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Volume IV of V

This compendium on Sexual Harassment in the Workplace is divided in V volumes. Each volume should be observed as a part of the whole.
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FOREWORD

Millions of women around the world continue to experience violence solely because of their gender. Gender-based violence is a pandemic that is often intractable, and it knows no boundaries.

The United Nations Declaration on the Elimination of Violence Against Women states that “violence against women is a manifestation of historically unequal power relations between men and women” and that it is “one of the most crucial social mechanisms by which women are forced into a subordinate position compared with men”.

This violence comes in many forms and includes domestic violence, child marriage, sexual violence during conflict, and sexual harassment among others.

Sexual harassment in the workplace is one of the most critical challenges facing the global community. Women constitute half the world population, and the benefits of including women in the workforce are countless. They are, without a doubt, an important asset to supporting the growth of every household, every community, and every country.

Women’s active participation in the economy, therefore, helps reduce poverty and promote higher GDP levels. As women join the labor force, the importance of ensuring a safe work environment cannot be emphasized enough.

Unsafe workplaces affect women’s labor market outcomes, and as importantly, the cost of sexual harassment is perceived by the victims as well as by businesses.

Introducing strong legislation that tackles sexual harassment—particularly in the workplace—is critical to providing an early layer of safety and protection for women.

The following Compendium of International and National Legal Frameworks on Sexual Harassment in the Workplace provides a collection of international instruments that address the issue, and national legislations adopted to prevent and prosecute sexual harassment in the workplace. This is a practical online legal tool to inform and empower those seeking to put an end to sexual harassment in the workplace.

I hope this responds to the needs of all persons and professionals interested in this subject as well as those who work with and support women affected by sexual harassment at the workplace or at risk.

Sandie Okoro
Senior Vice President and General Counsel
World Bank Group
INTRODUCTION, DISCLAIMER AND LIMITATIONS

Sexual Harassment in the Workplace (SHWP) is a universal and widespread phenomenon that affects millions of women of all social strata worldwide. It is an endemic issue that has gained increased visibility and attention since the beginning of the “#MeToo” movement.

In this Compendium on International and National Legal Frameworks on Sexual Harassment in the Workplace (the “Compendium”), SHWP is understood as a gender-specific form of violence, commonly directed against women and occurring in employment or the workplace. It includes requests for sexual favors, unwelcome sexual advances or other sexual conduct, whether physical or verbal, which involves a “quid pro quo” aspect (e.g. request for sexual favors used to make employment decisions) and/or creates an intimidating, hostile, toxic, humiliating or offensive working environment1. As one of the pervasive expressions of gender-based violence, it reflects discriminatory social norms, stereotypes, impunity and gender inequality.

SHWP is viewed as a development challenge and has high economic and social costs. Despite its serious implications for women, employers and society at large, the behavior is widely accepted and minimized.

For survivors, who are overwhelmingly women, it can cause or justify physical and mental health problems, career interruptions, lost productivity, lost or reduced professional advancement and opportunities, lower earnings and work performance, limited employment options, abandonment of careers, forced job changes, unemployment, and persistent gender wage differences. SHWP also interacts with other types of discrimination related to ethnicity, sexual orientation, age and disability and can be viewed as a form of employment discrimination.

For employers, the impact of SHWP includes security issues, absenteeism, high turnover, negative effects on staff morale and productivity due to intimidating, toxic, hostile, humiliating or offensive work conditions or due to the lack of a diverse and inclusive workforce. SHWP may also result in substantial legal costs for employers.

The Compendium provides a survey of the key international and regional instruments as well as national legislation as they relate to SHWP2. A number of countries have adopted legislation on SHWP protecting women specifically while others have not defined the gender of the victim or survivor.

The Compendium is a working document intended to be a reference tool for anyone interested in the topic of SHWP, such as survivors, advocates, development practitioners, lawyers, policy makers, academics, labor unions or staff representatives, among others. It does not constitute an exhaustive treatment of the legal framework on SHWP and may be updated from time to time.

1 Behaviors amounting to sexual harassment may include, but are not limited to, touching, hugging, kissing, sexual assault, sexual or “dirty” jokes, comments on physical attributes, distributing sexually explicit material. Unwanted sexual statements can be made in person, in writing, or electronically. Sexual harassment may be committed by an employer/superior, a co-worker or a client.

2 Relevant provisions may be found in criminal, civil, labor codes, anti-discrimination legislation and/or laws to protect from gender-based violence. In some cases, general provisions on sexual harassment have also been included.
The Compendium consists of topical chapters with jump links to source documents, such as United Nations instruments, regional treaties, and national legislations. It is based on information available online, offline or both, and relies on research conducted, verified and updated as of November 2019. The hyperlinked references are not under the control of the World Bank, nor is the World Bank responsible for the accuracy of the content provided through these references. The content of the Compendium does not necessarily reflect the views of the World Bank, its Board of Executive Directors, or the governments they represent. Furthermore, the World Bank does not guarantee the accuracy of the data included in this work.

The research on country-level SHWP legislation builds on the Women Business and the Law database and includes additional legislation found during the course and time-frame for compiling the research. The Compendium is limited to countries that have adopted specific laws or provisions addressing SHWP and includes legislation from almost 150 countries; as such, the absence of a country’s name may be due to the fact that no SHWP legislation has yet been enacted or that no information was available online.

Ending all forms of gender-based violence, including SHWP, is a critical development objective and comprehensive legislation addressing SHWP is a key first step towards ensuring prevention and protection. It is also a sine qua non condition for any effective strategy to address the problem. Nonetheless, many countries worldwide have yet to adopt laws against SHWP, while many others have adopted legislation that fails to comprehensively offer protection for the different types of survivors and against the different forms of abuse.

We hope the Compendium will contribute to this urgent and important debate.

Isabella Micali Drossos
Maya Goldstein-Bolocan
Paula Tavares
World Bank Group
1. QATAR

Penal Code, 2004 6

Art. 291

2. ROMANIA

Penal Code, 2009 (as amended) 7

CHAPTER VIII
Offenses against sexual freedom and integrity

Article 223
Sexual harassment
(1) Repeatedly claiming favors of a sexual nature in an employment or similar relationship, if the victim has been intimidated or put in a humiliating situation, is punished by imprisonment from 3 months to one year or with a fine.
(2) The criminal action is initiated on the preliminary complaint of the injured person.

Law on Equal Opportunities between Women and Men, 2002 (as amended) 8

[...]

Chapter I
General provisions

Article 1
(1) This law regulates the measures to promote equal opportunities and treatment between women and men, in order to eliminate all forms of discrimination based on sex, in all spheres of public life in Romania.
[...]

Article 2

(1) The measures to promote equal opportunities and treatment between women and men and to eliminate all forms of discrimination based on gender are applied in the public and private sectors, in the field of work, education, health, culture and information, politics, participation in the decision, the provision and access to goods and services, regarding the establishment, equipping or expansion of an enterprise or the beginning or extension of any other form of independent activity, as well as in other areas regulated by special laws.

[...]

Article 4
The terms and expressions below, for the purposes of the present law, have the following definitions:
[...]

d) by sexual harassment is understood to be the situation in which an unwanted behavior with sexual connotation is manifested, expressed physically, verbally or nonverbal, having as object or effect the injury of the dignity of a person and, in particular, the creation of an intimidating, hostile, degrading, humiliating environment or insulting;
[...]

Article 11
It constitutes discrimination based on the criterion of sex any unwanted behavior, defined as harassment or sexual harassment, having as its purpose or effect:
a) to create an atmosphere of intimidation, hostility or discouragement for the affected person at the workplace;
b) to negatively influence the situation of the employed person in terms of professional promotion, remuneration or income of any kind or access to vocational training and improvement, in case of his refusal to accept unwanted behavior, which relates to sexual life.
[...]

Chapter VI
Resolution of complaints and complaints regarding discrimination based on sex

Article 30
(1) Employees have the right, if they are considered discriminated against on the basis of sex, to make complaints to the employer or against him, if directly involved, and to request the support of the union organization or the employees’ representatives in the unit to resolve the situation in the workplace.
(2) If this complaint has not been resolved at the level of the employer through mediation, the employed person who presents elements of fact that lead to the presumption of the existence of a direct or indirect discrimination based on the sex criterion in the field of work, based on the provisions of the present law, has the right both to refer the competent institution and to apply to the competent court in whose territorial constituency he has his domicile or residence, respectively to the section/unit for labor disputes and social security rights within the court or, as the case may be, the administrative litigation court, but not later than 3 years from the date of the deed.
[...]

Article 33
(1) The competent court according to the law will order the guilty person to pay damages to the person discriminated against according to the criterion of sex, in an amount that properly reflects the harm he suffered.
(2) The amount of the damages will be determined by the court according to the law.

[...] 

Article 34
(1) The employer who re-integrates in the unit or at the place of work a person, based on a final court sentence, according to the provisions of the present law, is obliged to pay the lost remuneration due to the unilateral modification of the relations or working conditions, such as and all payment tasks to the state budget and to the state social insurance budget, which are the responsibility of both the employer and the employee.(2) If it is not possible to re-integrate the person for whom the court has unilaterally and unjustifiably changed the employment or employment conditions, the employer will pay the employee compensation equal to the actual damage suffered by the employee.(3) The amount of the damage will be determined according to the law.

Article 35
(1) The burden of proof rests with the person against whom the complaint or, as the case may be, the request for legal action has been made, for facts that allow the existence of a direct or indirect discrimination, which must prove that the principle of equal treatment has been violated between women and men.
(2) Trade unions or non-governmental organizations pursuing the protection of human rights, as well as other legal persons having a legitimate interest in respecting the principle of equal opportunities and treatment between women and men, may, at the request of the discriminated persons, represent / assist in the administrative procedures.

Chapter VII
Control, finding and sanctioning

[...] 

Article 37
(1) They constitute contraventions and are sanctioned with a contravention fine from 3,000 lei to 10,000 lei, if the deed was not committed in such conditions that, according to the criminal law, it is considered a crime, violation of the provisions of [...] art. 11-22 and art. 29.
(on 09-08-2018, Paragraph (1) of Article 37, Chapter VII was amended by Point 2, SINGLE ARTICLE of LAW no. 232 of August 2, 2018, published in the OFFICIAL MONITOR no. 679 of August 6, 2018)

[...] 

Ordinance on Preventing and Sanctioning all forms of Discrimination, 2000

Article 1
[...] 
(2) The principle of equality between citizens, the exclusion of privileges and discrimination are guaranteed in particular in the exercise of the following rights:
[...] 
e) economic, social and cultural rights, in particular:

1. the right to work, to free choice of employment, to fair and satisfactory working conditions, [...];

(4) Any natural or legal person has the obligation to respect the principles set out in par. (2).

Article 2
(5) It constitutes harassment and any behavior on the basis of race, nationality, ethnicity, language, religion, social category, beliefs, gender, sexual orientation, belonging to a disadvantaged category, age, disability, refugee or asylum status is sanctioned or contravened. any other criteria that leads to the creation of an intimidating, hostile, degrading or offensive environment.

(7) It constitutes victimization and is sanctioned contravening according to the present ordinance any adverse treatment, in response to a complaint or legal action regarding the violation of the principle of equal treatment and of non-discrimination.

Article 3
The provisions of this Ordinance shall apply to all natural or legal persons, public or private, as well as to public institutions with attributions regarding:

a) the conditions of employment, the criteria and conditions of recruitment, selection and promotion, access to all forms and levels of orientation, training and professional development;

Article 27
(1) The person considered to be discriminated may make a request to the court for compensation and to restore the situation prior to discrimination or to cancel the situation created by discrimination, according to the common law. The application is exempt from judicial stamp duty and is not subject to the notification of the Council.

(2) The deadline for filing the application is 3 years and runs from the date of the deed or from the date on which the person concerned could become aware of its execution.

(3) The trial of the case takes place with the compulsory summons of the Council.

(4) The person concerned will present facts on the basis of which the existence of direct or indirect discrimination can be presumed, and the person against whom the referral has been made is responsible for proving that there has not been a violation of the principle of equal treatment. Any means of evidence can be invoked before the court, respecting the constitutional regime of fundamental rights, including audio and video recordings or statistical data.

(5) Upon request, the court may order the withdrawal or suspension by the issuing authorities of the operating authorization of legal persons who, by discriminatory action, cause significant harm or who, although causing a low damage, repeatedly violate the provisions of the present ordinance.

(6) The decision given by the court shall be communicated to the Council.

Article 28
(1) Non-governmental organizations whose purpose is to protect human rights or have a legitimate interest in combating discrimination have an active procedural quality if the discrimination manifests itself in their field of activity and affects a community or a group of persons.

(2) The organizations mentioned in par. (1) have an active procedural quality and, if the discrimination affects a natural person, at the latter's request.
3. RWANDA

**Penal Code, 2012**

Article 203: Sexual harassment
An employer or any other person who sexually harasses his/her subordinate by way of orders, threats or terror for the purposes of his/her sexual pleasure shall be liable to a term of imprisonment of six (6) months to two (2) years and a fine of one hundred thousand (100,000) to two hundred thousand (200,000) Rwandan francs.

**Law on Prevention and Punishment of Gender-Based Violence, 2008**

CHAPTER ONE: GENERAL PROVISIONS

Article 1: Purpose of the Law
This Law is aimed at preventing and suppressing gender-based violence.

Article 2: Definitions of terms Under this Law
The following terms shall have the following definitions:

1° gender based violence: any act that results in a bodily, psychological, sexual and economic harm to somebody just because they are female or male. Such act results in the deprivation of freedom and negative consequences. This violence may be exercised within or outside the households.

[...]

12° harassment: putting someone in unrest condition by persecuting, nagging, scorning or insulting him/her and others;

CHAPTER II: PREVENTION AND PROTECTION AGAINST GENDER BASED VIOLENCE

Article 3: Threatening by way of deprivation of certain rights
It is forbidden to use threat of depriving someone of certain rights for the purpose of having them indulge in any gender based violence act.

[...]

Article 10: Preventing violence and catering for the victims of violence
It is forbidden to use drugs, films, signs, language, and other means with the intention of exercising gender based violence. Any person must prevent gender based violence, rescue and call for rescue the victims of this violence. A Prime Minister’s Order shall determine modalities in which government institutions prevent gender based violence and for receiving, relieving, defending, medicating and assisting the victim for the purpose of rehabilitating his/her health.

---


Article 11: Prevention of indecent acts
It is forbidden for any person to have any indecent conduct and behaviour.

CHAPET III: CASES AND PENALTIES FOR GENDER BASED VIOLENCE

Section One: Cases relating to gender based violence

Article 12: Place of hearing
Where it is convenient for the victim, gender based violence related cases shall be heard and pronounced at the scene of the crime if possible.

Article 13: Production of evidences and testimonies
Notwithstanding other legal provisions, evidences or testimonies related to gender based violence shall be produced in the courts by any person holding them.

Section 2: Penalties for gender based violence offences

Article 24: Penalty for sexual harassment of one’s subordinate
Any employer or any other person guilty of exercising sexual harassment by way of orders, intimidation and terror over a person he/she leads shall be liable to imprisonment of two (2) years to five (5) years and a fine between one hundred thousand (100,000 Rwf) Rwandan francs and two hundred thousand (200,000 Rwf) Rwandan francs.

Article 34: Penalty for defaming a person or his/her job
Shall be liable to imprisonment of two (2) years to five (5) years and a fine between one hundred thousand (100,000 Frw) RWandan francs and three hundred thousand (300,000 Frw) Rwandan francs, any person guilty of defaming or pressuring someone just on the grounds of being woman or a man aiming at disparaging his/her personality or his/her work.

Article 35: Penalty for violence on the grounds of depriving someone of his/her rights
Any person who disturbs someone else on grounds of depriving the latter of his/her rights in order to have him/her in any gender based act shall be liable to imprisonment of six (6) months and two (2) years and a fine between one hundred thousand (100,000 Rwf) and five hundred thousand (500,000 Rwf) Rwandan francs.

Article 36: Penalty for a person refusing to assist the victim of violence or to testify over the violence
Any person who refuses to assist the victim of violence or to testify over the violence against himself or herself or against someone else shall be liable to imprisonment of six (6) months to two (2) years and a fine between fifty thousand (50,000 Rwf) and two hundred thousand (200,000 Rwf) Rwandan francs or one of those penalties.

Chapter IV: Miscellaneous and Final Provisions

Article 38: Damages
Any victim of gender-based violence or any other person affected by such violence shall have the right to claim for damages.

[...]

4. SAN MARINO

Law on Prevention and Elimination of Violence against Women and Gender Violence, 2008

CHAPTER I
UNDERLYING PRINCIPLES, AWARENESS-RAISING AND PREVENTION MEASURES FOR COMBATING VIOLENCE AGAINST WOMEN AND GENDER VIOLENCE, INCLUDING DOMESTIC VIOLENCE

Art. 1
(Purpose of this Law)
This Law aims at preventing and combating violence against women and gender violence, including domestic violence.

Art. 2
(Definition of Violence against Women)
Violence against the individual means any act of gender-based violence that results, or is likely to result in physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.

Art. 3
(Mass Media and Dissemination of Discriminatory Information)
Mass media shall contribute to promoting and safeguarding equality between men and women and shall avoid any form of gender-based discrimination. The use of images or expressions that are detrimental to individual dignity and identity, or have a discriminatory content, including references to a person’s sexual orientation or gender identity in general, also for advertising purposes, is prohibited.

[...]

Art. 4
(Assistance to victims of violence)
For victims of domestic and sexual violence, the State shall:

a) provide information on the measures envisaged by the law for the protection, safety and right to assistance and support for victims of violence;

b) provide specialised social services that are conveniently located and easily accessible to victims and employing specifically trained staff;

c) ensure that these services are able to face emergency situations and provide immediate support, also of psychological nature, and be responsible for medium-term cases, also for the purpose of family reunification;

d) provide social support, protection, support for education, training and professional re-integration;

f) create, if necessary, programs for the protection and social integration of the victims of violence, - which also address housing needs and ensure that their residence permit is prolonged, should it expire during the proceeding, at least for the whole duration of the proceeding - professional reintegration, care and support for dependent children;

g) specific training for the judges presiding over judicial proceedings described in this Law and for law enforcement agencies.

The planning and creation of services and the actual definition of the measures to be taken shall be set forth through a specific Delegate Decree to be issued six months after the entry into force of this Law.

CHAPTER II
AMENDMENTS TO THE CRIMINAL CODE

Art. 13
(Persecutory acts – Stalking-Mobbing)
The following Article is inserted after Article 181 of the Criminal Code

“Art. 181-bis

Persecutory acts

Anyone who repeatedly pesters or threatens a person causing severe moral suffering and harming his/her dignity to such an extent as to upset his/her usual life conditions or to intimidate him/her or to cause substantial physical or psychological distress or reasonable fear for his/her own safety and for the safety of the people close to him/her shall be punished upon complaint filed by the offended party by terms of first degree imprisonment and a monetary fine.

If the harassment and threats mentioned in the first paragraph take place in the workplace as ongoing and repeated aggressive and intimidatory behaviours by the employer or colleagues with the intent to discredit, humiliate, or isolate an employee in order to force him/her to resign after causing him/her severe psycho-physical distress, the punishment shall be raised by one degree.

The Court shall proceed upon complaint filed by the offended party.

The Court shall proceed ex officio and imprisonment shall be raised by one degree if the crime is accompanied by the use of a weapon, violence or a particularly serious threat.

The court shall also proceed ex officio if the offence is committed jointly with an offence that can be prosecuted by the court ex officio.

[...]

Law incorporating the Council of Europe Convention on Preventing and Combating Violence against women and Domestic Violence in the Sanmarinese Legal Order, 2016 13

13 Law incorporating the Council of Europe Convention on Preventing and Combating Violence against women and Domestic Violence in the Sanmarinese Legal Order (Legge 6 maggio 2016 n.57 - Norme di adeguamento dell’Ordinamento Sammarinese alle disposizioni della Convenzione del Consiglio d’Europa sulla prevenzione e la lotta alla violenza contro le donne e la violenza domestica)
Art. 1 (General Principles).
In compliance with provisions of the Council of Europe Convention on preventing and combating violence against women and domestic violence, open for signature in Istanbul on 11 May 2011, the Republic of San Marino commits to:
1. adapt the activities of its health, social, support, tutelage, prevention and protection services to the principles of the Convention;
2. implement effective policies that promote equality between women and men as well as the emancipation and empowerment of women;
3. adopt a gender perspective in the design of measures to implement the Convention and in evaluating their impact.

Art. 2 (Integrative definitions)
Article 2 of Law no. 97 of 20 June 2008 is replaced by the following:
(Concept of violence against women and gender-based violence; domestic violence)
Violence against the person is every act of violence based on the sexual or gender identity which entails, or is likely to entail, for those who are targeted, damage or suffering of a physical, sexual, psychological, or economic nature, including the threat of such acts, coercion, arbitrary deprivation of liberty, both in public and in private life.
The term gender refers to socially constructed roles, behaviors, activities and attributes that a given society considers appropriate for women and men.
[...]
The term woman refers also to the minor of eighteen years”.

Art. 3 (Expansion of protection and assistance measures to victims)
Protection and assistance measures of Law No. 97 of 20 June 2008 are applicable to all victims of any forms of violence foreseen by the Convention.

Art. 4 (Assistance and rehabilitation of victims)
In order to address specific assistance and rehabilitation needs of victims, Art. 4 of Law No. 97/2008 provides for legal advice, psychological assistance, financial aid, housing, education, training and assistance with seeking employment, where needed.
To complement duties foreseen by Art. 1 of Delegated Decree No. 60 of 31 May 2012, the Equal Opportunities Authority is charged with the coordination and organization of measures of assistance, through the stipulation of specific protocols with:
- the Order of Lawyers and Notaries for the provision of legal advice and legal assistance services, including in the extra judicial field, and for the provision of information on access to remedies for individual and collective complaints;
- the competent ISS structures for the provision of psychological support services;
- the offices competent to provide assistance and services in the provision of access to instruction, vocational training, and support with initial employment;
- adequate reception structures, for the accommodation in adequate facilities in emergency situations.

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Legal advice and legal assistance services will be provided by experts in the roster established by the Order of Lawyers and Notaries according to Art. 17 (2) of Law No. 97 of 20 June 2008.

Art. 5 (Fund for the financial assistance of victims of violence)
In the State budget, a Fund for the financial assistance of victims is established within the expense chapters of the Department of Institutional and Justice Affairs, and is assigned to the Equal Opportunity Authority. The Equal Opportunities Authority is the body responsible for identifying the need to provide adequate financial assistance to victims on the basis of specific circumstances of the case, as well as the availability of funds.
Victims of acts of violence identified by the Convention are entitled to access the Fund for acts that have been consumed, or attempted, on the territory of the Republic provided they are Sanmarinese citizens, either resident, or domiciled, in the territory of the Republic, and that they are in a state of economic hardship, even temporary.
The Equal Opportunities Authority provides to the timely disbursement of funds from the Department of Institutional and Justice Affairs where the existence of the need under section 2 of this article is ascertained.

Art. 7 (Confidentiality of the identity of individuals who denounce or report)
The judicial and police authorities adopt through Regulation of the State Congress adequate measures to guarantee the confidentiality of identity of the individual who has denounced or reported an act of violence foreseen by the Convention.

Art. 8 (Compensation for failure to adopt prevention and protection measures)
Victims of acts of violence under the Convention are entitled to recourse to the competent judicial authorities to seek compensation for any potential damages resulting from the state authorities’ failure to adopt, with malice or serious fault, in their respective competencies, preventive and protective measures in relation to the offences referred to in the Convention.

[...]

Law on University Education, 2014

[...]

Annex B
Ethical Code

Title I
Fundamental rights and duties

Article 6
Sexual harassment
1. Sexual harassment is defined as any undesirable sexual behavior, or any other type of discrimination based on sex that offends the dignity of men and women in the study and work environment, including physical attitudes, or verbal expressions.

The University deplores sexual harassment and provides victims with prompt protection, free from prejudice.

2. It is a moral obligation of any individual to denounce the harassing behaviors of which they are aware, while, even outside of the hypotheses of complicity, there is a clear responsibility in passively assisting to them.

3. Any form of retaliation against anyone who denounces the aforementioned is to be considered as harassment.

4. The existence of an asymmetrical position between the perpetrator and the victim constitutes an aggravating circumstance.

5. Sexual harassment by professors towards students is particularly serious. [...]

5. SÃO TOMÉ AND PRÍNCIPE

Law n. 6 – Penal Code, 2012

Article 166 – Sexual coercion and harassment

1. Whoever embarrass another person to suffer or to perform, with himself/herself or with others, a prominent sexual act, by means of violence, serious threat, or after having rendered the person unconscious or in a state of impossibility of resisting, shall be punished with a prison sentence of 1 to 8 years.

2. Whoever, abusing of the authority resulting from a relationship of hierarchical, economic, or work dependence, coerces another person to suffer or to perform, with himself/herself or with others, a prominent sexual act, through an order or threat not described in the paragraph above, shall be punished with a prison sentence of up to 3 years.

6. SENEGAL

Penal Code

Section V – Offence against morality

Article 319 bis

The act of harassing others by using orders, gestures, threats, words, writings or coercion in order to obtain favours of a sexual nature, by a person abusing the authority conferred on him by his duties shall be punishable by imprisonment from six months to three years and a fine of 50,000 to 500,000 francs. Where the victim of the offence is under 16 years of age, the maximum term of imprisonment shall be imposed.

7. SERBIA, REP. OF


Unofficial translation by Compendium team.

**I. BASIC PROVISIONS**

1. **Scope**

Article 1
The rights, duties, and responsibilities resulting from the labor relationship, i.e., based on labor, shall be regulated by this law and particular law, according to ratified international conventions. The rights, duties, and responsibilities resulting from the labor relationship shall be regulated in the collective agreement and labor contract, and by the Labor Rulebook only when this Labor Law stipulates so.

Article 2
Provisions of this law shall apply to employees who work on the territory of the Republic of Serbia, with a domestic or foreign legal or natural persons (from now on: employer) and employees referred for work abroad by the employer, unless the law stipulates otherwise. Provisions of this law shall apply to employees of public bodies, territorial autonomy bodies and local self-government and public services, unless the law stipulates otherwise. Provisions of this law shall apply to employees who are foreign nationals and stateless persons who work with employers on the territory of the Republic of Serbia unless the law stipulates otherwise.

5. **Prohibition of discrimination**

Article 18
Both direct and indirect discriminations are prohibited against persons seeking employment and employees in respect to their sex, origin, language, race, color of skin, age, pregnancy, health status or disability, nationality, religion, marital status, familial commitments, sexual orientation, political or other belief, social background, financial status, membership in political organizations, trade unions or any other personal quality.

Article 21
**Harassment and sexual harassment are prohibited.**
Harassment, according to this law, is any unwanted behavior resulting from some of the grounds referred to in Article 18 of this law aimed at or representing a violation of the dignity of a person seeking employment or employee, causing the fear of breeding adverse, humiliating or insulting environment. Sexual harassment, according to this law, is any verbal, non-verbal, or physical behavior aimed at or representing a violation of the dignity of a person seeking employment or employee in the area of sexual life, causing the fear or breeding adverse, humiliating or insulting environment.

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In cases of discrimination pursuant to provisions of Articles 18 - 21 of this law person seeking employment or employee may file for compensation of damages before the competent court, pursuant to the law. [...] 

XXII. PENAL PROVISIONS

Article 273
Employer in the capacity of legal entity shall be fined in the amount of CSD 800,000 to 1,000,000 for the following offences:
1) if he/she violates prohibition of discrimination pursuant to this law (Articles 18 - 21); [...] 
Entrepreneur shall be fined in the amount of CSD 400,000 to 500,000 for an offence referred to in para. 1 of this Article.
A responsible person in a legal entity shall be fined in the amount of CSD 40,000 to 50,000 for an offence referred to in para. 1 of this Article.
If the offence referred to in para. 1 of this Article inflicts material damage to an employee or other natural person or legal entity, a protective measure – prohibition to pursue business – may be pronounced to the employer, pursuant to the law [...] 

Regulation of Prevention of Abuse at Work, 2010 18

ABOUT PREVENTION OF ABUSE AT WORK AND BASIC PROVISIONS

The subject
Article 1
This law regulates: prohibition of abuse at work and in connection with work; measures for preventing abuse and improving work relationships; procedure for the protection of persons exposed to work-related abuse and other issues of importance for preventing and protecting against abuse at work and in connection with work. [...] 

Article 3
The provisions of this law shall also apply to cases of sexual harassment under the employment law. [...] 

The concept of abuse and perpetrator of abuse
Article 6
Abuse, within the meaning of this law, is any active or passive behavior towards to an employee or group of employees of a recurring nature that aims to, or represents a violation of the dignity, reputation, personal and professional integrity, health, position of employee and causes fear or creates a hostile, degrading or abusive environment, exacerbates working conditions either resulting in the employee being isolated or terminating the employment contract or other contracts.

Under the law, abuse is also encouraging or inducing others to behave as indicated in paragraph 1 of this Article. The perpetrator of the abuse can be an employer with the capacity of a natural person, an employer with the capacity of a legal person, an employee or a group of employees of the employer performing the abuse under paragraphs 1 and 2 of this Article.

II. RIGHTS, OBLIGATIONS, AND RESPONSIBILITIES OF EMPLOYEES AND EMPLOYEES RELATING TO ABUSE

Employer's rights, obligations, and responsibilities

Article 7
The employer is obliged to notify the employee in writing of the prohibition against abuse before this takes up employment, and of the rights, obligations, and responsibilities of the employee and employer in connection with the prohibition of abuse under this law. The employer is obliged to adopt measures to inform and empower employees and their representatives to identify causes, forms, and consequences of the abuse.

Article 8
The employer is obliged to protect the employees from abuse under this law.

Article 9
The employer is responsible for the damage caused by the responsible person or employee who commits the abuse against another employee with the same employer under the law. An employer who compensates for damage caused by a responsible person or an employee is entitled to demand from that person or employee compensation for the amount of damages paid.

Employee rights, obligations, and responsibilities

Article 10
An employee has the right to be informed in writing of the prohibition against abuse and the rights, obligations, and responsibilities of the employee and employer in connection with the prohibition of abuse. The employee has the right to be protected by the employer from the behavior representing abuse.

Article 11
The employee is required to refrain from misconduct and conduct that constitutes an abuse of the right to protection against abuse. The employee who commits the abuse, as well as the employee who abuses the right to protection from abuse, is responsible for contempt of work discipline, or breach of duty.

[...]

Mediation offer and choice of mediator

Article 15
[...]

Limitation periods

Article 22
The right to file a claim with the employer for protection against abuse (Article 13 and Article 14 paragraph 1 of this law) shall cease to exist within six months from the day the abuse was committed.
The time limit referred to in paragraph 1 of this Article shall begin to run from the day when the behavior constituting abuse was last performed.

[...]

Procedure for determining employee liability
Article 23
Right to refuse work
[...]

Article 26
An employee who, in the opinion of the occupational health service, is subject to an imminent danger to health or life has the right to refuse to work if the employer fails to take the measures referred to in Article 24 of this Law.
In the case referred to in paragraph 1 of this Article, the employee is obliged to inform the employer and the labor inspectorate without delay.
During the refusal to work, an employee is entitled to remuneration in the amount of the average salary that he has earned in the previous three months.
An employee who has refused to work shall be obliged to return to work after the employer has taken the measures referred to in Article 24 of this Law, and at the latest until the employer has completed the procedure for protection against abuse. An employee who refused to work cannot be terminated [...].

IV COURT PROTECTION

[...]

Content of the lawsuit
Article 30
In proceedings before a competent court, an employee who believes that he or she is exposed to abuse may request:
1) declaration that he has suffered abuse;
2) prohibition of continuation of conduct that constitutes abuse, of further perpetuation, or repetition of the abuse;
3) action to eliminate the consequences of abuse;
4) compensation of material and non-material damage, under the law;
5) publication of the judgment rendered in connection with the claims referred to in sub-paras. 1 - 4 of this Article.

The burden of proof in court proceedings
Article 31
If during the proceedings, the prosecutor made it probable that the abuse referred to in Article 6 of this Law was committed, the burden of proving that there was no conduct constituting the abuse is on the employer.
[...]

Provisional measures
Article 33
During the proceedings, the court may, at the request of a party or on its own motion, determine temporary measures to prevent damage or to remedy non-pecuniary damage. Temporary measures, in particular, include the prohibition of approaching or accessing any area around the workplace of an employee who is likely to be exposed to abuse. The court shall decide on the provisional measure on the proposal of the party within eight days from the date of submission of the motion. No appeal is allowed against the decision ordering the provisional measure.

