



POLICY TITLE:		Sexual Harassment in the Workplace	
 		CHILD AND FAMILY SERVICES AGENCY	
Approved By:	Date Approved:	Original Effective Date:	Last Revision:
Robert L. Matthews	November 18, 2022	April 25, 2007	November 4, 2022

I. AUTHORITY	<p>Mayor's Order 2017-313, (published December 18, 2017) and the District of Columbia Human Rights Act of 1977, D.C. Law 2-38, D.C. Official Code §2-1401.01 (intent to secure an end to discrimination including sexual offenses), 22-B DCMR § 8504(Harassment and Sexual Harassment), and 4 DCMR §105 (Pre-Complaint Processing).</p> <p><i>This policy supersedes the Reporting Sexual Harassment in the Workplace Policy dated November 9, 2018.</i></p>
II. APPLICABILITY	<p>This policy applies to all employees of the Child and Family Services Agency (CFSA) and all third parties doing business with, or carrying out the goals and objectives of, CFSA (e.g., vendors, interns, volunteers, customers, clients, contractors and other persons visiting or working at CFSA).</p>
III. RATIONALE	<p>Sexual harassment is one of the most unjust, demeaning, and demoralizing examples of workplace misconduct. The purpose of this policy is to define sexual harassment, explain Agency and staff rights and responsibilities, articulate the reporting process, and identify remedies.</p> <p>CFSA does not tolerate any form of sexual harassment in the workplace and is committed to maintaining a safe work environment free from harassment, abuse, and intimidation for all its employees.</p>
IV. POLICY	<p>The CFSA Director adopts this policy to be consistent with CFSA's mission and all applicable federal laws, District of Columbia laws, and applicable collective bargaining agreements.</p> <p>CFSA shall ensure a safe and secure work environment that is free from all forms of sexual harassment, provide steps employees can take to report incidents of misconduct, outline how CFSA or its Human Resources Administration (HRA) shall handle and investigate sexual harassment reports, and provide any additional information needed for an investigation process and a report.</p> <p>CFSA's HRA shall ensure the reporting and information resulting from a claim of sexual harassment remains confidential and is only disclosed in accordance with federal and District law. HRA shall have a clear and timely process for response to such reports, and remedy as appropriate for individuals who have been impacted by the occurrence of sexual harassment.</p>

V. CONTENTS	<ul style="list-style-type: none"> A. Protections B. Sexual Harassment Definitions C. Unwelcome Conduct D. Consensual Relations E. Agency-level Responsibilities for Stopping Sexual Harassment F. Employee Communication Regarding Sexual Harassment G. Reporting Inappropriate or Potentially Inappropriate Conduct of a Sexual Nature H. CFSA Review and Investigation of Reported Claims I. Employee Responsibility to Participate in CFSA Investigation J. Timely Filing and Statute of Limitations K. Rights of the Alleged Harasser L. Interim Remedial Actions M. Discipline for Making False Statements or Representations N. Discipline after a Finding of Sexual Harassment O. Referral to the District's Board of Ethics and Government Accountability (BEGA) P. Concurrent Remedies and Jurisdiction Q. Equal Employment Opportunity (EEO) Counseling Option When Filing a Claim with the District's Office of Human Rights (OHR) R. Prohibition Against Retaliation S. Process for Alleging Retaliation T. Confidentiality U. Applicability of Personnel Rules
VI. SECTIONS	<p>Section A: Protections</p> <p>The protections against workplace sexual harassment extend to employees, contractors, interns, volunteers, and any other persons engaged by CFSA to provide permanent or temporary employment services with the Agency and worksites within and outside of the District of Columbia, and to applicants for CFSA employment, although not every procedure set forth in this policy applies to persons not employed by CFSA.</p> <p>CFSA shall make efforts to protect its employees from sexual harassment by contractors, grantees, clients, applicants, and members of the public with whom they interact as part of their employment.</p>
	<p>Section B: Sexual Harassment Definitions</p> <p>1. For the purposes of this policy, sexual harassment is defined as:</p> <ul style="list-style-type: none"> a. unwelcome conduct of a sexual nature based on one's gender, or perceived gender, that affects the terms or conditions of employment, b. unwelcome sexual conduct that impacts a job-related decision, such as assignments, training opportunities, promotions, or termination of employment, or c. conduct that creates a hostile work-environment because it is severe or pervasive.

