

LOUISIANA STATE BOARD OF OPTOMETRY EXAMINERS SEXUAL HARASSMENT PREVENTION POLICY

APPLICABILITY

This policy applies to all LSBOE members and employees regardless of position, status, or authority. This includes classified and unclassified employees, full-time, part-time, seasonal, and temporary employees. The prohibitions of this policy are equally applicable to appointing authorities, executive management, administrators, directors, managers, supervisors, staff, students, and interns.

In keeping with LSBOE's intention and duty to maintain a work environment free of harassment and discrimination, this policy also applies to non-employees, including visitors and individuals who transact business with LSBOE such as vendors, maintenance personnel, clients, contractors, and consultants. These non-employees are prohibited from engaging in the behavior prohibited by this policy, and also are protected from experiencing such behavior by LSBOE employees.

This policy applies not only to the customary workplace and work locations where LSBOE employees may be assigned, but also prohibits such behavior while traveling to a work location, at conferences, workshops, trainings, business trips, and business-related social events. Additionally, the behavior prohibited by this policy applies to off-duty, off-premises behavior which has an impact upon and relation back to the working relationship.

Sexual Harassment Prohibited

Sexual harassment shall not be tolerated by the LSBOE. All claims of sexual harassment shall be thoroughly investigated and any violation of this policy shall be subject to full disciplinary action up to and including termination. The harasser(s) and the victim(s) may both be employees of our office or one may be from outside the office. In any case, all sexual harassment situations must be reported immediately.

Defining Sexual Harassment

- I. Sexual harassment is a form of sex discrimination that violates Title VII of the Civil Rights Act of 1964. The EEOC provides guidelines prohibiting sexual harassment in the workplace. These guidelines state that unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:
 - (a) Submission is made either explicitly or implicitly a term or condition of employment;
 - (b) Submission to or rejection of a sexual invitation is used as the basis for employment decisions; or
 - (c) Sexual advances or request for sexual favors has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

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2. Sexual harassment does not refer to the behavior or occasional compliment of a socially acceptable nature. It refers to behavior that is unwelcomed, personally offensive, fails to respect the rights of others, lowers morale, or interferes with work effectiveness.
3. For action to be taken, sexual harassment must be sufficiently severe or pervasive to alter the conditions of the victim's employment and/or create a hostile work environment.
4. Although the most common form of sexual harassment is the demand for sexual favors, sexual harassment can take on many different forms. Other forms of harassment include: sexual innuendoes, suggestive comments, jokes of a sexual nature, sexual propositions, sexually suggestive objects, pictures, graphics, commentaries, suggestive or insulting sounds, leering, whistling, obscene gestures, and unwanted physical contact. Widespread favoritism in the workplace of a paramour or friend based on the granting of sexual favors may create an illegal hostile work environment. Intimate relationships between supervisors and subordinate employees shall be reported to the LSBOE and copying Human Resources.
5. Discretion will be used while investigating and remedying sexual harassment claims. Situations will be reviewed on a case-by-case basis.
6. All investigations will be handled in a prompt and confidential manner. Certain individuals may need to be interviewed regarding the sexual harassment complaint. The importance of confidentiality will be explained to the parties involved to ensure as much privacy as possible.
7. Any and all records maintained in a sexual harassment investigation are confidential, and access to these records is limited to those who need the records for official use with permission from the LSBOE.
8. Sexual harassment, whether experienced or observed personally or reported by another person, must be addressed. In the eyes of the law, supervisors and managers represent the agency. Employers are liable when a supervisor uses their vested authority to commit "quid pro quo" harassment, making submission to a sexual invitation a term or condition of employment or the basis for employment decisions.

Procedures for Reporting Harassment

1. Notice of a sexual harassment claim shall be submitted as soon as possible. Notice can be from the victim or an observer.
2. Notice shall be submitted to Human Resources or the LSBOE. Having males and females available for claims filing will hopefully make the reporter of the incident more comfortable by allowing them the opportunity to initially talk to someone of the same sex. The LSBOE Counsel and head of Human Resources or designee will lead the investigation.

