

<b>Finance and Administration Cabinet STANDARD PROCEDURE</b>	<b>PAGE: 1 OF 5</b>
<b>ISSUED BY: OFFICE OF EQUAL EMPLOYMENT OPPORTUNITY AND CONTRACT COMPLIANCE</b>	
<b>EFFECTIVE DATE: 3/03/05 Revised 11/13/07</b>	
<b>PROCEDURE # 2.5</b>	
<b>SUBJECT: Sexual Harassment</b>	
<b>DISTRIBUTION CODE: A, B, C, D</b>	<b>CONTACT: Executive Director – EEO and Contract Compliance (502) 564-2874</b>

## **I. PURPOSE**

The purpose of this procedure is to clearly establish that the Finance and Administration Cabinet (Cabinet) prohibits sexual harassment either by or of its employees. Sexual harassment is a prohibited personnel practice and a violation of state and federal law.

This procedure explains steps for handling allegations or suspicions of sexual harassment. All allegations shall be fully investigated and corrective or disciplinary action taken, up to and including dismissal from employment, as warranted.

In order to provide a working environment free of sexual harassment for Cabinet employees, the Cabinet will promptly and thoroughly investigate all complaints of sexual harassment. All Cabinet employees are assured that they will be free from any and all retaliation from filing such complaints and from participating in investigations.

## **II. DEFINITION OF SEXUAL HARASSMENT**

The Equal Employment Opportunity Commission's (EEOC) Guidelines on Discrimination Because of Sex, Part 1064, provides the following guidelines identifying sexual harassment. Harassment based on sex is a violation of Section 703 of Title VII. 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 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 for employment decisions affecting that 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.

Sexual harassment can take place in a variety of situations that include but are not limited to:

1. The victim and the harasser may be either gender.
2. The victim does not have to be of the opposite sex.
3. The harasser can be a supervisor, manager, an agent of the employer, co-worker or non-employee.

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4. The victim does not have to be the direct target of the harasser but may be anyone offended by the conduct.

Examples of sexual harassment that shall not be tolerated, include, but are not limited to:

1. Written, suggestive or obscene letters, notes and invitations;
2. Verbal, derogatory comments, epithets, slurs or jokes;
3. Physical, impending or blocking movements, unnecessary touching of an individual, e.g. patting, pinching, hugging or repeated brushing against another employee's body;
4. Visual, sexually-oriented gestures, displaying sexually suggestive or derogatory objects, pictures, cartoons or posters;
5. Requesting or demanding sexual favors accompanied by implied or overt promise of preferential treatment or threats concerning an individual's employment status;
6. Nonverbal sexual conduct such as leering, ogling, whistling, posting or circulating sexual materials or pictures, and making vulgar hand gestures.

### III. PROCEDURE

All claims of sexual harassment will be reviewed and resolved in accordance with the following procedure:

#### A. Reporting Sexual Harassment

Employees have a variety of options for reporting allegations of sexual harassment. Any employee who believes they are a victim of sexual harassment at work by supervisors, managers, co-workers, visitors, clients, or customers, should immediately bring the problem to the attention of agency officials, any supervisor or manager, EEO Counselors, the Cabinet EEO Coordinator, the personnel manager or the Personnel Cabinet.

In addition to the information stated above, employees and job applicants may chose to file sexual harassment complaints with any of the Human Rights Commission offices or the federal Equal Employment Opportunity Commission (EEOC).

#### B. Cabinet Investigation

The Cabinet's Office of Equal Opportunity and Contract Compliance shall promptly investigate all complaints. Employees are assured that, to the extent possible, the privacy of the complainant and the person accused of sexual harassment shall be kept confidential. Information concerning the complaint shall not be released to third parties or anyone who is

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not involved with the investigation under the Open Records Act. Nor shall anyone involved be permitted to discuss the subject outside the investigation. The purpose of this provision is to 1) protect the confidentiality of the employee who files a complaint, 2) to encourage the reporting of any incidents of sexual harassment, and 3) to protect the reputation of any employee wrongfully charged with sexual harassment.

