

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 1228
Appropriations

(Delegates Kelly and A. Miller)

Finance

Equal Employment Opportunity Program - Sexual Harassment Reporting

This bill requires Executive Branch units to include information about sexual harassment policies and prevention training and a summary of sexual harassment complaints filed, investigated, resolved, and pending in the annual report that is submitted to the Equal Employment Opportunity (EEO) Coordinator.

Fiscal Summary

State Effect: None. The change is procedural in nature and does not directly affect governmental finances because State agencies already track sexual harassment complaints and report all discrimination complaints to the EEO Coordinator.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Each unit of the Executive Branch of State government must submit to the EEO Coordinator by October 15 an annual report about the activities that the unit undertook in that fiscal year to implement the EEO program, including information about personnel practices within the unit; a summary of complaints filed, investigated, resolved, and pending; and information about relations with other units of State government.

The University System of Maryland (USM) may satisfy these reporting requirements by submitting to the Secretary of Budget and Management an annual report of its EEO policies and programs in a format determined by USM's Board of Regents.

Background: The Office of the Statewide EEO Coordinator, within the Department of Budget and Management, administers and enforces State and federal EEO laws and policies; promotes a work environment free of any unlawful discrimination, harassment, and retaliation; and assists in the building of a well-diversified workforce of Maryland State government employees and applicants. The annual [Statewide EEO report](#) notes the Office of the Statewide EEO Coordinator received 61 sexual harassment complaints that were filed with State agencies' Fair Practices Offices for fiscal 2017. **Exhibit 1** provides historical data regarding sexual harassment complaints in State agencies.

Exhibit 1
Sexual Harassment Complaints in State Agencies
Fiscal 2008-2017

<u>Agency/Function</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>
Public Safety and										
Correctional Services	13	19	20	15	13	24	18	24	24	24
Transportation	5	6	8	6	11	6	12	6	8	15
Health	3	8	5	0	10	7	3	2	6	7
Juvenile Services	3	2	2	0	4	3	1	1	1	1
State Police	0	2	2	2	1	2	3	2	1	2
Labor, Licensing, and										
Regulation	1	2	3	2	1	2	1	0	1	1
Education	1	1	1	2	0	0	2	0	2	0
Morgan State University	0	0	2	0	0	5	0	6	0	1
Baltimore City Community										
College	0	0	2	0	2	0	1	2	2	0
Human Services	0	0	0	0	0	0	0	0	1	7
Housing and Community										
Development	3	2	0	0	0	0	0	0	1	0
DBM and DoIT	0	0	0	0	0	0	1	0	2	0
Military	0	1	0	0	0	0	0	1	0	3
Legal (excluding Judiciary)	0	0	0	1	1	1	1	2	0	0
Comptroller of Maryland	1	1	1	1	0	0	0	0	0	0
General Services	0	1	2	0	0	3	0	0	0	0
Other	1	1	2	0	4	3	0	0	0	-
Total	31	46	50	29	47	56	43	46	49	61

DBM: Department of Budget and Management

DoIT: Department of Information Technology

Source: *Annual Statewide Equal Employment Opportunity Report* Fiscal Year 2008-2017, Department of Budget and Management

Sexual harassment is a form of sex-based discrimination. State law generally prohibits an employer with at least 15 employees from discharging, failing or refusing to hire, or otherwise discriminating against any individual with respect to the individual's compensation, terms, conditions, or privileges of employment because of race, color, religion, sex, age, national origin, marital status, sexual orientation, gender identity, genetic information, or disability. For the purposes of this prohibition, the State and local governments are considered employers.

Maryland State Employee Policy on Sexual Harassment in the Workplace

The State employee [sexual harassment policy](#) defines “sexual harassment” as unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) submission to or rejection of such conduct by an individual is used as the basis of employment decisions affecting an individual; or (3) such conduct has the effect of interfering with an individual's work performance or creating an intimidating, hostile, or abusive work environment. Tangible psychological injury is not a necessary element of a hostile work environment; rather, an environment that is perceived by the victim as hostile or abusive, and that a reasonable person would find hostile or abusive, is sufficient to meet the standard.

An employee who believes that he or she is the victim of sexual harassment should report the alleged incident promptly to the agency's fair practices officer, EEO officer, supervisor, or any other management representative. A prompt and thorough investigation of the complaint must be conducted by the EEO officer or other designee assigned to investigate the complaint to determine whether a violation has occurred. Any employee found to have engaged in sexual harassment is subject to appropriate disciplinary action, up to and including dismissal from employment. Retaliation against an employee for filing a complaint or participating in an investigation is not permitted.

All State government employees are provided the opportunity to work in an environment free from sexual harassment. Cabinet Secretaries and other agency heads have the responsibility to ensure compliance with this policy, including the prompt investigation and resolution of all complaints of sexual harassment.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Commission on Civil Rights; University System of Maryland; Department of Budget and Management; Maryland Department of Transportation; Department of Legislative Services

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