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3. Notice does not have to be given to an immediate supervisor; however, notice does need to be given to Human Resources.
4. Provide written notice which includes the following:
 - (a) Name of Complainant(s);
 - (b) Name of Offender(s); and
 - (c) A description of the incident, action, policy, etc. which initiates this claim for noncompliance of EEO. Include date(s), day(s), time(s) of day, location(s), witness(es) name(s), number of occurrences, the nature of the harassment, the effect of the harassment on the claimants working environment, and any other relevant information regarding the situation(s).
5. Provide all information and documentation, including but not limited to emails, voice recording, notes, texts, etc.
6. Human Resources will discuss the violation with claimant/victim for further clarification and documentation, if necessary. An investigation of the claim will be conducted as soon as practicable. Parties involved and any designated witnesses will be interviewed as soon as practicable, following receipt of the claim. Interviews will be documented and kept in a confidential file created for each claim. Results of the investigation will be reported to the LSBOE. In addition, final determination will be communicated to appropriate parties. Documentation of the outcome will be made and placed in a confidential file. Final appeal can be made to the LSBOE.
7. The LSBOE will not tolerate reprisal or retaliation against any party involved. Such action will be grounds for discipline up to and including termination. See Retaliation Prohibited.

Notice & Reporting

Beginning December 15, 2022, and annually thereafter, the Secretary LSBOE will submit a report to the Legislative Budgetary Control Council as required by RS 42:344. This report shall contain information from the previous calendar year regarding the LSBOE's compliance with the requirements including the number and percentage of public servants in the LSBOE who have completed the training requirements, the number of sexual harassment complaints received by the LSBOE, the number of complaints which resulted in a finding that sexual harassment occurred, the number of complaints in which the finding of sexual harassment resulted in discipline or corrective action, and the amount of time it took to resolve each complaint. These reports shall be public record and available to the public in the manner provided by the Public Records Law.

Posting

LSBOE's sexual harassment policy shall be posted on the board website.

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Training

LSBOE recognizes that implementation of a policy prohibiting sexually inappropriate workplace behavior standing alone is insufficient to prevent and address such behavior.

To support this policy and create a culture wherein employees willingly report concerns and lodge complaints, LSBOE requires all employees to successfully complete training on this policy upon hiring and on a continuing basis thereafter. At a minimum, LSBOE mandates the following training for its employees:

- Upon hiring, all new employees will be provided a copy and instructed to carefully review this policy.
- Within thirty (30) days of the hiring date, all new employees are required to complete the online training on sexual harassment provided through the Comprehensive Public Training Program (CPTP). Certification of successful completion will be documented through CPTP.
- All employees, on an annual basis thereafter, are required to complete the online training on sexual harassment provided through CPTP. Certification of successful completion will be documented through CPTP.

State and Federal Claims

Regardless of the outcome of the LSBOE's investigation, complainants have the right to pursue a claim under State or Federal law.

Louisiana Commission on Human Rights

Louisiana's Employment Discrimination Law (LEDL), R.S. 23:332, prohibits employers with 20 or more employees working within the State from intentionally discriminating with respect to sex, which includes sexual harassment. A complaint alleging violation of the LEDL may be filed with the Louisiana Commission on Human Rights (LCHR) or in the district court.

Complaints must be filed with the LCHR within 180 days from the last alleged act involving discrimination.

Complaints must be filed in court within 1 year from the last alleged incident of discrimination.

Complaining internally to the LSBOE does not extend your time to file with the LCHR or in court. You do not need an attorney to file a complaint with LCHR, and there is no cost to file with LCHR. LCHR will screen your claim to determine if it meets guidelines. If your claim

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meets guidelines, LCHR will send you an acceptance letter. If you return the form in the specified time, an LCHR intake officer will review all documents to determine eligibility. If eligibility is approved, you will be assigned an investigator for merit determination and recommendation. After a determination is established, a copy of the determination will be submitted to you and to the respondent. In cases of employment discrimination, LCHR will send a copy of the determination to the Equal Employment Opportunity Commission (EEOC). Remedies available for employment discrimination may include back pay, promotion, front pay, reinstatement and reasonable accommodations. If LCHR finds violation of statute and subsequent review by the EEOC, a "right to sue" will be issued.