The Cabinet's Office of Equal Employment Opportunity and Contract Compliance will review findings with the complainant at the conclusion of the investigation.

### **C. Corrective or Disciplinary Action**

According to the outcome of the investigation, the Cabinet shall, as appropriate:

1. Assure that all parties are reacquainted with the sexual harassment procedure;
2. Take appropriate disciplinary action, up to and including termination, if the investigation determines that sexual harassment or other prohibited behavior did occur;
3. Mandate specific training, counseling and follow-up.
4. Provide any information requested by the State EEO Coordinator.

These measures shall be implemented to stop the harassment or other prohibited behavior, prevent the sexual harassment or other prohibited behavior from recurring, and educate affected parties.

## **IV. RESPONSIBILITIES**

### **A. CABINET RESPONSIBILITIES**

The Cabinet shall in all cases:

1. Maintain a non-hostile work environment.
2. Maintain an atmosphere where all employees are safe to report sexual harassment without fear of retaliation.
3. Assure that all complaints of sexual harassment are immediately investigated.
4. Assure that all suspicions of illegal conduct are immediately investigated.

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## **B. SUPERVISOR/MANAGER RESPONSIBILITIES**

When an employee advises any supervisor or manager about an allegation of sexual harassment, the supervisor or manager shall:

1. Advise the employee that the allegation shall be thoroughly investigated;
2. Immediately notify the agency EEO Counselor and the Cabinet EEO Coordinator.

When the supervisor or manager witnesses or is made aware of potential sexual harassment, the supervisor or manager shall immediately notify the agency EEO Counselor and the Cabinet EEO Coordinator.

Responsibility for reporting potential sexual harassment is not limited to employees under the direct control of the manager or supervisor. Supervisors and managers shall immediately report suspected harassment in any Cabinet location to the EEO Counselor and Cabinet EEO Coordinator.

## **C. CABINET EEO COORDINATOR RESPONSIBILITIES**

The Cabinet EEO Coordinator shall:

1. Provide guidance to employees, supervisors and managers regarding the Cabinet's sexual harassment procedures.
2. Ensure all new employees receive sexual harassment awareness and prevention training as part of new employee orientation.
3. Ensure all employees, supervisors and managers receive sexual harassment awareness and prevention training at least once every two (2) years.
4. Provide training to all EEO counselors appropriate to their duties.
5. Notify the Division of Human Resources and the Office of General Counsel regarding potential sexual harassment.
6. Maintain investigative reports.

## **D. EEO COUNSELOR RESPONSIBILITIES**

The EEO Counselor shall:

1. Know procedures for handling sexual harassment complaints.

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2. Ensure that the sexual harassment procedures are posted in a location accessible to all employees.
3. Immediately notify the Cabinet EEO Coordinator when a sexual harassment complaint is received.

**V. DISCIPLINE FOR VIOLATIONS**

Any employee determined to have violated the Sexual Harassment Procedure shall be subject to disciplinary action, including, but not limited to reprimand, fine, demotion, suspension and dismissal.

**VI. REFERENCES**

Kentucky Commission on Human Rights  
<http://kchr.ky.gov/>

U.S. EEOC Louisville office  
<http://www.eeoc.gov/louisville/index.html>

State EEO Coordinator  
<http://personnel.ky.gov/eeodiversity/>

U.S. EEOC website  
<http://www.eeoc.gov/>

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**NO STANDARD PROCEDURE MAY BE REVISED BY ADDENDUM, MEMORANDUM OR ANY OTHER MEANS OTHER THAN THOSE SET OUT IN STANDARD PROCEDURE # 1.1 ENTITLED "CREATION, REVISION AND RESCISSION OF FINANCE AND ADMINISTRATION CABINET PROCEDURES AND MANUAL."**

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