





STATE OF MISSISSIPPI DEPARTMENT OF EDUCATION	TOPIC: EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION
EMPLOYEE PROCEDURES MANUAL	SECTION: 3.0 PAGE 3 OF 8 EFFECTIVE DATE: MAY 1, 2000 REVISION #3: NOV. 1, 2023

Directors, Administrators, Supervisory Personnel

All personnel with supervisory duties will be responsible for implementing the policies, goals and objectives of the EEO Policy in their respective organizational units. This obligation includes:

1. Ensuring that employee performance evaluations are based on job-related criteria.
2. Assisting the EEO Coordinator in program implementation, data collection, identification of problem areas, and solving complaints or problems.
3. Encouraging employees who qualify to apply for job vacancies, and promotional and training opportunities.
4. Informing employees of their rights and responsibilities, and referring employees to the EEO Coordinator when necessary.

AMERICANS WITH DISABILITIES ACT

Employment Policy

It is the policy and practice of the MDE to comply fully with the Americans with Disabilities Act (ADA) and ensure equal opportunity in employment for all qualified persons with disabilities. The MDE is committed to ensuring non-discrimination in all terms, conditions and privileges of employment. All employment practices and activities, whether provided or conducted by the MDE, will be conducted on a non-discriminatory basis.

Recruiting, advertising, and job application procedures have been reviewed and provide persons with disabilities meaningful employment opportunities. Pre-employment inquiries are made only regarding an applicant's ability to perform the duties of the position, not one's disabling condition.

Reasonable accommodation is available to all employees and applicants. Work sites will be accessible. All employment decisions are based on the merits of the situation in accordance with defined criteria, not the disability of the individual.

Qualified individuals with disabilities are entitled to equal pay and other forms of compensation as well as in job assignments, classification, and organizational structures.

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### Employment Policy (continued)

The MDE is committed to not discriminating against any qualified employee or applicant because he or she is related to or associated with a person with a disability. The MDE will follow any state or local law that provides individuals with disabilities greater protection than the Americans with Disabilities Act.

This policy is neither exhaustive nor exclusive. The MDE is committed to taking all other reasonable actions necessary to ensure equal employment opportunity for persons with disabilities in accordance with the Americans with Disabilities Act and all other applicable federal and state laws.

### Reasonable Accommodation

Under the Americans with Disabilities Act, an individual is considered a “qualified individual with a disability” if the individual can perform the essential functions of the position held or desired with or without a reasonable accommodation. It is the policy of the MDE to provide reasonable accommodations. If an applicant for, or an employee in a position with the agency, requests a reasonable accommodation to perform the essential functions of the job, contact the Office of Human Resources Manager.

### ANTI-HARASSMENT POLICY

The MDE is dedicated to providing the best possible services and products to its customers. To fully realize this goal, the MDE is committed to ensuring that its employees are provided with a work environment of professionalism, free from adverse working conditions and any forms of harassment. The MDE is committed to assuring that job-related actions including promotions and pay raises are based on job performance.

The MDE expects all employees to perform their duties in a professional, business-like manner with particular consideration for the well-being of colleagues, customers, guest, vendors, and the public. To implement this philosophy, the MDE makes a firm commitment to swiftly and effectively address all known conditions of harassment in the workplace.

### Scope of Policy in General

The MDE prohibits any harassment with regard to race, creed, color, age, religion, sex, national origin, disability or genetic information. This prohibition includes, but is not limited to remarks,

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Scope of Policy in General (continued)

gestures, physical contact, display or circulation of written or electronic materials, pictures or objects derogatory to any persons based upon the characteristics listed above. Employees are instructed that they need not endure harassment on any of the bases listed above and are encouraged to bring to the attention of management any such instances which are found by the employee to be offensive. In addition, the MDE prohibits its employees from engaging in harassment or discrimination where directed at or involving third parties with who the employee comes into business-related contact. The MDE makes a firm commitment to address all complaints of harassment and to promptly and effectively remedy any complaints found to have merit.

Sexual Harassment

The policy of the MDE is that employees are able to work in an environment free from all forms of discrimination, including sexual harassment. The MDE strictly prohibits any form of sexual harassment and pledges to swiftly and fully address each complaint under this policy.

The State Superintendent shall provide a workplace free from sexual harassment. Sexual harassment may include, but is not limited to, requests for sexual favors, unwelcome sexual advances, threats, bodily contact, or other deliberate verbal or physical conduct of a sexual nature. Also included are remarks, gestures, physical contact, display or circulation of written or electronic materials, pictures or objects derogatory to any employee. The MDE has a zero-tolerance policy for such behavior.

