

## **1038.0.0 SEXUAL HARASSMENT POLICY**

This policy is established to encourage employees to discuss problems of sexual harassment with appropriate supervisors, to explain, to reach resolution, to make adjustments, if necessary, and to foster better understanding between employees and supervisors. Such discussion will lead to better employee/supervisor understanding of policies, procedures and practices.

### **1038.1.0 Actions Defined as Sexual Harassment**

1038.1.1 Sexual harassment is intolerable and unconscionable. It includes sexual contact as defined in the Federal Guidelines (29 CFR Ch XIV, subsection 1604.11), Section 703 of Title VII of the Civil Rights Act of 1964, as amended, and Arkansas Code Ann. Section 5-14-101.

1038.1.2 Sexual conduct is unwelcome verbal or physical conduct of a sexual nature. The criteria of sexual harassment, as specified by the Federal Guidelines, are:

- A. Submission to the sexual conduct is either an explicit or implicit term or condition of employment
- B. Submission to or rejection of the sexual conduct is used as a basis for employment decisions affecting the person who did the submitting or rejecting
- C. The conduct creates an objectively hostile or abusive work environment, so as to alter the condition of the victim's employment.
- D. Actions that may be defined as sexual harassment are not limited to the "supervisor to employee" situation, but may include actions of co-workers, actions of the same or opposite sex and actions of individuals external to DHS, but who have contact with employees in the work environment, that create an objectively hostile work environment.

### **1038.2.0 Notification**

1038.2.1 No employee, in order to effect resolution of a complaint, shall be required to solely or independently confront the person allegedly conducting or causing the action believed to be sexual harassment. Further, retaliation against an employee for reporting sexual harassment is strictly prohibited.

1038.2.2 Employees believing themselves to be victims of sexual harassment are encouraged to come forward in order to effect resolution of the complaint. To begin the process of resolution, employees are encouraged to contact one of the persons identified on PUB-103, "Sexual Harassment Prohibited."

### **1038.3.0 Poster Requirement**

A copy of PUB-103, "Sexual Harassment Prohibited" will be posted in a conspicuous place in each DHS office and facility.

### **1038.4.0 Sexual Harassment Complaints**

All employees must be given the opportunity through established investigative steps and processes, including DHS's grievance procedure, to resolve sexual harassment complaints. This policy does not change the DHS grievance procedure (DHS Policy 1086 – DHS Grievance Procedure).

### **1038.5.0 Complaint Submission**

1038.5.1 Employees should submit complaints made in good faith, expressed in reasonable terms, containing cause for the complaint, corrective action desired and sufficient information upon which to base decisions.

1038.5.2 Complaints may be submitted to the employee's supervisor, or directly to the Office of Chief Counsel (OCC) or the Employee Relations Office.

### **1038.6.0 Complaint Review**

1038.6.1 Sexual harassment complaints will be reviewed within the division of the alleged harasser, or within the division of the complaining party if the alleged harasser is not a DHS employee. The division may review and conduct a preliminary investigation or submit the complaint directly to OCC. If the facts can be obtained at the division level, division management will take the necessary corrective action. If further investigation is needed, the complaint will be forwarded to OCC.

1038.6.2 If the complainant believes an inadequate review was conducted at the division level he or she may, through that division's management, request further review or investigation by OCC.

1038.6.3 OCC will forward their investigation results to the Employee Relations Office which will determine if the sexual harassment charge was substantiated and submit a report to the Division Director.

### **1038.7.0 Responsibilities Of Employee Relations Office**

The Employee Relations Office is responsible for responding to federal and regulatory agencies regarding sexual harassment allegations. All DHS managers and supervisors will

document receipt of all verbal/written sexual harassment allegations. All original documents containing allegations of sexual harassment must be forwarded to the Employee Relations Administrator. All allegations from any source, i.e., the public, clients, providers and current, former or resigning staff, will be investigated. Subsequent investigations, substantiated and unsubstantiated findings and reports of corrective action must be forwarded to the Employee Relations Administrator for retention. These documents should be addressed to the Employee Relations Administrator at the address listed below.

**1038.8.0 Originating Section**

DHS Employee Relations Office  
P.O. Box 1437, Slot N250  
Little Rock, AR 72203-1437  
Telephone: (501) 682-6003  
FAX: (501) 682-8926  
TDD: (501) 682-7958

Replacement Notation: This policy replaces DHS Policy 1038 previously issued with effective date September 15, 1993.