.

I. AUTHORITY

Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq.

Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e et seq.

Civil Rights Restoration Act of 1987, 20 U.S.C. 1681-1688

Section 20.055, Florida Statutes, Agency inspectors general

Section 110.105, Florida Statutes, Employment policy of the state

Section 112.044, Florida Statutes, Public employers, employment agencies, labor organizations; discrimination based on age prohibited; exceptions; remedy

Section 119.071(2)(n), Florida Statutes, General exemptions from inspection or copying of public records

Chapter 760, Florida Statutes, Discrimination in the Treatment of Persons; Minority Representation

Chapter 60L-36, Florida Administrative Code, Conduct of Employees

Chapter 60L-40, Florida Administrative Code, Sexual Harassment, Equal Employment Opportunity and Affirmative Action

Governor's Executive Order 11-03 and Code of Ethics, Effective January 4, 2011

Governor's Executive Order 17-319, Effective December 12, 2017

II. RELATED POLICIES

MP 3.06, Disciplinary Process

MP 6.06, Workplace Safety and Security

MP 7.04, Employee Assistance Program

MP 11.07, Internal Audit Compliance and Investigations

Executive Director SIGNED ORIGINAL ON FILE	Effective Date 09/01/1983
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III. DEFINITIONS

- A. Complainant – A Member or an applicant for employment with the department alleging unlawful discrimination.
- B. Hostile Work Environment – Severe and persistent unwelcome comments or conduct (including sexual harassment) based on age, race, color, gender, sexual orientation, religion, national origin, disability, veteran status, marital status, or on any other legally protected characteristic, that unreasonably interferes with a member’s or a group of members’ work performance.
- C. Intake Officer – The Chief of Personnel Services or designee and the General Counsel or designee have been designated by the Executive Director to receive, assess, and facilitate resolution of claims of discrimination.
- D. Office of Employee Relations (OER) – Section within the Bureau of Personnel Services designated to assist complainants with questions about unlawful discrimination, provide information to the Intake Officer and the Inspector General as needed, track the filing of claims of unlawful discrimination, assist with ensuring their prompt and proper handling, and keep a record of their ultimate resolution.
- E. Sexual Harassment – Type of unlawful discrimination consisting of unwelcome sexual advances, requests for sexual favors, and other oral, written, or physical conduct of a sexual nature, including displays of sexually-oriented images, when this conduct explicitly or implicitly affects an individual’s employment and unreasonably interferes with an individual’s work performance or creates a hostile work environment. The victim as well as the harasser may be a woman or a man. The victim does not have to be of the opposite sex. The harasser can be the victim’s supervisor, an agent of the employer, a supervisor in another area, a co-worker, or a non-employee such as a vendor. The victim does not have to be the person harassed, but could be anyone affected by the offensive conduct.
- F. Unlawful Discrimination – Actions that create barriers, deny access, make employment decisions, or create a hostile work environment on the basis of age, race, color, gender, sexual orientation, religion, national origin, disability, veteran status, marital status, or on any other basis protected under the law. Acts may be directed towards, or affect, one person or a group of people. Intent to discriminate is not necessary. Examples of unlawful discrimination include, but are not limited to, slurs, derogatory comments, gestures, physical behaviors, or “jokes” about age, race, color, gender, sexual orientation, religion, national origin disability veteran’s status, marital status, or on any other basis protected under the law.

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G. Denial of Benefits and Participation – No person shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity, on the grounds of race, color, or national origin as provided by Title VI of the Civil Rights Act of 1964, and the Civil Rights Restoration Act of 1987.

IV. POLICY

The Department of Highway Safety and Motor Vehicles (department) is committed to eliminating unlawful discrimination in the workplace.

The department will provide initial education to new members no later than 30 days after the start of employment through new member training courses. The new member training courses address claims of discrimination, including sexual harassment and are required to be completed by the new member no later than 30 days from the course assignment date.

Recurring mandatory training will be provided to all members on an annual basis thereafter, and are required to be completed no later than 90 days from course assignment date. In addition, the department will provide specific training for supervisors.