VI PENALTY PROVISIONS

Article 35
A fine of 200,000 to 800,000 dinars will be imposed on an employer with the capacity of a legal entity if he:
1) fails to impose a measure for the prevention of abuse until the end of the procedure (Article 24);
2) terminates the employment contract, ie, impose a measure of termination of employment contrary to the provisions of this Law (Article 26, paragraph 5);
3) acts contrary to the provisions of this law on the protection of participants to the procedure for protection against abuse (Article 27).
The entrepreneur shall be fined from 100,000 to 400,000 dinars for the offense referred to in paragraph 1 of this Article.
A fine of 10,000 to 40,000 dinars for the offense referred to in paragraph 1 of this Article shall be imposed to the responsible person of a legal entity.

Regulations on the rules of conduct of the employer and employees regarding the prevention and protection of employees, 2019

I. GENERAL PROVISIONS

Scope

Article 1
This regulation prescribes the rules of conduct for employers and employees, respectively, concerning prevention and protection against abuse at work and in connection with work (from now on: abuse), that is, from sexual harassment.

II. PREVENTION OF ABUSE AND ABUSE OF THE RIGHT TO PROTECT FROM ABUSE

1. Obligations of the employer

Article 4

The employer is required to provide the employee with a notice of prohibition to commit abuse before taking up work and of the rights, obligations, and responsibilities of the employee and the employer as related to the prohibition of abuse.

**Article 5**
The notification referred to in Article 4 of this Regulation shall, in particular, contain the following information:
- that the law prohibits and sanctions the commission of abuse, sexual harassment, and abuse of the right to protection from such behavior;
- what is considered as abuse, sexual harassment, and abuse of the right to be protected against such behavior;
- that protection against abuse and sexual harassment is exercised by the employer (through mediation and the procedure for determining the employee's liability) and before the competent court;
- that an employee who considers or suspects that he or she has been subjected to abuse or sexual harassment, before addressing the court, should contact the competent person or persons of the employer for protection against such behavior, and that the employee who believes that he/she is exposed to sexual abuse or sexual harassment by the employer directly address the court for protection against such conduct; [...]
Article 18
Before initiating any action for protection against abuse, an employee who believes that he or she is exposed to abuse should, if practicable and feasible in the specific case, make clear to the person who commits the abuse that this is unacceptable and that he/she will seek legal protection if such behavior does not immediately cease.

Article 19
An employee who believes that he or she is exposed to abuse by an employer with the capacity of a natural person (entrepreneur) or a responsible person in a legal entity (director, etc.), may file a lawsuit against the employer without first initiating proceedings for protection against abuse before the employer, in accordance with the law.

Law on Gender Equality, 2009 20
Arts. 10 (7) and 18

The Law on the Prohibition of Discrimination, 2009 21

I. THE BASIC PROVISIONS

The subject of the law
Article 1
This law shall regulate the general prohibition of discrimination, the forms, and cases of discrimination, as well as the methods of protection against discrimination. This law shall establish the Commissioner for the Protection of Equality (from now on referred to as the Commissioner), as an independent state organ, independent when it comes to performing the tasks prescribed by this law.

The terms
Article 2
In the text of this Law:
1) the terms “discrimination” and “discriminatory treatment” shall be used to designate any unwarranted discrimination or unequal treatment, that is to say, omission (exclusion, limitation or preferential treatment) in relation to individuals or groups, as well as members of their families or persons close to them, be it overt or covert, on the grounds of race, skin color, ancestors, citizenship, national affiliation or ethnic origin, language, religious or political beliefs, gender, gender identity, sexual orientation […]

II. THE GENERAL PROHIBITION AND FORMS OF DISCRIMINATION

Discrimination on the grounds of gender

Article 20
Discrimination shall be considered to occur in the case of conduct contrary to the principle of gender equality; that is to say, the principle of observing the equal rights and freedoms of women and men in the political, economic, cultural and other aspects of public, professional, private and family life. It is forbidden to deny rights or to grant privileges, be it publicly or covertly, on gender or gender change. It is forbidden to practice physical violence, exploitation, express hatred, disparagement, blackmail and harassment pertaining to gender, as well as to publicly advocate, support and practice conduct in keeping with prejudices, customs and other social models of behavior based on the idea of gender inferiority or superiority; that is, the stereotyped roles of the genders.

V. THE PROCEDURE OF APPLYING TO THE COMMISSIONER

Lodging a complaint

Article 35
A person who considers him/herself discriminated against shall lodge a complaint in writing to the Commissioner or, under exceptional circumstances, orally for the record, without being obligated to pay a tax or any other charges. Along with the complaint, evidence of the discrimination that has been suffered must be submitted. An organisation engaged in the protection of human rights or another person may lodge a complaint on behalf of and with the agreement of the person whose rights have been violated. The Commissioner shall forward the complaint to the person against whom it has been lodged within 15 days of having received it.

Article 36
The Commissioner shall take steps concerning a complaint unless proceedings pertaining to the matter in question have been initiated before a court of law or an enforceable decision has been passed. The Commissioner shall not take any steps concerning a complaint if it is evident that no violation of rights pointed to by the person having lodged the complaint has actually occurred, if he/she has already taken steps concerning the same matter and no new evidence has been provided, and if he/she establishes that, in view of the time elapsed since the violation of rights in question, no useful purpose will be served by acting upon the complaint.

Establishing the facts of the case

Article 37
Having received a complaint, the Commissioner shall establish the facts of the case by reviewing the evidence submitted and by taking statements from the person who lodged a complaint, the person against whom the complaint was lodged, and other persons if need be. The person against whom the complaint was lodged may make a statement concerning the claims made in the complaint within 15 days of having received it.

Reconciliation

Article 38
The Commissioner shall propose a reconciliation procedure, in accordance with the law regulating the mediation procedure, before taking other steps in the proceedings.
Opinion and recommendations
Article 39
The Commissioner shall give his/her opinion on whether there has been a violation of the provisions of this Law within 90 days of the day of receiving a complaint, of which he/she shall inform the person who submitted the complaint and the person against whom the complaint was submitted.
If he/she decides that there has been a violation of the provisions of this Law, the Commissioner shall issue a recommendation to the person against whom the complaint was submitted, suggesting a way of redressing the violation in question.
The person to whom the recommendation is addressed shall be obligated to act upon it and to redress the violation in question within 30 days of the day of receiving it and to inform the Commissioner of it.

Measures
Article 40
If the person to whom a recommendation is addressed fails to act upon it, that is, if he/she fails to redress the violation in question, the Commissioner shall caution him/her.
Should the person referred to in paragraph 1 of this Article fail to redress the violation in question within 30 days of having been cautioned, the Commissioner may inform the public about it.
The measure of caution referred to in paragraph 1 of this Article shall be issued by passing a decision against which it is not allowed to lodge a complaint.
The provisions of the law regulating general administrative proceedings shall apply accordingly to the procedure involving the Commissioner.

VI. JUDICIAL PROTECTION

Judicial jurisdiction and procedure
Article 41
Anyone who has suffered discriminatory treatment shall have the right to initiate a lawsuit. The provisions of the law regulating litigation proceedings shall apply accordingly to such a lawsuit. The proceedings shall be conducted urgently. Judicial review shall always be allowed.
[...]

Lawsuits
Article 43
Through a lawsuit referred to in Article 41 paragraph 1 of this law, the plaintiff may demand:
1. imposing a ban on an activity that poses the threat of discrimination, a ban on proceeding with a discriminatory activity, or a ban on repeating a discriminatory activity;
2. that the court should establish that the defendant has treated the plaintiff or another party in a discriminatory manner;
3. taking steps to redress the consequences of discriminatory treatment;
4. compensation for material and non-material damage;
5. that the decision passed on any of the lawsuits referred to in items 1-4 of this Article be published.

Temporary measure
Article 44
The plaintiff may demand, when initiating a lawsuit, in the course of the proceedings and after the termination of the proceedings until the court decision is enforced. That the court should pass a temporary
measure to prevent discriminatory treatment, to eliminate the danger of violence or some significant irreparable damage. The proposal for passing a temporary measure must prove the likelihood of the necessity of doing so to eliminate the danger of violence or irreparable damage. The court shall be obligated to decide on a proposal for passing a temporary measure forthwith, or within three days of the day of receiving the proposal at the very latest. The rules concerning the burden of evidence

**Article 45**
It the court establishes that a direct act of discrimination has been committed, or if that fact is undisputed by the parties to the lawsuit, the defendant may not be relieved of responsibility by supplying evidence that he/she is not guilty. If the plaintiff proves the likelihood of the defendant’s having committed an act of discrimination, the burden of providing evidence that no violation of the principle of equality or the principle of equal rights and obligations has occurred shall fall on the defendant.

**Lawsuits initiated by other persons**

**Article 46**
The lawsuits referred to in Article 43 items 1, 2, 3, and 5 may be initiated by the Commissioner and an organization engaged in the protection of human rights or the rights of a specific group of people. If discriminatory treatment solely affects a person, the plaintiffs referred to in paragraph 1 of this Article may initiate a lawsuit only with his/her consent given in writing. [...]

**VIII. THE PENAL PROVISIONS**

**Article 55**
[...]
An entrepreneur who denies a right or recognizes benefits on gender or perpetrates acts of physical or other forms of violence, exploits, expresses hatred, disparages, blackmails or harasses an individual or a group of persons on the grounds of gender shall be fined in the amount of 10,000 to 100,000 dinars. The person in charge within the framework of a legal entity or a public administration organ, as well as a physical person, shall be fined in the amount of 5,000 to 50,000 dinars for a violation referred to in paragraph 2 of this Article.

*Criminal Code, 2016 (as amended)*

**Article 182a**
(1) Whomever sexually harasses another person, shall be punished by a fine or imprisonment of up to six months.
(2) If the act referred to in paragraph 1 of this Article was committed against a minor, the offender shall be punished by imprisonment for a term between three months and three years.
(3) Sexual harassment is any verbal, non-verbal, or physical behavior that aims or violates the dignity of a person in the sphere of sexual life and which causes fear or creates a hostile, degrading, or abusive environment.

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(4) The prosecution for the offense referred to in paragraph 1 of this Article shall be undertaken upon complaint by the party.

8. SEYCHELLES

Employment Act, 1995

Interpretation 2. In this act –

[...] “employer” means a person having a worker in the employ of that person or, where that person is absent from Seychelles, the accredited representative in Seychelles of that person, and, other than in Part III, means also the manager, agent or other responsible person acting on behalf of the employer; [...] “harassment” means any such unfriendly act, speech or gesture of one person towards another person that is based on the other person’s age, gender, race, colour, nationality, language, religion, disability, HIV status, sexual orientation or political, trade union or other association, or otherwise, as would adversely affect the other person’s dignity or make that person feel threatened, humiliated or embarrassed; [...] [3]

PART V – A. PROTECTION OF WAGES
B. REGULATION OF WAGES AND CONDITIONS OF EMPLOYMENT

An employer shall not commit any act of harassment against a worker.

Public Officers Ethics Act, 2008 (as amended)

Sexual harassment

16. A public officer shall not sexually harass a fellow public officer or a member of the public.

Penal Code, 1955 (as amended)

CHAPTER XV
Offences Against Morality

130.
(1) Any person who sexually assaults another person is guilty of an offence and liable to imprisonment for 20 years.
(2) For the purposes of this section “sexual assault” includes
(a) an indecent assault;
(b) the non-accidental touching of the sexual organ of another;


(c) the non-accidental touching of another with one’s sexual organ, or (d) the penetration of a body orifice of another for a sexual purpose.

(3) A person does not consent to an act which if done without consent constitutes an assault under this section if
   (a) the person’s consent was obtained by misrepresentation as to the character of the act or the identity of the person doing the act;
   (b) the person is below the age of fifteen years; or
   (c) the person’s understanding and knowledge are such that the person was incapable of giving consent.

(4) In determining the sentence of a person convicted of an offence under this section the court shall take into account, among other things
   (a) whether the person used or threatened to use violence in the course of or for the purpose of committing the offence;
   (b) whether there has been any penetration in terms of subsection (2)(d); or
   (c) any other aggravating circumstances.

[...]

137. Any person who does an indecent act
   (a) in the public view;
   (b) in a public place in the presence of one or more persons; or
   (c) in any place, with intent thereby to insult or offend any person, is guilty of an offence and liable to imprisonment for five years.

9. SIERRA LEONE

Sexual Offences Act, 201226

13. (1) A person who repeatedly makes unwanted sexual advances, repeatedly follows, pursues or accosts another person or makes persistent unwelcome communication with another person including –
   (a) watching, loitering outside or near a building where the harassed person resides, works, carries on business, studies or happens to be;
   (b) repeatedly making telephone calls or inducing a third person to make telephone calls to the harassed person whether or not conversation ensues;
   (c) repeatedly sending, delivering or causing the delivery of letters, telegrams, packages, facsimiles, electronic mail or other objects or messages to the harassed person’s residence, school or workplace;
   (d) engaging in any other menacing behaviour, commits the offence of harassment and is liable on conviction to a fine not exceeding Lei0,000,000 or to a term of imprisonment not exceeding three years.

14. A person who intentionally exposes his or her genitals with the intention of letting someone other than a consenting person see them commits the offence of indecent exposure and is liable on conviction to a fine not exceeding Lei0,000,000 or to a term of imprisonment not exceeding three years.

10. SINGAPORE

Protection from Harassment Act, 2014 (as amended) 27

PART 2
OFFENCES
Intentionally causing harassment, alarm or distress
3.—(1) No person shall, with intent to cause harassment, alarm or distress to another person, by any means —

(a) use any threatening, abusive or insulting words or behaviour; or
(b) make any threatening, abusive or insulting communication,

thereby causing that other person or any other person (each referred to for the purposes of this section as the victim) harassment, alarm or distress.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and, subject to section 8, shall be liable on conviction to a fine not exceeding $5,000 or to imprisonment for a term not exceeding 6 months or to both.

(3) In any proceedings for an offence under subsection (2), it is a defence for the accused person to prove that his conduct was reasonable.

Illustrations
(a) X and Y are co workers. At the workplace, X loudly and graphically describes to the other co workers X’s desire for a sexual relationship with Y in an insulting manner. X knows that Y is within earshot and intends to cause Y distress. Y is distressed. X is guilty of an offence under this section.

(b) X writes a letter containing threatening words towards Y intending to send the letter to Y to cause him alarm. X decides not to send the letter and throws it away. Y finds the letter and is alarmed. X is not guilty of an offence under this section as he had no reason to believe that the letter would be seen by Y.

Harassment, alarm or distress
4.—(1) No person shall by any means —

(a) use any threatening, abusive or insulting words or behaviour; or
(b) make any threatening, abusive or insulting communication, which is heard, seen or otherwise perceived by any person (referred to for the purposes of this section as the victim) likely to be caused harassment, alarm or distress.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and, subject to section 8, shall be liable on conviction to a fine not exceeding $5,000.

(3) In any proceedings for an offence under subsection (2), it is a defence for the accused person to prove —

(a) that he had no reason to believe that the words or behaviour used, or the communication made, by him would be heard, seen or otherwise perceived by the victim; or
(b) that his conduct was reasonable.

Illustration
X and Y are classmates. X posts a vulgar tirade against Y on a website accessible to all of their classmates. One of Y’s classmates shows the message on the website to Y, and Y is distressed. X is guilty of an offence under this section.

Unlawful stalking
7.—(1) No person shall unlawfully stalk another person.
(2) Subject to subsection (7), a person (referred to in this section as the accused person) unlawfully stalks another person (referred to for the purposes of this section as the victim) if the accused person engages in a course of conduct which —
(a) involves acts or omissions associated with stalking;
(b) causes harassment, alarm or distress to the victim; and
(c) the accused person —
(i) intends to cause harassment, alarm or distress to the victim; or
(ii) knows or ought reasonably to know is likely to cause harassment, alarm or distress to the victim.
(3) The following are examples of acts or omissions which, in particular circumstances, are ones associated with stalking:
(a) following the victim or a related person;
(b) making any communication, or attempting to make any communication, by any means —
(i) to the victim or a related person;
(ii) relating or purporting to relate to the victim or a related person; or
(iii) purporting to originate from the victim or a related person;
(c) entering or loitering in any place (whether public or private) outside or near the victim’s or a related person’s place of residence or place of business or any other place frequented by the victim or the related person;
(d) interfering with property in the possession of the victim or a related person (whether or not the accused person has an interest in the property);
(e) giving or sending material to the victim or a related person, or leaving it where it will be found by, given to or brought to the attention of, the victim or a related person;
(f) keeping the victim or a related person under surveillance.
Illustrations
These acts are acts associated with stalking of X by Y:
(a) Y repeatedly sends emails to Y’s subordinate (X) with suggestive comments about X’s body.
(b) Y sends flowers to X daily even though X has asked Y to stop doing so.
(c) Y repeatedly circulates revealing photographs of a classmate (X) to other classmates.
(4) For the purposes of subsection (2)(c), the accused person ought reasonably to know that his course of conduct is likely to cause harassment, alarm or distress to the victim if a reasonable person in possession of the same information would think that the course of conduct is likely to have that effect.
(5) In considering whether a course of conduct is likely to cause harassment, alarm or distress, the court may have regard to the following factors:
(a) the number of occasions on which the acts or omissions associated with stalking were carried out;
(b) the frequency and the duration of the acts or omissions associated with stalking that were carried out;
(c) the manner in which the acts or omissions associated with stalking were carried out;
(d) the circumstances in which the acts or omissions associated with stalking were carried out;
(e) the particular combination of acts or omissions associated with stalking comprised in the course of conduct;
(f) the likely effects of the course of conduct on the victim’s safety, health, reputation, economic position, or his freedom to do any act which he is legally entitled to do or not to do any act which he is not legally bound to do; and
(g) the circumstances of the victim including his physical or mental health and personality.

(6) Any person who contravenes subsection (1) shall be guilty of an offence and, subject to section 8, shall be liable on conviction to a fine not exceeding $5,000 or to imprisonment for a term not exceeding 12 months or to both.

(7) In any proceedings for an offence under subsection (6), it is a defence for the accused person to prove —
(a) that the course of conduct was reasonable in all the circumstances;
(b) that the course of conduct was pursued under any written law or rule of law or to comply with any condition or requirement imposed by any person under any written law;
(c) that the course of conduct was lawfully done under a duty or power under any written law for the purpose of preventing or detecting crime; or
(d) that the course of conduct was done on behalf of the Government and was necessary for the purposes of national security, national defence or the conduct of international relations.

(8) If any dispute arises as to whether any act falls within paragraph (d) of subsection (7), a certificate issued under the hand of the Minister responsible for national security, or for national defence or for the conduct of international relations, as the case may be, stating that in his opinion any act done by a specified person on a specified occasion falls within that paragraph shall be conclusive evidence that the act falls within that paragraph.

(9) A document purporting to be a certificate issued pursuant to subsection (8) and to be issued under the hand of the Minister shall be received in evidence and, unless the contrary is proved, be treated as being such a certificate.

(10) In this section —
“course of conduct” means conduct —
(a) on one occasion, if —
(i) the conduct is protracted; or
(ii) the accused person has a previous conviction under this section in respect of the same victim; or
(b) on 2 or more occasions in any other case;

“related person”, in relation to the victim, means a person about whose safety or well being the victim would reasonably be expected to be seriously concerned.

Illustration
Y surreptitiously plants a camera in X’s apartment. Unknown to X, the camera continuously transmits live videos of X in X’s apartment and Y watches the videos continually over several days. Y’s conduct is protracted.

Enhanced penalty for subsequent offence
8. A person who is convicted (whether before, on or after 15 November 2014) of any offence under the repealed section 13A, 13B, 13C or 13D of the Miscellaneous Offences (Public Order and Nuisance) Act (Cap.
in force before that date or who is convicted of any offence under section 3, 4, 5, 6 or 7 shall, on a subsequent conviction —

(a) for an offence under section 3, be liable to a fine not exceeding $10,000 or to imprisonment for a term not exceeding 12 months or to both;
(b) for an offence under section 4, be liable to a fine not exceeding $10,000 or to imprisonment for a term not exceeding 6 months or to both;
(c) for an offence under section 5, be liable to a fine not exceeding $10,000 or to imprisonment for a term not exceeding 2 years or to both;
(d) for an offence under section 6, be liable to a fine not exceeding $10,000 or to imprisonment for a term not exceeding 2 years or to both; and
(e) for an offence under section 7, be liable to a fine not exceeding $10,000 or to imprisonment for a term not exceeding 2 years or to both.

Community order
9. A court shall, upon the conviction of any person for any offence under section 3, 4, 5, 6 or 7, have the power to make a community order under Part XVII of the Criminal Procedure Code (Cap. 68) despite any provision to the contrary in section 337(1)(h) of that Code.

Contravention of certain orders
10.—(1) Any person who, without reasonable excuse, fails to comply with an order made under section 12 (except section 12(3)(c) and any direction under section 12(3)(d) made with respect to an order made under section 12(3)(c)) or section 13 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $5,000 or to imprisonment for a term not exceeding 6 months or to both.

(2) Subject to subsection (3), subsection (1) shall not affect the powers of the court in relation to the punishment for contempt of court.

(3) Where a person is convicted of an offence under subsection (1) in respect of any non compliance with an order, that non compliance is not punishable as a contempt of court.

(4) A person cannot be convicted of an offence under subsection (1) in respect of any non compliance with an order which has been punished as a contempt of court.

 [...]

PART 4
GENERAL
Application to person outside Singapore
17.—(1) Without prejudice to the jurisdiction and power conferred under this Act or any other written law, the court shall in the circumstances specified in subsections (2) to (6) —

(a) have jurisdiction to try any offence under section 3, 4, 5, 6 or 7 and impose the full punishment under this Act; and
(b) have jurisdiction to make any order under section 12 or 13 on the basis of a contravention of section 3, 4, 5, 6 or 7.

(2) Where the victim under section 3, 4, 5 or 6 was outside Singapore when the accused person or respondent (as the case may be) used the words or behaviour, or made the communication in contravention of any such section, the court shall have jurisdiction if the accused person or respondent (as the case may be) was in Singapore when he used those words or behaviour or made that communication, as the case may be.

(3) Where the accused person or respondent (as the case may be) was outside Singapore when he used the words or behaviour, or made the communication, in contravention of section 3, the court shall have jurisdiction if —
(a) the victim of the contravention was in Singapore when the use of those words or behaviour or the making of that communication caused the victim harassment, alarm or distress; and
(b) the accused person or respondent (as the case may be) knew or had reason to believe that the victim of the contravention would be in Singapore at the time referred to in paragraph (a).

(4) Where the accused person or respondent (as the case may be) was outside Singapore when he used the words or behaviour, or made the communication, in contravention of section 4, 5 or 6, the court shall have jurisdiction if —
(a) the victim of the contravention was in Singapore when the victim heard, saw or otherwise perceived those words or behaviour or that communication; and
(b) the accused person or respondent (as the case may be) knew or had reason to believe that the victim of the contravention would be in Singapore at the time referred to in paragraph (a).

(5) Where the victim under section 7 was outside Singapore when any of the acts or omissions associated with unlawful stalking occurred in contravention of that section, the court shall have jurisdiction if the accused person or respondent (as the case may be) was in Singapore when any of those acts or omissions occurred.

(6) Where the accused person or respondent (as the case may be) was outside Singapore when any of the acts or omissions associated with unlawful stalking occurred in contravention of section 7, the court shall have jurisdiction if —
(a) the victim of the contravention was in Singapore when any of those acts or omissions occurred; and
(b) the accused person or respondent (as the case may be) knew or had reason to believe that the victim of the contravention was in Singapore at the time referred to in paragraph (a).

(7) Without prejudice to the jurisdiction and power conferred under this Act or any other written law, the court shall in the circumstances specified in subsections (8) and (9) have jurisdiction to try any offence under section 10 for failure to comply with an order and impose the full punishment under this Act.

(8) In the case of an order prohibiting the respondent from doing any thing in relation to the victim or (in the case of a contravention of section 7) to any related person specified in the order, where the victim or the related person was outside Singapore when the respondent did any thing prohibited by the order, the court shall have jurisdiction if the respondent was in Singapore when he did that thing.

(9) In the case of an order prohibiting the respondent from doing any thing in relation to the victim or (in the case of a contravention of section 7) to any related person specified in the order, the court shall have jurisdiction —
(a) where the respondent was outside Singapore when he failed to comply with an order prohibiting him from doing any thing in relation to the victim, if —
(i) the victim was in Singapore when the thing done by the respondent in contravention of the order was heard, seen or otherwise perceived by the victim; and
(ii) the respondent knew or had reason to believe that the victim would be in Singapore at the time referred to in sub paragraph (i);

(b) where the respondent was outside Singapore when he failed to comply with an order prohibiting him from doing any thing in relation to any related person specified in the order (in the case of a contravention of section 7), if —
(i) the related person was in Singapore when the thing done by the respondent in contravention of the order was heard, seen or otherwise perceived by the related person; and
(ii) the respondent knew or had reason to believe that the related person would be in Singapore at the time referred to in sub paragraph (i); and

(c) where the respondent was outside Singapore when he failed to comply with an order prohibiting him from publishing or continuing to publish any communication, if —

(i) the communication was heard, seen or otherwise perceived by a section of the public in Singapore; and
(ii) the respondent knew or had reason to believe that communication would be heard, seen or otherwise perceived by a section of the public in Singapore.

(10) In subsections (8) and (9) —

(a) “victim”, in relation to an offence under section 10 for failure to comply with an order, means the victim under section 3, 4, 5, 6 or 7, as the case may be, in whose favour the order was made;
(b) “respondent”, in relation to an offence under section 10 for failure to comply with an order, means the person who is alleged to have failed to comply with the order in contravention of section 10; and
(c) a reference to any thing done by the respondent includes any words or behaviour used or communication made by the respondent.

Power of arrest

18. Any police officer may arrest without warrant any person offending in his view against any of the provisions of this Act, and take him before a Magistrate’s Court to be dealt with according to law.[...]

11. SLOVAK REPUBLIC

Act on Equal Treatment in Certain Areas and on Protection against Discrimination and on Amendments to Certain Acts (Anti-discrimination Act), 2004 (as amended) 28

[...]

Basic provisions

§ 2

(1) Respect for the principle of equal treatment shall consist in the prohibition of discrimination on grounds of sex, religion or belief, race, nationality or ethnic group, disability, age, sexual orientation, marital status, skin color, language, political or other thinking, national or social origin, property, gender or other status, or because of a report of crime or other anti-social activity.

(2) While respecting the principle of equal treatment, good morals should also be taken into account for the purpose of extending protection against discrimination.

(3) Respect for the principle of equal treatment shall also consist in the adoption of measures to protect against discrimination.

§ 2a

(1) Discrimination is direct discrimination, indirect discrimination, harassment, sexual harassment and unjustified sanction; Discrimination is also an instruction to discriminate and incite discrimination.

[…]

(4) Harassment is such behavior that causes or may create an intimidating, hostile, embarrassing, degrading, degrading, abusive or offensive environment and the intention or effect of which is or may be to interfere with freedom or human dignity.

(5) Sexual harassment is a verbal, non-verbal or physical behavior of a sexual nature, the intent or effect of which is or may be to violate the dignity of a person and which creates an intimidating, degrading, abusive, hostile or offensive environment.

(6) An instruction to discriminate is an act that consists in the abuse of a person's subordination for the purpose of discrimination against a third party.

(7) Encouraging discrimination is the persuasion, assertion or incitement of a person to discriminate against a third party.

[…]

(10) The refusal or endorsement of discrimination by a person may in no way affect the subsequent treatment or conduct of that person or be the basis for a decision concerning that person.

[…]

The principle of equal treatment in industrial relations and similar legal relations

§ 6

(1) In accordance with the principle of equal treatment in employment relations, similar legal relations and related legal relations, it prohibits discrimination against persons on grounds pursuant to § 2 para first

(2) The principle of equal treatment pursuant to paragraph 1 shall apply only in connection with the rights of persons established by special laws, in particular in the following areas:

a) access to employment, occupation, other gainful activities or functions (hereinafter referred to as "work"), including the requirements for admission to employment and the conditions and method of selection for employment,

b) employment performance and conditions of employment, including remuneration, career advancement and dismissal;
c) access to vocational training, vocational training and participation in active labor market measures, including access to vocational guidance services and job change (hereinafter referred to as "training") or

d) membership of, and participation in, workers’ organizations, employers’ organizations and organizations associating persons of certain professions, including the granting of benefits which such organizations confer on their members.

[...]

Legal protection and proceedings in cases relating to breach of the principle of equal treatment

§ 9

(1) Everyone has the right to equal treatment and protection against discrimination under this Act.

(2) Any person may claim his rights in court if he considers that he is or has been affected by his rights, interests or freedoms protected by the principle of equal treatment. It may, in particular, request that a person who has not respected the principle of equal treatment refrains from acting, if possible, remedies the unlawful situation or provides adequate satisfaction; if it is a breach of the principle of equal treatment due to the reporting of crime or other anti-social activity, it may also claim the invalidity of a legal act suspended under a special regulation.

(3) If adequate satisfaction is not sufficient, in particular if the dignity, social gravity or social assertion of the injured party is significantly reduced by non-compliance with the principle of equal treatment, he may also claim compensation for non-pecuniary damage in money. The amount of compensation for non-pecuniary damage in cash shall be determined by the court, taking into account the seriousness of the non-pecuniary damage suffered and any circumstances in which it occurred.

(4) This law shall not affect the right to compensation or the right to other compensation pursuant to special regulations.

(5) Everyone has the right to protect his / her rights also out of court through mediation.

[...]

§ 10

(1) In proceedings relating to violations of the principle of equal treatment, a party may also be represented by a legal person,

(a) whose authorization is granted by a special law; or

(b) whose object or activity is to protect against discrimination.

(2) If a legal person takes over representation pursuant to paragraph 1, it shall authorize one of its members or employees to act on behalf of the represented person.
§ 11

(1) Proceedings in cases relating to breach of the principle of equal treatment shall be initiated on application by a person who contends that his right has been affected by breach of the principle of equal treatment (hereinafter referred to as 'the applicant'). The applicant is required to identify in the application the person alleged to have breached the principle of equal treatment ('the defendant').

(2) The defendant is obliged to prove that he did not breach the principle of equal treatment if the plaintiff informs the court of facts from which it can reasonably be concluded that the breach of the principle of equal treatment has occurred.

(3) Proceedings in matters relating to violations of the principle of equal treatment shall be subject to the Code of Civil Procedure, unless this Act provides otherwise.

[...]

12. SLOVENIA

Criminal Code, 2012 29

Workplace Harassment

Article 197

(1) Whoever, at work or in connection with work involving sexual harassment, psychological violence, bullying or unequal treatment causes another employee humiliation or fear, shall be punished by imprisonment for a term not exceeding two years.

(2) If the act referred to in the preceding paragraph results in a mental, psychosomatic or physical illness or reduction of the employee's work performance, the perpetrator shall be punished by imprisonment for a term not exceeding three years.

Employment Relationships Act, 2013 30

Article 1

(purpose of law)

(1) This Act regulates the employment relations concluded by an employment contract between an employee and an employer in accordance with: [...]

Article 2

(regulation of employment relations)

(1) Unless otherwise provided by a special law, this law shall also regulate the employment relations of workers employed in state bodies, in local communities and in institutions, other organizations and private persons who perform public services.

(2) This Act also regulates the employment relations of mobile workers, unless otherwise stipulated by a special law in respect of working hours, night work, breaks and rest.

(3) This Act shall also apply to the employment of seafarers, except for matters otherwise provided for in a separate law.

Article 3
(application of the law)
(1) This Act shall apply to employment relationships between employers established or resident in the Republic of Slovenia and their employees.
(2) This Act shall also apply to employment relationships between foreign employers and workers concluded on the basis of an employment contract in the territory of the Republic of Slovenia.
(3) For workers who are posted by a foreign employer to work in the Republic of Slovenia on the basis of a contract of employment under a foreign law, this Act shall apply in accordance with the provisions governing the position of workers posted to work in the Republic of Slovenia.