	<p>2. Examples of sexual harassment are defined as:</p> <ul style="list-style-type: none"> a. Quid Pro Quo sexual harassment, which is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when any one of the following criteria is present: <ul style="list-style-type: none"> i. When a sexual favor is made as a term or condition of an individual's employment ii. When rejecting sexual favors by an individual is used as a basis for employment decisions b. Hostile work environment is defined as conduct if severe or sufficiently pervasive as to alter working conditions.
	<p>Section C: Unwelcome Conduct</p> <p>1. The following are examples of unwelcome conduct that may create an intimidating, or offensive work environment that are not acceptable at CFSA or any of its worksites, including during work related travel:</p> <ul style="list-style-type: none"> a. Sex acts b. Display of sexual organs c. Giving a preference to a third party who is engaged in a sexual or romantic relationship, to the disadvantage of an employee who is not engaged in a sexual relationship with a supervisor, hiring official, or person exercising authority over the disadvantaged party d. Using sexually oriented or sexually degrading language describing an individual or their body, clothing, hair, accessories, or sexual experiences e. Sexually offensive comments or off-color language, jokes, or innuendo that a reasonable person would consider to be of a sexual nature, or belittling or demeaning to an individual or a group's sex, sexual orientation, or gender identity f. "Sexting" or seeking or sending pictures of intimate body parts, or taking or displaying pictures of body parts meant to be covered up or sending text messages of a suggestive nature on self-destructing messaging apps (a self-destructing messaging app, is one where you can send messages that automatically destruct after a short, pre-defined, period of time making them untraceable). g. Displaying or disseminating sexually suggestive objects, books, screensavers, magazines, photographs, music, cartoons, or computer internet sites or references h. Unnecessary and inappropriate touching or physical contact, such as brushing against a colleague's body, touching or brushing a colleague's hair or clothing, massages, groping, patting, pinching, or hugging, that a reasonable person would consider to be of a sexual nature i. Leering (suggestive glance), ogling (to look at flirtatiously), or making sexually suggestive gestures or sounds, such as whistling or kissing noises

	<ul style="list-style-type: none"> j. Making inquiries about someone's private sex life or describing one's own sex life k. Workplace sexual comments, conduct, displays and suggestions between two willing parties that would cause a reasonable third party to be offended l. Any unwanted repeated contact, including, but not limited to in-person, or telephonic, for romantic or sexual purposes m. Sexual assault, stalking, trapping someone such that they are not free to leave and a sexual encounter is expected or threatened, threats of bodily harm relating to sex or the refusal to have sex, or other crimes related to egregious acts of sexual harassment <ul style="list-style-type: none"> 2. Sexual harassment is not limited to the inappropriate exercise of authority by persons in power over an employee. It can occur by an employee towards a supervisor. 3. Sexual harassment may be committed by persons of the same sex, or perceived sex, and by those who share the same sexual orientation or the same gender identity or expression, as well as by persons of the opposite sex or gender identity.
	<p>Section D: Consensual Relationships</p> <p>Sexual or romantic relationships between employees and supervisors in the employee's chain of command are strongly discouraged. The existence of a consensual sexual or romantic relationship between an employee and a supervisor may be a factor in any proceeding in which the relationship is alleged to have contributed to a hostile work environment or adversely affected the terms and conditions of employment of the involved parties or a third party.</p> <ul style="list-style-type: none"> 1. Employees who engage in a limited consensual relationship (i.e., friends only, no romantic or physical intimacy, or sexual relationship) with a supervisor or colleague remain free to refuse further sexual overtures and have the right to demand that sexual or sexually harassing conduct going beyond that which was consented ends. If overtures continue, the person seeking to discontinue may seek the assistance of another supervisor or manager or the CFSA Office of General Counsel (OGC) or CFSA Human Resource Administration (HRA) to demand that the limited consensual relationship and overtures cease. 2. Conduct that was once welcome or consensual may become unwelcome. Once the conduct is no longer welcome and the consenting employee or a supervisor, or CFSA HRA or OGC, tells the other party to stop, all unwelcomed behavior of a sexually harassing nature shall cease. 3. If legal action is commenced against CFSA or a supervisor who engaged in a sexually intimate relationship with an employee or a person engaged in a potentially conflictual relationship, the existence of the sexual or romantic relationship will be a factor in the District of Columbia's decision to provide legal representation to the supervisor or the employee(s) engaged in a potentially conflictual relationship.

	<p>Section E: Agency-level Responsibilities for Stopping Sexual Harassment</p> <p>All CFSA employees are responsible for ensuring a workplace free of sexual harassment. CFSA shall protect the confidentiality of all aspects of the sexual harassment complaints, to the greatest extent possible, and to make sure that those reporting such complaints are consistent with the investigation and resolution of the complaints.</p> <ol style="list-style-type: none"> 1. CFSA shall designate an Equal Employment Opportunity (EEO) Officer, henceforth Sexual Harassment Officer (SHO), or HRA, or any other individual competent in EEO laws. The SHO, HRA, or another designated individual competent in EEO law is responsible for accepting sexual harassment complaints, reviewing claims, and ensuring an investigation is conducted in accordance with the law. 2. CFSA shall display, in noticeable locations accessible and used by a substantial number of CFSA employees, notices setting forth the District and CFSA's policy prohibiting sexual harassment. <ol style="list-style-type: none"> a. Each notice shall contain the identity and location of CFSA's designated SHO. b. The notice shall advise employees that a sexual harassment complaint and any subsequent investigation shall be kept confidential. c. HRA will partner with DCHR to implement a reporting process in place to monitor the compliance and completion of sexual harassment training of all CFSA employees, and new onboarding employees who are scheduled to complete training within 14 business days of their hire. d. If an employee does not complete sexual harassment training, HRA will contact the employee's supervisor or next chain of command to ensure that the employee is compliant and complete sexual harassment training. e. All employees shall take a refresher course at least once every two years. 3. Those entering contracts or grants with CFSA shall affirm that they will abide by CFSA's policy, the District of Columbia Human Rights Act including its prohibitions on sexual harassment, and the DC Municipal Regulations. CFSA contracts and grants shall include such covenants as part of the contract or grant agreement.
	<p>Section F: Employee Communication Regarding Sexual Harassment</p> <p>An employee who is victim of or witness to sexual harassment and who wishes the conduct to stop shall:</p> <ol style="list-style-type: none"> 1. Tell the person who is engaging in offensive or inappropriate sexual conduct to stop and that such conduct is unwelcome.