LCHR's main office contact information is: Office of the Governor/Louisiana Commission on Human Rights/1001 N. 23rd Street, Baton Rouge, LA 70802.

Contact LCHR at (225) 342-6969 ((888)-248-0859 (TDD)) visit <https://gov.louisiana.gov/page/lchr> for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, and mailed to LCHR at the Office of the Governor-Louisiana Commission on Human Rights, P.O. Box 94094, Baton Rouge, LA 70804.

United States Equal Employment Opportunity Commission (EEOC)

The EEOC enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. 2000, et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint, and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred.

An employee alleging discrimination at work can file a "Charge of Discrimination." The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (1-800-669-6820 (TTY)), visiting their website at www.eeoc.gov or via email at info@eeoc.gov. The EEOC New Orleans District Office is located at 701 Loyola Avenue, Suite 600, New Orleans, LA 70113 (504) 589-2329 ((504) 589-2958 (TTY)).

Investigation Procedures by Human Resources

- I. Investigations for any form of harassment or discrimination will be conducted by members of Human Resources or designated committee.

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2. For further clarification and documentation, if necessary, interviewing all parties involved and any named witness(es) will begin as soon as practicable, following receipt of the claim.
3. A statement from each person interviewed will be documented. These persons include, but are not limited to, alleged harasser(s), victim(s), or witness(es).
4. Interviews will be documented and kept in a confidential file created for each claim.
5. Based on the evidence, disciplinary action may be taken, ranging from reprimand up to and including termination.
6. Upon completion of the investigation, results of the investigation will be communicated timely to the LSBOE, complainant(s) and the alleged harasser(s) even though the results may be inconclusive.
7. Documentation of the outcome, regardless of the conclusion, will be kept in a confidential file.
8. If the investigation is inconclusive or if it is determined that there has been no violation Of policy, but potentially problematic conduct may have occurred, the LSBOE Counsel and Head of Human Resources may recommend appropriate training and/or other preventative action. Final appeal can be made to the LSBOE.
9. The LSBOE will not tolerate reprisal or retaliation against any party involved. Such action will be grounds for discipline up to and including termination See Retaliation Prohibited.

Retaliation Prohibited

No hardship, loss, benefit or penalty may be imposed on an employee or any other individual in response to:

- Filing or responding to a bona fide complaint of discrimination or harassment,
- Appearing as a witness in an investigation of a complaint, or
- Serving as an investigator of a complaint.

Lodging a bona fide complaint will in no way be used against the employee or have an adverse impact on the individual's employment status. However, filing groundless or malicious complaints is an abuse of this policy and will be treated as a violation. Any person who is found to have violated this aspect of the policy will be subject to discipline up to and including termination.

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ACKNOWLEDGEMENT AND CERTIFICATION

My signature hereon acknowledges that:

- 1) I received a copy of LSBOE's Policy Prohibiting Sexual Harassment;
- 2) I read this Policy;
- 3) I understand the content of this Policy;
- 4) I agree to abide by the terms and provisions of this Policy;
- 5) I understand that compliance with this Policy is a condition of employment;
- 6) I understand that corrective action, including the possibility of dismissal, will be imposed for violating the terms and provisions of this Policy; and
- 7) I understand that I may be personally liable and responsible for reimbursing the State of Louisiana for all or a portion of any judgment or settlement if a determination is made that I have engaged in sexually inappropriate workplace behavior.

EMPLOYEE SIGNATURE

DATE

EMPLOYEE NAME (PRINT)

LSBOE CERTIFICATION

My signature hereon acknowledges that:

- 1) I personally discussed in detail DOA's Policy Prohibiting Sexual Harassment with the employee identified above;
- 2) I answered this employee's questions regarding this Policy;
- 3) I confirmed this employee's completion of the online training on sexual harassment provided through CPTP; and
- 4) I informed the employee of the consequences of violating this Policy.

MANAGER SIGNATURE

DATE

MANAGER NAME (PRINT)
