



**REPEALED – 07/01/09 - SEE POLICY 3.05**

*State of Florida*

**Department of  
HIGHWAY SAFETY AND MOTOR VEHICLES**

<b>SUBJECT</b> SEXUAL HARASSMENT	<b>POLICY NUMBER</b> 3.09
<b>POLICY MAINTENANCE ADMINISTRATOR:</b> Director, Office of Workforce Programs	
<b>PURPOSE/SCOPE:</b> To establish Department policy and procedures for resolving claims of sexual harassment. This policy applies to all employees in authorized and established positions, all other personal services (OPS) employees, and volunteers.	

**I. AUTHORITY**

Section 110.201(2), Florida Statutes  
 Section 110.227, Florida Statutes  
 Section 120.53(1), Florida Statutes  
 Chapter 60L-36, Standards of Conduct, Florida Administrative Code  
 Governor's Executive Order 07-01, Code of Ethics and Code of Personal Responsibility,  
 Effective January 2, 2007

**II. DEFINITIONS**

A. Intake Officer - The Director of The Office of Workforce Programs for the Department has been designated by the Executive Director to receive claims and provide consultation and guidance in proper handling of issues relating to sexual harassment.

B. Sexual Harassment - Unwelcome sexual advances, requests for sexual favors, slurs, derogatory statements, discriminating remarks, offensive terms or innuendoes of a sexual nature, jokes or remarks of a sexual nature, use of sexual objects or pictures, and other verbal or physical conduct of a sexual nature from any person when:

1. Submission to such conduct is either explicitly or implicitly a term or condition of an individual's employment; or
2. Submission to or rejection of such conduct by an individual is used as the basis of employment decisions affecting such individuals; or

<b>Executive Director</b> Original Signature on File	<b>Effective Date</b> 07/01/83
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3. Such conduct has the purpose or effect of unreasonably interfering with the individual's work performance or creating an intimidating, hostile or offensive working environment.

C. Supervisor - Any employee, including a Career Service, Selected Exempt Service, or Senior Management Service employee, who has the authority and responsibility of supervising other employees.

### **III. POLICY**

A. It is the policy of the Department of Highway Safety and Motor Vehicles that:

1. Each member be allowed to work in an environment free from any form of discrimination that has the purpose or effect of interfering with the member's job performance;
2. Sexual harassment of employees and applicants is a form of sex discrimination under Title VII of the 1964 Civil Rights Act and is both a willful violation of law and conduct unbecoming a state employee as provided in Section 110.227, F.S.
3. The agency will take prompt and remedial corrective action to resolve any complaint of sexual harassment; and
4. Employees found to have sexually harassed another person will be subject to disciplinary action under DHSMV Management Policy #3.06, Disciplinary Process.

B. The Department shall consider the following as conduct unbecoming a state employee:

1. Unwelcome sexual advances to any person by an employee;
2. Unwelcome requests for sexual favors from any person by an employee;
3. Unwelcome verbal or physical conduct of a sexual nature directed toward any person by another person or employee.

C. This policy conforms to the provisions and intent of the Governor's Executive Order 07-01.

### **IV. NOTICE TO EMPLOYEES**

A. Upon employment, each member will be provided a copy of this policy governing sexual harassment as part of their new member packet.

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B. Each member will be given a reasonable opportunity to discuss and ask questions regarding this rule and the issue of sexual harassment, including possible discipline for violation of the policy and rules, after which the member will sign an acknowledgement of receipt written statement that will be placed in the member's permanent personnel file.

