

POLICY TITLE:	<i>Sexual Harassment in the Workplace</i>		
 	CHILD AND FAMILY SERVICES AGENCY		
Approved By:	Date Approved:	Original Effective Date:	Last Revision:
Brenda Donald	November 9, 2018	April 25, 2007	April 4, 2015

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 <i>et seq.</i> (2016 Repl.)</p> <p><i>This policy supersedes the Reporting Sexual Harassment in the Workplace Policy dated April 4, 2015.</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>The purpose of this policy is to reaffirm and make clear that that the CFSA does not tolerate any form of sexual harassment in the workplace. Sexual harassment is one of the most unjust, demeaning, and demoralizing examples of workplace misconduct.</p>
IV. POLICY	<p>The Director of the CFSA adopts this policy to be consistent with Mayor's Order 2017-313, CFSA’s mission and all applicable Federal and District of Columbia laws, and applicable collective bargaining agreements.</p> <p>It is CFSA policy to ensure a safe and secure work environment that upholds the dignity of staff. CFSA prohibits workplace sexual harassment, defined herein, by employees.</p> <p>Sexual harassment is not limited to inappropriate exercise of authority by persons in power over an employee. It can occur by an employee toward a supervisor.</p> <p>Reports of sexual harassment of an employee that are brought to the Agency’s attention must be investigated.</p> <p>The Agency is to provide a confidential reporting mechanism for victims, a clear and timely process for Agency response to those reports, and remedy as appropriate for those who have been impacted by the occurrence of sexual harassment.</p>
V. CONTENTS	<ul style="list-style-type: none"> A. Protections B. Sexual Harassment Defined C. Consensual Relationships D. Agency-level Responsibilities for Stopping Sexual Harassment E. Employee Communication Regarding Sexual Harassment F. Reporting Inappropriate or Potentially Inappropriate Conduct of a Sexual Nature

