

THE GOVERNOR

Title 4—ADMINISTRATION

PART I. GOVERNOR'S OFFICE

[4 PA. CODE CH. 7]

[EXECUTIVE ORDER 1999-3]

Prohibition of Sexual Harassment in the Commonwealth

May 13, 1999

Whereas, sexual harassment is a form of discrimination that undermines the integrity of the employment relationship and/or service delivery; and

Whereas, the Commonwealth of Pennsylvania, Pennsylvania's largest employer, has an obligation to assertively address sexual harassment issues in the workplace; and

Whereas, sexual harassment shall not be tolerated in Commonwealth workplaces under any circumstances; and

Whereas, this Administration is committed to providing a work environment where employes, applicants for employment, or individuals receiving services from the Commonwealth shall not be subjected to sexual harassment; and

Whereas, to prevent sexual harassment in the workplace, all managers, supervisors, and employes must be made aware of the Commonwealth's sexual harassment policy, the steps to take when concerns arise, and our commitment to address instances of sexual harassment aggressively and equitably.

Now, Therefore, I, Thomas J. Ridge, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws, do hereby adopt and reaffirm the Commonwealth's sexual harassment policy as follows:

Annex A

TITLE 4. ADMINISTRATION

PART I. GOVERNOR'S OFFICE

CHAPTER 7. MISCELLANEOUS PROVISIONS

Subchapter NN. PROHIBITION OF SEXUAL HARASSMENT IN THIS COMMONWEALTH

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§ 7.591. Prohibition.

No department, board, commission or other agency under the jurisdiction of the Governor may tolerate sexual harassment by a Commonwealth employe against another employe, applicant for employment or client or other person receiving services from or conducting business with the Commonwealth. Sexual harassment in Commonwealth work settings is strictly forbidden. Further, no department, board, commission or other agency under the jurisdiction of the Governor may tolerate acts of sexual harassment by persons not employed by the Commonwealth within Commonwealth offices or upon employes of the Commonwealth in the performance of their duties. Sexual harassment is a violation of Federal and State law. Therefore, all Federal and State laws relating to sexual harassment or sex discrimination, or both, will be enforced.

§ 7.592. Prohibited actions.

(a) Sexual harassment includes unwelcome sexual advances, requests for sexual favors or other verbal, visual or physical conduct of a sexual nature when:

(1) Submission to or rejection of the conduct is made either explicitly or implicitly a term or condition of an individual's employment.

(2) Submission to or rejection of the conduct by an individual is used as a basis for employment decisions affecting the individual.

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

(b) Prohibited sexual harassment may include actions by members of the opposite sex of an employe as well as members of an employe's own sex. Prohibited sexual harassment may include actions which are overtly sexual or facially neutral if the actions constitute gender-based discrimination.

§ 7.593. Disciplinary action.

A Commonwealth employe who engages in or knowingly condones sexual harassment related to Commonwealth employment shall be subject to disciplinary action, up to and including dismissal.

§ 7.594. Retaliation.

Retaliation in any form against an employe, applicant for employment, client or person conducting business with or receiving services from the Commonwealth who exercises his right to make a good faith complaint under this subchapter or who cooperates in an investigation of any complaint is strictly prohibited, and will itself be cause for appropriate disciplinary action.

§ 7.595. Education.

Commonwealth employes will be educated in sexual harassment issues. Education may consist of written materials, formal training, educational videos, orientation sessions, workplace discussions or individual counseling. Commonwealth employes will be provided with a copy of this subchapter and shall sign an acknowledgement that they have received and reviewed the policy.

§ 7.596. Workplace environment.

Agency heads shall create a workplace environment which encourages discussion of sexual harassment issues, where employes are educated and sensitized to sexual harassment, and where individuals with sexual harassment questions or complaints are provided with a response which is clear, impartial and timely.

§ 7.597. Complaint mechanism.

The Secretary of Administration shall require each agency to have an effective complaint mechanism which ensures that an employe does not have to complain to the alleged harasser and which provides for prompt and effective investigation of complaints. The Secretary of Administration shall also have the authority to issue Management Directives and establish rules necessary to carry out the mandates of this subchapter.

§ 7.598. Oversight and resolution of complaints and appeals.

The Office of Administration, Bureau of Equal Employment Opportunity, shall provide appropriate oversight and resolution of complaints and appeals.

§ 7.599. Commonwealth policy.

This subchapter and Management Directive 505.30, Prohibition of Sexual Harassment in Commonwealth Work Settings, together constitute the Commonwealth's sexual harassment policy.

§ 7.600. Cooperation by State agencies.

All Commonwealth departments, boards, commissions and other agencies under the jurisdiction of the Governor shall cooperate fully with the Secretary of Administration and provide assistance and information, as needed, in the implementation of this subchapter.

§ 7.601. Rescission.

Executive Order 1996-14, Prohibition of Sexual Harassment in the Commonwealth is rescinded.

A handwritten signature in black ink that reads "Tom Ridge". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

Governor

Fiscal Note: GOV 99-5. No fiscal impact; (8) recommends adoption.

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