**V. SUPERVISORY RESPONSIBILITY**

- A. Supervisors are expected to create and maintain a work environment free of conduct which would result in an offensive, intimidating and/or hostile workplace.
- B. Supervisors and managers are expected to take immediate corrective action to rid the workplace of this kind of conduct and disruption. Supervisors who allow such conduct, or are found to be participants, will be subject to disciplinary action up to and including dismissal, under DHSMV Management Policy #3.06, Disciplinary Process.
- C. Supervisors will ensure each member receives and signs a copy of this policy and signs an acknowledgement of receipt. The supervisor will provide the member a copy for his/her personal file and forward the signed receipt to the Office of Workforce Programs for inclusion in the member's official personnel file.
- D. Supervisors are expected to consult with the Supervisory Assistance System (SAS) and their chain of command regarding appropriate corrective action when allegations of sexual harassment are received. Corrective actions depend on the specific allegations and may or may not result in formal complaints or disciplinary action.

**VI. FILING**

Any member who believes that he or she is a victim of sexual harassment, as defined above, may report his/her claim orally or in writing to the Intake Officer in the Office of Workforce Programs, Neil Kirkman Building, Room A428, 2900 Apalachee Parkway, Tallahassee, FL 32399-0503, (850) 617-3207, no later than 60 calendar days after the event initiating the claim. Claims shall be filed in writing, be signed by the complainant, and contain the following information:

1. The name, business address and telephone number of the person filing the complaint;
2. The name of the person who allegedly committed the act of sexual harassment and the alleged victim;
3. A clear and concise statement of the facts, including pertinent dates, locations, witnesses and other evidence in support of the claim.

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If the claim does not contain all of this information, the agency shall request the complainant to furnish it in writing.

**VII. INVESTIGATION**

The Executive Director has appointed the Intake Officer handle claims of sexual harassment. The Intake Officer will interview the claimant regarding the nature and severity of the claim. If it is determined that the claim warrants further investigation, under this policy, the investigation will be conducted in accordance with Management Policy 11.07, Internal Audit Claims and Investigations.

**VIII. DISPOSITION OF CLAIMS**

- A. Upon completion of the investigation of sexual harassment, a written report with recommendations will be submitted to the Executive Director.
- B. The Executive Director will render a written decision either dismissing the claim or taking the appropriate corrective action within 15 calendar days of receipt.

**IX. DISCIPLINE**

- A. Any member who is found to have sexually harassed another member will be subject to disciplinary action, up to and including dismissal.
- B. Any member in a supervisory capacity who has actual knowledge of sexual harassment involving those members he or she supervises and does not take corrective action, or report the matter directly to the Executive Director or person designated by the Director, will be subject to disciplinary action, up to and including dismissal.
- C. Any member in a supervisory capacity who has actual knowledge of sexual harassment involving another supervisor or involving members supervised by another and does not take corrective action within his or her authority, or report the matter directly to the Executive Director or person designated by the Director, will be subject to disciplinary action, up to and including dismissal.
- D. Any member who knowingly files a false claim of sexual harassment against another will be subject to disciplinary action, up to and including dismissal.
- E. Retaliation against a claimant, a witness for the member, or for providing information regarding a claim of sexual harassment is grounds for disciplinary action, up to and including dismissal.

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**X. PROHIBITION AGAINST RETALIATION**

It is the policy of the State of Florida that retaliation against an individual because such person has in good faith opposed any offense involving a violation of this policy, made a charge or testified, assisted or participated in any manner in an investigation, proceeding, or hearing involving an alleged offense involving a violation of this policy shall be prohibited. Retaliatory actions shall subject the perpetrator of such actions to discipline according to the agency disciplinary policy. Any individual against whom such retaliatory action has allegedly been taken may file a complaint in the manner provided for in Chapter 60L-36, F.A.C., and agency complaint procedures.

**XI. FILING CLAIMS WITH OTHER AGENCIES**

- A. The filing of a claim pursuant to this policy, whether the claim is dismissed or not, does not preclude the complainant from filing with the Florida Commission on Human Relations or the Federal Equal Employment Opportunity Commission.
- B. When a claim has been filed with one of those commissions listed above and results in an investigation by such commission, it is not necessary that the agency also conduct an investigation otherwise required by this policy.
- C. However, an employee who has committed sexual harassment will be subject to discipline regardless of the type of investigation or who conducts the investigation.