Article 4
(definition of employment relationship)
(1) An employment relationship is a relationship between an employee and an employer, in which the employee voluntarily engages in the organized work process of the employer and in it, for remuneration, performs the work personally and continuously according to the instructions and under the supervision of the employer. […]

Article 5
(definition of worker and employer)
(1) According to this Act, an employee (hereinafter: an employee) is any natural person who is employed on the basis of an employment contract.
(2) An employer or employer (hereinafter: the employer) is a legal and natural person and other entity, such as a state body, a local community, a branch of a foreign company, and a diplomatic and consular mission that employs an employee under an employment contract. […]

Article 7
(Prohibition of sexual and other harassment and ill-treatment at work)
(1) Sexual and other harassment shall be prohibited. Sexual harassment is any form of unwanted verbal, non-verbal or physical conduct or conduct of a sexual nature with the effect or intent to hurt a person's dignity, especially when it is about creating a intimidating, hostile, humiliating, shameful or abusive environment. Harassment is any unwanted behavior related to any personal circumstance, with the effect or intent to hurt a person's dignity or to create a intimidating, hostile, degrading, shameful or abusive environment.
(2) The sexual and other harassment referred to in the preceding paragraph shall be considered discrimination under the provisions of this Act.
(3) The refusal of the conduct referred to in the first paragraph of this Article by the affected candidate or worker shall not be grounds for discrimination in employment and work. […]

Article 8
(employer liability and monetary damages)
In the event of a violation of the prohibition of discrimination or ill-treatment at work, the employer shall be liable to the applicant or employee for compensation under the general rules of civil law. Non-pecuniary damage caused to a candidate or worker shall also be considered to be suffering mental
illness due to unequal treatment of the worker or discriminatory treatment of the employer or failure to provide protection against sexual or other harassment or ill-treatment at work in accordance with Article 47 of this Act, which suffered by the candidate or employee. In assessing the amount of pecuniary damage for non-pecuniary damage, it must be taken into account that it is effective and commensurate with the damage suffered by the candidate or worker and that it discourages the employer from repeated infringements.

 [...] 

Article 47
(protection of the dignity of the worker at work)
(1) The employer shall be obliged to provide such a working environment in which no worker will be exposed to sexual or other harassment or abuse by the employer, superiors or co-workers. To this end, the employer must take appropriate measures to protect workers from sexual and other harassment or from harassment at work.

(2) The employer shall inform the employees in writing of the measures referred to in the preceding paragraph in the usual manner (eg at a specific advertising space on the employer's premises or using information technology).

(3) If, in the event of a dispute, the employee cites facts that justify the assumption that the employer acted contrary to the first paragraph of this Article, the burden of proof lies with the employer.

13. SOLOMON ISLANDS

Penal Code (Amendment) (Sexual Offences) Bill, 2016

5. Repeal and replacement of section 136 to 150

Section 136 to 150 of the principal Act are repealed and replaced with the following:

136B Meaning of “Indecent Act”
(1) In this Part, “Indecent Act” means an act of a sexual nature (including a person touching themselves in a sexual way or forcing another person to touch themselves in a sexual way), other than sexual intercourse, which a reasonable person would consider to be contrary to community standards of decency.

(2) Without limiting sub-section (1), an indecent Act may be committed:
(a) by way of gestures or words; or
(b) by conveying words or images.

138 Indecent Act without consent

(1) A person commits an offence if the person commits an indecent Act on or in the presence of another person:
(a) without the other person’s consent; and
(b) knowing about or being reckless as to the lack of consent.

Maximum Penalty:

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(a) if the victim is a child and the offender is a person in a position of trust in relation to the child—10 years imprisonment; or
(b) if the victim is under 13 years of age—10 years imprisonment; or
(c) if the victim is between 13 and 15 years of age—10 years imprisonment; or
(d) in any other case—5 years imprisonment.

(2) To avoid any doubt, subsection (1) applies even if the persons are married or in a marriage like relationship.

14. SOUTH AFRICA

Protection from Harassment Act, 2011 32

[...]
Definitions and application of Act
1. (1) In this Act, unless the context indicates otherwise—
[...]
"sexual harassment" means any—
(a) unwelcome sexual attention from a person who knows or ought reasonably to know that such attention is unwelcome:
(b) unwelcome explicit or implicit behaviour, suggestions, messages or remarks of a sexual nature that have the effect of offending, intimidating or humiliating the complainant or a related person in circumstances, which a reasonable person having regard to all the circumstances would have anticipated that the complainant or related person would be offended, humiliated or intimidated;
(c) implied or expressed promise of reward for complying with a sexually oriented request; or
(d) implied or expressed threat of reprisal or actual reprisal for refusal to comply with a sexually oriented request;
[...]
Application for protection order
2. (1) A complainant may in the prescribed manner apply to the court for a protection order against harassment.
(2) If the complainant or a person referred to in subsection (3) is not represented by a legal representative, the clerk of the court must inform the complainant or person in the prescribed manner, of—
(a) the relief available in terms of this Act; and
(b) the right to also lodge a criminal complaint against the respondent of crimen injuria, assault, trespass, extortion or any other offence which has a bearing on the persona or property of the complainant or related person.
(3) (a) Notwithstanding the provisions of any other law, the application for a protection order may, subject to paragraph (b), be brought on behalf of the complainant by another person who has a material interest in the well-being of the complainant or related person.
(b) An application referred to in paragraph (a) must be brought with the written consent of the complainant, except in circumstances where the complainant is a person who, in the opinion of the court, is unable to do so.

(4) Notwithstanding the provisions of any other law, any child, or person on behalf of a child, may apply to the court for a protection order without the assistance of a parent, guardian or any other person.

(5) The application referred to in subsection (1) may be brought outside ordinary court hours or on a day which is not an ordinary court day, if the court has a reasonable belief that the complainant or a related person is suffering or may suffer harm if the application is not dealt with immediately.

(6) Supporting affidavits by persons who have knowledge of the matter concerned may accompany the application.

(7) The application and affidavits must be lodged with the clerk of the court who must immediately submit the application and affidavits to the court.

**Consideration of application and issuing or interim protection order**

3. (1) The court must as soon as is reasonably possible consider an application submitted to it in terms of section 2(7) and may, for that purpose, consider any additional evidence it deems fit, including oral evidence or evidence by affidavit, which must form part of the record of proceedings.

(2) If the court is satisfied that there is prima facie evidence that-

(a) the respondent is engaging or has engaged in harassment;

(b) harm is being or may be suffered by the complainant or a related person as a result of that conduct if a protection order is not issued immediately; and

(c) the protection to be accorded by the interim protection order is likely not to be achieved if prior notice of the application is given to the respondent, the court must, notwithstanding the fact that the respondent has not been given notice of the proceedings referred to in subsection (1), issue an interim protection order against the respondent, in the prescribed manner.

(3) (a) Upon the issuing of an interim protection order the court must direct that the interim protection order be served on the respondent in the prescribed manner by the clerk of the court, sheriff or peace officer identified by the court.

(b) A copy of the application referred to in section 2(1) and the record of any evidence noted in terms of subsection (1) must be served on the respondent together with the interim protection order in the prescribed manner.

(c) An interim protection order must call on the respondent to show cause on the return date specified in the order why the interim protection order should not be made final.

(4) If the court does not issue an interim protection order in terms of subsection (2), the court must direct that the certified copies of the application concerned and any supporting affidavits be served on the respondent in the prescribed manner by the clerk of the court, a sheriff or a peace officer identified by the court, together with a prescribed notice calling on the respondent to show cause on the return date specified in the notice why a protection order should not be issued.

(5) The return dates referred to in subsections (3)(c) and (4) may not be less than 10 days after service has been effected on the respondent, but a return date referred to in subsection (3)(c) may be anticipated by the respondent on not less than 24 hours' written notice to the complainant and the court.

(6) An interim protection order is of force and effect from the time it is issued by the court and the existence thereof has been brought to the attention of the respondent.

(7) Upon service or upon receipt of a return of service of an interim protection order on a respondent, the clerk of the court must immediately cause-

(a) a certified copy of the interim protection order; and

(b) the original warrant of arrest referred to in section 11(l)(a), to be served on the complainant in the prescribed manner.

[...]

36
Attendance of witnesses
7. (1) The court may, in the prescribed manner and at any stage of proceedings under this Act, cause to be subpoenaed any person as a witness at those proceedings or to provide any book, document or object, if the evidence of that person or book, document or object appears to the court essential to the just decision of the case.
(2) A person who is subpoenaed as provided for in subsection (1), must attend the proceedings and remain in attendance at the proceedings, and a person who is in attendance at any proceedings under this Act, though not subpoenaed as a witness, and who is warned by the court to remain in attendance at the proceedings, must remain in attendance at the proceedings, unless he or she is excused by the court.
(3) Any person who is subpoenaed in terms of subsection (1) or warned in terms of subsection (2) to attend proceedings and who fails to- (a) attend or to remain in attendance; (b) appear at the place and on the date and at the time to which the proceedings in question may be adjourned; (c) remain in attendance at those proceedings as so adjourned; or (d) produce any book, document or object specified in the subpoena, is guilty of an offence referred to in section 18(3).

Circumstances in which proceedings may not take place in open court and publication of information
8. (1) The court may, of its own accord or at the request of the complainant or related person, if it is of the opinion that it would be in the interests of the administration of justice that the proceedings in question be held behind closed doors, direct that-
(a) the public or any class thereof may not be present at those proceedings or any part thereof; 
(b) the identity or address of any person may not be revealed; or 
(c) no information relating to the proceedings be published in any manner whatsoever.
(3) Nothing in this section limits any other power of the court to hear proceedings in camera or to exclude any person from attending those proceedings.

Issuing of protection order
9. (1) If the respondent does not appear on a return date referred to in section 3(3) or (4), and if the court is satisfied that-
(a) proper service has been effected on the respondent; and 
(b) the application contains prima facie evidence that the respondent has engaged or is engaging in harassment,
the court must issue a protection order in the prescribed form.
(2) If the respondent appears on the return date and opposes the issuing of a protection order, the court must proceed to hear the matter and-
(a) consider any evidence previously received in terms of section 3(1); and 
(b) consider any further affidavits or oral evidence as it may direct, which must form part of the record of proceedings.
(4) Subject to subsection (5), the court must, after a hearing as provided for in subsection (2), issue a protection order in the prescribed form if it finds, on a balance of probabilities, that the respondent has engaged or is engaging in harassment.
(8) Subject to section 10(5), a protection order issued in terms of this section remains in force for a period of five years or such further period as the court may determine on good cause shown unless it is set aside,
and the execution of that order is not automatically suspended upon the noting of an appeal against the order.

**Court's powers in respect of protection order**

10. (1) The court may, by means of a protection order, including an interim protection order, prohibit the respondent from-
   (a) engaging in or attempting to engage in harassment;
   (b) enlisting the help of another person to engage in harassment; or
   (c) committing any other act as specified in the protection order.

(2) The court may impose any additional conditions on the respondent which it deems reasonably necessary to protect and provide for the safety or well-being of the complainant or related person.

(...)

(4) (a) The physical, home and work address of the complainant or related person must be omitted from the protection order, unless the nature of the terms of the order necessitates the inclusion of the address.

(b) The court may issue any directions to ensure that the complainant's or related person's physical address is not disclosed in any manner which may endanger the safety or well-being of the complainant or related person.

(...)

**Warrant of arrest upon issuing of protection order**

11. (1) Whenever a court issues a protection order, including an interim protection order, the court must make an order-
   (a) authorising the issue of a warrant for the arrest of the respondent, in the prescribed form; and
   (b) suspending the execution of that warrant subject to compliance with any prohibition, condition, obligation or order imposed in terms of section 10.

(...)

**Variation or setting aside of protection order**

13. (1) A complainant or a respondent may, upon notice to the other party and the court concerned, apply for the variation or setting aside of a protection order referred to in section 9 in the prescribed manner.

(2) If the court is satisfied that circumstances have materially changed since the granting of the original protection order and that good cause has been shown for the variation or setting aside of the protection order, it may issue an order to this effect: Provided that the court may not grant such an application to the complainant unless it is satisfied that the application is made freely and voluntarily.

(3) The clerk of the court must forward a notice as prescribed to the complainant and the respondent if the protection order is varied or set aside as provided for in subsection (1).

**Jurisdiction**

14. (1) Any court within the area in which-
   (a) the complainant permanently or temporarily resides, carries on business or is employed; (b) the respondent permanently or temporarily resides, carries on business or is employed; or (c) the cause of action arose, has jurisdiction to issue a protection order as provided for in this Act.

(2) No specific minimum period is required in relation to subsection (1)(a) or (b).

(3) A protection order is enforceable throughout the Republic.

(...)

**Costs**

16. The court may only make an order as to costs against any party if it is satisfied that the party in question has acted frivolously, vexatiously or unreasonably.
Appeal and review
17. The provisions in respect of appeal and review as provided for in the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), and the Supreme Court Act, 1959 (Act No. 59 of 1959), apply to any proceedings in terms of this Act.

Offences
18. (1) Notwithstanding the provisions of any other law, any person who-
(a) contravenes any prohibition, condition, obligation or order imposed in terms of section 10(1) or (2); or
(b) in an affidavit referred to in section 11(4)(a), makes a false statement in a material respect, is guilty of an offence and liable on conviction to a fine or imprisonment for a period not exceeding five years.

The Employment Equity Amendment Act, 2013

Amendment of Section 6 of Act 55 of 1998
3. Section 6 of the principal Act is hereby amended-
(a) by the substitution of sub-section (1) of the following subsection:
“(1) No person may unfairly discriminate, directly or indirectly, against an employee, in any employment policy or practice on one or more grounds including race, gender, sex, pregnancy, marital status, family responsibility, ethnic or social origin, colour, sexual orientation, age, disability, religion, HIV status, conscience, belief, political opinion, culture, language [and] birth or any other ground.”

Amendment of Section 10 of Act 55 of 1998
5. Section 10 of the principal Act is hereby amended-
(a) by the deletion in sub-section 6 of the word “or” at the end of paragraph (a) and the insertion in that sub-section after paragraph (a) of the following paragraph:
“(aA) An employee may refer the dispute to CCMA for arbitration if-
(i) the employee alleges unfair discrimination on the grounds of sexual harassment.”

Amendment of Section 48 of Act 55 of 1998
18. Section 48 of the Principal Act is hereby amended by the addition of the following sub-section (1):
“(2) An award made by the Commissioner of the CCMA hearing a matter in terms of section 10(6)(aA) may include any order referred to in section 50(2)(a) to (c), read with the changes required by the context, but an award of damages referred to in section 50(2)(b) may not exceed the amount stated in the determination made by the Minister in terms of Section 6(3) of the Basic Conditions of Employment Act.”

Labour Relations Act, 1995

115. Functions of Commission

(3) If asked, the Commission may provide employees, employers, registered trade unions, registered employers’ organisations, federations of trade unions, federations of employers’ organisations or councils with advice or training relating to the primary objects of this Act including but not limited to –
(i) the prevention of sexual harassment in the workplace.

[...]

15. SOUTH SUDAN, REP.

Penal Code, 2008  

CHAPTER XXVIII
SEXUAL HARRASSMENT

395. Sexual Harassment Defined.
(1) Whoever uses his or her position of authority or advantage to—
(a) offer a benefit in exchange for sexual favors;
(b) intimidate another person or threaten retaliation if such person refuses to engage in any type of sexual relations;
(c) engage in any unwanted physical contact of a sexual nature with respect to another person, including, but not limited to inappropriate touching, commits the offence of sexual harassment.
(2) Whether a particular act constitutes sexual harassment is a matter of fact, which depends on the character and nature of the parties.

396. Committing Sexual Harassment.
Whoever intentionally engages in sexual harassment commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding three years, liable to a fine or both.

Labor Act, 2017  

[...]

5. Interpretations

In this Act, unless the context otherwise requires:


Deliberate sexual comments and gestures of any conduct of sexual nature that is unwanted, embarrassing, demeaning or compromising. It can be implicit or explicit and may be a single incident or occur over a period of time. It may consist of any or all of the following acts:

a) Sexual or insensitive jokes, lewd suggestions, whistling, foul language, slurs, innuendos, leering and obscene gestures;

b) Belittling comments on a person’s anatomy or persistent demands for dates;

c) Asking for sexual favours, asking about personal/sex life, explicit sexual suggestions in return for “rewards”.

d) Unwanted physical contact of any sort, including touching, brushing and kissing.

e) Display of pornographic and sexually suggestive pictures and/or sexual objects.

f) Offensive written, telephonic or electronic communications. Indecent exposure or dressing.

g) Indecent exposure or dressing.

h) Sexual assault and rape

i) Unwelcome sexual advances, requests for sexual favours and other verbal or physical conduct of a sexual nature also constitute sexual harassment.

7. Sexual Harassment

(1) No person shall sexually harass an employee or an employer. This shall be an offense against an employee and which by its nature has a detrimental effect on that employee’s job performance or satisfaction.

(2) An employer shall ensure that no person shall sexually harass an employee in the course of such employee’s work for the employer.

(3) An employer who employs twenty or more employees shall, after consulting with the employees’ representatives, issue a policy statement on sexual harassment.

(4) The policy statement shall contain, at a minimum:

a) the definition of sexual harassment as specified in section 5 above; and

b) a statement:

(i) that every employee is entitled to work that is free of sexual harassment;

(ii) that the employer shall take steps to ensure that no employee is subjected to sexual harassment;

(iii) that the employer shall take such disciplinary measures as the employer deems appropriate against any person under the employer’s direction who subjects any employee to sexual harassment;
(iv) that provides the process for bringing complaints of sexual harassment to the attention of the employer;

(v) that the employer will not disclose the name of a complainant or the circumstances related to the complaint to any person except where disclosure is necessary for the purpose of investigating the complaint or taking disciplinary measures in relation thereto; and

(vi) that an employee who brings a complaint of sexual harassment in good faith shall not be disciplined, demoted, dismissed or otherwise prejudiced in such employee’s employment with the employer as a consequence.

(5) Sexual harassment does not refer to behaviour that is mutually acceptable to the parties involved. Friendships, whether sexual or otherwise, are a private concern and should be kept out of the workplace.

(6) An Employer shall make rules and regulations against sexual harassment to govern employer and employees in the place of work.

(7) The employer shall bring the policy statement to the attention of each person under the employer direction.

16. SPAIN

Penal Code, 1995 (as amended) 37

Art. 184
1. Whoever requests favors of a sexual nature, for himself or for a third party, in an employment relationship, teaching or service position, permanent or habitual, and with such behavior subjects the victim to an objective and seriously intimidating, hostile or humiliating situation, will be punished, as the author of sexual harassment, with imprisonment of three to five months or a fine of six to 10 months.
2. If the person guilty of sexual harassment has committed the act by taking advantage of a situation of work superiority, teaching or a hierarchal position, or with the express or tacit intention to cause the victim an harm related to the legitimate expectations that the latter may have within the scope of the aforementioned relationship, the penalty shall be imprisonment from five to seven months or a fine of 10 to 14 months.
3. When the victim is especially vulnerable due to age, illness or condition, the penalty will be imprisonment of five to seven months or a fine of 10 to 14 months in the cases provided for in section 1, and imprisonment of six months to one year in the cases provided for in section 2 of this article.

Organic Law on the Equality of Men and Women, 2007 38

Art. 7


Sexual harassment and harassment based on sex.
1. Without prejudice to the provisions of the Criminal Code, for the purposes of this Law, sexual harassment constitutes any behavior, verbal or physical, of a sexual nature that has the purpose or produces the effect of violating the dignity of a person, in particular when an intimidating, degrading or offensive environment is created.
2. Sexual harassment constitutes any behavior performed based on the sex of a person, with the purpose or effect of violating their dignity and creating an intimidating, degrading or offensive environment.
3. Harassment based on sex and sexual harassment will be considered discriminatory in any case.
4. The conditioning of a right or an expectation of the right to the acceptance of a situation constituting sexual harassment or harassment on grounds of sex shall also be considered an act of discrimination on grounds of sex.

[...]

Art. 48
Specific measures to prevent harassment sexual and harassment on the basis of sex at work.
1. Companies must promote working conditions that prevent sexual harassment and harassment on the basis of sex and arbitrate specific procedures for their prevention and to give way to complaints or claims that may be made by those who have been subject to it.

For this purpose, measures may be established to be negotiated with workers' representatives, such as the development and dissemination of codes of good practice, the carrying out of information campaigns or training actions.
2. Workers' representatives must contribute to prevent sexual harassment and harassment on the grounds of sex at work by raising awareness among workers and information about the company's behavior or behaviors. that they had knowledge and that they could propitiate it.

[...]

17. SRI LANKA

Penal Code, 1885 (as amended) 39

Sec. 345. Whoever by assault or use of criminal force, sexually harasses another person, or by the use of words or actions, causes sexual annoyance or harassment to such other person commits the offence of sexual harassment and shall on conviction be punished with imprisonment of wither description for a term which may extend to five tears or with fine or with both and may also be ordered to pay compensation of an amount determined by court to the person in respect of whom the offence was committed for the injuries caused to such person.

Explanation
1. Unwelcome sexual advance by words or action used by a person in authority, in a working place or any other place, shall constitute the offence of sexual harassment.
2. For the purposes of this section an assault may include any act that does not amount to rape under section 363.

18. ST. LUCIA

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**Criminal Code, 2004 (as amended)** 40

139. SOLICITING SEXUAL FAVOURS IN THE WORKPLACE

(1) It is an offence for an employer or a supervisor of an employee to make it reasonably appear to the employee that the prospects or working conditions of the employee are dependent upon the acceptance or tolerance by the employee of sexual advances or persistent sexual suggestions from the employer or supervisor.

(2) It is an offence for a prospective employer to make it reasonably appear to a person that—

(a) an offer of employment to that person;

(b) the terms on which employment is so offered, is or are dependent on that person’s acceptance or tolerance of sexual advances or tolerance of persistent sexual suggestions from the prospective employer.

(3) A person who commits an offence under subsection (1) or (2) is liable on summary conviction to imprisonment for one year.

**Equality of Opportunity and Treatment in Employment and Occupation Act, 2000 (as amended)**41

PART 1
PRELIMINARY

[...]

Interpretation

2. In this Act—

[...]

“employee” means a person who offers his or her services under a contract of employment, a managerial employee or a dependent contractor or where appropriate, a former employee;

“employer” includes any person or undertaking, corporation, company, public authority or body of persons who or which employs any person under a contract of employment or uses the services of a dependent contractor, commission agent or a contract worker, and the heirs, successors and assigns of an employer;

“employment” includes— (a) part time, temporary employment and employment under a contract of service or of apprenticeship; (b) employment under a contract for services; and (c) engagement as a commission agent;

[...]

“sexual harassment” means unwanted conduct of a sexual nature in the work place or in connection with the performance of work which is threatened or imposed as a condition of employment on the employee or which creates a hostile working environment for the employee.

[...]

Sexual harassment


8. Any act of sexual harassment against an employee committed by an employer, managerial employee or co-employee shall constitute unlawful discrimination based on sex within the meaning of section 3 and constitutes an offence.

[...]

PART 4
Offences, penalties and Remedies

Pressure to discriminate
19. (1) It is unlawful to induce or attempt to induce, a person to do any act which contravenes Part 2 by—
(a) providing or offering to provide the person with any benefit; or
(b) subjecting or threatening to subject the person to any detriment.
19. (2) An offer or threat may fall under subsection (1) whether it is made directly or indirectly to the person in question, if it is made in such a way that the person is likely to hear it or hear of it.
19. (3) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding $5,000.

Victimisation
20. (1) A person who victimises another person commits an offence and is liable on summary conviction to a fine not exceeding $5,000.
20. (2) For the purposes of subsection (1), a person shall be taken to commit an act of victimisation against another person if the first-mentioned person subjects or threatens to subject the other person to any detriment—
(a) on the ground that the other person—
(i) has made, or proposes to make, a complaint under this Act,
(ii) has brought, or proposes to bring proceedings under this Act against any person,
(iii) has furnished or proposes to furnish, any information, or has produced, or proposes to produce, any documents to a person exercising or performing any power or function under this Act,
(iv) has attended or proposes to attend an inquiry under this Act or to provide evidence or testimony as a witness, or
(v) has made in good faith, allegation that a person has committed an act of discrimination in contravention of this Act;
(b) on the ground that the first-mentioned person believes that the other person has done, or proposes to do any of the things referred to in paragraphs (a)(i) to (a)(v).

Burden of proof
21. (1) Except where otherwise provided in this Act, the person alleging a violation of this Act shall bear the burden of presenting a prima facie case of discrimination or an offence related to discrimination under this Act.
21. (2) Upon a prima facie showing of discrimination, the burden of proof shall shift to the respondent to disprove the allegations.

Burden of proof of exceptions
22. In any proceedings under this Act, the burden of proof of any conduct that is claimed to be an exception to conduct that is unlawful under this Act, lies on the party claiming the exception.

General penalty clause
23. (1) A person who contravenes a provision of this Act commits an offence.  
23. (2) A person found guilty of an offence under this Act for which no penalty is prescribed is liable on summary conviction to a fine not exceeding $5,000.

Remedies 24.  
Despite any other remedy that may be available in any court of competent jurisdiction, any person who is aggrieved by any act or omission of an employer in contravention of Part 2 is entitled to claim or apply for all or any of the following remedies—(a) damages from the employer, or any other person or body covered under this Act, for any loss caused directly or indirectly as a result of the contravention; (b) an order directing the employer or other relevant person or body covered under this Act to redress the contravention, including an order to employ, re-employ or reinstate any person, although the vacancy in question has already been filled and although the employer may be liable to any claim arising from the need to dismiss or terminate the services of any other employee who has been engaged; (c) an order making any decision found to have been based on unlawful discrimination voidable; (d) any other order the court may deem fair and just to remedy the cause and effect of the discrimination.

Labour Code, 2006

Sexual harassment
272. Notwithstanding the provisions of the Criminal Code 2004, No.10, creating the offence of sexual harassment, any act of sexual harassment against an employee committed by an employer, managerial employee or co-employee shall constitute unlawful discrimination based on sex within the meaning of section 267 and the employee shall be entitled to compensation in accordance with this Code.

19. ST. VINCENT AND THE GRENADINES

Sexual Offences Act, 2002

11. (1) A person who indecently assaults another is guilty of an Indecent offence and is liable on conviction on indictment to imprisonment for 5 years.  
(2) A person under the age of 16 years cannot in law give any consent which would prevent an act being an assault for the purposes of this section.  
(3) In this section “indecent assault” means an assault accompanied by words or circumstances indicating an indecent intention.

12. (1) A person who commits an act of serious indecency on or serious towards another or incites another to commit that act with the person or with another person is guilty of an offence and, if committed on or towards a person 16 years of age or more or if the person incited is of 16 years of age or more, is liable on conviction to imprisonment for a term of 10 years.  
[...]

(3) An act of “serious indecency” is an act, whether natural or unnatural by a person involving the use of the genital organs for the purpose of arousing or gratifying sexual desire.

20. SWEDEN

Discrimination Act, 2008 (as amended)\(^{44}\)

Chapter 1: Introductory provisions

Discrimination

Section 4

In this Act discrimination has the meaning set out in this Section.

[...]

5. Sexual harassment: conduct of a sexual nature that violates someone’s dignity.

[...]

Chapter 2: Prohibition of discrimination and reprisals

Obligation to investigate and take measures against harassment

Section 3

If an employer becomes aware that an employee considers that he or she has been subjected in connection with work to harassment or sexual harassment by someone performing work or carrying out a traineeship at the employer’s establishment, the employer is obliged to investigate the circumstances surrounding the alleged harassment and where appropriate take the measures that can reasonably be demanded to prevent harassment in the future. This obligation also applies with respect to a person carrying out a traineeship or performing work as temporary or borrowed labor.

[...]

Obligation to investigate and take measures against harassment

[...]

Section 16

If a government agency or an organization covered by the prohibition in Section 15 becomes aware that a person applying for or participating in training or other activities indicated in that provision considers herself or himself to have been subjected in this connection to harassment or sexual harassment, the government agency or organization is obliged to investigate the circumstances surrounding the alleged harassment and where appropriate take the measures that can reasonably be demanded to prevent harassment in the future.

However, the first paragraph does not apply to harassment associated with age.

[...]

Section 19

A person who is alleged to have acted contrary to the provisions of Chapter 2, Section 5, 7, 9, 10, 11, 12, 12a, 13, 14, 15, 16 or 17 or Chapter 3, Section 15 or 16 may not subject an individual to reprisals because that individual has

1. reported or called attention to such actions,

2. participated in an investigation under this Act, or

3. rejected or given in to harassment or sexual harassment on the part of the person who is alleged to have engaged in discrimination.

[...]

Chapter 3: Active measures

[...]

Section 4

Employers are to implement such measures as can be required in view of their resources and other circumstances to ensure that the working conditions are suitable for all employees regardless of sex, ethnicity, religion or other belief.

[...]

Section 6

Employers are to take measures to prevent and hinder any employee being subjected to harassment or reprisals associated with sex, ethnicity, religion or other belief, or to sexual harassment.

[...]

Chapter 4. Supervision

The Equality Ombudsman

Duties of the Equality Ombudsman

Section 1

The Equality Ombudsman is to supervise compliance with this Act. The Ombudsman is to try in the first instance to induce those to whom the Act applies to comply with it voluntarily. [...]

Section 2
Chapter 6, Section 2 states that the Equality Ombudsman may bring a court action on behalf of an individual who consents to this.

Obligation to provide information

Section 3
A natural or legal person who is subject to the prohibitions of discrimination and reprisals, the obligation to investigate and take measures against harassment or the provisions on active measures in this Act is obliged, at the request of the Equality Ombudsman,
1. to provide information about circumstances in their activities that are of importance for the supervision exercised by the Ombudsman,
2. to provide information about qualifications when the Ombudsman is assisting in a request from an individual under Chapter 2, Section 4 or 8,
3. to give the Ombudsman access to workplaces and other premises where the activities are conducted for the purpose of investigations that may be of importance to the supervision exercised by the Ombudsman, and
4. to attend discussions with the Ombudsman.
The obligations specified in points 1–3 do not apply if there are special grounds against their doing so in an individual case.

Financial penalty

Section 4
A natural or legal person who does not comply with a request under Section 3 may be ordered by the Equality Ombudsman to fulfil his or her obligation subject to a financial penalty. A decision to order a financial penalty may be appealed to the Board against Discrimination. A financial penalty order under the first paragraph shall be served.

Section 5
A natural or legal person who does not fulfil his or her obligations concerning active measures under Chapter 3, Section 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15 or 16 may be ordered to fulfil them subject to a financial penalty. Such orders are issued by the Board against Discrimination on application from the Equality Ombudsman. They can also be directed towards the State as an employer or as the entity responsible for educational activities.
If the Ombudsman has declared that he or she does not want to apply to the Board for a financial penalty to be ordered, a central employees’ organisation with respect to which the employer is bound by a collective agreement may make an application concerning active measures in working life under Chapter 3, Sections 4–13. The application is to state the measures that should be required of the party that the application concerns, the grounds referred to in support of the application and what investigation has been made of the matter.

Prohibition against appeals

Section 6
No appeal may be made against decisions of the Equality Ombudsman under this Act other than decisions under Section 4 concerning the ordering of financial penalties.
Board against Discrimination

Duties of the Board

Section 7
The Board against Discrimination examines applications for financial penalties under Section 5 and appeals against decisions concerning orders for financial penalties under Section 4. In processing these cases, Sections 8–15a are to be applied.

Processing of an application for a financial penalty

Section 8
A natural or legal person who is the subject of an application for a financial penalty shall be ordered to comment within a certain time on the application and to supply the information concerning circumstances in their activities that the Board against Discrimination needs for its examination. When an employees’ organisation has made the application, the Equality Ombudsman shall be given an opportunity to comment.

Section 9
The Board against Discrimination shall ensure that cases are adequately investigated. When necessary, the Board shall arrange for additional investigation. Superfluous investigation may be refused.

Section 10
Cases before the Board against Discrimination are decided after an oral hearing, unless the Board considers such a hearing unnecessary.

Section 11
The Board against Discrimination shall call the party that has made the application to the Board and the party that is the subject of the application to a hearing. If necessary for the investigation, the Board may also call others to the hearing. The Board may order the party that the application concerns or that party’s representative to attend in person, subject to a financial penalty.

Section 12
A case concerning the ordering of a financial penalty may be decided even if the party that the application concerns does not comment on the case, does not cooperate in the investigation or fails to attend an oral hearing. If the Equality Ombudsman or the employees’ organisation that has made the application for a financial penalty fails to attend a hearing, the application for a financial penalty becomes void.

Section 13
In deciding a case concerning the ordering of a financial penalty, the Board against Discrimination may instruct the party that the application concerns to take measures other than those sought in the application, if these other measures are not obviously more burdensome for the party. In its decision the Board shall state how and by when the measures are to be started or implemented. The Board’s decision shall be in writing and shall be delivered to the party that the application concerns.