	<ol style="list-style-type: none"> 2. Ask the employee's supervisor, SHO, or OGC to advise the person that the conduct is offensive and unwelcome. Employees and others engaged in intervention are encouraged to document all intervention efforts or requests to cease reported inappropriate sexual conduct, including conversations, text, or email exchanges. Some conduct, as determined by CFSA's HRA, is so egregious that no warning is necessary before personnel action or other consequences ensue; other times, it is necessary to indicate that the conduct is unwelcomed (e.g., viewing graphic content on agency computers, any acts of or behavior of a sexual nature). 3. Employees should collect and preserve evidence of any offensive conduct such as emails, pictures, or other physical evidence, and report sexual harassment to CFSA HRA.
	<p>Section G: Reporting Inappropriate or Potentially Inappropriate Conduct of a Sexual Nature</p> <ol style="list-style-type: none"> 1. Employees who know of incidents of sexual harassment, as well as behavior which may create an intimidating, hostile or offensive work environment, or who are victims of sexual harassment or inappropriate conduct, should report the incident to the SHO or office designated by CFSA HRA. The employees may also report their observations to the supervisor or manager of the employee engaging in inappropriate conduct or to their own supervisor. 2. If the alleged harasser is the employee's immediate supervisor or a co-worker, then the employee should report the conduct to the alleged harasser's supervisor or to the SHO. 3. If the complaint is against the CFSA director, the report shall be submitted to the Deputy Mayor for Health and Human Services for review. 4. In addition to reporting to CFSA's SHO, or other individual as identified above, under the D.C. Human Rights Act, alleged victims may file a claim of sexual harassment with an EEO Counselor in the Office of Human Rights (OHR) (without going through EEO counseling) or in court. 5. The specified procedures and remedies are not intended to preclude an employee from seeking any remedies they may have available in a court of law. 6. Complainants may also choose to report alleged criminal violations to a law enforcement agency.
	<p>Section H: CFSA Review and Investigation of Reported Claims</p> <ol style="list-style-type: none"> 1. Any supervisor or manager who receives a complaint or concern regarding sexual harassment or inappropriate conduct shall notify the SHO who is required to immediately begin and complete an investigation within 60 days of the complaint.

	<ol style="list-style-type: none"> 2. The SHO shall provide a copy of the report to the CFSA director or their designee. At any time during the investigation, the SHO may seek guidance or support from CFSA's OGC for assistance to gain access to relevant information in the possession of another agency (e.g., such as email records, cooperation of agency witnesses, or to prevent an employee's interference with the investigation) if sexual harassment occurs in a work environment outside of CFSA where an employee interacts as part of their CFSA employment. 3. Where there is a sexual harassment complaint that alleges criminal misconduct (e.g., sexual assault, kidnapping, stalking, or threats to do bodily harm), CFSA's HRA, if needed may place the victim or alleged harasser on administrative leave with pay pending final administrative resolution of the complaint or any criminal proceeding. 4. If it has been determined by CFSA's HRA and OGC, or a law enforcement agency that a criminal violation occurred, CFSA's HRA shall recommend progressive disciplinary action against the perpetrator up to, and including, termination. 5. When an allegation of sexual harassment is reported, including allegations of criminal conduct, CFSA through its OGC shall notify the Mayor's Office of Legal Counsel (MOLC) of the allegation. 6. Allegations of sexual harassment shall be investigated and resolved as soon as possible, but no later than 60 days from the date the complaint was reported. CFSA's HRA shall provide the employee and the alleged perpetrator with a written notification of the investigative findings and conclusions 60 days from the date allegations of sexual harassment was reported and convey the same information to the MOLC. 7. The CFSA shall also require any employee found to have engaged in inappropriate conduct, who is not terminated, to attend mandatory sexual harassment training within 60 days of receipt of the findings. Such training is supplemental to any disciplinary actions and shall occur even if the employee recently received training. 8. The CFSA shall remind staff that there is a DC Victim Hotline that is available 24/7. Staff can also call or text (844) 443-5732. Services are also available via chat at DCvictim.org/chat to connect victims of sexual harassment to free resources to help them navigate any physical, financial, legal, or emotional repercussions.
	<p>Section I: Employee Responsibility to Participate in CFSA Investigation</p> <ol style="list-style-type: none"> 1. All CFSA employees are expected to cooperate in CFSA's investigation of sexual harassment complaints. 2. If an employee who alleges sexual harassment or believed to have been the victim of sexual harassment declines to assist or participate in the investigation of the allegation and wish not to proceed or cooperate with an investigation, CFSA may initiate and investigate on its own. If CFSA decides to initiate its own investigation, CFSA shall take into consideration the sensitive nature of the alleged offense and the complainant's wish not to proceed.