The department will initiate a prompt review and will act quickly to resolve any claims of unlawful discrimination and will treat such claims with the greatest degree of confidentiality possible. Where violations are confirmed, disciplinary or administrative action up to and including dismissal, will be taken in accordance with department Policy 3.06, Disciplinary Process.

Retaliation against any member who makes a report of unlawful discrimination, or provides information as a witness, is prohibited. Any member who retaliates against a complainant will be subject to discipline or administrative action. Any member against whom such retaliatory action has allegedly been taken may file a complaint with the Intake Officer.

V. ROLES AND RESPONSIBILITIES

A. Members

1. Upon employment, all new members will receive information and training regarding this policy. New members must complete the training within 30 days from the date it is assigned by the department.

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2. All current members are required to participate in mandatory recurring annual training courses that provide information on identifying and avoiding acts of unlawful discrimination.
3. By completing the assigned training courses, new members and current members acknowledge receipt of, and agree to comply with, all associated policies, procedures and related training information.
4. The new member and recurring annual training courses may be provided through the department's online training system, or in instructor-led classroom settings, as determined by the department.
5. Non-supervisory members must report any incidents of unlawful discrimination they reasonably suspect, or that have been reported to them, to the Intake Officer at (850) 617-3202.
6. Members with complaints related to unlawful discrimination may also contact the following:

Florida Commission on Human Relations (FCHR) at 4075 Esplanade Way, Room 110, Tallahassee, FL 32399. Telephone: (850) 488-7082 or Toll-Free: (800) 342-8170, Fax: (850) 487-1007, web address <http://fchr.state.fl.us>.

United States Equal Employment Opportunity Commission (EEOC) at the Miami District EEOC Office, Miami Tower, 100 SE 2nd Street, Suite 1500, Miami, Florida 33131. Telephone: (800) 669-4000, Fax: (305) 808-1855, web address: <http://www.eeoc.gov> or the EEOC also has a Tampa Area Office at 501 East Polk Street, Suite 1000, Tampa, FL 33602. Telephone: (800) 669-4000, Fax: (813) 228-2841, web address: <http://www.eeoc.gov>.

B. Supervisors

1. Supervisors are responsible for identifying and reporting incidents of unlawful discrimination which they know of, reasonably suspect, or have reported to them. Supervisors should not undertake investigation of such incidents. They must notify their chain of command and the Office of Employee Relations at (850) 617-3202. OER will advise the supervisor or refer them to the Intake Officer or the Inspector General based on the circumstances.
2. Supervisors are required to set the standard for non-discriminatory behavior and ensure members are aware of the different types of unlawful discrimination.

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3. Supervisors who allow such conduct, are aware of it and fail to report it, or who are found to be participating in it, will be subject to disciplinary or administrative action, up to and including dismissal.
4. Supervisors will complete additional specialized training, specific to their roles as supervisors, as assigned by the department.

VI. PROCEDURES

- A. Complainants report alleged acts of unlawful discrimination to the Intake Officer. The complainant's concerns will be treated with respect, and the degree of confidentiality that can be maintained will be explained. All complaints will be treated seriously, carefully, and promptly. Information about the complaint will be shared on a need-to-know basis only. Retaliation against any member who makes a report of unlawful discrimination, or provides information as a witness, is prohibited.
- B. To avoid misunderstanding and to be sure the necessary information is given, the claimant should put his or her exact complaint in writing, listing times and dates as known, and the names and contact information of witnesses, if any.
- C. The Intake Officer will promptly consult with appropriate department managers and the Inspector General to evaluate the claim to determine whether further inquiry or investigation is necessary. If an investigation is necessary, the department will, to the extent practicable, take action to eliminate contact between the complainant and subject during the investigation.
- D. OER will initiate an inquiry no later than the next business day following receipt of a claim and refer the claim to the Inspector General for investigation, if necessary. Investigative activities will be handled by the Inspector General in accordance with department Policy 11.07, Internal Audit Complaints and Investigations.
- E. After evaluation of the complaint of discrimination, disciplinary or administrative action will occur and appropriate parties will be notified. The Bureau of Personnel Services will ensure the complainant is notified of the steps the department has taken and offer them assistance from the state's Employee Assistance Program (EAP) pursuant to department Policy 7.04.