Processing of an appeal against a decision to order a financial penalty
Section 14
In processing an appeal against a decision to order a financial penalty, Sections 9 and 10 shall be applied. […]

Prohibition against appeals

Section 16
No appeal may be made against a decision of the Board against Discrimination under this Act. Imposition of a financial penalty

Section 17
Proceedings for the imposition of a financial penalty that has been ordered under this Act are brought before a district court by the Equality Ombudsman. In cases concerning the imposition of a financial penalty, the district court may also assess the appropriateness of the penalty. […]

Chapter 5: Compensation and invalidity

Compensation

Section 1
A natural or legal person who violates the prohibitions of discrimination or reprisals or who fails to fulfil their obligations to investigate and take measures against harassment or sexual harassment under this Act shall pay compensation for discrimination for the offence resulting from the infringement. When compensation is decided, particular attention shall be given to the purpose of discouraging such infringements of the Act. The compensation shall be paid to the person who has been offended by the infringement.

An employer who violates Chapter 2, Section 1, first paragraph or Section 18 shall also pay compensation for the loss that arises. However, this does not apply to a loss that arises in connection with a decision concerning employment or promotion. Nor does it apply to a loss that arises as a result of discrimination in the form of inadequate accessibility.

If there are special grounds, the compensation can be reduced or set at zero.

Section 2
If an employer in activities referred to in Chapter 2, Section 9, 10, 11, 13, 14, 15 or 17 discriminates against someone or subjects someone to reprisals, the compensation for discrimination shall be paid by the employer. A person performing work on behalf of another person in circumstances resembling those in an employment relationship shall be equated with an employee. […]

Chapter 6: Legal proceedings

Applicable rules
Section 1
Cases concerning the application of Chapter 2, Section 1, 2, 3 or 18 shall be dealt with under the Labour Disputes (Judicial Procedure) Act (1974:371). In such cases a person enquiring about or applying for work, a person applying for or carrying out a traineeship or a person who is available to perform work or who is performing work as temporary or borrowed labour shall be regarded as an employee. The person at whose establishment the traineeship or work is being or would have been carried out shall be regarded as employer. This also applies when the regulations on negotiations concerning disputes in the Employment (Codetermination in the Workplace) Act (1976:580) are applied. […]

Right to bring an action

Section 2
The Equality Ombudsman, or a non-profit organisation whose statutes state that it is to look after the interests of its members and that is not an employees’ organisation referred to in the third paragraph, may bring an action, as a party, on behalf of an individual who consents to this. When the Ombudsman or the association brings such an action, the Ombudsman or association may also bring another action on behalf of the individual as part of the same proceedings, if he or she consents to this. […]

Burden of proof

Section 3
If a person who considers that he or she has been discriminated against or subjected to reprisals demonstrates circumstances that give reason to presume that he or she has been discriminated against or subjected to reprisals, the defendant is required to show that discrimination or reprisals have not occurred. […]

21. SWITZERLAND

Criminal Code, 1937 (as amended) ⁴⁵

Art. 198 5. Contraventions against sexual integrity / Sexual harassment

5. Contraventions against sexual integrity
Sexual harassment
Any person who causes offence by performing a sexual act in the presence of another who does not expect it, any person who sexually harasses another physically or through the use of indecent language, is liable on complaint to a fine.

Federal Act on Gender Equality, 1995 (as amended) ⁴⁶

Section 2 : Equality at work

Art. 3
Prohibition of discrimination
Employees must not be discriminated against on the basis of their sex, whether directly or indirectly, including on the basis of their marital status, their family situation or, in the case of female employees, of pregnancy. This prohibition applies in particular to hiring, allocation of duties, setting of working conditions, pay, basic and advanced training, promotion and dismissal. Appropriate measures aimed at achieving true equality are not regarded as discriminatory.

Art. 4
Discrimination through sexual harassment
Any harassing behaviour of a sexual nature or other behaviour related to the person’s sex that adversely affects the dignity of women or men in the workplace is discriminatory. Such behaviour includes in particular threats, the promise of advantages, the use of coercion and the exertion of pressure in order to obtain favours of a sexual nature.

Art. 5
Employee’s rights
Anyone who is the victim of discrimination within the meaning of Articles 3 and 4 may apply to the court or to the administrative authority for an order:
   a. prohibiting or stopping threatened discrimination;
   b. requiring existing discrimination to cease;
   c. confirming that discrimination is taking place if it is continuing to have a disruptive effect;
   d. for the payment of any salary due.
[...]
In the case of discrimination through sexual harassment, the court or the administrative authority may also award the person concerned compensation, unless the employer proves that it took measures that have been proven in practice to be necessary and adequate to prevent sexual harassment and which it could reasonably have been expected to take. The compensation must be fixed by taking all the circumstances into account and is calculated on the basis of the average Swiss salary.
[...] The compensation in the case of discrimination through dismissal under the Code of Obligations in terms of Paragraph 2 and in the case of discrimination through sexual harassment in terms of Paragraph 3 must not exceed an amount equivalent to six months’ salary. Claims for damages for financial loss and pain and suffering as well as further contractual claims are reserved

Art. 6
Reduced burden of proof
In relation to the allocation of duties, setting of working conditions, pay, basic and advanced training, promotion and dismissal, discrimination is presumed if the person concerned can substantiate the same by prima facie evidence.

Art. 7
Actions and appeals by organisations
Organisations that have been in existence for at least two years and that have as their object in terms of their articles of incorporation the promotion of gender equality or safeguarding the interests of employees may in their own names have a finding of discrimination declared if the probable outcome of proceedings...
will have an effect on a considerable number of jobs. They must allow the employer concerned the opportunity to state his position before they institute conciliation proceedings or bring an action. The provisions on actions and appeals by individuals also apply by analogy.

[...]

Civil Procedure Code, 2008 (as amended) 47

Title 4 Simplified Proceedings
Art. 243 Scope of application
1 Simplified proceedings apply in financial disputes with a value in dispute not exceeding 30,000 francs.
2 They apply regardless of the amount in:
   a. disputes under the Gender Equality Act of 24 March 1995;
   [...]

Art. 244 Simplified statement of claim
1 The statement of claim may be filed in the forms provided for by Article 130 or orally on record before the court. It shall contain:
   a. the designation of the parties;
   b. the prayers for relief;
   c. a description of the matter in dispute;
   d. a statement of the value in dispute, if necessary;
   e. the date and signature.
2A A statement of the grounds for the claim is not necessary. 3 The following must be filed together with the statement of claim:
   a. a power of attorney in case of representation;
   b. the authorisation to proceed or the declaration that conciliation has been waived;
   c. the available physical records.

Art. 245 Summons to a hearing and statement of defence
1 If no grounds are stated for the action, the court shall serve the defendant with the statement of claim and summon the parties to a hearing.
2 If the grounds for the action are stated, the court shall first set a deadline for the defendant to file a written response to the claim.

Art. 246 Procedural rulings
1 The court shall make the required procedural rulings so that if possible the matter may be concluded at the first hearing.
2 If the circumstances so require, the court may order an exchange of written submissions and hold instruction hearings.

Art. 247 Establishment of facts
1 By asking the appropriate questions, the court shall cause the parties to complete inadequate submissions and to designate the evidence.

2 In the following cases, the court shall establish the facts ex officio: a. in matters under Article 243 paragraph 2;

[...]

Civil Code, 1907 (as amended) 48

Article 28b
Violence, threats or harassment
To obtain protection from violence, threats or harassment the applicant may request the court in particular to order the offending party to refrain from:
1. approaching the applicant or from entering a defined area around the applicant's dwelling;
2. frequenting specified locations, notably particular streets, squares or districts;
3. from making contact with the applicant, especially by telephone, in writing or electronically, or from harassing the applicant in any other way.

[...]

22. SYRIAN ARAB REPUBLIC

Criminal Code, 1949 (as amended)
Arts. 505, 506

23. TAIWAN

Sexual Harassment Prevention Act, 2009 49

Article 1
The Act is formulated in order to prevent sexual harassment and protect the rights of victims. The definition of sexual harassment and the handling and prevention of incidents of sexual harassment are stipulated under the Law. What is not regulated here is dealt with under other laws. Except for Articles 12, 24 and 25, what is applicable to the Gender Equality in Employment Act and the Gender Equality Education Act is not applicable to the regulations of the present Act.

Article 2
Excluding sexual assault crimes, the so-called sexual harassment in the Act refers to the sexual statements or sexual behavior violating another person's wishes and also to the following situations:
A. If a person's obedience to or rejection of another's sexual advances become a condition of obtaining, losing or reducing their rights and interests in work, education, training, services, plans or activities.
B. If texts, pictures, voices, images or other objects are used to inundate or intimidate; or if languages and behaviors of discrimination, and insults or other methods are adopted. – For such reasons, the other's person's dignity of character is impaired. Or if another person feels scared, feels disliked with hostility or

feels offended; or if another persons' work, education, training, services, plans, activities or other normal habits are improperly influenced.

Article 3
The civil servant named in the Act refers to an employee who is engaged in public affairs. The organization named in the Act refers to a government organization. A troop under the Law refers to an armed force, and a school is under the jurisdiction of Ministry of National Defense. Schools referred to under the Law include both national or private schools. The institution named under the Law refers to a corporate juridical person, a partnership, or a non-corporate body which has its own representative or manager or other institutions.

Article 4
The competent authorities referred to in this Act are the Ministry of the Interior at the central level, municipal governments at the municipal level, and county (city) governments at the county (city) level.

Article 5
The following items shall be handled by central competent authorities. However, for items related to the duties of individual competent authorities in charge of specific business, they shall be handled by the competent authorities in charge of specific business individually.
A. Investigate, make a draft and discuss policies and regulations for sexual harassment prevention
B. Coordinating, supervising and examining implementation of sexual harassment prevention in the government
C. Supervising handling procedure, inquiries, medical treatment and service network for sexual harassment incidents that local competent authorities concerned have set up
D. Advancing education and promotion of sexual harassment prevention
E. Giving rewards to any organization, school, institution, employer, group or individual that carries out sexual harassment prevention and has excellent performance
F. Arranging and making statistics of sexual harassment incidents
G. Studying the trends and problems of sexual harassment prevention
H. Dealing with other matters about sexual harassment prevention

Article 7
The organizations, troops, schools, institutions or employers should prevent incidents of sexual harassment as well as immediately take effective corrective measures when becoming aware of the occurrence of sexual harassment. If number of the organization's staff, employees or customers reaches over ten, an appeal channel for mediation and handling should be set up. If the number of people reaches over thirty, measures for sexual harassment prevention should be formulated and be publicly announced. In order to prevent and deal with sexual harassment, the central competent authorities concerned should specify standards of sexual harassment prevention. These should include principles of sexual harassment prevention, appeal channels, rewards and punishments, educational training projects and other relevant measures.

Article 6
A municipal and a county (city) government should set up a Sexual Harassment Prevention Committee which can undertake the following items. However, for items related to the duties of individual competent authorities of a municipality and a county (city) government in charge of specific business, they shall be handled by the competent authorities in charge of specific business individually.

A. Drafting policies and regulations about sexual harassment prevention
B. Coordinating, supervising and implementing sexual harassment prevention in government
C. Investigating and mediating a disputed case of sexual harassment and transferring the case to a relevant organization or organizations.
D. Extending educational training and the promotion of sexual harassment prevention
E. Arranging and making statistics involving various data and information about sexual harassment incidents
F. Dealing with other matters concerning sexual harassment prevention

In the Sexual Harassment Prevention Committee mentioned in above mentioned paragraph, there should be a director general who needs to be the mayor or deputy mayor of a municipal or of county (city). Its committee members should to be drawn from the organization's high-level staff, fair and honest social figures, representatives of private institutions, scholars and experts. Among all the committee members, number of fair and honest social figures, representatives of private institutions, scholars and experts should occupy one half or over and females should also occupy one half or more. The organization's high-level staff can be assigned by the local competent authorities concerned.

Article 8
The organizations, troops, schools, institutions or employers mentioned in the previous Article should organize regular educational training about sexual harassment prevention or encourage their members to join the training.

[...]

Article 25
When a person kisses, hugs or touches the bottom, breast, or other physical private parts of the other person when the latter one cannot quickly respond or resist: this person shall be imprisoned for a definite term of less than two years, do forced labor service under detention, or separately or jointly fined not more than NT$ 100,000.

About the crime mentioned in the previous paragraph, a prosecution for such crime may be instituted only upon a complaint.

Act on Gender Equality in Employment, 2016 50

Chapter III
Prevention and Correction of Sexual Harassment

Article 12
Sexual harassment referred to in the Act shall mean one of the following two circumstances:
1. In the course of an employee executing his or her duties, any one makes a sexual request, uses verbal or physical conduct of a sexual nature or with an intent of gender discrimination, causes him or her a hostile, intimidating and offensive working environment leading to infringe on or interfere with his or her personal

dignity, physical liberty or affects his or her job performance. 
2. An employer explicitly or implicitly makes a sexual request toward an employee or an applicant, uses verbal or physical conduct of a sexual nature or with an intent of gender discrimination as an exchange for the establishment, continuance, modification of a labor contract or as a condition to his or her placement, assignment, compensation, evaluation, promotion, demotion, award and discipline. The determination of sexual harassment in the aforementioned Paragraph shall be based on the background of the incident, work environment, relationship between the parties, the actor’s testimony and conduct, and the counterpart’s perception.

Article 13
Employers shall prevent and correct sexual harassment from occurrence. For employers hiring over thirty employees, measures for preventing, correcting sexual harassment, related complaint procedures and disciplinary measures shall be established. All these measures mentioned above shall be openly displayed in the workplace. When employers know of the occurrence of sexual harassment mentioned in the preceding article, immediate and effective correctional and remedial measures shall be implemented. Related regulations for establishing measures of prevention, correction, complaint and punishment of sexual harassment at workplace mentioned in the preceding paragraph shall be prescribed by the Central Competent Authority.

Chapter V
Complaint Procedures and Remedies

Article 26
When employees or applicants are damaged by the employment practices referred to in Articles 7 to 11 or Article 21 of the Act, the employers shall be liable for any damage arising therefrom.

Article 27
When employees or applicants suffer damages from employment practices referred to in Article 12 of the Act, the employers and the harassers shall be jointly and severally liable to make compensations. However, the employers are not liable for the damages if they can prove that they have complied with the Act, have provided all preventive measures required, and have exercised all necessary care in preventing damage from occurring. If compensations cannot be obtained by the injured parties pursuant to the stipulations of the preceding paragraph, the court may, on their application, take into consideration the financial conditions of the employers and the injured parties and order the employers to pay for a portion of or for the entire damage. The employers who have made compensations can seek claims against the harassers. For victims subject to lawsuits because of events of Article 12 and are notified by the judicial authorities to appear in court, official leave shall be given by employers for their court appearance.

Article 28
When employees or applicants are damaged because employers contravene the obligations referred to in Paragraph 2 of Article 13 of the Act, the employers shall be liable for any damage arising therefrom.

Article 29
In the circumstances referred to in the preceding three articles, employees or applicants may claim reasonable amounts of compensation even for such damage that are not pecuniary losses. If their reputations have been damaged, the injured parties may also claim the taking of proper measures for the restoration of reputations.

Article 30
The statues of limitation for damage arising from wrongful acts referred to in Articles 26 to 28 of the Act shall be two years running from the claimants’ knowledge of both the damage and the obligees liable for compensation. The statues of limitation shall be ten years since the harassing conduct or other wrongful acts were committed.

Article 31
After employees or applicants make prima facie statements of the discriminatory treatment, the employers shall shoulder the burden to prove the non-sexual or non-sexual-orientation factor of the discriminatory treatment, or the specific sexual factor necessary for the employees or the applicants to perform the job.

Article 32
Employers may establish grievance procedures to conciliate and handle the complaint filed by employees.

[...]
Article 34
After employees or applicants find out that employers contravene the stipulations of Articles 7 to 11, Article 13, Article 21, or Article 36 of the Act and file complaints the matter to the local competent authorities, if the employers, employees or applicants are not satisfied with the decisions made by the local competent authorities, they may apply to the Committee on Gender Equality in Employment of the Central Competent Authority for review or file an administrative complaint directly within ten days. If the employers, employees or applicants are not satisfied with the decisions made by the Committee on Gender Equality in Employment of the Central Competent Authority, they may file administrative complaints and proceed administrative lawsuits pursuant to the procedures of the Administrative Appeals Act and the Administrative Lawsuits Act. The measures for handling the review of the complaints referred to in the preceding paragraph shall be prescribed by the Central Competent Authority.

Article 35
When courts or competent authorities determines the facts of discriminatory treatments, they shall examine the investigation reports, rulings and decisions rendered by the committees on gender equality in employment.

Article 36
Employers may not terminate, transfer or take any disciplinary action that is adverse to employees who personally file complaints or assist other persons to file complaints pursuant to the Act.

Article 37
The competent authorities shall provide necessary legal aid when employees or applicants who file lawsuits in courts because of any violation of the Act by their employers. The measures for providing legal aid referred to in the preceding paragraph shall be prescribed by the Central Competent Authority.
When employees or applicants file lawsuits referred to in the preceding paragraph and apply for precautionary proceedings, the courts may reduce or exempt the amounts for surety.

Chapter VI Penal Provisions

[...]

Article 38-1
Employers who violate Articles 7 to 10, Paragraphs 1 and 2 of Article 11 shall be fined no less than NT$300,000 but not exceeding NT$1,500,000.
Employers who violate the second half of Paragraph 1, Paragraph 2 of Article 13 shall be fined no less than NT$100,000 but not exceeding NT$500,000.
For those who commit one of the conducts referred to in the two preceding paragraphs, their name or title, and the person-in-charge shall be put on public notice, and shall be ordered to make improvements within a specified period. In the event improvements are not made within the specified period, violators will be punished consecutively for each violation after the said period expires.

Criminal Code (of the Rep. of China), 2019 51

Art. 228
A person who takes advantage of his authority over another who is subject to his supervision, assistance, caring because of family, guardian, tutor, educational, training, benefactor, official, or occupational relationship or a relationship of similar nature to have sexual intercourse with such other shall be sentenced to imprisonment for not less than six months but not more than five years.
A person with relationship specified in the preceding paragraph who commits obscene act against such shall be sentenced to imprisonment for not more than three years.
An attempt to commit an offense specified in paragraph 1 is punishable.

24. TANZANIA

Employment and Labour Relations Act, 2004 52

Section 7

Sub-Part C: Discrimination

7.- (1) Every employer shall ensure that he promotes an equal opportunity in employment and strives to eliminate discrimination in any employment policy or practice.

(2) An employer shall register, with the Labour Commissioner, a plan to promote equal opportunity and to eliminate discrimination in the work place.


(3) The Labour Commissioner may require an employer-

(a) to develop a plan prescribed in subsection (2); and
(b) to register the plan with the Commissioner.

(4) No employer shall discriminate, directly or indirectly, against an employee, in any employment policy or practice, on any of the following grounds:

[...]
(h) sex;
(i) gender;
[...]

(5) Harassment of an employee shall be a form of discrimination and shall be prohibited on any one, or combination, of the grounds prescribed in subsection (4).

(6) It is not discrimination –

(a) to take affirmative action measures consistent with the promotion of equality or the elimination of discrimination in the workplace;
(b) to distinguish, exclude or prefer any person on the basis of an inherent requirement of a job; or
(c) to employ citizens in accordance with the National Employment Promotion Services Act, 1999,

(7) Any person who contravenes the provisions of subsections (4) and (5), commits an offence.

37.-(1) It shall be unlawful for an employer to terminate the employment of an employee unfairly.

[...]
(3) It shall not be a fair reason to terminate the employment of an employee-

[...]
(b) for reasons-

[...]
(iii) that constitute discrimination under this Act

[...]

40.-(1) If an arbitrator or Labour Court finds a termination is unfair, the arbitrator or Court may order the employer

(a) to reinstate the employee from the date the employee was terminated without loss of remuneration during the period that the employee was absent from work due to the unfair termination; or
(b) to re-engage the employee on any terms that the arbitrator or Court may decide; or
(c) to pay compensation to the employee of not less than twelve months’ remuneration.

(2) An order for compensation made under this section shall be in addition to, and not a substitute for, any other amount to which the employee may be entitled in terms of any law or agreement.

(3) Where an order of reinstatement or re-engagement is made by an arbitrator or court and the employer decides not to reinstate or reengage the employee, the employer shall pay compensation of twelve months
wages in addition to wages due and other benefits from the date of unfair termination to the date of final payment.


Part II – Amendment to the Penal Code
Addition of new section 138 D

138D.-"Sexual harassment

(1) Any person who, with intention, assaults or by use of criminal force, sexually harasses another person, or by the use of words or actions, causes sexual annoyance or harassment to such other person, commits the offence of sexual harassment and is liable on conviction to imprisonment for a term not exceeding five years or to a fine not exceeding two hundred thousand shillings or to both the fine and imprisonment, and may also be ordered to pay compensation of an amount determined by the court to the person in respect of whom the offence was committed for any injuries caused to that person.

(2) Whoever, intending to insult the modesty of any woman utters any word, makes any sound or gesture, or exhibits any object including any organ whether male or feminine, intending that such word or sound shall be heard, or that the gesture or object shall be seen, by the woman or intrudes upon the privacy of the woman, commits the offence of sexual harassment.

(3) For the avoidance of doubt, unwelcome sexual advances by words or action used by a person in authority, in a working place or any other place, shall constitute the offence of sexual harassment.

(4) For the purpose of this section an assault may include any act which does not amount to rape under section 130.

(5) No prosecution for an offence under this section shall be instituted or continued where the complaint is made by the alleged victim at any time more than sixty days after the occurrence of the event constituting the offence."

25. THAILAND

Labor Protection Act, 2008

Section 8 - The provisions of Section 16, Section 17 and Section 18 of the Labour Protection Act B.E. 2541 shall be repealed and substituted by the following:

“Section 16 An Employer, a chief, a supervisor, or a work inspector shall be prohibited from committing sexual abuse, harassment or nuisance against an employee.

[...]

Labor Protection Act, 1998

Section 147. Any person who violates Section 16 shall be penalised with a fine not exceeding twenty thousand baht.

Section 159. For all violations under this Act, except for a violation under Section 157, if the following officials deem that the offender should not be penalised with imprisonment or sued in Court, he or she shall have power to settle the matters as follows:
(1) the Director-General or person entrusted by the Director-General: for a violation occurring in the Bangkok Metropolitan area; or
(2) the Governor or a person entrusted by the Governor: for a violation occurring in other provinces.
Where there is an investigation, if the inquiry officer finds that any person has committed an offence under this Act, and such person consents for settlement, the inquiry officer shall propose the case to the Director-General or the Governor, as the case may be, within seven days of the date that such person consents to settlement.
Where an offender pays the fine according to a settled amount within thirty days, the case shall be deemed extinguished under the Criminal Procedure Code.
Where an Offender refuses settlement, or consents but fails to pay the fine within the period specified in paragraph three, the case shall be further proceeded.

26. TIMOR LESTE

Labour Law, 2012

Article 7 of the Labor Law:

Harassment
1. Harassing a job applicant or a worker shall be prohibited.
2. Harassment shall mean any undesired behavior that affects the dignity of women and men or that is considered to be offensive either verbally, nonverbally or physically, or that results in an intimidating, hostile, humiliating and destabilizing work atmosphere for the harassed person.
3. Sexual harassment shall mean any undesired behavior of a sexual nature that affects the dignity of women and men or that is considered to be offensive, in a verbal, non-verbal, or physical manner, such as contact or insinuations, comments of a sexual nature, exhibition of pornography and sexual demands, or that creates an intimidating, hostile, humiliating and destabilizing work environment to the harassed person.

See also Orientation on the Prevention and Elimination of Sexual Harassment within the Public Service, issued by the Civil Service Commission (Orientation nr. 12/2017), available at http://www.mj.gov.tl/jornal/public/docs/2017/serie_II_NO_34.pdf (last visited 15 November 2019), in which the Civil Service Commission elaborates on the concept of sexual harassment by recognizing it as a human rights violation and providing an array of examples of prohibited behavior.
4. The employer must take all necessary measures to prevent cases of harassment, notably sexual harassment, at the workplace.

**Penal Code**

Article 181 of the Penal Code:

Article 181.
Sexual exhibitionism
1. Any person who publicly disturbs another person by committing acts of a sexual nature is punishable with up to 3 years imprisonment or a fine.
2. Any person who, in the presence of others, practices vaginal, anal or oral coitus, against the will of the latter, even if this occurs in private, incurs the same penalty.
3. The attempt is punishable.
4. Prosecution depends on the filing of a complaint.

27. **TRINIDAD AND TOBAGO**

**Equal Opportunity Act, 2000**

[...]

PART I
PRELIMINARY
[...]

3. In this Act—
[...]

“employment” means employment under a contract of service or apprenticeship or a contract personally to execute any work or labour and includes the employment of an independent contractor;
[...]

“status”, in relation to a person, means—
(a) the sex;
(b) the race;
(c) the ethnicity;
(d) the origin, including geographical origin;
(e) the religion;

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The Industrial Court of Trinidad and Tobago has provided guidance on sexual harassment in several landmark judgments by defining sexual harassment and clearly indicating that sexual harassment in the workplace is offensive and punishable behaviour. See Guidelines on sexual harassment in the workplace, p. 18, available at http://equalopportunity.gov.tt/sites/default/files/Guidlines%20on%20Sexual%20Harassment_FINAL.pdf (last visited 15 November 2019).
(f) the marital status; or
(g) any disability of that person;

[...]

PART II
DISCRIMINATION TO WHICH THE ACT APPLIES
4. This Act applies to—
(a) discrimination in relation to employment, education, the provision of goods and services and the provision of accommodation, if the discrimination is—
(i) discrimination on the ground of status as defined in section 5; or
(ii) discrimination by victimisation as defined in section 6;
(b) offensive behaviour referred to in section 7.

[...]

PART VII
COMPLAINTS
30. (1) A person who alleges that some other person has discriminated against him or has contravened section 6 or 7 in relation to him may lodge a written complaint with the Commission setting out the details of the alleged act of discrimination.
(2) A complaint under subsection (1) shall be lodged with the Commission within six months from the date of the alleged act of discrimination.
(3) Notwithstanding subsection (2), the Commission, in exceptional circumstances, may accept a complaint which is lodged more than six months after the date of the alleged act of discrimination.
31. (1) A person who because of a disability is unable to lodge a written complaint under this Act may authorise another person to act on his behalf in relation to the complaint, and the person so authorised shall have the same powers in relation to the lodgement of the complaint as he would have if he were the person on whose behalf he acts.
(2) An authority under subsection (1) may be given—
(a) in writing; or
(b) in such other manner as the Commission approves.
32. The Commission shall investigate each complaint lodged with it.

[...]
35. (1) Where the Commission finds that the subject matter of the complaint may be resolved by conciliation, it shall make all reasonable endeavours to resolve the matter in accordance with subsection (2).

[...]
39. (1) Where the Commission is of the opinion that the subject matter of a complaint cannot be resolved by conciliation or it has attempted to resolve the matter by conciliation but has not been successful in that attempt, the Commission shall—
(a) prepare a report relating to the investigation with its recommendations;
(b) send a copy of the report to the parties to the complaint;
(c) publish the report; and
(d) make the report available for inspection by the public.
(2) Where the subject matter referred to in subsection (1) remains unresolved and the Commission has fulfilled the requirements set out in subsection 1(a) to (d), the Commission shall, with the consent and on behalf of the complainant, initiate proceedings before the Tribunal.
40. Evidence of anything said or done in the course of conciliation proceedings under this Part is not admissible in proceedings before the Tribunal.

[...]

PART VIII
THE EQUAL OPPORTUNITY TRIBUNAL

[...]

48. (1) On the expiration of the time fixed for compliance with an order or award for the payment of compensation, damages or fines, the amount thereof shall become due and payable and is recoverable in the manner provided by this section.

(2) Compensation, damages or fines are, upon a certificate issued by the Registrar stating that the amounts specified therein are due and payable under an order or award of the Tribunal—

(a) recoverable summarily as a civil debt; or

(b) recoverable in the manner provided in subsection (3),

by the person for whose benefit the order or award for such compensation or damages was made or, in the case of an order for a fine, by the Registrar and the certificate of the Registrar under this subsection is conclusive evidence of the matters specified therein.

(3) Upon the filing of a certificate issued under subsection (2) in the Registry of the High Court of Justice, the order or award shall as from the date of filing be of the same force and effect and proceedings may be taken thereon and the order or award may be enforced as if it had been a judgment originally obtained or entered upon the date of filing in the High Court of Justice.

(4) The High Court of Justice shall have the same control and jurisdiction over the order or award as it has over the judgments given by itself but in so far as it relates to execution.

(5) All costs and charges incurred under this section shall be recoverable in like manner as if included in the certificate.

(6) All fines recoverable by the Registrar under this section shall be paid into the Consolidated Fund.

Occupational Safety and Health Act, 2004 (as amended) 59

PART II
GENERAL DUTIES

6. (1) It shall be the duty of every employer to ensure, so far as is reasonably practicable, the safety, health and welfare at work of all his employees.

(2) Without prejudice to the generality of an employer’s duty under subsection (1), the matters to which that duty extends include in particular—

[...]

(f) the provision and maintenance of a working environment for his employees that is, so far as is reasonably practicable, safe, without risks to health, and adequate as regards amenities and arrangements for their welfare at work;

[...]

10. (1) It shall be the duty of every employee while at work—

(a) to take reasonable care for the safety and health of himself and of other persons who may be affected by his acts or omissions at work;
(b) as regards any duty or requirement imposed on his employer to co-operate with him so far as necessary to ensure that that duty or requirement is performed or complied with;
(c) to report to his employer, any contravention under this Act or any Regulations made thereunder, the existence of which he knows;

(3) An employer may discipline, in the customary manner, an employee who breaks the safety provisions of this Act.

15. An employee may refuse to work or do particular work where he has sufficient reason to believe that—
   (a) there is serious and imminent danger to himself or unusual circumstances have arisen which are hazardous or injurious to his health or life;

20A. No employer or person acting on behalf of an employer shall—
   (a) dismiss or threaten to dismiss a worker;
   (b) discipline or suspend or threaten to discipline or suspend a worker;
   (c) impose any penalty upon a worker, or intimidate or coerce a worker, because the worker has acted in compliance with this Act or the Regulations or an Order made thereunder, has sought the enforcement of this Act or the Regulations, has observed the procedures established by the employer or has given evidence in a proceeding in respect of the enforcement of this Act or the Regulations.

PART XIV
OFFENCES, PENALTIES AND LEGAL PROCEEDINGS
82A. In any proceedings for an offence under any of the relevant statutory provisions consisting of a failure to comply with a duty or requirement to do something so far as is practicable, or so far as is reasonably practicable, or to use the best practicable means to do something, it shall be for the accused to prove, as the case may be, that it was not practicable or not reasonably practicable to do more than was in fact done to satisfy the duty or requirement, or that there was no better practicable means than was in fact used to satisfy the duty or requirement.

83. (1) Subject to subsection (2), where a person contravenes a provision of this Act or any Regulations made thereunder or fails to comply with any duty, prohibition, restriction, instruction or directive issued under this Act or any such Regulations, he commits a safety and health offence and is subject to the jurisdiction of the Industrial Court unless otherwise specified.
(2) A competent person, employer, occupier or owner of premises only commits an offence under this Act or Regulations made thereunder if it is proved that he failed to take reasonable steps to prevent the commission of the offence.
(3) Where an offence under this Act or Regulations made thereunder is proved to have been committed with the consent, connivance or acquiescence of, or to have been facilitated by neglect on the part of a director, manager, secretary or other officer of a company, such director, manager, secretary or other officer, as well as the company, is liable to be proceeded against for the commission of the offence.

83A. An aggrieved person may apply to the Industrial Court for redress and the Industrial Court may make an award in favour of the aggrieved person and impose any penalty, other than a term of imprisonment, that a summary Court may impose in respect of that contravention or failure to comply.
84. (1) Where an employer, occupier or owner is convicted of an offence under this Act, the Court may, in addition to or instead of imposing a penalty, order him within the time specified in the order, to take such steps as may be specified for remedying the matters in respect of which the offence occurred, and may, on the application of the employer, occupier or owner, extend the time so specified.

(2) Where an order referred to in subsection (1) is made, the employer, occupier or owner shall not be liable under this Act in respect of the continuation of the contravention during the time allowed by the Court, but if, after the expiration of that time as originally specified or extended, the order is not complied with, the employer, occupier or owner, as the case may be, commits an offence and is liable, on summary conviction, to a fine of ten thousand dollars, for each day on which the non-compliance continued after the said expiration.

