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Subject:	Maintaining a Workplace Free From Sexual Harassment	Page 1 of 8
Approved:	Frederick M. Ober, Division Director	Effective: 11/20/98 FINAL
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## Purpose

The Division of Family Services is committed to maintaining a work environment for every employee that is free from sexual harassment. This policy reinforces that commitment, and incorporates state personnel policy into the Family Services Policy Manual (see appendix).

## Policy

Every division employee has the right to be free from sexual harassment. Sexual harassment is a form of discrimination on the basis of gender. Sexual harassment is unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when:

- submission to such conduct is made either explicitly or implicitly a term or condition of employment;
- submission or rejection of such conduct by an individual is used as a component of the basis for employment decisions affecting that individual; or
- the conduct has the purpose or effect of unreasonably interfering with an individual's work performance or of creating an intimidating, hostile or offensive work environment.

Sexual harassment is unlawful; both state and federal law prohibit it. In addition, retaliation against an employee for filing a complaint or cooperating in an investigation is unlawful.

Every manager and supervisor in the division is responsible for providing a workplace free from sexual harassment, and for following the State of Vermont Personnel policy (attached) on this topic. Complaints about sexual harassment will be addressed immediately and according to Personnel policy. The focus of action taken in response to a complaint is for the harassment to stop. If after investigation, a staff member is found to have sexually harassed another person within the meaning of this policy, that staff member will be disciplined. As with all other disciplinary actions, the full range of options under the VSEA contract is available. Disciplinary action is confidential, and will not be reported to the complainant or to any other person not directly in the supervisory chain of the person being disciplined.

Staff members who feel that they have been sexually harassed should report their

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allegations as soon as possible to their immediate supervisor or other appropriate person (see Personnel policy). The supervisor is required to act. The supervisor must document both the complaint and all actions he or she takes as a result.

Staff members who feel that they are being harassed, but that harassment is not sexual in nature, should also report that harassment. Such complaints will be dealt with promptly and appropriately. However, this policy is not applicable.

## State of Vermont

### Personnel Policies and Procedures

#### **Number 3.1**

**Effective Date:** March 1, 1996

**Subject:** SEXUAL HARASSMENT

\*\*\*supersedes Policy Dated: November 1, 1993

**Applicable To:** All classified employees, as well as exempt, appointed, and temporary, with the Executive Branch of the State of Vermont.

**Issued By:** Department of Personnel

**Approved By:** William H. Sorrell, Secretary of Administration

#### **PURPOSE AND POLICY STATEMENT**

The State of Vermont is opposed to and prohibits without qualification the harassment of anyone on the basis of gender.

Sexual harassment violates an individual's basic civil rights, undermines the integrity of the workplace, and adversely affects workers and clients whether or not they are direct subjects of harassment. Sexual harassment is a form of discrimination on the basis of sex and is, therefore, prohibited in the work place by both state and federal law as well as the collective

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bargaining agreements between the State of Vermont and the Vermont State Employees' Association, Inc. It is also unlawful to retaliate against an employee for filing a complaint of sexual harassment or for cooperating in an investigation of sexual harassment.

All employees, including but not limited to staff, supervisors, managers, and appointing authorities, are expected to comply with this policy and take appropriate measures to ensure that sexual harassment does not occur. Disciplinary action, up to and including dismissal, will be taken against any employee who engages in sexual harassment or who otherwise violates this policy.

In addition, every manager and supervisor within the State of Vermont is responsible for providing a work place free from sexual harassment. This duty includes informing and discussing this policy with all employees; ensuring that employees know they are not required to endure sexual harassment; that sexual harassment will not be allowed; that this policy will be enforced; and that charges of sexual harassment will be impartially and immediately investigated.

Managers are responsible for ensuring that all new employees receive a copy of this policy; for posting this policy and a poster in prominent and accessible locations in the work place; and ensuring that employees are provided with gender-relations training. Any manager or supervisor who does not deal with sexual harassment complaints consistent with the terms of this policy may be subject to disciplinary action.

#### **Definition of Sexual Harassment**

Sexual harassment is a form of sex discrimination and means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when:

- a) submission to such conduct is made either explicitly or implicitly a term or condition of employment; or
- b) submission to or rejection of such conduct by an individual is used as a component of the

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basis for employment decisions affecting that individual; or

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

***Prohibited Conduct***

Sexual harassment can be either verbal, physical, auditory, or visual. It can be either subtle or overt. Sexual harassment refers to behavior that is not only unwelcome, but which can also be personally offensive, fails to respect the rights of others, lowers morale and interferes with work effectiveness, or violates a person's sense of well-being.

Both men and women can be the victims of sexual harassment and it can occur in situations where one person has authority (or the appearance of authority) over another, and can also occur between equals.