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VI. ATTACHMENTS	A. Sexual Harassment Formal Complaint Form
VII. SECTIONS	Section A: Protections 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 at CFSA and District worksites inside and outside District of Columbia, and to applicants for CFSA employment, although not every procedure set forth in this policy applies to persons not working for CFSA. CFSA shall protect its employees from sexual harassment by contractors, grantees, clients, applicants, and members of the public with whom they interact as part of their CFSA employment.
	Section B: Sexual Harassment Defined 1. Quid Pro Quo sexual harassment 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: <ol style="list-style-type: none"> a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment b. Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting the individual 2. Conduct that is severe or sufficiently pervasive enough to alter working conditions and to create a "hostile environment" is prohibited. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment. Unless the conduct was particularly severe or pervasive, where no warning or admonition is necessary, the person creating such an environment must have been told that the conduct is unwelcome and must stop. The following are examples of unwelcome conduct that may create an intimidating, hostile or offensive work environment and that are not acceptable in the District or any of its worksites, including during work related travel: <ol style="list-style-type: none"> a. Sex acts b. Display of sexual organs
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	<ul style="list-style-type: none"> 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, (described legally as a “paramour preference”) 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 (such as “up skirting” pictures), including by sending messages of a suggestive nature on self-destructive messaging apps where documentation of the written word or images is difficult to document 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 intentional and repeated 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, ogling, or making sexually suggestive gestures or sounds, such as whistling or kissing noises 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.
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	<ol style="list-style-type: none"> 3. Sexual harassment is not limited to inappropriate exercise of authority by persons in power over an employee. It can even occur by an employee towards a supervisor. 4. 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, and shall be prohibited.
	<p>Section C: 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> <ol style="list-style-type: none"> 1. Employees who engage in a limited consensual relationship with a supervisor or colleague, such as going out to dinner or on dates, 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 to must stop. Alternatively, they also may seek the assistance of a supervisor or manager, the CFSA Office of General Counsel or Human Resource Administration to demand that sexually harassing conduct cease. 2. Conduct that was once welcome or consensual may become unwelcome. Once the conduct is no longer welcome, the formerly consenting employee or a supervisor, CFSA designee or counsel, 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 sexual 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 D: Agency-level Responsibilities for Stopping Sexual Harassment</p> <ol style="list-style-type: none"> 1. CFSA shall designate an Equal Employment Opportunity ("EEO") Officer, HR Manager, or any other individual competent in EEO laws (henceforth, "Sexual Harassment Officer") to accept sexual harassment complaints, review and investigate claims and an office to which claims should be reported, in the event the Sexual Harassment Officer ("SHO") is unavailable. 2. CFSA shall display, in noticeable and conspicuous 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 the
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	<p>CFSA designated SHO, the office that is responsible for receiving claims of sexual harassment and ensuring that claims are investigated.</p> <p>b. The notice shall advise employees that a sexual harassment complaint and any subsequent investigation shall be kept confidential to the greatest extent possible consistent with their investigation and resolution.</p> <p>3. CFSA shall ensure that employees attend District-level and/or Agency-level sexual harassment trainings:</p> <p>a. New employees shall take a course on sexual harassment as part of the on-boarding process and in no event more than 14 days of being on-boarded.</p> <p>b. All employees shall take a refresher course at least once every two years.</p> <p>4. Those entering into 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, consistent with 4 DCMR 1100 et seq. District agencies drafting contracts and grants shall include such covenants as part of the contract or grant agreement.</p>
	<p>Section E: 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 either:</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; or, 2. Ask the employee’s supervisor, CFSA designated SHO, or Office of General Counsel 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 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 unwelcome. <p>Employees who believe that they are being sexually harassed are encouraged to collect and preserve evidence of any offensive conduct. However, even in the absence of emails, pictures, or other physical evidence, employees should report sexual harassment.</p>
	<p>Section F: Reporting Inappropriate or Potentially Inappropriate Conduct of a Sexual Nature</p> <ol style="list-style-type: none"> 1. All employees are responsible for ensuring the workplace is free of sexual harassment. 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
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	<p>harassment or inappropriate conduct, should report the sexual harassment or inappropriate conduct to the SHO or office designated by CFSA. The employees may also report to the supervisor or manager of the employee engaging in inappropriate conduct or to their own supervisor.</p> <ol style="list-style-type: none"> 2. If the alleged harasser is the employee's immediate supervisor, then the employee should report the conduct to the alleged harasser's supervisor or to the SHO. 3. If the complaint is against the Agency director, the report is to be submitted to the Deputy Mayor for Health and Human Services for review. 4. The procedures and remedies specified herein are not intended to preclude an employee from seeking any remedies he or she may have in a court of law.
	<p>Section G: 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 take immediate steps to notify the SHO, who will ensure to have an investigation conducted, take other appropriate action and shall document any such efforts. 2. Where there is an allegation of criminal misconduct, including for example, sexual assault, kidnapping, stalking, and threats to do bodily harm, CFSA may, after consulting its Office of General Counsel ("OGC"), place the victim or the alleged harasser on administrative leave with pay pending final administrative resolution of the complaint or any criminal proceeding. Complainants, at their choice, may report alleged criminal violations to a law enforcement agency, including the Metropolitan Police Department. Where either the CFSA or an appropriate law enforcement officer determines that a criminal violation occurred, the CFSA shall recommend discipline of the perpetrator up to, and including, termination. 3. When an allegation of sexual harassment is reported, including allegations of criminal conduct, CFSA through its general counsel shall notify the Mayor's Office of Legal Counsel (MOLC) of the allegation. 4. Allegations of sexual harassment shall be investigated and resolved as soon as practicable, but no later than 60 days after reporting. The agency shall provide the employee and the alleged harasser with a written notification of its findings and conclusions after the 60-day period and shall convey the same to MOLC. 5. 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.

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	<p>6. CFSA shall remind complainants of sexual assault or other possible crimes of the existence of the DC Victim Hotline. The Hotline, 1-844-443-5732, is available 24/7 by telephone, text or online chat to seamlessly connect victims of crime to free resources to help them navigate the physical, financial, legal, and emotional repercussions of crime.</p>
	<p>Section H: Employee Responsibility to Participate in CFSA Investigation</p> <ol style="list-style-type: none"> 1. All CFSA employees shall 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, CFSA may on its own initiative initiate and conduct an investigation. 3. CFSA shall balance the need to respect a victim’s wishes not to proceed or cooperate with an investigation, with its responsibility to ensure a respectful workplace free of sexual harassment. Employees who were not themselves victimized, who, after a direct request of CFSA, decline to participate in a sexual harassment investigation, may be subject to disciplinary action. 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 I: Timely Filing: Statute of Limitations</p> <p>All complaints of sexual harassment shall be reported as promptly as possible. The statute of limitations for complaints filed at the District Office of Human Rights 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, taking into consideration the sensitive nature of the alleged offense, the pressure the complainant may have felt not to report the conduct, when the victim became aware of behavior that was not immediately apparent or a pattern of harassing behavior that developed over time.</p>
	<p>Section J: 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 the government.</p>
	<p>Section K: Interim Remedial Actions</p> <p>Pending final resolution of a sexual harassment complaint, in order to</p>

