

STATE OF IOWA

POLICY PROHIBITING SEXUAL HARASSMENT FOR EXECUTIVE BRANCH EMPLOYEES

NOTIFICATION AND EFFECTIVE DATE

All executive branch employees are required to read this Policy Prohibiting Sexual Harassment, and are expected to sign an Acknowledgment indicating that the Policy was read and fully understood by the employee. This Policy is being issued on October 25, 2018.

I. GENERAL STATEMENT OF POLICY

The State of Iowa executive branch is committed to providing a workplace that is free from sexual harassment. State executive branch employees shall not engage in sexual harassment. Sexual harassment is a violation of both federal and state statute. Specifically, harassment on the basis of sex is a violation of Section 703 Title VII of the Civil Rights Act of 1964 (42 U.S.C. Sec. 2000e et seq.) as amended and Iowa Code section 19B.12 and chapter 216. Sexual harassment based on real or perceived sexual orientation or gender identity is a violation of Iowa Code chapter 216.

Allegations of sexual harassment will be taken seriously and prompt investigation will occur. It is the policy of the State of Iowa executive branch to maintain the confidentiality of sexual harassment complaints and investigations to the greatest extent possible (see Sections IV and V below for further information). **Complaints and records relating to complaints are confidential and not subject to disclosure under Iowa's open records laws.**

II. SEXUAL HARASSMENT DEFINED

Iowa Code section 19B.12 defines sexual harassment as "persistent, repetitive, or highly egregious conduct directed at a specific individual or group of individuals that a reasonable person would interpret as intentional harassment of a sexual nature, taking into consideration the full context in which the conduct occurs, which conduct threatens to impair the ability of a person to perform the duties of employment, or otherwise function normally within an institution responsible for the person's care, rehabilitation, education, or training."

There are two forms of unlawful sexual harassment:

- (1) an employee is subjected to unwelcomed speech or conduct, of a sexual or non-sexual nature, that is directed at the employee because of his or her sex, and the conduct creates a "hostile work environment;" and
- (2) an employment benefit or continued employment is conditioned on the employee's participation in some form of sexual behavior (also known as "quid pro quo harassment").

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting

such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Although unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature are examples of unacceptable conduct in the workplace, unlawful sexual harassment is not dependent on whether offensive acts or comments were sexual in nature, but whether the acts or comments are directed at a person because of his or her sex. Sexual harassment can be committed by both men and women. And, it may occur between members of the opposite sex, or between members of the same sex. Sexual harassment can take place between (1) any two state employees, (2) a state employee and a non-state employee, including a contractor, or (3) between a state employee and a visitor, guest, client, patient, offender, or resident. Accordingly, this policy prohibits unwelcome, hostile or offensive conduct, whether of a sexual or non-sexual nature, that is directed at, or is motivated by, a person because of his or her sex.

Examples of sexual harassment, include, but are not limited to:

- Unwelcome sexual advances.
- Hostile conduct based on the person's sex, sexual orientation, or gender identity.
- Requesting or offering sexual favors in return for job benefits.
- Actions such as cornering, patting, pinching, touching or brushing against another person's body that are sexual in nature.
- Open speculation or inquiries about another person's sex life.
- Jokes, remarks, or innuendos that are sexual in nature or based on real or perceived sexual orientation or gender identity about another person, or about men or women in general.
- Displaying sexually explicit material in the work place.
- Conditioning work benefits on submission to sexual advances, tolerance of a sexually hostile work environment or giving preferential treatment because of another person's submission to sexual advances, or tolerance of a sexually hostile work environment.

III. EXECUTIVE BRANCH AGENCY AND EMPLOYEE DUTIES AND RESPONSIBILITIES

A. Employee Responsibilities

All executive branch employees are responsible for knowing and understanding this policy, and for maintaining a work atmosphere free of all forms of sexual harassment. In order to ensure the prompt investigation and response to any alleged incident of sexual harassment, each employee is strongly encouraged to immediately report any conduct prohibited by this policy in accordance with Section IV, below.

If an employee experiences or witnesses any incident of inappropriate or unprofessional behavior in the workplace he or she believes may violate this policy, the employee should immediately report the incident and, if circumstances permit, express his or her concerns directly to the offending person. However, if the employee is not comfortable with

addressing concerns with the offending person, the employee may report the matter to his or her direct supervisor, the next higher supervisor, the employee's agency director or other designated agency personnel. Alternatively, any complaint, including those regarding senior agency officials and directors, may be submitted directly to the director of the Department of Administrative Services or the Governor's Office without reporting the matter internally to the employee's agency. Once the incident is reported, the situation will be investigated in accordance with Section V, and appropriate action will be taken. All executive branch employees are expected to cooperate with an investigation undertaken pursuant to this policy. Failure to cooperate with an investigation may result in disciplinary action, up to and including termination of employment.

B. Executive Branch Agency Responsibilities

Every executive branch agency shall ensure its managerial staff know, understand, and enforce this policy. Any agency managerial staff who fail to act upon an employee complaint, or on personal knowledge of a possible violation of this policy, will be subject to disciplinary action up to and including termination of employment. Furthermore, any managerial staff will be subject to disciplinary action up to and including termination of employment for engaging in any form of conduct prohibited by this policy or for retaliating against an individual: (1) who has made a good faith complaint pursuant to this policy; (2) who aids another individual who has made a complaint; or (3) who is interviewed in the course of an investigation pursuant to this policy.

Agency managerial staff shall immediately notify the Department of Administrative Services after receiving a complaint or alleged violation of this policy.

Executive branch agencies must provide this policy to new employees at the time of hiring or orientation as required by Iowa Code section 19B.12(5).

C. Department of Administrative Services Responsibilities

As required by Iowa Code section 19B.12, the Department of Administrative Services, through issuance of this policy, is adopting procedures for determining violations of Iowa Code section 19B.12. Additionally, the Department of Administrative Services is responsible for the distribution of this policy to executive branch agencies, who are required to provide it to new employees at the time of hiring or orientation.

The Department of Administrative Services is responsible for investigating all complaints filed under this policy unless directed otherwise by the Governor's Office.

IV. COMPLAINT PROCEDURE

Any employee who believes that he or she has been subjected to sexual harassment prohibited by this policy, or individuals who witness or have knowledge of possible sexual harassment, should immediately report the matter to his or her direct supervisor, the next higher supervisor, their agency director or other designated agency personnel. Alternatively, any complaint, including those regarding senior agency officials and directors, may be submitted directly to the director of the

Department of Administrative Services or the Governor's Office without reporting the matter internally to the employee's agency.

To facilitate the investigation of a sexual harassment complaint, the employee is encouraged to fill out the employee complaint form found at the following link: https://das.iowa.gov/sites/default/files/hr/documents/M-0318_Complaint_form_fillable.pdf. However, an investigation of a sexual harassment complaint will be undertaken regardless of the manner in which the complaint is conveyed.

Every complaint made pursuant to this policy shall be promptly investigated to the extent necessary to determine whether a violation of this policy occurred, and whether remedial measures are necessary. **Complaints and records relating to complaints are confidential and not subject to disclosure under Iowa's open records laws.**

V. INVESTIGATION PROCEDURE

All complaints alleging violation(s) of this policy shall be promptly investigated by the Department of Administrative Services unless directed by the Governor's Office to be investigated by another agency or entity. All executive branch employees must cooperate fully with any investigation. Failure to cooperate with an investigation may result in discipline up to and including termination of employment.

All complaints and investigations shall be handled in a manner that protects the privacy of those involved. Confidentiality will be maintained throughout the investigatory process and information will be disclosed only to those people with a legitimate need to know about the matter. Total confidentiality, however, cannot be guaranteed because it may not be possible to conduct an effective investigation without revealing certain information to the alleged responsible party and potential witnesses.

To protect the privacy of those involved, all persons shall refrain from discussing the complaint except as necessary for the furtherance of the investigation. Persons interviewed will be directed not to discuss any aspect of the investigation with others in light of the important privacy interests of all concerned. Failure to comply with the confidentiality directive may result in disciplinary action up to and including termination of employment.

VI. CORRECTIVE ACTION

The Department of Administrative Services will work with appropriate executive branch agency personnel to ensure corrective action is taken immediately to remedy violations of this policy. Corrective action may include disciplinary action up to and including termination of employment. A manager or supervisor who fails to properly act upon a complaint or who has personal knowledge of a violation of this policy and fails to take appropriate action shall be subject to disciplinary action up to and including termination of employment.

VII. RETALIATION PROHIBITED

Any form of retaliation against someone for resisting sexually harassing behavior, reporting a complaint under this policy, assisting the complainant, or cooperating in an investigation of a

complaint is strictly prohibited by this policy, and may be unlawful. No executive branch employee will be reprimanded or retaliated against for initiating an inquiry or complaint in good faith or for cooperating in good faith in the investigation of a complaint. Any incident experienced or witnessed by an employee that is believed to be an act of retaliation should immediately be reported to the employee's supervisor, appointing authority or designee, the Department of Administrative Services or the Governor's Office. A report of retaliatory behavior shall be regarded as a separate and distinct case for investigation and discipline, regardless of the outcome of the original complaint.

VIII. TRAINING

The Department of Administrative Services shall offer training courses in preventing sexual harassment through its Performance and Development Solutions (PDS) program area. These courses are found on the Department of Administrative Services—Human Resources Enterprise website at <https://das.iowa.gov/human-resources/training-and-development>. Executive branch employees are strongly encouraged to attend training offered through PDS.

IX. OTHER STATE AND FEDERAL RESOURCES

This policy is intended to provide a mechanism for quickly identifying and correcting instances of sexual harassment within the executive branch. Nothing contained in this policy is intended to replace or deny any rights available under applicable local, state and federal laws or regulations.

The Iowa Civil Rights Commission and the Equal Employment Opportunity Commission administer laws and regulations regarding employment discrimination and harassment, which include deadlines for filing discrimination complaints. For more information, these agencies may be contacted at the following:

IOWA CIVIL RIGHTS COMMISSION

Iowa Civil Rights Commission
Grimes State Office Building, 400 E. 14th Street, Des Moines, IA 50319
515-281-4121; 800-457-4416 (toll free); 515-242-5840 (fax)
<http://icrc.iowa.gov>

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Reuss Federal Plaza
310 West Wisconsin Avenue, Suite 500
Milwaukee, WI 53203-2292
Phone: 1-800-669-4000

X. POSTING

This policy is posted on the Department of Administrative Services website at https://das.iowa.gov/sites/default/files/hr/documents/MS_manual/Policy-SexualHarassment.pdf and is incorporated in the State executive branch employee handbook. Executive branch agencies are responsible for distributing this policy to employees at the time of hire or orientation.