	<ol style="list-style-type: none"> 3. The complainant may decline to proceed with an investigation if the complainant believes the perpetrator was not aware that the behavior was inappropriate, unusual, or offensive. 4. Any consideration of whether to recommend disciplinary action for failure to cooperate in an investigation requires heightened sensitivity on the part of CFSA and shall be conducted in consultation with CFSA's OGC and MOLC.
	<p>Section J: Timely Filing and Statute of Limitations</p> <p>All complaints of sexual harassment shall be filed as soon as possible. The statute of limitations for complaints filed at the District OHR is within one year of the harassment or its discovery.</p> <p>CFSA may consider alleged acts of sexual harassment for disciplinary purposes beyond the legal statute of limitations, consistent with the District Personnel Manual and any collective bargaining agreements.</p>
	<p>Section K: Rights of the Alleged Harasser</p> <p>Persons accused of sexual harassment have the full protections afforded to them under the law in administrative matters, including, but not limited to, the right to respond to allegations of sexual harassment and the right to counsel and representation, including a union representative or other representative of their choosing, and including the presumption of innocence, unless and until there is a finding of harassment after an investigation by CFSA or where appropriate, OHR.</p> <p>The right to counsel does not include the right to have counsel paid for by CFSA or the government.</p>
	<p>Section L: Interim Remedial Actions</p> <ol style="list-style-type: none"> 1. Interim remedial actions are administrative rather than disciplinary and may include, but are not limited to, transfers, reassignment of duties or reporting requirements, mandatory administrative leave with pay, or other appropriate measures that do not result in reduction of pay, demotion in title or responsibility, or other loss of employee benefits. 2. Pending final resolution of a sexual harassment complaint, to protect the rights of the alleged victim as well as the alleged harasser, HRA may take prompt temporary personnel actions that do not result in any adverse employment action to either party. When the HRA becomes aware of an allegation of sexual harassment, they shall notify the alleged harasser of the reported behavior to ensure that any such conduct ceases immediately and is not repeated. 3. Where a request for separation, such as job reassignment, from the alleged harasser is made by the alleged victim, the agency must require the victim to make the request in writing. HRA is encouraged to find alternative, reasonably comparable placements, even in different agencies, during the pendency of an investigation for the accuser or accused in lieu of administrative leave with pay, where possible.

	<p>Section M: Discipline for Making False Statements or Representations</p> <ol style="list-style-type: none"> 1. In recognition of the seriousness of workplace sexual harassment charges, CFSA shall recommend disciplinary action, up to and including termination, of any employee found to have knowingly and intentionally made materially false statements or representations in relation to a sexual harassment claim or investigation. Recommendations for disciplinary action must include the following information: <ol style="list-style-type: none"> a. Formal complaint of allegations b. Warnings to cease inappropriate sexual behavior c. Legal consequences 2. Consideration of whether to recommend disciplinary action against an employee who is also the alleged victim of sexual harassment requires heightened sensitivity on the part of CFSA and should be conducted in consultation with CFSA's HRA, OGC, and MOLC.
	<p>Section N: Discipline after a Finding of Sexual Harassment</p> <p>CFSA shall recommend appropriate disciplinary action, up to and including termination, of any employee found to have engaged in sexual harassment as defined in Section B of this policy.</p>
	<p>Section O: Referral to the District's Board of Ethics and Government Accountability (BEGA)</p> <p>Some claims of sexual harassment may also involve ethical violations, such as if an employee is giving gifts to an employee for sexual favors or to a potential reporter of sexual harassment, or if an employee is using government resources to copy and disseminate inappropriate pictures.</p> <p>Credible violations of this nature shall be reported to BEGA. Penalties for such violations are in addition to any personnel action recommended by CFSA's HRA.</p>
	<p>Section P: Concurrent Remedies and Jurisdiction</p> <p>In addition to pursuing action within CFSA, an alleged victim of sexual harassment or a person acting on the alleged victim's behalf with or without the alleged victim's consent, may report a sexual harassment claim within one year of the alleged harassment or its discovery to OHR using the OHR Intake Questionnaire Form.</p> <p>Note: The check box for a sexual harassment complaint is in Section 5 of the Intake Questionnaire Form.</p>
	<p>Section Q: Equal Employment Opportunity (EEO) Counseling Option When Filing a Claim with the District's Office of Human Rights (OHR)</p> <p>EEO counseling is not required prior to the filing of a complaint to the CFSA's HRA. However, if the employee wishes to first seek informal resolution¹, the employee may reach out to CFSA's HRA to speak to an EEO counselor or the Office of Human Rights (OHR). To exercise the right to contact the OHR, An Updated Certified EEO Counselor's List is available.</p>