Whether male or female, no employee or applicant should endure sexual harassment. Any person believing he/she has been sexually harassed should immediately report the incident to management. The appointing authority shall take appropriate corrective action. This rule applies equally to same sex harassment.

Sexual harassment is strictly prohibited at any organizational level. This includes co-workers, same-level employees or employees and supervisors. Sexual harassment is expressly detrimental when the offending employee is in a position to affect the compensation or employment status of the person being harassed, and the MDE supervisors are strictly prohibited from using their supervisory role in a harassing manner. Sexual harassment is behavior of a sexual nature which is uninvited and unwelcome verbal or physical conduct directed at an employee because of his or her sex. Sexual harassment does not refer to occasional compliments of a socially appropriate nature.

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Sexual Harassment (continued)

Specifically, sexual harassment may include, but is not limited to:

- Repeated offensive sexual flirtations,
- Repeated request for dates,
- Advances or propositions,
- Verbal abuse of sexual nature,
- Graphic or degrading comments about appearance,
- Display of sexually suggestive objects, appearance, pictures or images,
- Offensive or degrading cartoons or jokes, or
- Offensive or degrading e-mail or electronic images.

No employee shall imply, suggest, or threaten an applicant's or employee's cooperation of a sexual nature (or refusal thereof) will have any effect on the individual's employment status, including, but not limited to assignment, compensation, advancement or other condition of employment.

Sanctions for Violations

Violations of this policy will be addressed in a manner pursuant to the MSPB personnel provisions. Violators will be subject to disciplinary action up to and including termination.

ANTI-HARASSMENT GRIEVANCE PROCEDURE

This procedure supplements Chapter 10 of the MSPB Policy and Procedures Manual.

Complaints of harassment will be given high priority status, and the MDE is committed to conducting a prompt, thorough, and fair investigation on each and every complaint of harassment.

Any permanent state service employee, probationary state service employee, non-state service employee in, or applicant for, an authorized employment position in an agency which employs state service employees, may file a grievance in accordance with the anti-harassment grievance procedure.

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ANTI-HARASSMENT GRIEVANCE PROCEDURE (continued)

Any applicant or employee alleging harassment may:

1. File a grievance with the immediate supervisor in accordance with the standard grievance procedural steps;
2. If the source of the harassment is the employee's supervisor, the employee may skip a level of management by proceeding to Step Two and filing the grievance directly with the harassing supervisor's supervisor; or
3. File the grievance with the agency Human Resources Director, Deputy Superintendent, General Counsel, or State Superintendent.

Regardless of outcome, all grievances alleging harassment shall be forwarded to the appointing authority.

Acts or statements of a retaliatory nature against employees who file grievances based upon harassment and who utilize the grievance procedure outlines and referenced above are strictly prohibited.

In addition to the agency Human Resources Director, the designee of the State Personnel Director shall be available to advise and counsel employees on the grievance procedure. In such cases,

1. The agency Human Resources Director or staff designee of the State Personnel Director may be advised to assist in the filing and resolution of a grievance; or
2. In cases of wide spread harassment, the employee may be advised to file an appeal directly with the Employee Appeals Board without exhausting agency level remedies.

Informal Redress of Complaints

In addition to the grievance procedure referenced above, employees are encouraged, where feasible, to communicate directly with one another to assure the prompt discontinuation of behavior found to be offensive. The MDE respects and supports the right of each employee to communicate directly with other employees to request that any offensive conduct be discontinued. However, informal redress of complaints is not required and a complaining party may proceed to file a grievance in any situation in which informal redress is not feasible or desirable.

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### Prohibition Against Retaliation

Any and all acts of retaliation against persons who utilize the grievance procedure are expressly prohibited. Similarly, the MDE prohibits retaliation against witnesses or any other employees who might be called on to participate in investigations of complaints.

### Confidentiality

Complaints will be handled in strict confidence whenever possible. The necessity of a thorough investigation, however, may make complete confidentiality impossible. The MDE will release information relating to an investigation only where necessary and on a “need to know” basis.

### Evidence

The complaining party is encouraged to maintain and deliver to management any and all evidence of harassment, including diary entries and notes of dates, time and locations of conduct as well as names of witnesses to each instance of harassment.

### Duty to Participate in Investigations

Employees with knowledge concerning complaints of harassment or discrimination have a duty to participate in investigations by providing complete and timely information. Withholding information or failing to cooperate in a good faith manner will be considered a disciplinary infraction and may result in disciplinary action.