**Managers, supervisors, and employees with the appearance of authority shall not threaten or insinuate, either explicitly or implicitly, that an employee's submission to or rejection of sexual harassment will in any way affect the employee's employment, evaluations, wages, advancement, assigned duties, shifts, or any other condition of employment or career development. Harassment by co-workers is also unlawful and prohibited both by applicable federal and state laws and the collective bargaining agreements, even though the loss to the victim may not involve the tangible benefits outlined above.**

Examples of other forms of prohibited sexual harassment include, but are not limited to the following, when such acts or behavior come within one of the above definitions:

**Verbal:** Sexual innuendoes, suggestive comments, jokes of a sexual nature, sexual propositions, threats, unwelcome sexual flirtations, persistent requests for dates, degrading words used to describe an individual, other verbal comments of a sexual

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nature, and graphic commentaries about an individual's body.

**Non-Verbal:** Sexually suggestive or offensive objects or pictures, written comments, suggestive or insulting sounds, leering, whistling, obscene gestures.

**Physical:** Unwanted physical contact, which may include touching, pinching or brushing the body, coerced sexual intercourse, and assault.

**REPORTING & RESOLUTION OF COMPLAINTS:\***

The State, through this policy, commits itself to quick and effective actions to ensure that sexual harassment does not occur or persist. However, the fulfillment of that commitment will in large part depend on the willingness of employees to report prohibited behavior. A timely response to sexual harassment is essential to protect victims from further unwelcome behavior. It also ensures that the person responsible for objectionable behavior understands its impact on others. A timely report provides the best opportunity for the employer to expeditiously and effectively address the matter with the least possible adverse impact on all parties concerned.

**Therefore, all employees should report any incidents of sexual harassment they experience, witness, or know of. Employees are also encouraged, *but not required*, to identify objectionable actions to those responsible for them, and to try to resolve issues informally.**

The following process will allow employees to freely report incidents of sexual harassment, free from threats of reprisal, and will protect the rights of all parties involved.

\* These Reporting and Resolution of Complaints procedures may be expanded upon by individual departments and agencies. Any specific departmental policies and procedures must first be reviewed and approved by the Department of Personnel.

**TO FILE A COMPLAINT:**

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1. Any employee who believes (s)he has been the subject of sexual harassment shall report the alleged act(s) as soon as possible to any one of the following:

1. the immediate supervisor;
2. any departmental management staff;
3. any departmental personnel officer;
4. any departmental Equal Employment Opportunity (EEO) Officer
5. any member of the Department of Personnel Employee Relations staff, 110 State Street, Montpelier, VT, 802-828-3454.

NOTE: Any employee may consult with the VSEA to request its assistance. (S)he may also file a complaint of sexual harassment in accordance with the grievance procedures prescribed by the contract. The employer shall ensure that complainants and respondents are advised of their right to VSEA representation under the circumstances required by the contract.

**TO PROCESS A COMPLAINT:**

1. All complaints received by supervisors, managers, EEO officers, or Department of Personnel staff will be referred immediately to the departmental personnel officer. The personnel officer will coordinate with the appointing authority to ensure that a timely and complete review of the complaint is made. A report of any investigation will first be reviewed with the Department of Personnel Employee Relations Staff, and then a copy of the final report will be provided to the appointing authority. The appointing authority will identify and take steps to promptly remedy the harassment and prevent its recurrence.
2. Within five (5) work days, the appointing authority shall issue a written response to the complainant acknowledging the complaint and providing notice, if applicable, that any prohibited activity is expected to cease. An investigation will be done promptly and a written response will be provided to the complainant. The investigation and response will normally be completed within thirty (30) days.
3. Complainants should be notified that confidentiality cannot be guaranteed if a

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complaint results in a grievance or other litigation of the complainant.

4. The Department of Personnel and appointing authorities shall ensure that an investigation is conducted when any instance of sexual harassment comes to their attention, even in the absence of a complaint.
5. If the appointing authority or any member of the agency/department personnel unit is named in the complaint, the complainant or his or her representative must bring the complaint to the attention of either the Secretary of Administration or the Commissioner of Personnel to determine the appropriate personnel to be responsible for investigating the charge.
6. Any intimidation, harassment, or interference for filing a complaint or assisting in an investigation and/or intentionally filing a false complaint of sexual harassment will be subject to appropriate discipline, up to and including dismissal.

The use of this procedure does not preclude any victim of sexual harassment from pursuing any other legal remedy. To explore other remedies, employees may also contact the following:

**Equal Employment Opportunity Commission**

1 Congress Street  
Boston, MA 02114  
617-565-3200 (Voice/TDD)

Complaints must be filed within 300 days of the adverse action.

**Vermont Attorney General's Office**

109 State Street  
Montpelier, VT 05609-1001  
802-828-3171 (Voice/TDD)

Complaints should be filed within 300 days of the adverse action.

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**Vermont Human Rights Commission**

135 State Street, Drawer 33  
Montpelier, VT 05633-6301  
802-828-2480 (Voice/TDD)

Complaints must be filed within 360 days of the adverse action.

**Vermont State Employees' Association, Inc.**

155 State Street  
Montpelier, VT 05601  
802-223-5247