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	<p>protect the rights of the alleged victim as well as the alleged harasser, CFSA may take prompt temporary personnel actions that do not result in any adverse employment action to either party. When CFSA becomes aware of an allegation of sexual harassment, CFSA shall notify the alleged harasser of the reported behavior to ensure that any such conduct ceases immediately and is not repeated.</p> <p>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.</p> <p>Requests by the alleged victim for separation, such as a job reassignment, from the alleged harasser, shall be made in writing. CFSA may accommodate such requests via 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.</p>
	<p>Section L: 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 knowingly and intentionally made materially false statements or representations in relation to a sexual harassment claim or investigation. Termination is only available if such statements were in writing and the allegations formally made with warnings as to their legal force, or under oath. 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 the agency and should be conducted in consultation with the agency's General Counsel and MOLC.
	<p>Section M: 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 or section III of Mayor's Order 2017-113.</p>
	<p>Section N: Referral to the 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. Credible violations of the Code of Conduct should be reported to BEGA.</p>
	<p>Section O: 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 victim's behalf with or without the</p>
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	<p>victim's consent, may report a sexual harassment claim within one year of the alleged harassment or its discovery to OHR using an OHR Intake Questionnaire Form.</p>
	<p>Section P: EEO Counseling Option When Filing a Claim with OHR</p> <p>EEO counseling is not required prior to the filing of a complaint with OHR however, if the employee wishes to first seek informal resolution, EEO counseling is available. 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 conduct an investigation. They shall review the case and try to achieve an informal resolution.</p>
	<p>Section Q: 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 for termination. 5. Lodging a sexual harassment claim or triggering an investigation does not shield an employee from all discipline or discharge. CFSA is free to discipline or terminate employees for non-retaliatory and non-

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	discriminatory reasons that would otherwise result in such consequences.
	<p>Section R: Process for Alleging Retaliation</p> <p>Employees retaliated against shall file a complaint with an EEO counselor within 180 days of the alleged retaliation and subsequently file a complaint with OHR within 15 days of receipt of the Exit Letter, if the employee is not satisfied with the outcome of EEO counseling.</p>
	<p>Section S: Confidentiality</p> <p>The complaint file, including all information and documents contained in the file as well as information received during investigation of the complaint, shall be confidential. CFSA shall take all reasonable steps not to disseminate information contained in the complaint file except in furtherance of the investigation, resolution of the allegations and execution of any consequences stemming from the investigation, when lawfully released or when required by court order.</p> <p>CFSA shall take all reasonable efforts during an investigation 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 be given an opportunity to respond to the allegations.</p> <p>This confidentiality requirement does not preclude CFSA from reporting a suspected illegal or improper act or conduct related to the investigation to an appropriate enforcement, investigating or legal organization or from cooperating in any related investigation.</p>
	<p>Section T: 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.</p>

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GOVERNMENT OF THE DISTRICT OF COLUMBIA

Child and Family Services Agency



SEXUAL HARASSMENT FORMAL COMPLAINT FORM COMPLAINANT'S REPORT

Instructions: The complainant shall complete and sign the report. Please answer the following questions as completely as possible (if needed, use additional paper).

Date complaint submitted:

Complainant's Name:

Alleged Victim's Name (if complainant is acting on her or his behalf):

Date of Event (If more than one event, please report each event on a separate form):

Who committed the alleged harassment?

Is the accused a co-worker, supervisor, other employee or third party?

Where did the specific event occur (e.g., office location, corridor, garage)?

Describe the circumstances and the events that occurred.

How did this incident affect you?



Were there any witnesses to this specific event? (If yes, please provide their names, contact numbers and cubicle or office location)

Describe the witnesses' involvement, if any.

Have you contacted your supervisory chain of command regarding this matter?

What would be your desired outcome because of the investigation?

I certify the above statements to be true and factual to the best of my knowledge.

Complainant's Name (Please Print):

Date:

Complainant's Signature:

Date:

