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The Official Website of the Massachusetts Commission Against Discrimination

## Massachusetts Commission Against Discrimination (MCAD)

Home > Resources > Employers > Model Sexual Harassment Policy

### Model Sexual Harassment Policy

Model Sexual Harassment Policy MCAD Policy 96-2 Adopted by the Commission on October 25, 1996

As a result of the enactment of St. 1996, c.278 *An Act Relative To Sexual Harassment and Training In The Workplace*, the Commission is required to adopt a model sexual harassment policy. This Policy Guideline is promulgated to effectuate the purposes of that chapter and provides a model for employers to use. The model policy contains minimum standards which may be exceeded by the employer's policy.

Under the provisions of CL. c. 151B, SS2 and 3, the Commission is authorized to adopt policies and issue such rules necessary to effectuate the purposes of G.L. c. 151B.

It is the goal of the Commission that such policies and rules assist members of the public in understanding the role, function, and process of the MCAD.

#### Table of Contents

- I. [Introduction](#)
- II. [Definition of Sexual Harassment](#)
- III. [Complaints of Sexual Harassment](#)
- IV. [Sexual Harassment Investigation](#)
- V. [Disciplinary Action](#)
- VI. [State & Federal Remedies](#)

#### Model Sexual Harassment Policy

SEXUAL HARASSMENT POLICY OF [name of employer]

##### I. Introduction

It is the goal of [name of employer] to promote a workplace that is free of sexual harassment. Sexual harassment of employees occurring in the workplace or in other settings in which employees may find themselves in connection with their employment is unlawful and will not be tolerated by this organization. Further, any retaliation against an individual who has complained about sexual harassment or retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is similarly unlawful and will not be tolerated. To achieve our goal of providing a workplace free from sexual harassment, the conduct that is described in this policy will not be tolerated and we have provided a procedure by which inappropriate conduct will be dealt with, if encountered by employees.

Because [name of employer] takes allegations of sexual harassment seriously, we will respond promptly to complaints of sexual harassment and where it is determined that such inappropriate conduct has occurred, we will act promptly to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate.

Please note that while this policy sets forth our goals of promoting a workplace that is free of sexual harassment, the policy is not designed or intended to limit our authority to discipline or take remedial action for workplace conduct which we deem unacceptable, regardless of whether that conduct satisfies the definition of sexual harassment.

##### II. Definition of Sexual Harassment

In Massachusetts, the legal definition for sexual harassment is this: "sexual harassment" means sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature when:

- a. submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions; or,
- b. such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment.

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**Criminal Offender Record: Procedure Reforms**

**See All** -

Under these definitions, direct or implied requests by a supervisor for sexual favors in exchange for actual or promised job benefits such as favorable reviews, salary increases, promotions, increased benefits, or continued employment constitutes sexual harassment.

The legal definition of sexual harassment is broad and in addition to the above examples, other sexually oriented conduct, whether it is intended or not, that is unwelcome and has the effect of creating a work place environment that is hostile, offensive, intimidating, or humiliating to male or female workers may also constitute sexual harassment.

While it is not possible to list all those additional circumstances that may constitute sexual harassment, the following are some examples of conduct which if unwelcome, may constitute sexual harassment depending upon the totality of the circumstances including the severity of the conduct and its pervasiveness:

- Unwelcome sexual advances – whether they involve physical touching or not
- Sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life; comment on an individual's body, comment about an individual's sexual activity, deficiencies, or prowess
- Displaying sexually suggestive objects, pictures, cartoons
- Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments
- Inquiries into one's sexual experiences, and
- Discussion of one's sexual activities

All employees should take special note that, as stated above, retaliation against an individual who has complained about sexual harassment, and retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is unlawful and will not be tolerated by this organization.

### III. **Complaints of Sexual Harassment**

If any of our employees believes that he or she has been subjected to sexual harassment, the employee has the right to file a complaint with our organization. This may be done in writing or orally.

If you would like to file a complaint you may do so by contacting [Name, address and telephone number of the appropriate individual to whom complaints should be addressed. Such individuals may include human resources director, manager, legal counsel to organization or other appropriate supervisory person]. [This person] [These persons] [is/are] also available to discuss any concerns you may have and to provide information to you about our policy on sexual harassment and our complaint process.

### IV. **Sexual Harassment Investigation**

When we receive the complaint we will promptly investigate the allegation in a fair and expeditious manner. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances. Our investigation will include a private interview with the person filing the complaint and with witnesses. We will also interview the person alleged to have committed sexual harassment. When we have completed our investigation, we will, to the extent appropriate inform the person filing the complaint and the person alleged to have committed the conduct of the results of that investigation.

If it is determined that inappropriate conduct has occurred, we will act promptly to eliminate the offending conduct, and where it is appropriate we will also impose disciplinary action.

### V. **Disciplinary Action**

If it is determined that inappropriate conduct has been committed by one of our employees, we will take such action as is appropriate under the circumstances. Such action may range from counseling to termination from employment, and may include such other forms of disciplinary action as we deem appropriate under the circumstances.

### VI. **State and Federal Remedies**

In addition to the above, if you believe you have been subjected to sexual harassment, you may file a formal complaint with either or both of the government agencies set forth below. Using our complaint process does not prohibit you from filing a complaint with these agencies. Each of the agencies has a short time period for filing a claim (EEOC - 300 days; MCAD - 300 days).

[The United States Equal Employment Opportunity Commission](#) ("EEOC")

[The Massachusetts Commission Against Discrimination](#) ("MCAD")

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## **Harassment Policy**

Please Note: Massachusetts employers are strongly encouraged to supplement their sexual harassment policies with equivalent broader harassment policies.

These broader policies should specify that employees are protected from harassment on the basis of their race, color, religion, national origin, ancestry, sex, gender identity, age, handicap (disability), participation in discrimination complaint-related activities, sexual orientation, genetics, or active military or veteran status.

Like the sexual harassment policy, the general harassment policy should name a harassment officer (the same or a different person than the sexual harassment officer), and provide examples of prohibited verbal and nonverbal behavior. Prohibited behavior includes slurs or other derogatory comments, objects, pictures, cartoons, or demeaning gestures connected to one's membership in a protected group. The overall structure of the general harassment policy should parallel the structure of the sexual harassment policy (or can be combined as one policy).

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