[...]

**Sexual Offences Act, 1986 (as amended)**

Indecent assault. [31 of 2000].

15. (1) A person who indecently assaults another is guilty of an offence and is liable on conviction to imprisonment for five years for a first offence and to imprisonment for ten years for a subsequent offence.

(2) A person under the age of sixteen years cannot in law give any consent which would prevent an act being an assault for purposes of this section.

(3) In this section, “indecent assault” means an assault accompanied by words or circumstances indicating an indecent intention.

Serious indecency. [31 of 2000].

16. (1) A person who commits an act of serious indecency on or towards another is guilty of an offence and is liable on conviction to imprisonment—

(a) if committed on or towards a minor under sixteen years of age for ten years for a first offence and to imprisonment for fifteen years for a subsequent offence;

(b) if committed on or towards a person sixteen years of age or more for five years.

(2) Subsection (1) does not apply to an act of serious indecency committed in private between—

(a) a husband and his wife; or

(b) a male person and a female person each of whom is sixteen years of age or more, both of whom consent to the commission of the act.

(3) An act of “serious indecency” is an act, other than sexual intercourse (whether natural or unnatural), by a person involving the use of the genital organ for the purpose of arousing or gratifying sexual desire.

28. **TUNISIA**

**Law on Eliminating Violence against Women, 2017**

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Chapter II: Prevention of violence against women and their protection

Section 1: Prevention of violence against women

Article 6:

The State takes all the necessary measures to eliminate all discriminatory practices against women, particularly with regard to remuneration and social security in the different sectors, and to prohibit the economic exploitation of women and their employment in conditions that are harsh, degrading, or harmful to their health, safety, and dignity.

Article 15:

This article is to abrogate articles 208, 226 ter, 227, 227 bis, 229, 218 (2), 219 (3), 222 (2) and 228 (2) of the Penal Code and replaced them as follows:

Article 226 ter (new) - The crime of sexual harassment is punished by 2 years of imprisonment or by fine of 5000 dinars.

Sexual harassment is considered as an assault on another person through acts, gestures, or words having sexual connotation, likely to harm the person’s dignity or decency with the aim of compelling the person to submit to the offender’s sexual desires or by exerting harmful pressure to weaken the person’s will to resist these pressures.

The penalty for sexual harassment is increased to double if the victim is a child; if the perpetrator was an ascendant or descendant or had authority over the victim or exploited his authority; or if the crime was perpetrated when the victim was in a vulnerable state which is known to the perpetrator.

Article 17:

The act of harassment of a woman in a public space through acts, gestures, or words likely to infringe her dignity, esteem or to offend her decency is punished by 500 to 1000 dinars.
**Penal Code, 1913 (as amended)**

[...]

**Article 226:**

The crime of sexual harassment is punished by 2 years of imprisonment or by fine of 5000 dinars.

Sexual harassment is considered as an assault on another person through acts, gestures, or words having sexual connotation, likely to harm the person’s dignity or decency with the aim of compelling the person to submit to the offender’s sexual desires or by exerting harmful pressure to weaken the person’s will to resist these pressures.

The penalty for sexual harassment is increased if the victim is a child; if the perpetrator was an ascendant or descendant or had authority over the victim or exploited his authority; or if the crime was perpetrated when the victim was in a vulnerable state.

[...]

**Labor Code, 1966 (as amended)**

[...]

**Article 76:**

For shops that employ children over 18 years and women, employers are required to maintain good manners and public morals at the workplace.

[...]

29. **TURKEY**

**Turkish Penal Code, 2004 (as amended)**

[...]

**Article 105: Sexual Harassment**

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1) If a person is subject to sexual harassment by another person, the person performing such act is sentenced to a term of imprisonment from three months to two years or to a judicial fine; and if the act of sexual harassment is committed against a child, the offender is sentenced to imprisonment from six months to three years upon complaint of the victim.

2) (Amended on 18 June 2014 – By Article 61 of the Law no. 6545) If the act of offence is committed:

a) by undue influence based on public office or employment relationship or by using the advantage of intrafamilial relationships,

[...]

c) by using the advantage of working in the same workplace with the victim,

d) by using the advantage provided by mail or electronic communication instruments

e) by the act of exposing, the punishment to be imposed according to the above paragraph is increased by one half. If the victim was obliged to quit his/her job or leave his/her school or family for this reason, the punishment to be imposed cannot be less than one year.

[...]

Turkish Labor Code, 2003 (as amended)  

[...]  

Article 24: Right of immediate termination of worker on justified grounds

The worker may terminate the fixed-termed or permanent labor contract before the expiry of its period or without waiting for the notification period in the following cases:

[...]

II. Cases contradicting the rules of ethic and goodwill and similar cases:

[...]

b) If the employer tells words that will harm the honor and good name of the worker or one of the members of his/her family, behaves in such manner or attempts sexual harassment against the worker.

c) If the employer teases or threatens the worker or one of the members of his/her family, or encourages, provokes and drives the worker or one of his/her family members to act unlawfully or commits an offense

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requiring imprisonment against the worker or one of his/her family members or makes grave allegations or accusations harming the worker's honor and dignity.

d) If the required measures are not taken although the worker becomes subject to sexual harassment at the business by another worker or third persons and notifies the employer thereof.

[...]

**Article 25: Right of immediate termination of the employer on justified grounds**

The employer may terminate the fixed-termed or permanent labor contract, before the expiry of its period or without waiting for the notification period, in the following cases:

[...]

**II- Cases contradicting the rules of ethic and goodwill and similar cases:**

[...]

b) If the worker tells words that will harm the honor and good name of the employer or one of the members of his/her family, behaves in such manner or makes baseless denouncements or allegations harming the honor and dignity of the employer or one of his/her family members.

c) If the worker attempts sexual harassment against another worker of the employer.

[...]

f) If the worker commits an offense at the business, which leads to imprisonment for more than seven days and the penalty of which is not deferred.

[...]

**IV- In cases where the worker is detained or arrested, when his/her absence exceeds the notification period indicated in Article 17.**

The worker may resort to legal remedies within the framework of the provisions of Articles 18, 20 and 21, with the allegation that the termination does not comply with the reasons set forth in the above subparagraphs.

**Article 26: Term of exercise of the right for immediate termination**

The authorization for terminating the contract furnished to the worker or employer based on the cases contradicting the rules of ethics and goodwill indicated in Articles 24 and 25 shall not be exercised after the elapse of six business days as of the date when one of the parties learns that the other party performs such behaviors and one year after the conduct of the act in any case. However, the term of one year shall not apply when the worker derives material benefits from the act.
Based on such cases, the rights of indemnification, by the other party, of the workers or employers who terminate the labor contract within the period set forth in the above article shall be reserved.

[...]

Turkish Code of Obligations, 2011 (as amended)\textsuperscript{66}

[...]

Part IV: Protecting the personality of the worker

Article 417:

The employer shall protect and respect the personality of the worker, maintain a work environment that is compatible with the principle of honesty, and take necessary measures to avoid psychological and sexual harassment at the workplace and protect employees who already suffered from such harassment to suffering from any further damage or loss related to harassment.

The employer shall take all necessary measures to ensure occupational health and safety in the workplace, maintain necessary tools and equipment intact while workers shall comply with such measures.

In case of the employee’s death, harms to his/her physical integrity or violation of his/her personal rights due to the employer’s non-compliance with the law and contract, also including the abovementioned provisions, compensation is subject to the provisions of liability arising from the breach of contract.

[...]

Turkish Law No. 6701 on Human Rights and Equality Institution of Turkey\textsuperscript{67}

Chapter 1: Purpose, Scope and Definitions

Article 1: Purpose and scope

The purpose of this Law is to protect and improve human rights on the basis of human dignity, ensure the right of individuals to be treated equally, prevent discrimination against the exercise of rights and freedoms which are determined by law and behave accordingly, combat torture and ill-treatment effectively, establish Human Rights and Equality Institution of Turkey to fulfil its duty of preventing discrimination nationally and regulate principles about its organization, duties and authorities.

[...]


Article 4: Types of discrimination

1) These are the following types of discrimination falling under the scope of this Law:

[...]

g) Harassment,

[...]

2) If persons who have started or participated in administrative or legal proceedings to have principle of equality being observed or prevent discrimination and their representatives are subject to adverse treatment because of those proceedings, such treatment is also considered a type of discrimination.

[...]

30. TOGO

Penal Code, 2015 68

Art. 399
It constitutes sexual harassment when a person uses orders, threats, restraint, words, gestures, writing or any other mean with the goal of obtaining favors of a sexual nature against one’s will.

Art. 400
All persons guilty of sexual harassment are punished with imprisonment from 1 to 3 years and a fine from 1 million to 3 millions francs CFA or one of the two.
The punishment is increased from 3 to 5 years of imprisonment, or from 3-5 millions of francs CFA if sexual harassment is committed by:

[...]

2) a person abusing his authority deriving from his function, social or professional position with regard to the victim.

Labor Code 69

ARTICLE 40. No employee may be sanctioned or dismissed for having suffered or having refused being harassed by an employer, his representative or any other person who, by abusing the authority conferred upon him by his duties, has given orders, uttered threats, imposed constraints or exerted pressure of any kind on this employee for the purpose of obtaining favors of a sexual nature for his benefit or for the benefit of a third party.


No employee may be sanctioned or dismissed for having testified to the acts defined in the preceding paragraph or for having related them. Any abuse of the complaints procedure by workers leads to damages and criminal penalties.

ARTICLE 41. Any employee who has carried out the actions defined in the preceding article is liable to a disciplinary sanction. Any act committed in violation of articles 39 and 40 above gives right to the payment of damages and is liable to penal sanctions.

ARTICLE 42. The entrepreneur has the obligation to take all necessary measures to prevent acts referred to in articles 39 and 40 above.

[...]

ARTICLE 301. A fine of one hundred thousand (100,000) to one million (1,000,000) francs and one imprisonment of three (03) to six (06) months, or one of these two, shall be imposed on those guilty of offenses under Articles 3, 4, 39 and 40. In case of recidivism, the penalty is doubled.

31. UGANDA

Penal Code Act 70

128. Indecent assaults, etc.

[...]

(3) Any person who, intending to insult the modesty of any woman or girl, utters any word, makes any sound or gesture or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen by such woman or girl, or intrudes upon the privacy of such woman or girl, commits a misdemeanour and is liable to imprisonment for one year.

Employment Act, 2006 71

[...]

PART I - PRELIMINARY.

[...]

2. Interpretation.

In this Act, unless the context otherwise requires—

[...]

"employee" means any person who has entered into a contract of service or an apprenticeship contract, including, without limitation, any person who is employed by or for the Government of Uganda, including

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the Uganda Public Service, a local authority or a parastatal organisation but excludes a member of the Uganda Peoples' Defence Forces;

"employer" means any person or group of persons, including a company or corporation, a public, regional or local authority, a governing body of an unincorporated association, a partnership, parastatal organisation or other institution or organisation whatsoever, for whom an employee works or has worked, or normally worked or sought to work, under a contract of service, and includes the heirs, successors, assignees and, transferors of any person or group of persons for whom an employee works, has worked, or normally works;

[...]


(1) Except as otherwise provided in this Act, this Act applies to all employees employed by an employer under a contract of service.

(2) This Act does not apply to—

(a) employers and their dependent relatives when dependant relatives are the only employees in a family undertaking, as long as the total number of dependent relatives does not exceed five; and

(b) the Uganda Peoples' Defence Forces, other than their civilian employees.

(3) The Minister may, after consultation with the Labour Advisory Board and after taking due account of all Conventions and other international instruments ratified by Uganda, by regulations exclude from the application of all or part of this Act, limited categories of employed persons in respect of whom special problems of a substantial nature arise.

(4) The Minister may, after consultation with the Labour Advisory Board, by regulations exclude from the application of all or part of this Act, categories of employed persons whose terms and conditions of employment are governed by special arrangements, provided those arrangements afford protection that is equivalent to or better than the provisions of this Act from which those categories are being excluded.

(5) Except where the contrary is provided, nothing in this Act applies to employment outside Uganda.

[...]

7. Sexual harassment in employment.

(1) An employee shall be sexually harassed in that employee's employment if that employee's employer, or a representative of that employer—

(a) directly or indirectly makes a request of that employee for sexual intercourse, sexual contact or any other form of sexual activity that contains—

(i) an implied or express promise of preferential treatment in employment;

(ii) an implied or express threat of detrimental treatment in employment;

(iii) an implied or express threat about the present or future employment status of the employee;

(b) uses language whether written or spoken of a sexual nature;

(c) uses visual material of a sexual nature; or

(d) shows physical behaviour of a sexual nature, which directly or indirectly subjects the employee to behaviour that is in unwelcome or offensive to that employee and that, either by its nature or through repetition, has a detrimental effect on that employee's employment, job performance, or job satisfaction.

(2) If an employee is sexually harassed in any way described in subsection (1) by the employer or employer's representative, the employee is entitled to lodge a complaint with a labour officer and the labour officer shall have the powers to make all of the orders he or she could have made if the complaint was a complaint about unjustified disciplinary penalty or unjustified dismissal.

(3) For purposes of this section, an employer's representative is a person who is employed by that employer, who either has authority over the employee alleging sexual harassment or is in a position of authority over other employees in the workplace of the employee alleging sexual harassment.
(4) Every employer who employs more than 25 employees is required to have in place measures to prevent sexual harassment occurring at their workplace.

PART II – GENERAL PRINCIPLES

Article 7: Sexual harassment in employment.
(1) An employee shall be sexually harassed in that employee’s employment if that employee’s employer, or representative of that employer-
(a) directly or indirectly makes a request of that employee for sexual intercourse, sexual contact or any other form of sexual activity that contains-
(i) an implied or express promise of preferential treatment in employment;
(ii) an implied or express threat of detrimental treatment in employment;
(iii) an implied or express threat about the present of future employment status of the employee;
(b) uses language whether written or spoken of a sexual nature;
(c) uses visual material of sexual nature; or
(d) show physical behaviour of a sexual nature,
which directly or indirectly subjects the employee to behaviour that is unwelcome or offensive to that employee and that, either by its nature or through repetition, has a detrimental effect on that employee’s employment, job performance, or job satisfaction.
(2) If an employee is sexually harassed in any way described in the subsection (1) by the employer or employer’s representative the employee is entitled to lodge a complaint with a labour officer and the labour officer shall have the powers to make all of the orders he or she could have made if the complaint was complaint about unjustified disciplinary penalty or unjustified dismissal.
(3) For purposes of this section, an employer’s representative is a person who is employed by that employer, who either has authority over the employee alleging sexual harassment or is in a position, authority over the employees in the workplace of the employee alleging sexual harassment.
(4) Every employer who employs more than twenty five employees is required to have in place measures to prevent sexual harassment occurring at their workplace.

PART VII – DISCIPLINE AND TERMINATION.

70. Complaint to labour officer in cases of summary dismissal
(1) Where an employee complains that he or she has been summarily dismissed without justification, he or she may, within six months after the date of dismissal, present a complaint to a labour officer who shall seek to settle the matter in the first instance by mediation.
(2) A labour officer, presented with a claim under this section, shall decide whether the dismissal was justified in the circumstances, having regard to section 75 and to the Code of Discipline set out in Schedule 1.
(3) Where a labour officer decides that a summary dismissal was unjustified, he or she shall inform the parties of the decision and shall order the employer to pay-
(a) the net wages which the employee would have earned had he or she been given the period of notice to which he or she was entitled under this Act or under his or her contract of service;
(b) where the dismissal ends the contract before the completion of any service upon which the employee’s wages become due, the proportion of the wages due for the period of time for which the employee has worked; and
(c) any other losses consequent upon the dismissal and arising between the date of dismissal and the date of expiry of the period of notice referred to in paragraph (a)

(4) The right of the employee to present a complaint under this section shall be in addition to his or her right of complaint of unfair dismissal and any other infringement of his or her statutory rights.

(5) The right of an employee to make a complaint under this section shall be in addition to any right an employee may enjoy under an agreement between the employer or group of employer or group of employer and a labour union.

(6) For any complaint of unfair dismissal, the burden of proving that a dismissal has occurred rests on the employee, and the burden of justifying the grounds for the dismissal rests on the employer.

[...]

77. Remedies for unfair termination

(1) Where a labour officer decides that an employee’s complaint of unfair termination under section 71 is well founded, the labour officer shall, subject to subsections (2) and (3) give the employee an award or awards of compensation specified in section 78.

[...]

PART XI – MISCELLANEOUS

95. Criminal liability

Nothing in this Act and no imposition of a disciplinary penalty for a breach of the Disciplinary Code shall exempt any person from being proceeded against, convicted or punished for a criminal offence.

96. Penalties

(1) A person who contravenes a provision of this Act, for which no penalty is expressly provided is liable, on conviction to a fine not exceeding twenty four currency points and on a second or subsequent conviction for the same offence, is liable to a fine not exceeding forty eight currency points or to imprisonment for a term not exceeding two years, or to both.

(2) Where an employer acts in contravention of any provision of this Act not specifically designated as an offence, a labour officer may caution him or her in writing against repeating or continuing such behaviour and if, having received a written caution, the employer repeats the infringement in respect of which a caution, has been given, he or she commits an offence and is liable on conviction to a fine not exceeding twenty four currency points or to imprisonment not exceeding one year or to both.

(3) Where an employer already convicted under subsection (2) commits a subsequent offence against the same provision of the Act, the employer is liable to a fine not exceeding forty eight currency points or to imprisonment for a term not exceeding two years or to both.

(4) Where a court imposes a fine it may under this Act, it may direct that the fine, when recovered, or such part of it as the court thinks fit, shall be applied to compensate any employer, employee or other person for any wrong done.

[...]

Employment (Sexual Harassment) Regulations, 2012 72

[...]

Part I—Preliminary.

1. Title.

These Regulations may be cited as the Employment (sexual Harassment) Regulations, 2012.

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2. Interpretation.
   In these Regulations, unless the context otherwise requires—
   “Act” means the Employment Act, 2006 Act No. 6 of 2006;
   “committee” means the sexual harassment committee established in a workplace;
   “currency point” is equivalent to twenty thousand shillings;
   “harassment” means verbal or physical abuse or behaviour that unreasonably interferes with
   work or creates an intimidating, hostile, or offensive work environment including intimidation;
   “intimidation” means physical or verbal abuse, or behaviour directed at isolating or humiliating
   an individual or a group or at preventing them from engaging in normal activities and includes—
   a. degrading public tirades by a supervisor or colleague;
   b. deliberate insults related to a person’s personal or professional competence;
   c. threatening or insulting comments, whether oral or written including by e-mail; and
   d. deliberate desecration of religious or national symbols or both.
   “retaliation” means any unwarranted action against an employee or employer or any other
   person who may be involved in a sexual harassment complaint;
   “sexual harassment in employment” means—
   a. a direct or implicit request to an employee for sexual intercourse, sexual contact or any other
      form of sexual activity that contains—
      i. an implied or express promise of preferential treatment in employment;
      ii. an implied or express threat of detrimental treatment in employment;
      iii. an implied or express threat about the present or future employment status of the
          employee;
   b. use of language whether written or spoken of a sexual nature such as unwelcome verbal
      advances, sexual oriented comments, request for sexual favours, jokes of a sexual nature,
      offensive flirtation or obscene expressions of sexual interest that are addressed directly to the
      person;
   c. use of visual material of a sexual nature such as display of sexually suggestive pictures, objects
      or written materials or sexually suggestive gestures; and
   d. showing physical behavior of a sexual nature such as unwanted and unwelcome touching,
      patting, pinching or any other unsolicited physical contact;
   which directly or indirectly subjects the employee to behaviour that is unwelcome or offensive to
   that employee and that, either by its nature or though repetition, has a detrimental effect on that
   employee’s employment, job performance or job satisfaction.
Part II—Sexual Harassment Policy.
   1. An employer with more than twenty five employees shall adopt a written policy against sexual
      harassment which shall include the following—
   a. a notice to employees that sexual harassment at the workplace is unlawful;
   b. a statement that it is unlawful to retaliate against an employee for filing a complaint of sexual
      harassment or for co-operating in an investigation of a sexual harassment complaint;
   c. a description and examples of sexual harassment;
   d. a statement of the consequences for employers who are found to have committed sexual
      harassment;
   e. a description of the process for filing sexual harassment complaints and the addresses and
      telephone numbers of the person to whom complaints should be made;
   f. education and training programmes on sexual harassment for all employees on a regular basis; and
g. additional training for the committee on sexual harassment, supervisory and managerial employees.
2. Where the union is represented at the workplace the employer shall consult the union before initiating the sexual harassment policy.
4. Provision of sexual harassment policy to all employees.
1. An employer shall provide each employee with a copy of the sexual harassment policy.
2. An employer shall provide to each new employee a copy of the sexual harassment policy upon commencement of employment and inform the employee of his or her right to report cases of sexual harassment.
3. The policy shall be expressed in a manner and language, which the employees may reasonably be expected to understand.
5. Prohibition of the dissemination of sexual materials.
An employer shall specifically prohibit the dissemination of sexual explicit voice mail, e-mail, graphics, downloaded material or websites in the workplace and shall include these prohibitions in the workplace policy.
6. Display of sexual harassment policy.
1. An employer shall post the sexual harassment policy in a conspicuous area at the workplace.
2. An employer shall post the names, positions and telephone contacts of the members of the sexual harassment committee in a conspicuous area at the workplace.
7. Sexual harassment to be part of the collective bargaining agreement.
Where a labour union exists in a workplace the employer and the labour union shall include sexual harassment in the collective bargaining agreement.
8. Employer to designate a person in charge of sexual harassment.
1. An employer with more than twenty-five employees shall designate a person who is gender sensitive to be in charge of sexual harassment complaints.
2. In this regulation, a person shall be taken to be gender sensitive if he or she is conscious of the needs of each gender.
9. Duties of the person designated for sexual harassment.
1. A person designated to receive complaints of sexual harassment shall issue a written acknowledgment of receipt of each complaint received by him or her.
2. An employer shall instruct the recipient of sexual harassment complaints to inform the complainant and the alleged perpetrator that the employer shall—
a. keep the complaint confidential to the extent practicable under the circumstances;
b. conduct a prompt and neutral investigation; and

c. not tolerate any form of retaliation against the complainant.
Part III—Sexual Harassment Committee.
10. Sexual harassment committee.
1. An employer shall establish a sexual harassment committee composed of representatives of management and employees or labour union representatives selected annually by each party.
2. The committee shall comprise four members, including the Chairperson designated by the employer.
3. Members of the committee shall be persons knowledgeable in and sensitive to gender and sexual harassment issues.
4. A member of the committee may receive a written or verbal complaint and where a verbal complaint is made the committee member receiving it, shall reduce it into writing and read to the complaint who shall sign it and the member of the committee shall countersign it.
11. Functions of the committee.
The Committee shall—

a. receive and register complaints of sexual harassment in a form prescribed in the First schedule;
b. initiate internal investigations into complaints;
c. keep a record of the nature of sexual harassment offences, proceedings, documents, information and action taken;
d. respond to complaints within fourteen days from the date of lodging the complaint with recommendations to management for appropriate action;
e. review the provisions of the policy to convey a responsive and supportive attitude that builds faith and trust;
f. prepare and provide reports under the complaints procedure to the labour commissioner or labour officer; and
g. carry out any other duties as may arise for the prevention of sexual harassment.

Part IV—Sexual Harassment Complaints Procedure.

12. Lodging of sexual harassment complaints.

An employee who is sexually harassed in any way described in these Regulations, by the employer or employers’ representative, shall lodge a complaint to the labour officer.

13. Procedure for handling sexual harassment complaints by labour officer.

1. On receipt of a complaint, the labour officer shall promptly investigate a complaint by taking the following steps—

a. register the details of the complaint in the form prescribed in the Second Schedule;
b. interview the complainant to ascertain the facts of the matter;
c. obtain from the committee the written report of their investigation and decision on the complaint;
d. notify the employer of the complaint and direct the employer to respond to the complaint;
e. investigate the complaint to ascertain the facts to the extent practicable, throughout the investigation and consult the union official where a union exists in the establishment;
f. in case of a labour officer not being a Labour Commissioner, dispose of the complaint or refer it to the Labour Commissioner in case of deadlock;
g. inform the employer and complainant of the decision in writing;
h. inform the employer that he or she will not engage in retaliation against the complainant or anyone else who cooperates with the investigations;
i. order the employer to separate the complainant and the person alleged to have harassed to avoid further harassment without adverse discrimination affecting their working conditions; and
(j) continuously monitor the interim measures that are being taken by the employer throughout the investigation and thereafter.

2. At any time during the investigations the person alleged to have harassed the complainant may be temporarily transferred, reassigned or sent on leave pending the completion of the investigations.

Part V—Referral to the Industrial Court.

14. Referral to the Industrial Court.

1. Where the commissioner has failed to dispose of a complaint referred to him or her under regulation 13(f) he or she shall refer the matter to the Industrial Court for hearing.

2. A person aggrieved by the decision of a labour officer may within twenty one days give a notice of appeal to the Industrial Court in the form prescribed in the Third Schedule.

3. The Registrar of the Industrial Court shall within fourteen days after receipt of the notice of appeal require the labour officer to provide the Industrial Court with full information concerning the complaint, the parties involved, proceedings of the hearings and action taken.
4. The Industrial Court shall within fourteen days after receiving the required information from the labour officer issue sermons to the parties for hearing.
Part VI—Principles of the Complaints Procedure.
15. Principles of the complaints procedure.
The complaints procedure shall exhibit the following principles—
(a) thoroughness;
(b) impartiality;
(c) timeliness;
(d) gender sensitivity;
(e) social dialogue;
(f) discretion;
(g) confidentiality; and
(h) the right to privacy of the victim of harassment.
1. All information received when handling complaints of sexual harassment shall be confidential.
2. A recipient of confidential information shall have a duty to protect the confidentiality of the information.
3. Information received in handling sexual harassment complaints shall only be used for the purpose of determining or resolving the complaint and its disclosure shall be limited to persons involved in handling the complaint.
4. The confidentiality on information received while handling a sexual harassment complaint shall continue to exist after the employment relationship has ceased to exist.
5. A person who contravenes this regulation commits an offence.
6. At any stage of investigation arbitration or trial, the labour officer, law enforcement officers, prosecutors, judicial officers, social partners, employer’s representatives, the union or workers’ representatives, medical practitioners and other parties to the case shall recognise and observe the attributes of the complaints procedure.
Part VII—Protection of Persons Involved in Investigations Against Discrimination.
17. Retaliation and discrimination.
1. A person involved in a sexual harassment complaint under these Regulations shall not be retaliated against for doing the following—
   a. consulting on, reporting or filing a complaint of sexual harassment;
   b. testifying as a witness in a claim of sexual harassment;
   c. cooperating during any investigation of a sexual harassment complaint;
   d. participating in a meeting constituted to discuss sexual harassment in the workplace;
   e. discussing the complaint of sexual harassment with the labour union representatives or the employers’ organizations; and
   f. carrying out any duties as a member of the committee on sexual harassment.
2. An employer shall not discriminate against an employee based on the employee’s involvement in a sexual harassment complaint.
3. Discrimination under this regulation includes—
   a. termination;
   b. denial of promotion;
   c. demotion in title or duties;
   d. transfer to a less favorable position or location;
e. involuntary placement on leave;
f. hostile or abusive treatment;
g. decreasing remuneration or benefits;
h. coercion;
i. threats; and (j) intimidation.

4. In determining whether an action is discriminatory, the proximity in time between the action and the protected activity shall be taken into account but the fact that an action occurred after a protected activity does not make it discriminatory.

Part VIII — Offences And Penalties.

18. False and frivolous claim.
1. An employee shall not knowingly raise a false or frivolous sexual harassment claim.
2. Where an employee raises a false or frivolous sexual harassment claim, the employer may take appropriate disciplinary action against that employee.

19. Offence and penalty.
A person who contravenes these Regulations, commits an offence and is liable on conviction to a fine not exceeding six currency points or imprisonment not exceeding three months or both.

[...]

32. UKRAINE

Law of Ukraine on Ensuring Equal Rights and Opportunities of Women And Men, 2005 (as amended) 73

TITLE I
GENERAL PROVISIONS

Article 1. Definition of Terms
The terms in this Law shall have the following meanings:
[...]

Sexual harassment is defined as verbally expressed sexual actions (threats, intimidation, scurrilities) or physical actions (touching, patting) which humiliate or offend persons in the state of work, service, material or other subordination; — 12 — Gender equality is the equal legal status of women and men and equal opportunities to exercise it which allows persons of both sexes to participate in all spheres of social life on equal terms; Gender and legal expert examination is the analysis of current legislation and draft legal acts in order to draw conclusions as to their compliance with the principle of ensuring the equal rights and opportunities of women and men.

[...]

TITLE IV
ENSURING EQUAL RIGHTS AND OPPORTUNITIES OF WOMEN AND MEN IN SOCIAL AND ECONOMIC SPHERES

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Article 17. Ensuring Equal Rights and Opportunities of Women and Men in the Workplace and Remuneration
Women and men shall be provided with equal rights and opportunities in employment, job promotion, professional development and re-training. The employer shall:

[...]
Take measures to create safe working conditions; and
Take measures to avoid incidents of sexual harassment.
[...]

TITLE VI
LIABILITY FOR VIOLATION OF LEGISLATION OF UKRAINE ON ENSURING EQUAL RIGHTS AND OPPORTUNITIES OF WOMEN AND MEN

Article 22. Appeal against sex-based discrimination and sexual harassment
The person who thinks that there was a discrimination against him/her on the basis of sex or he/she became the object of sexual harassment, has the right to submit a complaint to the state authorities, authorities of the Autonomous Republic of Crimea, local self-government authorities and their officials, the Ukrainian Parliament Commissioner for Human Rights and/or to the court according to the procedure provided by law.

(Part one of article 22 as amended pursuant to the law No 1263-VII (1263-18) of 13.05.2014)
A person of any sex or a group of persons have the right to send a notice about violation of equality of rights and opportunities for women and men to the UN Committee on the Elimination of discrimination against women if domestic remedies are exhausted, or if the application of such remedies is unreasonably delayed.

Article 23. Compensation for material loss and moral damage, caused by sex-based discrimination or sexual harassment
The person has the right to compensation for material loss and moral damage caused in the result of sex-based discrimination or sexual harassment. Moral damage is compensated, regardless of the material losses, which shall be refundable, and not related to their amount. The procedure of compensation for material loss and moral damage, caused by sex-based discrimination or sexual harassment, is defined by the Civil Code of Ukraine (435-15) and other laws.

(Part two of article 23, as amended by law N 1263-VII (1263-18) of 13.05.2014)

Article 24. Liability for the Violation of Legislation on Ensuring Equal Rights and Opportunities of Women and Men
Persons guilty of violating the requirements of legislation on ensuring equal rights and opportunities of women and men shall bear civil, administrative and criminal liability according to the law.
[...]

33. UNITED ARAB EMIRATES

Federal Penal Code, 1987 74
Article (359)

Whoever attempts to disgrace a female by words or by deeds in a public street or frequented place, shall be punished by detention for a period not exceeding one year and by a fine not exceeding ten thousand Dirhams, or by either of these two penalties.
The same penalty shall apply to any man who disguises himself in a woman's clothing and enters a place the entry into which is reserved for women. If a man in such a case commits a crime, it shall be considered an aggravating circumstance.

34. UNITED KINGDOM

34.1 ENGLAND AND WALES

Equality Act, 2010

Section 26 Harassment

(1) A person (A) harasses another (B) if—

(a) A engages in unwanted conduct related to a relevant protected characteristic, and

(b) the conduct has the purpose or effect of—

(i) violating B's dignity, or

(ii) creating an intimidating, hostile, degrading, humiliating or offensive environment for B.

(2) A also harasses B if—

(a) A engages in unwanted conduct of a sexual nature, and

(b) the conduct has the purpose or effect referred to in subsection (1)(b).

(3) A also harasses B if—

(a) A or another person engages in unwanted conduct of a sexual nature or that is related to gender reassignment or sex,

(b) the conduct has the purpose or effect referred to in subsection (1)(b), and

(c) because of B's rejection of or submission to the conduct, A treats B less favourably than A would treat B if B had not rejected or submitted to the conduct.

(4) In deciding whether conduct has the effect referred to in subsection (1)(b), each of the following must be taken into account—

(a) the perception of B;

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(b) the other circumstances of the case;

(c) whether it is reasonable for the conduct to have that effect.