¹ An informal resolution may be facilitated through arbitration, mediation, restorative justice, or another appropriate method.

	<p>To exercise this option, the employee shall contact a certified EEO counselor within 180 days of the alleged harassment. The EEO counselor shall then resolve the complaint within 30 days or at maximum 60 days and issue an Exit Letter outlining the rights of the individual reporting the claim as well as the counselor's efforts to resolve the claim. If the employee is not satisfied with the outcome of the counseling effort, the employee may file a formal complaint with OHR within 15 days of receiving the Exit Letter. The EEO counselor shall not investigate. They shall review the case and try to achieve an informal resolution.</p>
	<p>Section R: Prohibition Against Retaliation</p> <ol style="list-style-type: none"> 1. It is strictly prohibited to retaliate against an employee for: <ol style="list-style-type: none"> a. reporting or filing a claim of sexual harassment b. assisting another person in filing or asserting a claim of sexual harassment c. opposing sexual harassment d. acting as a witness in a sexual harassment investigation e. refusing to follow orders that would result in sexual harassment f. intervening to protect others sexual harassment or advances g. challenging an allegation of sexual harassment 2. CFSA shall not penalize employees because of their assertion of rights provided under the District of Columbia Human Rights Act or providing truthful information in connection with an investigation (whether on behalf of a complainant or a respondent). 3. Retaliatory behavior can include but is not limited to: <ol style="list-style-type: none"> a. unwarranted reprimand b. unfair downgrade of a personnel evaluation c. transfer to a less desirable position d. verbal or physical abuse e. altered and more inconvenient work schedules 4. Employees found to have engaged in retaliatory behavior shall be recommended by CFSA's HRA for progressive disciplinary action or termination. 5. Retaliatory behavior can include, but is not limited to: unwarranted reprimands, unfairly downgrading personnel evaluations, transfers to less desirable positions, verbal or physical abuse, and altered and more inconvenient work schedules. 6. Employees found to have filed a false sexual harassment claim or instigated a false investigation are subject to progressive disciplinary action or termination.

	<p>Section S: Process for Alleging Retaliation</p> <p>Employees retaliated against for reporting a claim of sexual harassment shall file a complaint with an EEO counselor within 180 days of the alleged retaliation. If the employee is not satisfied with the outcome of an EEO's findings, they will have 15 days from receipt of the findings to file a complaint with OHR.</p>
	<p>Section T: Confidentiality</p> <p>The complaint filed, including all information and documents contained in the file as well as information received during the investigation of the complaint, shall be confidential.</p> <ol style="list-style-type: none"> 1. CFSA or its HRA shall take all reasonable steps not to disseminate information contained in the complaint file except in the furtherance of the investigation, a resolution of the allegations, or execution of any consequences stemming from the investigation, when lawfully released or when required by court order 2. CFSA shall make all reasonable efforts to protect the identities of the alleged harasser and the alleged victim, as well as witnesses for either party. However, CFSA shall advise the alleged harasser of the complaint and its substance and allow the alleged harasser an opportunity to respond to the allegations. 3. This confidentiality requirement does not preclude CFSA from reporting suspected illegal or improper behavior to an appropriate law enforcement agency, legal organization, or from cooperating in any related investigation.
	<p>Section U: Applicability of Personnel Rules</p> <p>Any proposed personnel action instituted under this policy is subject to the District of Columbia Personnel Regulations as set forth in the District of Columbia Personnel Manual and applicable collective bargaining agreements.</p>