



# **ServSafe Workplace**

## **Sexual Harassment Prevention Online Course**

### **State of Maryland Supplement**

*Revised September 2019*

**[servsafe.com/ServSafe-Workplace](https://www.servsafe.com/ServSafe-Workplace)**

*The information found in this supplement has been taken from the State of Maryland Sexual Harassment Policy and Procedures document: <https://dbm.maryland.gov/eo/Documents/SexHarrassPolicy.pdf>*

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## Introduction

As of October 1, 2018, Maryland companies with 50 or more employees are legally required to comply with all requirements outlined in the state's sexual harassment policy.

Maryland state government is dedicated to a strong policy against discrimination on the basis of any factor prohibited by law, including sex, as set forth in:

- Title VII of the Civil Rights Act of 1964
- Title 5, Subtitle 2 of the Annotated Code of Maryland State Personnel and Pensions Article
- Title 20 of the State Government Article, Annotated Code of Maryland
- Executive Order 01.01.2007.16 of the Maryland Code of Fair Employment Practices
- United States Equal Employment Opportunity Commission's "Policy Guidance on Current Issues of Sexual Harassment" (Number N-915-050)

## Definitions

The definition of "employee" includes independent contractors as well as employees. Employers with one (1) or more employees are subject to coverage of the law for harassment claims.

The State of Maryland offers protections for harassment based on the following characteristics: race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, gender identity, or disability. The employer is liable for harassment committed by supervisors, or for harassment that results due to employer negligence. The definition of "supervisor" includes anyone who directs, supervises, or evaluates the employee's work activities.

## Disclosing Sexual Harassment

The "Disclosing Sexual Harassment in the Workplace Act of 2018" prohibits Maryland employers from including in an employment agreement, contract, or policy, any provision that waives any substantive or procedural right or remedy to a future claim of sexual harassment or retaliation for reporting sexual harassment. In addition, the Act prohibits employers from taking adverse action against an employee because the employee refuses to enter into an agreement containing such a waiver.

An employer who enforces or attempts to enforce a provision that violates the Act will be liable for the employee's reasonable attorney fees and costs.

## Survey Requirements

The Act also requires employers with at least 50 employees to submit answers to bi-annual surveys conducted by the Maryland Commission on Civil Rights (MCCR). The surveys will ask:

- The number of settlements made by or on behalf of the employer of an allegation of sexual harassment by an employee.
- The number of times the employer paid a settlement to resolve a sexual harassment allegation against the same employee over the past 10 years of employment.
- The number of settlements made of an allegation of sexual harassment that included a confidentiality provision.

The first survey must be submitted on or before July 1, 2020, and the second one on or before July 1, 2022.

The MCCR will publish the survey results online. The MCCR will make available for public inspection, upon request, the results from a specific employer regarding the number of settlements.

## Hostile 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.

## Employee Responsibilities

Employees should take the following steps if they believe that sexual harassment has occurred:

1. Let the person who is committing the offending behavior know that their conduct is unwelcome, and that they should immediately stop the offending action. It is important for the alleged harasser to understand this because they may believe that the behavior is somehow welcome. A victim does not have to confront the harasser directly as long as their actions clearly show that the behavior is unwelcome.
2. If the alleged harasser does not cease their actions, report it promptly to the employer's or agency's Fair Practices Officer, EEO Officer, supervisor, or another management representative.
3. If an employee's immediate supervisor is the alleged harasser, the incident should be reported to the person directly in charge of the supervisor, the employer's or agency's Fair Practices Officer, EEO Officer, or another management representative.

## Filing a Complaint

If you believe you have been the victim of harassment, you can [file a complaint](#) with the Maryland Commission on Civil Rights within two (2) years of the date of the alleged harassment. You have up to three (3) years from the date of the alleged harassment to file a civil lawsuit.

## Agency Responsibilities

The employer must provide all employees with a copy of the employer's or agency's sexual harassment policy and advise them of the name and telephone number of the agency's Fair Practices Officer and EEO Officer. This policy should be posted conspicuously in all state work sites.

1. The agency has 30 days after an alleged incident of sexual harassment is reported to thoroughly investigate the complaint and issue a written decision.
2. When it is determined that sexual harassment has indeed taken place, the agency should take immediate and appropriate corrective action.
3. If necessary, the Office of the Statewide Equal Employment Opportunity Coordinator (OSEEOC) should be asked to help investigate the allegation.
4. The agency must inform the Complainant of his/her right to pursue an allegation of sexual harassment with the Maryland Commission on Civil Rights or the U.S. Equal Employment Opportunity Commission.
5. The agency will inform the Complainant that it will take all necessary steps to keep the investigation as confidential as possible.
6. The agency should follow up with the Complainant to ensure that no more unwelcome sexual advances have been made. This process should be properly documented.
7. The agency must ensure that no retaliatory action is made against the employee or anyone else who provides information in the investigation to ensure that all parties are protected.