(5) The relevant protected characteristics are—
- age;
- disability;
- gender reassignment;
- race;
- religion or belief;
- sex;
- sexual orientation.

[...]

Section 40 Employees and applicants: harassment

(1) An employer (A) must not, in relation to employment by A, harass a person (B) —

(a) who is an employee of A's;
(b) who has applied to A for employment.

[...]

Protection from Harassment Act, 1997

Section 1 Prohibition of harassment

(1) A person must not pursue a course of conduct—

(a) which amounts to harassment of another, and
(b) which he knows or ought to know amounts to harassment of the other.

(1A) A person must not pursue a course of conduct —

(a) which involves harassment of two or more persons, and
(b) which he knows or ought to know involves harassment of those persons, and
(c) by which he intends to persuade any person (whether or not one of those mentioned above)—

(i) not to do something that he is entitled or required to do, or
(ii) to do something that he is not under any obligation to do.

((last visited 15 November 2019). )
Section 2 Offence of harassment

(1) A person who pursues a course of conduct in breach of section 1(1) or (1A) is guilty of an offence.

(2) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months, or a fine not exceeding level 5 on the standard scale, or both.

34.2 NORTHERN IRELAND

The Protection from Harassment (Northern Ireland) Order, 1997

Article 1 Title and commencement

(1) This Order may be cited as the Protection from Harassment (Northern Ireland) Order 1997.

(2) This Order shall come into operation on such day or days as the Secretary of State may by order appoint.

Article 2 Interpretation

[...]

(1) The 1954 c. 33 (N.I.). Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order references to harassing a person include alarming the person or causing the person distress.

(3) For the purposes of this Order a “course of conduct” must involve conduct on at least two occasions and “conduct” includes speech.

(4) In this Order “statutory provision” has the meaning assigned by section 1(f) of the Interpretation Act (Northern Ireland) 1954.

Article 3 Prohibition of harassment

(1) A person shall not pursue a course of conduct—

(a) which amounts to harassment of another; and

(b) which he knows or ought to know amounts to harassment of the other.

(2) For the purposes of this Article, the person whose course of conduct is in question ought to know that it amounts to harassment of another if a reasonable person in possession of the same information would think the course of conduct amounted to harassment of the other.

(3) Paragraph (1) does not apply to a course of conduct if the person who pursued it shows—
(a) that it was pursued for the purpose of preventing or detecting crime;
(b) that it was pursued under any statutory provision or rule of law or to comply with any condition or requirement imposed by any person under any statutory provision; or
(c) that in the particular circumstances the pursuit of the course of conduct was reasonable.

Article 4 Offence of harassment
(1) A person who pursues a course of conduct in breach of Article 3 shall be guilty of an offence.

(2) A person guilty of an offence under this Article shall be liable—
(a) on conviction on indictment, to imprisonment for a term not exceeding two years, or a fine, or both; or
(b) on summary conviction, to imprisonment for a term not exceeding six months, or a fine not exceeding the statutory maximum, or both.

Article 5 Civil remedy
(1) An actual or apprehended breach of Article 3 may be the subject of a claim in civil proceedings by the person who is or may be the victim of the course of conduct in question.

(2) On such a claim, damages may be awarded for (among other things) any anxiety caused by the harassment and any financial loss resulting from the harassment.

(3) Where—
(a) in such proceedings the High Court or a county court grants an injunction for the purpose of restraining the defendant from pursuing any conduct which amounts to harassment; and
(b) the plaintiff considers that the defendant has done anything which he is prohibited from doing by the injunction, the plaintiff may apply for the issue of a warrant for the arrest of the defendant.

(4) An application under paragraph (3) may be made—
(a) where the injunction was granted by the High Court, to a judge of that court; and
(b) where the injunction was granted by a county court, to a judge of that or any other county court.

(5) The judge to whom an application under paragraph (3) is made may only issue a warrant if—
(a) the application is substantiated on oath; and
(b) the judge has reasonable grounds for believing that the defendant has done anything which he is prohibited from doing by the injunction.

(6) Where—
(a) the High Court or a county court grants an injunction for the purpose mentioned in paragraph (3)(a); and

(b) without reasonable excuse the defendant does anything which he is prohibited from doing by the injunction, he shall be guilty of an offence.

(7) Where a person is convicted of an offence under paragraph (6) in respect of any conduct, that conduct is not punishable as a contempt of court.

(8) A person cannot be convicted of an offence under paragraph (6) in respect of any conduct which has been punished as a contempt of court.

(9) A person guilty of an offence under paragraph (6) shall be liable—
(a) on conviction on indictment, to imprisonment for a term not exceeding five years, or a fine, or both; or
(b) on summary conviction, to imprisonment for a term not exceeding six months, or a fine not exceeding the statutory maximum, or both.

[...]

34.3 SCOTLAND

Equality Act, 2010 78

Section 26 Harassment

(6) A person (A) harasses another (B) if—

(c) A engages in unwanted conduct related to a relevant protected characteristic, and

(d) the conduct has the purpose or effect of—

(i) violating B’s dignity, or
(ii) creating an intimidating, hostile, degrading, humiliating or offensive environment for B.

(7) A also harasses B if—

(c) A engages in unwanted conduct of a sexual nature, and
(d) the conduct has the purpose or effect referred to in subsection (1)(b).

(8) A also harasses B if—

(d) A or another person engages in unwanted conduct of a sexual nature or that is related to gender reassignment or sex,

(e) the conduct has the purpose or effect referred to in subsection (1)(b), and

(f) because of B’s rejection of or submission to the conduct, A treats B less favourably than A would treat B if B had not rejected or submitted to the conduct.

(9) In deciding whether conduct has the effect referred to in subsection (1)(b), each of the following must be taken into account—

(d) the perception of B;

(e) the other circumstances of the case;

(f) whether it is reasonable for the conduct to have that effect.

(10) The relevant protected characteristics are—

- age;
- disability;
- gender reassignment;
- race;
- religion or belief;
- sex;
- sexual orientation.

Section 40 Employees and applicants: harassment

(1) An employer (A) must not, in relation to employment by A, harass a person (B) —

(a) who is an employee of A’s;
(b) who has applied to A for employment.

[...]

Protection from Harassment Act, 1997

[...]

Section 8 Harassment

(1) Every individual has a right to be free from harassment and, accordingly, a person must not pursue a course of conduct which amounts to harassment of another and—

is intended to amount to harassment of that person; or

occurs in circumstances where it would appear to a reasonable person that it would amount to harassment.

of that person.

(1A) Subsection (1) is subject to section 8A.

(1) An actual or apprehended breach of subsection (1) may be the subject of a claim in civil proceedings by the person who is or may be the victim of the course of conduct in question; and any such claim shall be known as an action of harassment.

(2) For the purposes of this section—
   “conduct” includes speech;
   “harassment” of a person includes causing the person alarm or distress; and
   a course of conduct must involve conduct on at least two occasions.

(3) It shall be a defence to any action of harassment to show that the course of conduct complained of—
   (a) was authorised by, under or by virtue of any enactment or rule of law;
   (b) was pursued for the purpose of preventing or detecting crime; or
   (c) was, in the particular circumstances, reasonable.

(4) In an action of harassment the court may, without prejudice to any other remedies which it may grant—
   (a) award damages;
   (b) grant—
      (i) interdict or interim interdict;
      (ii) if it is satisfied that it is appropriate for it to do so in order to protect the person from further harassment, an order, to be known as a “non-harassment order”, requiring the defender to refrain from such conduct in relation to the pursuer as may be specified in the order for such period (which includes an indeterminate period) as may be so specified, but a person may not be subjected to the same prohibitions in an interdict or interim interdict and a non-harassment order at the same time.

(5) The damages which may be awarded in an action of harassment include damages for any anxiety caused by the harassment and any financial loss resulting from it.

(6) Without prejudice to any right to seek review of any interlocutor, a person against whom a non-harassment order has been made, or the person for whose protection the order was made, may apply to the court by which the order was made for revocation of or a variation of the order and, on any such application, the court may revoke the order or vary it in such manner as it considers appropriate.

[...]
35. UNITED STATES

35.1 FEDERAL

Title VII of the Civil Rights Act of 1964

[...]

DEFINITIONS

SEC. 2000e. [Section 701]

For the purposes of this subchapter-

 [...]

(b) The term “employer” means a person engaged in an industry affecting commerce who has fifteen or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, and any agent of such a person, but such term does not include [...]

(c) The term “employment agency” means any person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such a person.

(d) The term “labor organization” means a labor organization engaged in an industry affecting commerce, and any agent of such an organization, and includes any organization of any kind, any agency, or employee representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and any conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization.

[...]

(f) The term “employee” means an individual employed by an employer, except that the term “employee” shall not include any person elected to public office in any State or political subdivision of any State by the qualified voters thereof, or any person chosen by such officer to be on such officer’s personal staff, or an appointee on the policy making level or an immediate adviser with respect to the exercise of the constitutional or legal powers of the office. The exemption set forth in the preceding sentence shall not include employees subject to the civil service laws of a State government, governmental agency or political subdivision. With respect to employment in a foreign country, such term includes an individual who is a citizen of the United States.

[...]

(k) The terms “because of sex” or “on the basis of sex” include, but are not limited to, because of or on the basis of pregnancy, childbirth, or related medical conditions; and women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work, and nothing in section 2000e-2(h) of this title [section 703(h)] shall be interpreted to permit otherwise. This subsection shall not require an employer to pay for health insurance benefits for

abortion, except where the life of the mother would be endangered if the fetus were carried to term, or except where medical complications have arisen from an abortion: Provided, That nothing herein shall preclude an employer from providing abortion benefits or otherwise affect bargaining agreements in regard to abortion.

[...]

UNLAWFUL EMPLOYMENT PRACTICES
SEC. 2000e-2. [Section 703]
(a) Employer practices
It shall be an unlawful employment practice for an employer -
(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual’s race, color, religion, sex, or national origin; or
(2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual’s race, color, religion, sex, or national origin.

(b) Employment agency practices
It shall be an unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin, or to classify or refer for employment any individual on the basis of his race, color, religion, sex, or national origin.

(c) Labor organization practices
It shall be an unlawful employment practice for a labor organization-
(1) to exclude or to expel from its membership, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin;
(2) to limit, segregate, or classify its membership or applicants for membership, or to classify or fail or refuse to refer for employment any individual, in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, because of such individual’s race, color, religion, sex, or national origin; or
(3) to cause or attempt to cause an employer to discriminate against an individual in violation of this section.

(d) Training programs
It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs to discriminate against any individual because of his race, color, religion, sex, or national origin in admission to, or employment in, any program established to provide apprenticeship or other training.

(e) Businesses or enterprises with personnel qualified on basis of religion, sex, or national origin; educational institutions with personnel of particular religion
Notwithstanding any other provision of this subchapter, (1) it shall not be an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify, or refer for employment any individual, for a labor organization to classify its membership or to classify or refer for employment any individual, or for an employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ any individual in any such program, on the basis of his religion, sex, or national origin in those certain instances where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise, and (2) it shall not be an unlawful employment practice
for a school, college, university, or other educational institution or institution of learning to hire and employ
employees of a particular religion if such school, college, university, or other educational institution or
institution of learning is, in whole or in substantial part, owned, supported, controlled, or managed by a
particular religion or by a particular religious corporation, association, or society, or if the curriculum of
such school, college, university, or other educational institution or institution of learning is directed toward
the propagation of a particular religion.

[...]

(m) Impermissible consideration of race, color, religion, sex, or national origin in employment practices
Except as otherwise provided in this subchapter, an unlawful employment practice is established when the
complaining party demonstrates that race, color, religion, sex, or national origin was a motivating factor for
any employment practice, even though other factors also motivated the practice.

[...]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
SEC. 2000e-4. [Section 705]
[...]

(6) to intervene in a civil action brought under section 2000e-5 of this title [section 706] by an aggrieved
party against a respondent other than a government, governmental agency or political subdivision.
[...]

ENFORCEMENT PROVISIONS
SEC. 2000e-5. [Section 706]
(a) Power of Commission to prevent unlawful employment practices
The Commission is empowered, as hereinafter provided, to prevent any person from engaging in any
unlawful employment practice as set forth in section 2000e-2 or 2000e-3 of this title [section 703 or 704].
(b) Charges by persons aggrieved or member of Commission of unlawful employment practices by
employers, etc.; filing; allegations; notice to respondent; contents of notice; investigation by Commission;
contents of charges; prohibition on disclosure of charges; determination of reasonable cause; conference,
conciliation, and persuasion for elimination of unlawful practices; prohibition on disclosure of informal
deavors to end unlawful practices; use of evidence in subsequent proceedings; penalties for disclosure
of information; time for determination of reasonable cause
Whenever a charge is filed by or on behalf of a person claiming to be aggrieved, or by a member of the
Commission, alleging that an employer, employment agency, labor organization, or joint
labor-management committee controlling apprenticeship or other training or retraining, including on-the-
job training programs, has engaged in an unlawful employment practice, the Commission shall serve a
notice of the charge (including the date, place and circumstances of the alleged unlawful employment
practice) on such employer, employment agency, labor organization, or joint labor--management
committee (hereinafter referred to as the “respondent”) within ten days, and shall make an investigation
thereof. Charges shall be in writing under oath or affirmation and shall contain such information and be in
such form as the Commission requires. Charges shall not be made public by the Commission. If the
Commission determines after such investigation that there is not reasonable cause to believe that the
charge is true, it shall dismiss the charge and promptly notify the person claiming to be aggrieved and the
respondent of its action. In determining whether reasonable cause exists, the Commission shall accord
substantial weight to final findings and orders made by State or local authorities in proceedings commenced
under State or local law pursuant to the requirements of subsections (c) and (d) of this section. If the
Commission determines after such investigation that there is reasonable cause to believe that the charge
is true, the Commission shall endeavor to eliminate any such alleged unlawful employment practice by
informal methods of conference, conciliation, and persuasion. Nothing said or done during and as a part of
such informal endeavors may be made public by the Commission, its officers or employees, or used as evidence in a subsequent proceeding without the written consent of the persons concerned. Any person who makes public information in violation of this subsection shall be fined not more than $1,000 or imprisoned for not more than one year, or both. The Commission shall make its determination on reasonable cause as promptly as possible and, so far as practicable, not later than one hundred and twenty days from the filing of the charge or, where applicable under subsection (c) or (d) of this section, from the date upon which the Commission is authorized to take action with respect to the charge.

(...)

(f) Civil action by Commission, Attorney General, or person aggrieved; precisions; procedure; appointment of attorney; payment of fees, costs, or security; intervention; stay of Federal proceedings; action for appropriate temporary or preliminary relief pending final disposition of charge; jurisdiction and venue of United States courts; designation of judge to hear and determine case; assignment of case for hearing; expedition of case; appointment of master

(...)

(g) Injunctions; appropriate affirmative action; equitable relief; accrual of back pay; reduction of back pay; limitations on judicial orders

(1) If the court finds that the respondent has intentionally engaged in or is intentionally engaging in an unlawful employment practice charged in the complaint, the court may enjoin the respondent from engaging in such unlawful employment practice, and order such affirmative action as may be appropriate, which may include, but is not limited to, reinstatement or hiring of employees, with or without back pay (payable by the employer, employment agency, or labor organization, as the case may be, responsible for the unlawful employment practice), or any other equitable relief as the court deems appropriate. Back pay liability shall not accrue from a date more than two years prior to the filing of a charge with the Commission. Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay otherwise allowable.

(2) (A) No order of the court shall require the admission or reinstatement of an individual as a member of a union, or the hiring, reinstatement, or promotion of an individual as an employee, or the payment to him of any back pay, if such individual was refused admission, suspended, or expelled, or was refused employment or advancement or was suspended or discharged for any reason other than discrimination on account of race, color, religion, sex, or national origin or in violation of section 2000e-3(a) of this Title [section 704(a)].

(B) On a claim in which an individual proves a violation under section 2000e-2(m) of this title [section 703(m)] and a respondent demonstrates that the respondent would have taken the same action in the absence of the impermissible motivating factor, the court-

(i) may grant declaratory relief, injunctive relief (except as provided in clause (ii)), and attorney’s fees and costs demonstrated to be directly attributable only to the pursuit of a claim under section 2000e-2(m) of this title [section 703(m)]; and

(ii) shall not award damages or issue an order requiring any admission, reinstatement, hiring, promotion, or payment, described in subparagraph (A).

(h) Provisions of chapter 6 of Title 29 not applicable to civil actions for prevention of unlawful practices

The provisions of chapter 6 of title 29 [the Act entitled “An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes,” approved March 23, 1932 (29 U.S.C. 105-115)] shall not apply with respect to civil actions brought under this section.

(i) Proceedings by Commission to compel compliance with judicial orders In any case in which an employer, employment agency, or labor organization fails to comply with an order of a court issued in a civil action brought under this section, the Commission may commence proceedings to compel compliance with such order.
(j) Appeals
Any civil action brought under this section and any proceedings brought under subsection (i) of this section shall be subject to appeal as provided in sections 1291 and 1292, Title 28 [United States Code].

(k) Attorney’s fee; liability of Commission and United States for costs
In any action or proceeding under this subchapter the court, in its discretion, may allow the prevailing party, other than the Commission or the United States, a reasonable attorney’s fee (including expert fees) as part of the costs, and the Commission and the United States shall be liable for costs the same as a private person. [...]
(g) Other related practices: Where employment opportunities or benefits are granted because of an individual's submission to the employer's sexual advances or requests for sexual favors, the employer may be held liable for unlawful sex discrimination against other persons who were qualified for but denied that employment opportunity or benefit.

Violence against Women Act, 2019 82

116TH CONGRESS
1ST SESSION
H. R. 1585 – To reauthorize the Violence Against Women Act of 1994, and for other purposes.
IN THE SENATE OF THE UNITED STATES
April 8, 2019
Received
April 9, 2019
Read the first time
April 10, 2019
Read the second time and placed on the calendar

AN ACT
To reauthorize the Violence Against Women Act of 1994, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.
(a) Short Title.—This Act may be cited as the “Violence Against Women Reauthorization Act of 2019”.
(b) Table Of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Universal definitions and grant conditions.
Sec. 3. Reporting on female genital mutilation, female genital cutting, or female circumcision.
Sec. 4. Agency and Department Coordination.
TITLE I—ENHANCING LEGAL TOOLS TO COMBAT DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING
Sec. 101. Stop grants.
Sec. 102. Grants to improve the criminal justice response.
Sec. 103. Legal assistance for victims.
Sec. 104. Grants to support families in the justice system.
Sec. 105. Outreach and services to underserved populations grants.
Sec. 106. Criminal provisions.
Sec. 107. Rape survivor child custody.
Sec. 108. Enhancing culturally specific services for victims of domestic violence, dating violence, sexual assault, and stalking.
Sec. 109. Grants for lethality assessment programs.

TITLE II—IMPROVING SERVICES FOR VICTIMS
Sec. 201. Sexual assault services program.
Sec. 202. Sexual Assault Services Program.
Sec. 203. Rural domestic violence, dating violence, sexual assault, stalking, and child abuse enforcement assistance program.
Sec. 204. Training and services to end violence against people with disabilities.
Sec. 205. Training and services to end abuse in later life.
Sec. 206. Demonstration program on trauma-informed training for law enforcement.

TITLE III—SERVICES, PROTECTION, AND JUSTICE FOR YOUNG VICTIMS
Sec. 301. Rape prevention and education grant.
Sec. 302. Creating hope through outreach, options, services, and education (CHOOSE) for children and youth.
Sec. 303. Grants to combat violent crimes on campuses.
Sec. 304. Combat online predators.

TITLE IV—VIOLENCE REDUCTION PRACTICES
Sec. 401. Study conducted by the Centers for Disease Control and Prevention.
Sec. 402. Saving Money and Reducing Tragedies (SMART) through Prevention grants.

TITLE V—STRENGTHENING THE HEALTHCARE SYSTEMS RESPONSE
Sec. 501. Grants to strengthen the healthcare systems response to domestic violence, dating violence, sexual assault, and stalking.

TITLE VI—SAFE HOMES FOR VICTIMS
Sec. 601. Housing protections for victims of domestic violence, dating violence, sexual assault, and stalking.
Sec. 602. Ensuring compliance and implementation; prohibiting retaliation against victims.
Sec. 603. Protecting the right to report crime from one’s home.
Sec. 604. Transitional housing assistance grants for victims of domestic violence, dating violence, sexual assault, or stalking.
Sec. 605. Addressing the housing needs of victims of domestic violence, dating violence, sexual assault, and stalking.
Sec. 606. United States Housing Act of 1937 amendments.

TITLE VII—ECONOMIC SECURITY FOR VICTIMS
Sec. 701. Findings.
Sec. 702. National Resource Center on workplace responses to assist victims of domestic and sexual violence.
Sec. 703. Entitlement to unemployment compensation for victims of sexual and other harassment and survivors of domestic violence, sexual assault, or stalking.
Sec. 704. Study and reports on barriers to survivors’ economic security access.
Sec. 705. GAO Study.
Sec. 706. Education and information programs for survivors.
Sec. 707. Severability.

TITLE VIII—HOMICIDE REDUCTION INITIATIVES
Sec. 801. Prohibiting persons convicted of misdemeanor crimes against dating partners and persons subject to protection orders.
Sec. 802. Prohibiting stalkers and individuals subject to court order from possessing a firearm.

TITLE IX—SAFETY FOR INDIAN WOMEN
Sec. 901. Findings and purposes.
Sec. 902. Authorizing funding for the tribal access program.
Sec. 903. Tribal jurisdiction over crimes of domestic violence, dating violence, obstruction of justice, sexual violence, sex trafficking, stalking, and assault of a law enforcement officer or corrections officer.
Sec. 904. Annual reporting requirements.
Sec. 905. Report on the response of law enforcement agencies to reports of missing or murdered Indians.

TITLE X—OFFICE ON VIOLENCE AGAINST WOMEN
Sec. 1001. Establishment of Office on Violence Against Women.

[...]

TITLE XIII—CLOSING THE LAW ENFORCEMENT CONSENT LOOPHOLE
Sec. 1301. Short title.
Sec. 1302. Prohibition on engaging in sexual acts while acting under color of law.
Sec. 1303. Incentives for States.
Sec. 1304. Reports to Congress.
Sec. 1305. Definition.

TITLE XIV—OTHER MATTERS
Sec. 1401. National stalker and domestic violence reduction.
Sec. 1402. Federal victim assistants reauthorization.
Sec. 1403. Child abuse training programs for judicial personnel and practitioners reauthorization.
Sec. 1404. Sex offender management.
Sec. 1405. Court-appointed special advocate program.
Sec. 1406. Rape kit backlog.
Sec. 1407. Sexual assault forensic exam program grants.
Sec. 1408. Review on link between substance use and victims of domestic violence dating violence, sexual assault, or stalking.
Sec. 1409. Interagency working group to study Federal efforts to collect data on sexual violence.
Sec. 1411. Rule of construction regarding compliance with immigration laws.

TITLE XV—CYBERCRIME ENFORCEMENT
Sec. 1501. Local law enforcement grants for enforcement of cybercrimes.
Sec. 1502. National Resource Center Grant.
Sec. 1503. National strategy, classification, and reporting on cybercrime.

Congressional Accountability Act of 1995 Reform Act, 2018 83

H. R. 4822

To amend the Congressional Accountability Act of 1995 to reform the procedures provided under such Act for the initiation, investigation, and resolution of claims alleging that employing offices of the legislative branch have violated the rights and protections provided to their employees under such Act, including protections against sexual harassment, and for other purposes.

[...]

TITLE I—REFORM OF DISPUTE RESOLUTION PROCEDURES
Subtitle A—Reform Of Procedures For Initiation, Investigation, And Resolution Of Claims

SEC. 101. DESCRIPTION OF PROCEDURES AVAILABLE FOR CONSIDERATION OF ALLEGED VIOLATIONS.
(a) Procedures Described.—Section 401 (2 U.S.C. 1401) is amended to read as follows:

"SEC. 401. PROCEDURE FOR CONSIDERATION OF ALLEGED VIOLATIONS.

"(a) Filing And Investigation Of Claims.—Except as otherwise provided, the procedure for consideration of an alleged violation of part A of title II consists of—

“(1) the filing of a claim by the covered employee alleging the violation, as provided in section 402;
“(2) an investigation of the claim, to be conducted by the General Counsel as provided in section 403; and
“(3) a formal hearing as provided in section 405, subject to Board review as provided in section 406, and judicial review in the United States Court of Appeals for the Federal Circuit as provided in section 407, but only if, pursuant to an investigation conducted by the General Counsel as provided in section 403, the General Counsel finds either—
“(A) that there is reasonable cause to believe that the employing office involved committed a violation of part A of title II as alleged in the covered employee’s claim; or
“(B) that the General Counsel cannot determine whether or not there is reasonable cause to believe that the employing office committed a violation of part A of title II as alleged in the covered employee’s claim.
“(b) Right Of Employee To File Civil Action.—
“(1) CIVIL ACTION.—A covered employee who files a claim as provided in section 402 may, during the period described in paragraph (3), file a civil action in a District Court of the United States with respect to the alleged violation involved, as provided in section 408.
“(2) EFFECT OF FILING CIVIL ACTION.—Notwithstanding paragraph (2) or paragraph (3) of subsection (a), if the covered employee files such a civil action—
“(A) the investigation of the claim by the General Counsel as provided in section 403, or any subsequent formal hearing as provided in section 405, shall terminate upon the filing of the action by the covered employee; and
“(B) the procedure for consideration of the alleged violation shall not include any further investigation of the claim by the General Counsel as provided in section 403 or any subsequent formal hearing as provided in section 405.
“(3) PERIOD FOR FILING CIVIL ACTION.—The period described in this paragraph with respect to a claim is the 30-day period which begins on the date the covered employee files the claim under section 402.
“(4) SPECIAL RULE FOR EMPLOYEES RECEIVING FINDING OF NO REASONABLE CAUSE UNDER INVESTIGATION BY GENERAL COUNSEL.—Notwithstanding paragraph (3), if a covered employee receives a written notice from the General Counsel under section 403(c)(3) that the employee has the right to file a civil action with respect to the claim in accordance with section 408, the covered employee may file the civil action not later than 90 days after receiving such written notice.
“(c) Special Rule For Architect Of The Capitol And Capitol Police.—In the case of an employee of the Office of the Architect of the Capitol or of the Capitol Police, the Office, after receiving a claim filed under section 402, may recommend that the employee use the grievance procedures of the Architect of the Capitol or the Capitol Police for resolution of the employee’s grievance for a specific period of time.
“(d) Rights Of Parties To Retain Private Counsel.—Nothing in this title may be construed to limit the authority of any individual, including a covered employee, the head of an employing office, or an individual who is alleged to have personally committed an act which consists of a violation of part A of title II to retain counsel to protect the interests of the individual at any point during any of the procedures..."
provided under this title for the consideration of an alleged violation of part A of title II, including as provided under section 415(d)(7) with respect to Members of the House of Representatives and Senators.

“(e) Standards For Counsel Providing Representation.—Any counsel who represents a party in any of the procedures provided under this title shall have an obligation to ensure that, to the best of the counsel’s knowledge, information, and belief, as formed after an inquiry which is reasonable under the circumstances, each of the following is correct:

“(1) No pleading, written motion, or other paper is presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of resolution of the matter.

“(2) The claims, defenses, and other legal contentions the counsel advocates are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law.

“(3) The factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

“(4) The denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on belief or a lack of information.”.

(b) Conforming Amendment Relating To Civil Action.—Section 408 (2 U.S.C. 1408) is amended—

(1) by striking “section 404” and inserting “section 401”;

(2) by striking “who has completed counseling under section 402 and mediation under section 403”; and

(3) by striking the second sentence.

(c) Other Conforming Amendments.—Title IV is amended—

(1) by striking section 404 (2 U.S.C. 1404); and

(2) by redesignating section 403 (2 U.S.C. 1403) as section 404.

(d) Clerical Amendments.—The table of contents is amended—

(1) by striking the item relating to section 404; and

(2) by redesignating the item relating to section 403 as relating to section 404.

SEC. 102. REFORM OF PROCESS FOR INITIATION OF PROCEDURES.

(a) Initiation Of Procedures.—Section 402 (2 U.S.C. 1402) is amended to read as follows:

“SEC. 402. INITIATION OF PROCEDURES.

“(a) Intake Of Claim By Office.—To commence a proceeding under this title, a covered employee alleging a violation of law made applicable under part A of title II shall file a claim with the Office. The claim shall be made in writing under oath or affirmation, and shall be in such form as the Office requires.

“(b) Initial Processing Of Claim.—Upon the filing of a claim by a covered employee under subsection (a), the Office shall take such steps as may be necessary for the initial intake and recording of the claim, including providing the employee with all relevant information with respect to the rights of the employee under this title, and shall notify the head of the employing office of the claim.

“(c) Use Of Electronic Reporting And Tracking System.—

“(1) ESTABLISHMENT AND OPERATION OF SYSTEM.—The Office shall establish and operate an electronic reporting system through which a covered employee may initiate a proceeding under this title, and which will keep an electronic record of the date and time at which the proceeding is initiated and will track all subsequent actions or proceedings occurring with respect to the proceeding under this title.

“(2) ACCESSIBILITY TO ALL PARTIES.—The system shall be accessible to all parties to such actions or proceedings, but only until the completion of such actions or proceedings.

“(d) Deadline.—A covered employee may not file a claim under this section with respect to an allegation of a violation of law after the expiration of the 180-day period which begins on the date of the alleged violation.
“(e) No Effect On Ability Of Covered Employee To Seek Information From Office Or Pursue Relief.—
Nothing in this section may be construed to limit the ability of a covered employee—
“(1) to contact the Office or any other appropriate office prior to filing a claim under this section to seek
information regarding the employee’s rights under this Act and the procedures available under this title;
“(2) in the case of a covered employee of an employing office of the House of Representatives or Senate,
to refer information regarding an alleged violation of part A of title II to the Committee on Ethics of the
House of Representatives or the Select Committee on Ethics of the Senate (as the case may be); or
“(3) to file a civil action in accordance with section 401(b).”.

(b) Clerical Amendment.—The table of contents is amended by amending the item relating to section 402
to read as follows:

“Sec. 402. Initiation of procedures.”.

SEC. 103. INVESTIGATION OF CLAIMS BY GENERAL COUNSEL.
(a) Investigations Described.—Title IV (2 U.S.C. 1401 et seq.), as amended by section 101(b), is further
amended by inserting after section 402 the following new section:

“SEC. 403. INVESTIGATION OF CLAIMS.
“(a) Investigation.—Upon the completion of the initial processing of a claim under section 402(b), the
General Counsel shall conduct an investigation of the claim involved.
“(b) Subpoenas.—To carry out an investigation under this section, the General Counsel may issue
subpoenas in the same manner, and subject to the same terms and conditions, as a hearing officer may
issue subpoenas to carry out discovery with respect to a hearing under section 405, except that the
General Counsel may issue such a subpoena on the General Counsel’s own initiative, without regard to
whether or not a party requests that the General Counsel issue the subpoena. It is the sense of Congress
that the General Counsel should issue subpoenas under this subsection only to the extent that other
methods of obtaining information with respect to an investigation are insufficient to enable the General
Counsel to conclude the investigation within the deadline described in subsection (e).
“(c) Report; Findings.—
“(1) REPORT.—Upon concluding an investigation of a claim under this section, the General Counsel shall
transmit a written report on the results of the investigation to the covered employee and the employing
office involved.
“(2) INCLUSION OF FINDINGS.—The General Counsel shall include in the report transmitted under
paragraph (1) one of the following findings:
“(A) A finding that there is reasonable cause to believe that the employing office committed a violation of
part A of title II, as alleged in the covered employee’s claim.
“(B) A finding that there is no reasonable cause to believe that the employing office committed a violation
of part A of title II, as alleged in the covered employee’s claim.
“(C) A finding that the General Counsel cannot determine whether or not there is reasonable cause to
believe that the employing office committed a violation of part A of title II, as alleged in the covered
employee’s claim.
“(3) NOTICE OF RIGHT TO FILE CIVIL ACTION.—If the General Counsel transmits a finding under
subparagraph (B) of paragraph (2), the General Counsel shall also transmit to the covered employee a
written notice that the employee has the right to file a civil action with respect to the claim under section
408.
“(4) TRANSMISSION TO EXECUTIVE DIRECTOR.—If the General Counsel transmits a finding under
subparagraph (A) or subparagraph (C) of paragraph (2), the General Counsel shall also transmit the report
to the Executive Director.
“(5) TRANSMISSION OF REPORT ON INVESTIGATION OF CERTAIN CLAIMS TO CONGRESSIONAL ETHICS COMMITTEES.—In the case of a report furnished under paragraph (1) on the results of an investigation of a claim alleging a violation of section 201(a) which consists of an act committed personally by a Member of the House of Representatives (including a Delegate or Resident Commissioner to the Congress) or a Senator, the General Counsel shall transmit the report to—
“(A) the Committee on Ethics of the House of Representatives, in the case of a Member of the House (including a Delegate or Resident Commissioner to the Congress); or
“(B) the Select Committee on Ethics of the Senate, in the case of a Senator.
“(d) Recommendation Of Mediation.—At any time during the investigation of a claim under this section, the General Counsel may make a recommendation that the covered employee and the employing office pursue mediation under section 404 with respect to the claim.
“(e) Deadline For Concluding Investigation.—The General Counsel shall conclude the investigation of a claim under this subsection, and transmit the report on the results of the investigation, not later than 90 days after the claim is filed under section 402, except that the General Counsel may (upon notice to the parties to the investigation) use an additional period of not to exceed 30 days to conclude the investigation.”.

