STATE OF MAINE
POLICY STATEMENT AGAINST HARASSMENT

I. General Policy Statement

The State of Maine recognizes the dignity of the individual employee and the right of employees to work in an environment which is free of intimidation and harassment. Such intimidation or harassment based on race or color, sex, sexual orientation, physical or mental disability, genetic information, religion, age, ancestry or national origin, whistleblower activity, previous assertion of a claim or right under the Maine Workers' Compensation Act, or marital status is a violation of State policy. Because such harassment seriously undermines the integrity of the work place and adversely affects employee morale, it is unacceptable and will not be tolerated. In addition, it is considered grounds for disciplinary action up to and including discharge. Harassment based on race or color, sex, sexual orientation, physical or mental disability, genetic information, religion, age, ancestry or national origin, whistleblower activity or previous assertion of a claim or right under the Maine Workers' Compensation Act may also constitute illegal employment discrimination.

Examples of harassment related to race or color, sex, sexual orientation, physical or mental disability, genetic information, religion, age, ancestry or national origin, whistleblower activity or previous assertion of a claim or right under the Maine Workers' Compensation Act, include the following, which may be a series of incidents or a single occurrence:

- Unwelcome sexual advances, gestures, comments, or contact;
- Threats;
- Offensive jokes;
- Subjecting employees to ridicule, slurs, or derogatory actions;
- Basing employment decisions or practices on submission to such harassment;
- Refusal to cooperate with employees in performing work assignments;
- Inequitable disciplinary actions and work assignments.

Further examples of sexual harassment include: behavior that is verbal and sexual in nature – such as comments about a person's looks, personal inquiries, sexual jokes, use of derogatory sexual stereotypes, uttering sexually suggestive sounds, writing sexual notes, use of State computer equipment to send, receive and/or download material of a sexual nature; **non-verbal sexual behavior-** such as looking someone up and down, staring or leering at someone's body, deliberate blocking of a person's path, displaying sexual visuals, making sexual gestures; or **physical** – such as pinching, grabbing, sexual assault or any physical contact of a sexual nature.

As a matter of State policy, any behavior of a sexual nature in the workplace is considered unprofessional regardless of whether it constitutes illegal sexual harassment. Similarly, any conduct that degrades, ridicules or otherwise draws unwanted attention to any employee or other person having dealings with the department on the basis of race or color, sex, sexual orientation, physical or mental disability, genetic information, religion, age, ancestry or national origin, whistleblower activity, previous assertion of a claim or right under the Maine Workers' Compensation Act, or marital status is considered unprofessional regardless of whether it constitutes unlawful harassment. Such unprofessional conduct will not be tolerated in the work place because it undermines morale, interferes with performance and demeans its victims. Each employee is personally responsible for compliance with this policy.

As part of their supervisory responsibilities, supervisors are required to actively prevent or stop inappropriate, unprofessional conduct in the workplace regardless of whether the conduct rises to the level of illegal harassment. If they become aware of any such conduct occurring through personal observation or information from another party, they must consult with the Department's EEO Coordinator and take immediate and appropriate corrective action, including discipline, to end the conduct. Corrective action is required regardless of whether a complaint is made or the conduct appears to be unwelcome. Even if the person providing information requests that no action be taken, the supervisor must contact the EEO Coordinator. Managers and supervisors who fail to fulfill their obligations under this policy will be subject to disciplinary action, up to and including discharge.

II. Definitions

"Sexual harassment" is defined as unwelcome sexual conduct that is a term or condition of employment. Unwelcome sexual conduct is sexual harassment when submission to such conduct is expressly or implicitly made a term or condition of employment.

"Quid pro quo" harassment occurs when submission or rejection of such conduct is used as the basis for employment decisions affecting an individual, *such as promotions in exchange for sexual favors, or an unfavorable change of duties in response to rejected sexual advances.*

"Hostile Work Environment." Unwelcome sexual conduct which unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive working environment also constitutes illegal sexual harassment. Conduct which is not sexual in nature may still create a sexually hostile work environment if it is based on the victim's gender. Such conduct may include excluding or isolating employees, tampering with belongings or equipment, or physical or verbal abuse based on gender.

III. Applicability

This policy applies to:

- Co-workers and supervisors
- Outside parties having dealings with the department (i.e., customers, vendors, contractors)
- Interactions between individuals of the same sex as well as of the opposite sex
- Interactions in the workplace during work hours as well as outside activities related to the workplace (i.e., parties, trips, conferences)

IV. Complaint Process

The State of Maine is committed to preventing harassment prohibited by this policy through education and dissemination of information as well as employee accountability. Such harassment may be reported by any employee, regardless of whether that employee is the recipient of the harassment, a witness or otherwise becomes aware of harassment prohibited by this policy.

Internal complaints may be filed by contacting any of the following individuals:

- Immediate supervisor or any supervisor/manager in the chain of command
- Departmental Equal Employment Opportunity Coordinator
- Departmental Human Resource Manager
- State Equal Employment Opportunity Coordinator

Although every attempt will be made to resolve complaints at the lowest possible level, if an investigation is warranted, it will be conducted promptly and with as much confidentiality as possible, respecting the rights of all parties involved. All employees are expected to cooperate in any departmental investigation of harassment.

In addition to initiating the internal complaint procedure, employees covered by collective bargaining agreements may file a grievance through the applicable grievance procedure. A discrimination complaint alleging harassment on the basis of race or color, sex, sexual orientation, physical or mental disability, genetic information, religion, age, ancestry or national origin, whistleblower activity or previous assertion of a claim or right under the Maine Workers' Compensation Act may also be submitted to the Maine Human Rights Commission at any time within 300 days of the alleged discriminatory incident. It is not required that any of the above procedures be utilized first or in any sequence, nor is it required that any procedure be exhausted before the other is used. In those instances where the prior workers' compensation claim or right is made against the State of Maine, the complaint may be submitted to the Maine Workers' Compensation Board.

For more information, contact: Maine Human Rights Commission.....624-6050
State EEO Coordinator.....287-4651
1-888-577-6690 (TTY)

V. Retaliation

Any form of retaliatory action or threat or suggestion of retaliation by either employees or supervisors against any person filing a complaint under this policy or assisting in an investigation is a violation of State policy. Any discriminatory action against any individual because the individual has opposed a practice that would be a violation of the Maine Human Rights Act, Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act of 2008 or the Age Discrimination in Employment Act or because the individual has made a charge, testified or assisted in any investigation, proceeding or hearing under the Maine Human Rights Act, Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act of 2008or the Age Discrimination in Employment Act is illegal. A complainant is protected from retaliation regardless of the merits of the original complaint. Retaliation should be reported in the same manner as described above for complaints of harassment and will be promptly investigated. Such retaliatory conduct will be grounds for disciplinary action.

Each State agency has a designated EEO Officer who is responsible for handling complaints and providing technical assistance to staff regarding these issues.

Laurel Shippee, the state EEO Coordinator in the Bureau of Human Resources, is also available as a resource to any state employee or supervisor. She may be reached at (207) 287-4651 (TTY) 1-888-577-6690.

July 2011

Paul R. LePage

Paul R. LePage, Governor