(b) Conforming Amendments Relating To Hearings Conducted By Office Of Compliance.—Section 405 (2 U.S.C. 1405) is amended as follows:
(1) In the heading, by striking “COMPLAINT AND”.
(2) By amending subsection (a) to read as follows:
“(a) Requirement For Office To Conduct Hearings.—
“(1) HEARING REQUIRED UPON CERTAIN FINDINGS BY GENERAL COUNSEL.—
“(A) IN GENERAL.—If the General Counsel transmits to the Executive Director a report on the investigation of a claim under section 403 which includes a finding described in subparagraph (B), the Office shall conduct a hearing to consider the claim and render a decision.
“(B) FINDINGS DESCRIBED.—A finding described in this subparagraph is—
“(i) a finding under section 403(c)(2)(A) that there is reasonable cause to believe that an employing office committed a violation of part A of title II, as alleged in a claim filed by a covered employee; or
“(ii) a finding under section 403(c)(2)(C) that the General Counsel cannot determine whether or not there is reasonable cause to believe that the employing office committed a violation of part A of title II, as alleged in the covered employee’s claim.”.
(3) In subsection (c)(1), by striking “complaint” and inserting “claim”.
(4) In subsection (d) in the matter preceding paragraph (1), by striking “complaint” and inserting “claim”.
(5) In subsection (d)(2), by striking “no later than 60 days after filing of the complaint” and inserting “no later than 60 days after the Executive Director receives the General Counsel’s report on the investigation of the claim”.
(6) In subsection (g), by striking “complaint” and inserting “claim”.
(c) Other Conforming Amendment.—The heading of section 414 (2 U.S.C. 1414) is amended by striking “OF COMPLAINTS”.
(d) Clerical Amendments.—The table of contents, as amended by section 101(c), is further amended as follows:
(1) By inserting after the item relating to section 402 the following new item:

“Sec. 403. Investigation of claims.”.
(2) By amending the item relating to section 405 to read as follows:

“Sec. 405. Hearing.”. 
(3) By amending the item relating to section 414 to read as follows:

“Sec. 414. Settlement. “.

SEC. 104. AVAILABILITY OF MEDIATION DURING INVESTIGATIONS.
(a) Option To Request Mediation.—Section 404(a) (2 U.S.C. 1404(a)), as redesignated by section 101(c), is amended to read as follows:

“(a) Availability Of Mediation During Investigation.—At any time during the investigation of a covered employee’s claim under section 403, the covered employee and the employing office may jointly file a request for mediation with the Office.”.
(b) Period Of Mediation.—The second sentence of section 404(c) (2 U.S.C. 1404(c)), as redesignated by section 101(c), is amended to read as follows: “The mediation period may be extended for one additional period of 30 days at the joint request of the covered employee and employing office.”.
(c) Requiring Parties To Be Separated During Mediation At Request Of Employee.—Section 404(b)(2) (2 U.S.C. 1404(b)(2)), as redesignated by section 101(c), is amended by striking “meetings with the parties separately or jointly” and inserting “meetings with the parties during which, at the request of the covered employee, the parties shall be separated.”.

Subtitle B—Other Reforms

SEC. 111. REQUIRING MEMBERS OF CONGRESS TO REIMBURSE TREASURY FOR AMOUNTS PAID AS SETTLEMENTS AND AWARDS IN CASES OF ACTS COMMITTED PERSONALLY BY MEMBERS.
(a) Mandating Reimbursement Of Amounts Paid.—Section 415 (2 U.S.C. 1415) is amended by adding at the end the following new subsection:

“(d) Reimbursement By Members Of Congress Of Amounts Paid As Settlements And Awards.—
“(1) REIMBURSEMENT REQUIRED FOR CERTAIN VIOLATIONS.—
“(A) IN GENERAL.—If a payment is made from the account described in subsection (a) for an award or settlement in connection with a claim alleging a violation described in subparagraph (B) which consists of an act committed personally by an individual who, at the time of committing the act, was a Member of the House of Representatives (including a Delegate or Resident Commissioner to the Congress) or a Senator, the individual shall reimburse the account for the amount of the award or settlement.
“(B) VIOLATIONS DESCRIBED.—A violation described in this subparagraph is—
“(i) a violation of section 201(a); or
“(ii) a violation of section 207 which consists of intimidating, taking reprisal against, or otherwise discriminating against any covered employee because the covered employee has opposed any practice made unlawful by section 201(a).

SEC. 112. AUTOMATIC REFERRAL TO CONGRESSIONAL ETHICS COMMITTEES OF DISPOSITION OF CERTAIN CLAIMS ALLEGING VIOLATIONS OF CONGRESSIONAL ACCOUNTABILITY ACT OF 1995 INVOLVING MEMBERS OF CONGRESS.
Section 416(e) (2 U.S.C. 1416(d)) is amended to read as follows:

“(e) Automatic Referrals To Congressional Ethics Committees Of Dispositions Of Claims Involving Members Of Congress.—
“(1) REFERRAL.—Upon the final disposition under this title of a claim alleging a violation described in section 415(d)(1)(B) which consists of an act committed personally by a Member of the House of Representatives (including a Delegate or Resident Commissioner to the Congress) or a Senator, the Executive Director shall refer the claim to—
“(A) the Committee on Ethics of the House of Representatives, in the case of a Member of the House (including a Delegate or Resident Commissioner to the Congress); or
“(B) the Select Committee on Ethics of the Senate, in the case of a Senator.
“(2) ACCESS TO RECORDS AND INFORMATION.—If the Executive Director refers a claim to a Committee under paragraph (1), the Executive Director shall provide the Committee with access to the records of any investigations, hearings, or decisions of the hearing officers and the Board under this title, and any information relating to an award or settlement paid, in response to such claim.

“(3) PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION.—If a Committee to which a claim is referred under paragraph (1) issues a report with respect to the claim, the Committee shall ensure that the report does not directly disclose the identity or position of the individual who filed the claim.

“(4) FINAL DISPOSITION DESCRIBED.—In this subsection, the ‘final disposition’ of a claim means any of the following:

“(A) An order or agreement to pay an award or settlement.

“(B) A final decision of a hearing officer under section 405(g).

“(C) A final decision of the Board under section 406(e).

“(D) A final decision in a civil action under section 408.”.

SEC. 113. AVAILABILITY OF REMOTE WORK ASSIGNMENT OR PAID LEAVE OF ABSENCE DURING PENDENCY OF PROCEDURES.

(a) In General.—Title IV (2 U.S.C. 1401 et seq.) is amended by adding at the end the following new section:

“SEC. 417. AVAILABILITY OF REMOTE WORK ASSIGNMENT OR PAID LEAVE OF ABSENCE DURING PENDENCY OF PROCEDURES.

“(a) Options For Employees.—

“(1) REMOTE WORK ASSIGNMENT.—At the request of a covered employee who files a claim alleging a violation of part A of title II by the covered employee’s employing office, during the pendency of any of the procedures available under this title for consideration of the claim, the employing office may permit the covered employee to carry out the employee’s responsibilities from a remote location instead of from the location of the employing office.

“(2) EXCEPTION FOR WORK ASSIGNMENTS REQUIRED TO BE CARRIED OUT ONSITE.—If, in the determination of the covered employee’s employing office, a covered employee who makes a request under this subsection cannot carry out the employee’s responsibilities from a remote location, the employing office may grant paid leave of absence to a covered employee during the pendency of the procedures available under this title for the covered employee.

“(3) ENSURING NO RETALIATION.—An employing office may not grant a covered employee’s request under this subsection in a manner which would constitute reprisal or retaliation under section 207.

“(b) Exception For Arrangements Subject To Collective Bargaining Agreements.—Subsection (a) does not apply to the extent that it is inconsistent with the terms and conditions of any collective bargaining agreement which is in effect with respect to an employing office.”.

(b) Clerical Amendment.—The table of contents is amended by adding at the end of the items relating to tile IV the following new item:

“Sec. 417. Availability of remote work assignment or paid leave of absence during pendency of procedures.”.

SEC. 114. MODIFICATION OF RULES ON CONFIDENTIALITY OF PROCEEDINGS.

(a) Claims And Investigations.—Section 416(a) (2 U.S.C. 1416(a)) is amended to read as follows:

“(a) Claims And Investigations.—The filing of a claim under section 402 and any investigation of a claim under section 403 shall be confidential. Nothing in this subsection may be construed to prohibit a covered employee or an employing office from disclosing any information related to the claim (including information related to the defense of the claim) in the course of any proceeding under this title.”.
(b) Mediation.—Section 416(b) (2 U.S.C. 1416(b)) is amended by striking “All mediation” and inserting “All information discussed or disclosed in the course of any mediation”.

SEC. 115. REIMBURSEMENT BY OTHER EMPLOYING OFFICES OF LEGISLATIVE BRANCH OF PAYMENTS OF CERTAIN AWARDS AND SETTLEMENTS.

[...]

TITLE II—IMPROVING OPERATIONS OF OFFICE OF COMPLIANCE

SEC. 201. SEMIANNUAL REPORTS ON CLAIMS, AWARDS, AND SETTLEMENTS.

(a) Requiring Submission And Publication Of Reports.—Section 301(h) (2 U.S.C. 1381(h)) is amended—

(1) by striking “and” at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting “; and”; and

(3) by adding at the end the following new paragraph:

“(4) in addition to compiling and publishing the statistics described in paragraph (3), not later than 45 days after the first 6-month period of each calendar year, and not later than 45 days after the next 6-month period of each calendar year, submit to Congress and publish on the Office’s public website a report listing each award or settlement which was paid during the previous year from the account described in section 415(a) as the result of a claim alleging a violation of part A of title II, including the employing office involved, the amount of the award or settlement, the provision of part A of title II which was the subject of the claim, and (in the case of an award or settlement resulting from a violation described in section 415(d)(1)(B) which was committed personally by a Member or former Member of Congress), whether the Member or former Member has met the requirement of section 415(d) to reimburse the account for the amount of the award or settlement, except that such report may not disclose the identity or position of an individual who filed the claim.”.

(b) Effective Date.—The amendment made by subsection (a) shall apply with respect to 2018 and each succeeding year.

SEC. 202. WORKPLACE CLIMATE SURVEYS OF EMPLOYING OFFICES.

(a) Requiring Surveys.—Title III (2 U.S.C. 1381 et seq.) is amended by adding at the end the following new section:

“SEC. 307. WORKPLACE CLIMATE SURVEYS OF EMPLOYING OFFICES.

“(a) Requirement To Conduct Surveys.—Not later than 1 year after the date of the enactment of this section, and every 2 years thereafter, the Office shall conduct a survey of employing offices under this Act regarding the workplace environment of such offices.

“(b) Special Inclusion Of Information On Sexual Harassment.—In each survey conducted under this section, the Office shall survey respondents on attitudes regarding sexual harassment.

“(c) Methodology.—

“(1) IN GENERAL.—The Office shall conduct each survey under this section in accordance with methodologies established by the Office.

“(2) CONFIDENTIALITY.—Under the methodologies established under paragraph (1), all responses to all portions of the survey shall be anonymous and confidential, and each respondent shall be told throughout the survey that all responses shall be anonymous and confidential.

“(d) Use Of Results Of Surveys.—The Office shall furnish the information obtained from the surveys conducted under this section to the Committee on House Administration of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate.

“(e) Consultation With Committees.—The Office shall carry out this section, including establishment of methodologies and procedures under subsection (c), in consultation with the Committee on House Administration of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate.

[...]

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TITLE III—MISCELLANEOUS REFORMS
SEC. 301. EXTENSION TO UNPAID STAFF OF RIGHTS AND PROTECTIONS AGAINST EMPLOYMENT DISCRIMINATION.
(a) Extension.—Section 201 (2 U.S.C. 1311) is amended—
(1) by redesignating subsection (d) as subsection (e); and
(2) by inserting after subsection (c) the following new subsection:
“(d) Application To Unpaid Staff.—
“(1) IN GENERAL.—Subsections (a) and (b) shall apply with respect to any staff of an employing office who carry out official duties of the employing office but who are not paid by the employing office for carrying out such duties, including an intern (including an applicant for an internship and a former intern), an individual detailed to an employing office, and an individual participating in a fellowship program, in the same manner and to the same extent as such subsections apply with respect to an employee.
“(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) may be construed to extend liability for a violation of subsection (a) to an employing office on the basis of an action taken by any person who is not under the supervision or control of the employing office.
“(3) INTERN DEFINED.—The term ‘intern’ means an individual who performs service for an employing office which is uncompensated by the United States to earn credit awarded by an educational institution or to learn a trade or occupation, and includes any individual participating in a page program operated by any House of Congress.”.
(b) Technical Correction Relating To Office Responsible For Disbursement Of Pay To House Employees.—Section 101(7) (2 U.S.C. 1301(7)) is amended by striking “disbursed by the Clerk of the House of Representatives” and inserting “disbursed by the Chief Administrative Officer of the House of Representatives”.

TITLE IV—HOUSE OF REPRESENTATIVES REFORMS
SEC. 401. MANDATORY ANTI-HARASSMENT AND ANTI-DISCRIMINATION POLICIES FOR HOUSE OFFICES.
(a) Requiring Offices To Adopt Policy.—Each employing office of the House of Representatives shall adopt an anti-harassment and anti-discrimination policy for the office’s workplace.
(b) Regulations.—Not later than June 1, 2018, the Committee on House Administration shall promulgate regulations to carry out this section, and shall ensure that such regulations are consistent with the requirements of the Congressional Accountability Act of 1995, the Code of Official Conduct under rule XXIII of the Rules of the House of Representatives, and other relevant laws, rules, and regulations.
SEC. 402. OFFICE OF EMPLOYEE ADVOCACY.
(a) Establishment.—There is established in the Office of the Chief Administrative Officer of the House of Representatives the Office of Employee Advocacy (hereafter in this section referred to as the “Office”).
(b) Functions.—
(1) LEGAL ASSISTANCE, CONSULTATION, AND REPRESENTATION.—Subject to subsection (c), the Office shall carry out the following functions:
(A) Providing legal assistance and consultation regarding procedures under the Congressional Accountability Act of 1995 and procedures applicable to civil actions arising from claims made under such Act, including—
(i) the roles and responsibilities of the Office of Compliance, the Office of the House Employment Counsel, and similar authorities;
(ii) any proceedings conducted under such Act or pursuant to a civil action which the employee may observe;
(iii) the authority of the General Counsel of the Office of Compliance to compel cooperation and testimony under an investigation conducted under section 403 of such Act and the authority of a hearing officer to compel cooperation and testimony under proceedings held under section 405 of such Act; and
(iv) the employee’s duties relating to such proceedings, including the responsibility to testify.
(B) Providing legal assistance and representation—
(i) in personal civil legal matters related to the employee’s claim under such Act (other than a civil action filed under section 408 of such Act); and
(ii) in any proceedings of the Office of Compliance, the Committee on Ethics of the House of Representatives (including the Office of Congressional Ethics), or any other administrative or judicial body related to the employee’s claim.
(C) Operating a hotline through which covered employees of the House may contact the Office.
(2) AUTHORITY TO PROVIDE ASSISTANCE IN ANY JURISDICTION.—Notwithstanding any law regarding the licensure of attorneys, an attorney who is employed by the Office and is authorized to provide legal assistance and representation under this section is authorized to provide that assistance and representation in any jurisdiction, subject to such regulations as may be prescribed by the Office.
(3) NATURE OF RELATIONSHIP.—The relationship between the Office and an employee to whom the Office provides legal assistance and representation under this section shall be the relationship between an attorney and client.
(4) PROHIBITING ACCEPTANCE OF AWARD OF ATTORNEY FEES OR OTHER COSTS.—The Office may not accept any award of attorney fees or other litigation expenses and costs under any hearing or civil action brought under the Congressional Accountability Act of 1995.
(c) Prohibiting Provision Of Assistance Upon Filing Of Civil Action.—If a covered employee of the House who has filed a claim under section 402 of the Congressional Accountability Act of 1995 files a civil action with respect to the claim involved, as provided in section 408 of such Act, the Office may not provide assistance under this section to the employee at any time after the employee files such action.
(d) Director.—
(1) APPOINTMENT.—The Office shall be headed by a Director who shall be appointed by the Chief Administrative Officer of the House of Representatives.
(2) QUALIFICATIONS; NONPARTISANSHIP OF POSITION.—The individual appointed as Director shall be a lawyer who is admitted to practice before the United States District Court for the District of Columbia and who has experience in representing employees in workplace discrimination cases.
(3) COMPENSATION.—The Director shall be paid at an annual rate established by the Chief Administrative Officer.
(4) REMOVAL.—The Director may be removed by the Chief Administrative Officer only for cause.
(e) Other Personnel.—Subject to regulations of the Committee on House Administration and with the approval of the Chief Administrative Officer, the Director may appoint and fix the compensation of such additional personnel as the Director determines to be necessary to carry out the functions of the Office.
(f) Nonpartisanship Of Positions.—The Director and the other personnel of the Office shall be appointed without regard to political affiliation and solely on the basis of fitness to perform the duties of the position.
SEC. 403. FUNCTIONS OF OFFICE OF HOUSE EMPLOYMENT COUNSEL.
(a) Functions Described.—The Office of the House Employment Counsel established under the Office of the Clerk of the House of Representatives shall carry out all of the functions which the Office carried out as of the date of the enactment of this Act, including the following:
(1) Providing legal assistance and representation to employing offices of the House with respect to allegations, claims, and civil actions under the Congressional Accountability Act of 1995 which are brought by covered employees of the House under such Act.
(2) Providing employing offices of the House with confidential advice and counseling regarding compliance with employment laws.
(3) Providing training to managers and employees regarding employment law compliance.
(b) No Effect On Pending Proceedings.—Nothing in this section may be construed to affect any proceeding to which the Office is a party that is pending on the date of the enactment of this Act, including any suit to which the Office is a party that is commenced prior to such date.

SEC. 404. REQUIRING INCLUSION OF CERTIFICATIONS ON PAYROLL AUTHORIZATION FORMS OF HOUSE OF REPRESENTATIVES OF NO CONNECTION BETWEEN PAYROLL ACTIONS AND CLAIMS RELATING TO CONGRESSIONAL ACCOUNTABILITY ACT OF 1995.

(a) Requiring Inclusion Of Certification On Forms.—The Chief Administrative Officer of the House of Representatives shall incorporate, as part of the Payroll Authorization Form used by an office of the House to register the appointment of an employee to the office or a salary adjustment or title change with respect to an employee of the office—
(1) a certification to be made by the authorizing official of the office that the appointment, salary adjustment, or title change is not made to pay a settlement or award in connection with conduct prohibited under the Congressional Accountability Act of 1995; and
(2) in the case of an office of a Member of the House, a certification by the Member that any amounts in the Members’ Representational Allowance for the office which may be used to carry out the appointment, salary adjustment, or title change are not being used to pay a settlement or award in connection with conduct prohibited under such Act.
(b) Requiring Certification As Condition Of Processing Payroll Action.—The Chief Administrative Officer may not process any Payroll Authorization Form with respect to an office of the House if the Form does not include the certifications required with respect to that office under subsection (a).

SEC. 405. SEXUAL HARASSMENT AS VIOLATION OF HOUSE CODE OF OFFICIAL CONDUCT.

Clause 9 of rule XXIII of the Rules of the House of Representatives is amended by striking “such individual,” and inserting “such individual, including by committing an act of sexual harassment against such individual,”.

SEC. 406. SEXUAL RELATIONSHIPS BETWEEN HOUSE MEMBERS AND EMPLOYEES AND UNWELCOME SEXUAL ADVANCES AS VIOLATION OF HOUSE CODE OF OFFICIAL CONDUCT.

Rule XXIII of the Rules of the House of Representatives is amended—
(1) by redesignating clause 18 as clause 19; and
(2) by inserting after clause 17 the following new clause:
“18. (a) A Member, Delegate, or Resident Commissioner may not engage in a sexual relationship with any employee of the House who works under the supervision of the Member, Delegate, or Resident Commissioner. This paragraph does not apply with respect to any relationship between two people who are married to each other.
“(b) A Member, Delegate, Resident Commissioner, officer, or employee of the House may not engage in unwelcome sexual advances or conduct towards another Member, Delegate, Resident Commissioner, officer, or employee of the House.
“(c) In this clause, the term ‘employee’ includes an applicant for employment, a paid or unpaid intern (including an applicant for an internship), a detailee, and an individual participating in a fellowship program.”.

SEC. 407. EFFECT OF FILING OF CLAIM UNDER CONGRESSIONAL ACCOUNTABILITY ACT OF 1995 ON AUTHORITY OF OFFICE OF CONGRESSIONAL ETHICS TO CONSIDER CLAIMS.

The Office of Congressional Ethics may not initiate or continue any investigation of a claim alleging a violation of law made applicable to employing offices of the House of Representatives under part A of title II of the Congressional Accountability Act of 1995, or make any recommendations regarding the
disposition of such a claim, if a covered employee files a claim with respect to the alleged violation under title IV of such Act.

**SEC. 409. EXERCISE OF RULEMAKING AUTHORITY.**
The provisions of this title are enacted—
(1) as an exercise of the rulemaking power of the House of Representatives, and as such they shall be considered as part of the rules of the House, and shall supersede other rules only to the extent that they are inconsistent therewith; and
(2) with full recognition of the constitutional right of the House to change such rules at any time, in the same manner, and to the same extent as in the case of any other rule of the House.

[...]

35.2 STATES

35.2.1 ALABAMA

**Title VII of the Civil Rights Act of 1964** *84*

35.2.2 ALASKA

**Alaska Office of the Governor, Administrative Order No. 81** *85*

October 25, 1984
In furtherance of the State of Alaska’s commitment to human rights and equal employment opportunity, I, Bill Sheffield, Governor of the State of Alaska, under the authority granted by Article III of the Alaska Constitution and by Alaska Statute 44.17.060, hereby order the following as the policy and guidelines for the Executive Branch of Alaska State Government on discriminatory harassment and more specifically on sexual harassment. This Order amends and supplements Administrative Order No.75, the general policy on equal employment opportunity.

1. **STATEMENT OF POLICY**
1.1 The Executive Branch of the State of Alaska, as an employer, will not tolerate, condone or permit any kind of harassment of employees or applicants for employment on the basis of their sex, color, race, religion, national origin, age, handicap, marital status, changes in marital status, pregnancy or parenthood. Such harassment is in direct violation of Federal and State law and is inconsistent with the State’s policy on equal employment opportunity.
1.2 Persons who knowingly engage in or instigate such harassment will be subject to disciplinary actions which may lead to suspension and discharge. Additionally, managers and supervisors who knowingly permit harassment activity to occur without further action will be subject to disciplinary action. Where such prohibited activity is perpetrated by a non-employee, the State will take available and appropriate disciplinary action which may include, by way of example, loss of contract.

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2. GENERAL PROVISIONS
2.1 Scope: The policy and guidelines herein apply to all agencies, employees and applicants for employment within the Executive Branch of Alaska State Government.
2.2 Frivolous or Malicious Accusations: Persons making frivolous or malicious accusations of harassment may be subjected to disciplinary actions.
2.3 Management Activities: This Order is not intended to restrict bonafide activities such as reprimands, disciplinary actions and employee performance evaluations which are clearly within the scope of a supervisor’s duties and responsibilities, and which serve a legitimate management purpose.

3. DEFINITIONS
3.1 Harassment: Unwanted communication and/or conduct by a supervisor, co-worker or non-employee in the workplace which adversely affects the employment relationship or working environment for the employee or applicant for employment and is based on the sex, race, religion, national origin, age, handicap, marital status, changes in marital status, pregnancy or parenthood of that individual. Harassment may include slurs, abusive language, threats, derogatory comments, unwelcome jokes, teasing and other such verbal or physical conduct.

3.2 Sexual harassment: Addressed and defined by the U.S. Equal Employment Opportunity Commission in the Federal Guidelines on Discrimination Because of Sex published on November 10, 1980, and codified as 29 CFR Section 1604.11, sexual harassment is defined as follows:
“(a) Harassment on the basis of sex is violation of Sec. 703 of Title VII. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment 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 for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile, or offensive work environment.”

4. GUIDELINES FOR THE IMPLEMENTATION OF POLICY
4.1 Responsibility for implementation:
(a) Overall responsibility for the administration of this order is delegated to the Director of the Division of Equal Employment Opportunity.
(b) All agency heads, managers and supervisors within the Executive Branch of State Government are responsible for taking immediate and appropriate corrective action where they have any knowledge of such prohibited practices. Such corrective actions should be taken only after consultation with the State Division of Equal Employment Opportunity.

4.2. Complaints:
(a) Employees believing they have been subjected to harassment should contact their department or agency’s Equal Employment Opportunity Representative or the State Division of Equal Employment Opportunity.
(b) A complaint may be formally filed on the “Complaint of Discrimination Form” available through agency personnel offices and the State Division of Equal Employment Opportunity.
(c) The Division of Equal Employment Opportunity shall develop the appropriate administrative process to resolve harassment complaints.
(d) Any form of retaliation, reprisal or adverse action taken against an employee for complaining about, reporting, or cooperating in the investigation of such harassment is prohibited and will be dealt with severely. Such disciplinary action may include suspension and dismissal.

4.3 Dissemination of Policy:
(a) The policy is to be posted in the form provided in Appendix A of this order on all bulletin boards and at every facility and office within each department.
(b) It will be the responsibility of each agency head to ensure that copies of this policy are disseminated to all supervisory staff and that copies of this policy are included in all agency policy manuals and employee handbooks.

This Order takes effect October 25, 1984. Dated at Anchorage, Alaska October 25

35.2.3 ARIZONA

Title VII of the Civil Rights Act of 1964 86

35.2.4 ARKANSAS

Arkansas Code, 2017 87
Title 12 - Law Enforcement, Emergency Management, and Military Affairs
Subtitle 4 - Military Affairs
Chapter 64 - Military Justice
Subchapter 8 - Punitive Articles

§ 12-64-846. Sexual harassment
A person subject to this code shall be punished as a court-martial may direct if the person:
(1) Repetitively engages in behavior that involves unwelcome sexual advances;
(2) Requests sexual favors from or offers sexual favors to a subordinate; or
(3) Engages in other verbal or physical conduct of a sexual nature if:
(A) Submission to or rejection of the conduct is made either explicitly or implicitly a term or condition of a person's job, pay, or career;
(B) Submission to or rejection of the conduct by a person is used as a basis for career or employment decisions affecting that person; or
(C) The conduct has the purpose or effect of unreasonably interfering with a person's work performance or creates an intimidating, hostile, or offensive working environment.

35.2.5 CALIFORNIA

California Civil Code, as amended 88

DIVISION 1. PERSONS [38 - 86]
PART 2. PERSONAL RIGHTS [43 - 53.7]
51.9.
(a) A person is liable in a cause of action for sexual harassment under this section when the plaintiff proves all of the following elements:
(1) There is a business, service, or professional relationship between the plaintiff and defendant or the defendant holds himself or herself out as being able to help the plaintiff establish a business, service, or professional relationship with the defendant or a third party. Such a relationship may exist between a plaintiff and a person, including, but not limited to, any of the following persons:
(A) Physician, psychotherapist, or dentist. For purposes of this section, “psychotherapist” has the same meaning as set forth in paragraph (1) of subdivision (c) of Section 728 of the Business and Professions Code.
(B) Attorney, holder of a master’s degree in social work, real estate agent, real estate appraiser, investor, accountant, banker, trust officer, financial planner loan officer, collection service, building contractor, or escrow loan officer.
(C) Executor, trustee, or administrator.
(D) Landlord or property manager.
(E) Teacher.
(F) Elected official.
(G) lobbyist.
(H) Director or producer.
(I) A relationship that is substantially similar to any of the above.
(2) The defendant has made sexual advances, solicitations, sexual requests, demands for sexual compliance by the plaintiff, or engaged in other verbal, visual, or physical conduct of a sexual nature or of a hostile nature based on gender, that were unwelcome and pervasive or severe.
(3) The plaintiff has suffered or will suffer economic loss or disadvantage or personal injury, including, but not limited to, emotional distress or the violation of a statutory or constitutional right, as a result of the conduct described in paragraph (2).
(b) In an action pursuant to this section, damages shall be awarded as provided by subdivision (b) of Section 52.
(c) Nothing in this section shall be construed to limit application of any other remedies or rights provided under the law.
(d) The definition of sexual harassment and the standards for determining liability set forth in this section shall be limited to determining liability only with regard to a cause of action brought under this section.

Senate Bill No. 778 89
California Legislature (2019–2020 regular session)
(new language not yet reflected in the online CA Code as of this writing)

Introduced by Committee on Labor, Public Employment and Retirement (Senators Hill (Chair), Jackson, Mitchell, Morrell, and Pan)
February 26, 2019

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An act to amend Section 12950.1 of the Government Code, relating to employment, and declaring the urgency thereof, to take effect immediately.

[...]

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 12950.1 of the Government Code is amended to read:

12950.1. (a) By January 1, 2021, an employer having five or more employees shall provide at least two hours of classroom or other effective interactive training and education regarding sexual harassment to all supervisory employees and at least one hour of classroom or other effective interactive training and education regarding sexual harassment to all nonsupervisory employees in California. Thereafter, each employer covered by this section shall provide sexual harassment training and education to each employee in California once every two years. New nonsupervisory employees shall be provided training within six months of hire. New supervisory employees shall be provided training within six months of the assumption of a supervisory position. An employer may provide this training in conjunction with other training provided to the employees. The training may be completed by employees individually or as part of a group presentation, and may be completed in shorter segments, as long as the applicable hourly total requirement is met. An employer who has provided this training and education to an employee in 2019 is not required to provide refresher training and education again until two years thereafter. The training and education required by this section shall include information and practical guidance regarding the federal and state statutory provisions concerning the prohibition against and the prevention and correction of sexual harassment and the remedies available to victims of sexual harassment in employment. The training and education shall also include practical examples aimed at instructing supervisors in the prevention of harassment, discrimination, and retaliation, and shall be presented by trainers or educators with knowledge and expertise in the prevention of harassment, discrimination, and retaliation. The department shall provide a method for employees who have completed the training to save electronically and print a certificate of completion.

(b) An employer shall also include prevention of abusive conduct as a component of the training and education specified in subdivision (a).

(c) An employer shall also provide training inclusive of harassment based on gender identity, gender expression, and sexual orientation as a component of the training and education specified in subdivision (a). The training and education shall include practical examples inclusive of harassment based on gender identity, gender expression, and sexual orientation, and shall be presented by trainers or educators with knowledge and expertise in those areas.

(d) The state shall incorporate the training required by subdivisions (a) to (c), inclusive, into the 80 hours of training provided to all new employees pursuant to subdivision (b) of Section 19995.4, using existing resources.

(e) Notwithstanding subdivisions (j) and (k) of Section 12940, a claim that the training and education required by this section did not reach a particular individual or individuals shall not in and of itself result in the liability of any employer to any present or former employee or applicant in any action alleging sexual harassment. Conversely, an employer’s compliance with this section does not insulate the employer from liability for sexual harassment of any current or former employee or applicant.

(f) If an employer violates this section, the department may seek an order requiring the employer to comply with these requirements.

(g) The training and education required by this section is intended to establish a minimum threshold and should not discourage or relieve any employer from providing for longer, more frequent, or more elaborate training and education regarding workplace harassment or other forms of unlawful discrimination in order to meet its obligations to take all reasonable steps necessary to prevent and correct harassment and discrimination. This section shall not be construed to override or supersede statutes, including, but not
limited to, Section 1684 of the Labor Code, that meet or exceed the training for nonsupervisory employees required under this section.

(h) (1) Beginning January 1, 2020, for seasonal, temporary, or other employees that are hired to work for less than six months, an employer shall provide training within 30 calendar days after the hire date or within 100 hours worked, whichever occurs first. In the case of a temporary employee employed by a temporary services employer, as defined in Section 201.3 of the Labor Code, to perform services for clients, the training shall be provided by the temporary services employer, not the client.

(2) Beginning January 1, 2020, sexual harassment prevention training for migrant and seasonal agricultural workers, as defined in the federal Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801, et seq.), shall be consistent with training for nonsupervisory employees pursuant to paragraph (8) of subdivision (a) of Section 1684 of the Labor Code.

(i) (1) For purposes of this section only, “employer” means any person regularly employing five or more persons or regularly receiving the services of five or more persons providing services pursuant to a contract, or any person acting as an agent of an employer, directly or indirectly, the state, or any political or civil subdivision of the state, and cities.

(2) For purposes of this section, “abusive conduct” means conduct of an employer or employee in the workplace, with malice, that a reasonable person would find hostile, offensive, and unrelated to an employer’s legitimate business interests. Abusive conduct may include repeated infliction of verbal abuse, such as the use of derogatory remarks, insults, and epithets, verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, or the gratuitous sabotage or undermining of a person’s work performance. A single act shall not constitute abusive conduct, unless especially severe and egregious.

(j) For purposes of providing training to employees as required by this section, an employer may develop their own training module or may direct employees to view the online training course referenced in subdivision (k) and this shall be deemed to have complied with and satisfied the employers’ obligations as set forth in this section and Section 12950.

(k) The Department of Fair Employment and Housing shall develop or obtain two online training courses on the prevention of sexual harassment in the workplace in accordance with the provisions of this section. The course for nonsupervisory employees shall be one hour in length and the course for supervisory employees shall be two hours in length.

(l) The department shall make the online training courses available on its internet website. The online training courses shall contain an interactive feature that requires the viewer to respond to a question periodically in order for the online training courses to continue to play. Any questions resulting from the online training course described in this subdivision shall be directed to the trainee’s employer’s Human Resources Department or equally qualified professional rather than the department.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to encourage maximum employer compliance by ensuring general awareness of the new requirements governing sexual harassment training, it is necessary for this act to take effect immediately.

California Code of Civil Procedure, 2018 90

1001. (a) Notwithstanding any other law, a provision within a settlement agreement that prevents the disclosure of factual information related to a claim filed in a civil action or a complaint filed in an administrative action, regarding any of the following, is prohibited:
(1) An act of sexual assault that is not governed by subdivision (a) of Section 1002.
(2) An act of sexual harassment, as defined in Section 51.9 of the Civil Code.
(3) An act of workplace harassment or discrimination based on sex, or failure to prevent an act of workplace harassment or discrimination based on sex or an act of retaliation against a person for reporting harassment or discrimination based on sex, as described in subdivisions (h), (i), (j), and (k) of Section 12940 of the Government Code.
(4) An act of harassment or discrimination based on sex, or an act of retaliation against a person for reporting harassment or discrimination based on sex, by the owner of a housing accommodation, as described in Section 12955 of the Government Code.
(b) Notwithstanding any other law, in a civil matter described in paragraphs (1) to (4), inclusive, of subdivision (a), a court shall not enter, by stipulation or otherwise, an order that restricts the disclosure of information in a manner that conflicts with subdivision (a).
(c) Notwithstanding subdivision (a) and (b), a provision that shields the identity of the claimant and all facts that could lead to the discovery of his or her identity, including pleadings filed in court, may be included within a settlement agreement at the request of the claimant. This subdivision does not apply if a government agency or public official is a party to the settlement agreement.
(d) Except as authorized by subdivision (c), a provision within a settlement agreement that prevents the disclosure of factual information related to the claim described in subdivision (a) that is entered into on or after January 1, 2019, is void as a matter of law and against public policy.
(e) This section does not prohibit the entry or enforcement of a provision in any agreement that precludes the disclosure of the amount paid in settlement of a claim.
(f) In determining the factual foundation of a cause of action for civil damages under subdivision (a), a court may consider the pleadings and other papers in the record, or any other findings of the court.
(Added by Stats. 2018, Ch. 953, Sec. 1. (SB 820) Effective January 1, 2019.)

1002. (a) Notwithstanding any other law, a provision within a settlement agreement that prevents the disclosure of factual information related to the action is prohibited in any civil action the factual foundation for which establishes a cause of action for civil damages for any of the following:
(1) An act that may be prosecuted as a felony sex offense.
(2) An act of childhood sexual abuse, as defined in Section 340.1.
(3) An act of sexual exploitation of a minor, as defined in Section 11165.1 of the Penal Code, or conduct prohibited with respect to a minor pursuant to Section 311.1, 311.5, or 311.6 of the Penal Code.
(4) An act of sexual assault, as defined in paragraphs (1) to (9), inclusive, of subdivision (e) of Section 15610.63 of the Welfare and Institutions Code, against an elder or dependent adult, as defined in Sections 15610.23 and 15610.27 of the Welfare and Institutions Code.
(b) Notwithstanding any other law, in a civil action described in paragraphs (1) to (4), inclusive, of subdivision (a), a court shall not enter, by stipulation or otherwise, an order that restricts the disclosure of information in a manner that conflicts with subdivision (a).
(c) Subdivisions (a) and (b) do not preclude an agreement preventing the disclosure of any medical
information or personal identifying information, as defined in subdivision (b) of Section 530.55 of the Penal
Code, regarding the victim of the offense listed in subdivision (a) or of any information revealing the nature
of the relationship between the victim and the defendant. This subdivision shall not be construed to limit
the right of a crime victim to disclose this information.
(d) Except as authorized by subdivision (c), a provision within a settlement agreement that prevents the
disclosure of factual information related to the action described in subdivision (a) that is entered into on or
after January 1, 2017, is void as a matter of law and against public policy.
(e) An attorney’s failure to comply with the requirements of this section by demanding that a provision be
included in a settlement agreement that prevents the disclosure of factual information related to the action
described in subdivision (a) that is not otherwise authorized by subdivision (c) as a condition of settlement,
or advising a client to sign an agreement that includes such a provision, may be grounds for professional
discipline and the State Bar of California shall investigate and take appropriate action in any such case
brought to its attention.

35.2.6 COLORADO

Colorado Revised Statutes, 2018
Title 24 Government – State
Principal Departments
Article 34 Department of Regulatory Agencies
Part 4 Employment Practices

24-34-402. Discriminatory or unfair employment practices
(1) It shall be a discriminatory or unfair employment practice:
(a) For an employer to refuse to hire, to discharge, to promote or demote, to harass during the course of
employment, or to discriminate in matters of compensation, terms, conditions, or privileges of employment
against any person otherwise qualified because of disability, race, creed, color, sex, sexual orientation,
religion, age, national origin, or ancestry; [...] For purposes of this paragraph (a), "harass" means to create
a hostile work environment based upon an individual’s race, national origin, sex, sexual orientation,
disability, age, or religion. Notwithstanding the provisions of this paragraph (a), harassment is not an illegal
act unless a complaint is filed with the appropriate authority at the complainant’s workplace and such
authority fails to initiate a reasonable investigation of a complaint and take prompt remedial action if
appropriate.

24-34-403. Time limits on filing of charges
Any charge alleging a violation of this part 4 shall be filed with the commission pursuant to section 24-34-
306 within six months after the alleged discriminatory or unfair employment practice occurred, and if not
so filed, it shall be barred.

Code of Colorado Regulations
700 Department of Regulatory Agencies
708 Civil Rights Commission
3CCR 708-1 State of Colorado Civil Rights Commission Rules and Regulations

Rule 80.8 – Sexual Harassment.
(A) Sexual harassment which results in discrimination in employment, housing, public accommodations or advertising is a violation of the Law. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature. Sexual harassment is a violation of the Law when either, submission to such conduct is made explicitly or implicitly a requirement of employment, housing, public accommodations or advertising, or an individual’s response to such conduct is the basis for decisions which deny the individual rights protected by the Law.
(B) Sexual harassment shall be determined from the totality of the circumstances, which may include, but are not limited to, the nature of the sexual advances and the context in which the alleged incidents occurred.

35.2.7 CONNECTICUT

Connecticut Public Act 19-16
AN ACT COMBATTING SEXUAL ASSAULT AND SEXUAL HARASSMENT.
Be it enacted by the Senate and House of Representatives in General Assembly convened:
Section 1. Section 46a-54 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2019):
The commission shall have the following powers and duties:
[...]
(15) [(A)] To require an employer having three or more employees to (A) post in a prominent and accessible location information concerning the illegality of sexual harassment and remedies available to victims of sexual harassment, (B) provide, not later than three months after the employee's start date with the employer, a copy of the information concerning the illegality of sexual harassment and remedies available to victims of sexual harassment to each employee by electronic mail with a subject line that includes the words "Sexual Harassment Policy" or words of similar import, if (i) the employer has provided an electronic mail account to the employee, or (ii) the employee has provided the employer with an electronic mail address, provided if an employer has not provided an electronic mail account to the employee, the employer shall post the information concerning the illegality of sexual harassment and remedies available to victims of sexual harassment on the employer's Internet web site, if the employer maintains such an Internet web site. An employer may comply with the requirements of this subparagraph, by providing an employee with the link to the commission's Internet web site concerning the illegality of sexual harassment and the remedies available to victims of sexual harassment by electronic mail, text message or in writing; and [(B) to require an employer having fifty or more employees to] (C) provide two hours of training and education to [all supervisory] employees.

https://www.sos.state.co.us/CCR/GenerateRulePdf.do?ruleVersionId=6008&fileName=3%20CCR%20708-1
(last visited 15 November 2019).
within one year of October 1, [1992, and to all new supervisory employees within six months of their assumption of a supervisory position] 2019, provided any employer who has provided such training and education to any such employees after October 1, [1991] 2018, shall not be required to provide such training and education a second time. An employer having (i) three or more employees, shall provide such training and education to an employee hired on or after October 1, 2019, not later than six months after the date of his or her hire, provided the commission has developed and made available such training and education materials in accordance with the provisions of subdivision (8) of subsection (a) of section 46a-56, as amended by this act; or (ii) less than three employees shall provide such training and education to all supervisory employees within one year of October 1, 2019, and to all new supervisory employees within six months of their assumption of a supervisory position, provided any employer who has provided such training and education to any such supervisory employees after October 1, 2018, shall not be required to provide such training and education a second time. Any supervisory employee hired on or after October 1, 2019, by an employer having less than three employees, shall receive such training and education not later than six months after the date of his or her hire, provided the commission has developed and made available such training and education materials in accordance with the provisions of subdivision (8) of subsection (a) of section 46a-56, as amended by this act. Such training and education shall include information concerning the federal and state statutory provisions concerning sexual harassment and remedies available to victims of sexual harassment. An employer who is required to provide training under this subdivision shall provide periodic supplemental training that updates all supervisory and nonsupervisory employees on the content of such training and education not less than every ten years. As used in this subdivision, "sexual harassment" has the same meaning as provided in subdivision (8) of subsection (b) of section 46a-60, as amended by this act, and "employer" includes the General Assembly and "employee" means any individual employed by an employer, including an individual employed by such individual's parent, spouse or child; [...] (a) The commission shall: [...] (7) Develop and include on the commission's Internet web site a link concerning the illegality of sexual harassment, as defined in section 46a-60, as amended by this act, and the remedies available to victims of sexual harassment; and (8) Develop and make available at no cost to employers an online training and education video or other interactive method of training and education that fulfills the requirements prescribed in subdivision (15) of section 46a-54, as amended by this act. Sec. 4. Subdivision (8) of subsection (b) of section 46a-60 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2019): (8) For an employer, by the employer or the employer's agent, for an employment agency, by itself or its agent, or for any labor organization, by itself or its agent, to harass any employee, person seeking employment or member on the basis of sex or gender identity or expression. "Sexual harassment" shall, for the purposes of this subdivision, be defined as] If an employer takes immediate corrective action in response to an employee's claim of sexual harassment, such corrective action shall not modify the conditions of employment of the employee making the claim of sexual harassment unless such employee agrees, in writing, to any modification in the conditions of employment. "Corrective action" taken by an employer, includes, but is not limited to, employee relocation, assigning an employee to a different work schedule or other substantive changes to an employee's terms and conditions of employment. As used in this subdivision, "sexual harassment" means any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when (A)
submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (B) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (C) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment;

Sec. 5. Subparagraph (A) of subdivision (4) of subsection (b) of section 46a-68 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2019):

(4) (A) Each person designated by a state agency, department, board or commission as an equal employment opportunity officer shall (i) be responsible for mitigating any discriminatory conduct within the agency, department, board or commission, (ii) investigate all complaints of discrimination made against the state agency, department, board or commission, except if any such complaint has been filed with the Commission on Human Rights and Opportunities or the Equal Employment Opportunity Commission, the state agency, department, board or commission may rely upon the process of the applicable commission, as applicable, in lieu of such investigation, and (iii) report all findings and recommendations upon the conclusion of an investigation to the commissioner or director of the state agency, department, board or commission for proper action. An equal employment opportunity officer shall not disclose witness statements or documents received or compiled in conjunction with the investigation of a complaint of discriminatory conduct within the agency, department, board or commission until the conclusion of such investigation, except that witness statements or documents may be disclosed to personnel charged with investigating or adjudicating such complaint, or to the Commission on Human Rights and Opportunities.

Sec. 6. Subsection (f) of section 46a-82 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2019):

(f) Any complaint filed pursuant to this section [must] shall be filed within one hundred and eighty days after the alleged act of discrimination, except that any complaint by a person (1) claiming to be aggrieved by a violation of subsection (a) of section 46a-80 [must] that occurred on or before October 1, 2019, shall be filed within thirty days of the alleged act of discrimination, and (2) claiming to be aggrieved by a violation of section 46a-60, as amended by this act, sections 46a-70 to 46a-78, inclusive, or section 46a-80 or 46a-81c, that occurred on or after October 1, 2019, shall be filed not later than three hundred days after the date of the alleged act of discrimination.

Sec. 7. Subsection (b) of section 46a-86 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2019):

(b) In addition to any other action taken under this section, upon a finding of a discriminatory employment practice, the presiding officer [may order the hiring or reinstatement of any individual, with or without back pay, or] shall (1) issue an order to eliminate the discriminatory employment practice complained of and to make the complainant whole, including restoration to membership in any respondent labor organization, and (2) (A) determine the amount of damages suffered by the complainant, including the actual costs incurred by the complainant as a result of the discriminatory employment practice, and (B) allow reasonable attorney's fees and costs. The amount of attorney's fees allowed shall not be contingent upon the amount of damages requested by or awarded to the complainant. Liability for back pay shall not accrue from a date more than two years prior to the filing or issuance of the complaint. Interim earnings, including unemployment compensation and welfare assistance or amounts which could have been earned with reasonable diligence on the part of the person to whom back pay is awarded shall be deducted from the amount of back pay to which such person is otherwise entitled. The amount of any deduction for interim unemployment compensation or welfare assistance shall be paid by the respondent to the commission which shall transfer such amount to the appropriate state or local agency.
Sec. 8 Section 46a-84 of the general statutes is amended by adding subsection (h) as follows (Effective October 1, 2019):

(NEW) (h) The complainant, the respondent and the commission shall be afforded the opportunity to inspect and copy relevant and material records, papers and documents not in the possession of such party, except as otherwise provided by applicable state or federal law.

[...]

Sec. 9. Section 46a-97 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2019):

[...]

(c) Any employer who fails to provide the training and education concerning the illegality of sexual harassment and the remedies available to victims of sexual harassment, as required pursuant to subdivision (15) of section 46a-54, as amended by this act, shall be fined not more than one thousand dollars.

(d) The executive director of the commission may assign a designated representative of the commission to enter an employer's place of business during normal business hours for purposes of: (1) Ensuring compliance with the posting requirements prescribed in subdivisions (13), (14) and (15) of section 46a-54, as amended by this act, and (2) examining records, policies, procedures, postings and sexual harassment training materials maintained by the employer in connection with the requirements of subdivisions (13), (14) and (15) of section 46a-54, as amended by this act. A designated representative of the commission, who is carrying out the duties set forth in this subsection, shall ensure that such activities do not unduly disrupt the business operations of the employer.

Sec. 10. Section 46a-104 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2019):

The court may grant a complainant in an action brought in accordance with section 46a-100 such legal and equitable relief which it deems appropriate including, but not limited to, temporary or permanent injunctive relief, punitive damages, attorney's fees and court costs. The amount of attorney's fees allowed shall not be contingent upon the amount of damages requested by or awarded to the complainant.

[...]

Sec. 12. (NEW) (Effective October 1, 2019) (a) As used in this section:

(1) "Sexual misconduct" means any act that is prohibited by section 53a-70, 53a-70a, 53a-70b, 53a-70c, 53a-71, 53a-72a, 53a-72b or 53a-73a of the general statutes, as amended by this act; and any act that constitutes sexual harassment, as defined in subdivision (8) of subsection (b) of section 46a-60 of the general statutes, as amended by this act; and

(2) "victim" includes an alleged victim.

(b) The following evidence is not admissible in a civil proceeding involving alleged sexual misconduct: (1) Evidence offered to prove that a victim engaged in other sexual behavior; or (2) evidence offered to prove a victim's sexual predisposition.

(c) Notwithstanding the provisions of subsection (b) of this section, the court may admit the evidence in a civil case if the probative value of such evidence substantially outweighs the danger of (1) harm to any victim; and (2) unfair prejudice to any party. The court may admit evidence of a victim's reputation only if the victim has placed the victim's reputation in controversy.

(d) If a party intends to offer evidence under subsection (c) of this section, the party shall: (1) File a motion by lodging a record pursuant to the requirements set forth in the Connecticut Practice Book that specifically describes the evidence and states the purpose for which it is to be offered; (2) file such motion not later than fourteen days before the date on which the case is to be heard, unless the court, for good cause shown, prescribes a different time for the filing of such motion;
(3) serve the motion on all parties in accordance with the rules of the court; and (4) notify the victim or, when appropriate, the victim's guardian or representative.

(e) Before admitting evidence pursuant to subsection (c) of this section, the court shall conduct an in camera hearing and give the parties and the victim the right to attend such hearing and be heard. Unless the court orders otherwise, the motion, related materials and the record of the hearing shall be sealed and remain sealed.

 [...]

**Connecticut General Statutes, 2019**

Title 46a Human Rights
Chapter 814c Human Rights and Opportunities
Section 46a-54 Commission powers

(15) (A) To require an employer having three or more employees to post in a prominent and accessible location information concerning the illegality of sexual harassment and remedies available to victims of sexual harassment; and (B) to require an employer having fifty or more employees to provide two hours of training and education to all supervisory employees within one year of October 1, 1992, and to all new supervisory employees within six months of their assumption of a supervisory position, provided any employer who has provided such training and education to any such employees after October 1, 1991, shall not be required to provide such training and education a second time. Such training and education shall include information concerning the federal and state statutory provisions concerning sexual harassment and remedies available to victims of sexual harassment. As used in this subdivision, “sexual harassment” has the same meaning as provided in subdivision (8) of subsection (b) of section 46a-60, and “employer” includes the General Assembly;

Section 46a-60 Discriminatory employment practices prohibited

(8) For an employer, by the employer or the employer's agent, for an employment agency, by itself or its agent, or for any labor organization, by itself or its agent, to harass any employee, person seeking employment or member on the basis of sex or gender identity or expression. “Sexual harassment” shall, for the purposes of this subdivision, be defined as any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when (A) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (B) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (C) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment;

35.2.8 DELAWARE

**Delaware Code, 2019**

Title 19 Labor, General Provisions

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§ 711A Unlawful employment practices; sexual harassment.
(a) Purpose. The State of Delaware is committed to ensuring that all Delawareans experience a safe and respectful workplace free of sexual harassment. Complaints of sexual harassment will be taken seriously and employers will be held accountable for sexual harassment in the workplace. It is the expectation of the Delaware General Assembly that all employers in the State of Delaware will work to create a workplace where employees are safe and treated with dignity and respect.
(b) Definitions. As used in this section:
(4) “Employee” means an individual employed by an employer and includes state employees, unpaid interns, applicants, joint employees and apprentices.
(5) “Employee placed by employment agency” means an employee who performs services for an employer as a result of the employer’s contractual agreement with an employment agency.
(6) “Employer” means any person employing 4 or more employees within the State at the time of the alleged violation and includes the State, the General Assembly, state agencies and labor organizations.
(c) Sexual harassment of an employee is an unlawful employment practice when the employee is subjected to conduct that includes unwelcome sexual advances, requests for sexual favors, and other verbal 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 employee’s employment;
(2) Submission to or rejection of such conduct is used as the basis for employment decisions affecting an employee; or
(3) Such conduct has the purpose or effect of unreasonably interfering with an employee’s work performance or creating an intimidating, hostile, or offensive working environment.
(d) An employer is responsible for sexual harassment of an employee when:
(1) A supervisor’s sexual harassment results in a negative employment action of an employee;
(2) The employer knew or should have known of the non-supervisory employee’s sexual harassment of an employee and failed to take appropriate corrective measures; or
(3) A negative employment action is taken against an employee in retaliation for the employee filing a discrimination charge, participating in an investigation of sexual harassment, or testifying in any proceeding or lawsuit about the sexual harassment of an employee.
(e) In any action against an employer under paragraph (d)(2) of this section, it is an affirmative defense if the employer proves that:
(1) The employer exercised reasonable care to prevent and correct any harassment promptly; and
(2) The employee unreasonably failed to take advantage of any preventative or corrective opportunities provided by the employer.
(f) Information sheet.
(1) The Department of Labor shall create an information sheet on sexual harassment that the Department shall make available to employers. The information sheet shall be available at each office of the Department, and shall be mailed if the request includes a self-addressed envelope with postage affixed. The Department shall make the information sheet available on its website.
(2) The information sheet shall provide notice to employees of the right to be free from sexual harassment in the workplace. The information sheet must contain all of the following:
a. The illegality of sexual harassment;
b. The definition of sexual harassment under state law using examples;
c. The legal remedies and complaint process available through the Department;
d. Directions on how to contact the Department.
e. The legal prohibition against retaliation.

(3) Every employer shall distribute, physically or electronically, the information sheet to its employees as follows:

a. To new employees at the commencement of employment;
b. To existing employees by July 1, 2019.

(4) A claim that the information sheet required to be distributed under this subsection shall not in and of itself result in liability of any employer to any present or former employee in any action alleging sexual harassment. An employer’s compliance with this subsection does not insulate the employer from liability for sexual harassment of any current or former employee or applicant.

(g) Training requirements for an employer having 50 or more employees in Delaware.

(1) An employer shall provide interactive training and education to employees regarding the prevention of sexual harassment.

(2) Such training shall be provided to employees as follows:

a. To new employees within 1 year of the commencement of employment and thereafter every 2 years;
b. To existing employees by January 1, 2020, and thereafter every 2 years.

(3) The training shall include all of the following:

a. The illegality of sexual harassment;
b. The definition of sexual harassment using examples;
c. The legal remedies and complaint process available to the employee.
d. Directions on how to contact the Department.
e. The legal prohibition against retaliation.

(4) Supervisor training.

a. An employer shall provide additional interactive training to all supervisors as follows:

1. To new supervisors within 1 year of the commencement of employment as a supervisor, and thereafter every 2 years;
2. To existing supervisors by January 1, 2020, and thereafter every 2 years.

b. Such training shall include all of the following:

1. The specific responsibilities of a supervisor regarding the prevention and correction of sexual harassment;
2. The legal prohibition against retaliation.

(5) Training provided prior to January 1, 2019.

a. If an employer provided training to employees or supervisors prior to January 1, 2019, that would satisfy the requirements under this subsection, no additional training is required under this subsection until January 1, 2020.

(6) Numerosity and training requirement.

a. Employers do not count applicants or independent contractors towards the numerosity requirement under this subsection.
b. Employers are not required to provide training under this subsection to applicants, independent contractors, or employees employed less than 6 months continuously.
c. Employment agencies are the only employers required to count and provide training to employees placed by employment agency under this subsection.

(h) The Department of Labor shall post the requirements of this section on their website and shall perform outreach as necessary to educate employers of the requirements of this section.
35.2.9 FLORIDA

Florida Statutes, 2019 96
Title X Public officers, employees, and records
Chapter 110 State employment
Part 1 General state employment provisions
Section 1221 Sexual harassment policy; executive agency rules.

110.1221 Sexual harassment policy; executive agency rules.—It is the policy of the state that sexual harassment is a form of discrimination. The department shall adopt uniform sexual harassment rules applicable to all executive agencies. The rules must define the term “sexual harassment” in a manner consistent with the federal definition.

Florida Administrative Code, 2019 97
60. Department of Management Services
60L. Personnel Management System
Section 40. Sexual harassment, equal employment opportunity and affirmative action

Rule 60L-40.001 – Sexual harassment
(1) Agencies shall not tolerate sexual harassment within the work force. Sexual harassment means unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature from any person directed towards or in the presence of an employee or applicant when:
(a) Submission to such conduct is either explicitly or implicitly a term or condition of an individual’s employment;
(b) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
(c) Such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile, or offensive working environment.
(2) Agencies shall make known to their employees that sexual harassment will not be tolerated. Each agency shall make available to employees a copy of this Rule 60L-40.001, F.A.C., and a copy of the agency’s procedures for investigating and resolving complaints of sexual harassment. Each employee shall acknowledge understanding and acceptance of this rule and the agency procedure, and documented evidence of the acknowledgement shall be retained in the employee’s personnel file.
(3) Agencies shall develop and implement procedures to investigate and resolve complaints of sexual harassment. Agencies shall designate a person or persons to receive complaints of sexual harassment. Complaints shall be reduced to writing, signed by the complainant, and contain at least the following information:
(a) The name, business address, and telephone number of the person filing the complaint;

(b) The name of the person who allegedly committed the act of sexual harassment and the alleged victim; and,
(c) A clear and concise statement of the facts, including pertinent dates, locations, witnesses and other evidence in support of the complaint.
If the complaint does not contain all of this information, the agency shall, in writing, request the complainant to furnish it.

(4) Agencies shall initiate prompt review of all complaints. Agencies shall take steps to protect the privacy of those involved during the review and any related investigation.

(5) During an investigation of sexual harassment, agencies shall fully comply with investigatory procedures and rights contained in collective bargaining agreements between the State and the certified bargaining representatives for State employees. If the standard agency procedure conflicts with the collective bargaining agreement, the latter shall prevail.

(6) The filing of a complaint pursuant to agency procedure, regardless of disposition, shall not preclude the complainant from also filing a complaint with the Florida Commission on Human Relations (FCHR) or the Federal Equal Employment Opportunity Commission (EEOC). If the complainant files a complaint with either the FCHR or the EEOC, and the agency undertakes an investigation to provide information to those entities, the agency need not also conduct the investigation otherwise required by its own procedures; however, an employee who has committed sexual harassment shall be disciplined regardless of the type of investigation.

(7) Agencies shall discipline any employee who engages in sexual harassment, according to the agency’s policy.

(8) Any supervisory or managerial employee who has knowledge of sexual harassment shall immediately report the matter directly to the person the agency has designated to receive complaints of sexual harassment. Failure to do so shall subject the employee to disciplinary action.

(9) Any employee who knowingly files a false complaint of sexual harassment against another employee shall be subject to disciplinary action.

(10) Agencies shall not tolerate retaliation against any person who has in good faith filed a complaint, opposed a complaint, or participated in any manner in an investigation or proceeding, involving allegations of sexual harassment.

35.2.10 GEORGIA

Title VII of the Civil Rights Act of 1964

State of Georgia, Governor Executive Order

BY THE GOVERNOR: PREVENTING SEXUAL HARASSMENT IN THE EXECUTIVE BRANCH OF GOVERNMENT

Now, THEREFORE, BY VIRTUE OF THE POWER VESTED IN ME AS THE GOVERNOR OF THE STATE OF GEORGIA, IT IS HEREBY ORDERED: Sexual Harassment Policy.

In consultation with the Executive Counsel, the Georgia Department of Administrative Services Human Resources Administration Division shall promulgate a uniform sexual harassment prevention policy that

shall apply to all Executive Branch agencies. Such policy shall also specifically prohibit retaliation against any person who has reported or participated in the investigation of possible sexual harassment. Each Executive Branch agency shall make this policy available to all employees and retain documentation of each employee’s acknowledgement of the policy.

IT IS FURTHER ORDERED: Mandatory Training of State Employees. In consultation with the Executive Counsel, the Department of Administrative Services Human Resources Administration Division shall develop sexual harassment prevention training for all Executive Branch employees. Each agency shall provide this training to all new employees within thirty (30) days of hire and require all employees, including part-time and seasonal employees, to take the sexual harassment training at least once a year.

In consultation with the Executive Counsel, the Department of Administrative Services Human Resources Administration Division shall develop sexual harassment prevention training specifically applicable to employees holding supervisory and managerial positions. Each agency shall provide this training to new managers and supervisors within thirty (30) days of employment or promotion to a managerial or supervisory position.

Evidence of receipt of training shall be documented and retained by each Executive Branch agency.

IT IS FURTHER ORDERED: Sexual Harassment Investigations.

Each Executive Branch agency shall designate at least two persons, not of the same gender, to investigate complaints of sexual harassment. Each agency shall promptly review all complaints of sexual harassment and immediately report any complaint made directly to the agency to the Office of Inspector General.

Each Executive Branch agency shall ensure employees that are directly supervised by a designed investigator have the ability to report complaints of sexual harassment to a person other than their direct supervisor.

The Office of Inspector General shall independently review each sexual harassment complaint notification and provide oversight on whether the complaint can be fairly and impartially handled internally at the agency from which it originated. The Office of Inspector General shall determine an impartial investigator to handle any investigations determined to be unable to be fairly or impartially handled at the agency from which it originated.

The Executive Counsel and the Office of Inspector General, in consultation with the Department of Administrative Services Human Resources Administration Division, shall develop procedures regarding investigation and resolution of sexual harassment complaints, which shall be binding on Executive Branch agencies.

IT IS FURTHER ORDERED: Sexual Harassment Investigation Training.

The Office of the Inspector General in conjunction with the Department of Administrative Services Human Resources Administration Division shall develop standardized investigative training for state employees who are designated by their agency head to investigate complaints of sexual harassment. All agencies shall require the employees designated to conduct sexual harassment investigations to take the investigator training to ensure consistency among all sexual harassment investigations across the state.

IT IS FURTHER ORDERED: Office of Inspector General Audit Authority.

The Office of Inspector General shall have authority to review a sexual harassment investigation at any time. The Office of Inspector General may request any information related to a sexual harassment complaint or investigation from any agency at anytime.

Executive Branch agencies shall provide full cooperation to the Office of Inspector General and produce any information requested pursuant to this Order as soon as it is available.

IT IS FURTHER ORDERED: Applicability.

This Executive Order applies to every Executive Branch agency. "Agency" means any Executive Branch agency, board, bureau, commission, council, department, entity, or instrumentality of any kind,
and others as may be designated by the Governor, to the extent that such designation does not conflict with state law. All Executive Branch agencies are required to comply with this Order in addition to all federal and state laws governing sexual harassment. Nothing in this Order has the effect of supplanting or superseding any federal or state law. This the 14th day of January 2019.

35.2.11 HAWAII

Hawaii Administrative Rules (Hawaii Civil Rights Commission) 100
Title 12 Department of Labor and Industrial Relations
Chapter 46 Hawaii Civil Rights Commission
Subchapter 4 Sexual Discrimination

§12-46-109 Sexual harassment. (a) Harassment on the basis of sex is a violation of chapter 378, HRS. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or visual forms of harassment of a sexual nature constitute sexual harassment when:
(1) Submission to that conduct is made either explicitly or implicitly a term or condition of an individual’s employment; or
(2) Submission to or rejection of that conduct by an individual is used as the basis for employment decisions affecting that individual; or
(3) That conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile, or offensive working environment.
(b) In determining whether alleged conduct constitutes sexual harassment, the commission will look at the record as a whole and at the totality of the circumstances, such as the nature of the sexual advances and the context in which the alleged incidents occurred. The determination of the legality of a particular action will be made from the facts, on a case by case basis.
(c) An employer shall be responsible for its acts and those of its agents and supervisory employees with respect to sexual harassment regardless of whether the specific acts complained of were authorized or even forbidden, and regardless of whether the employer or other covered entity knew or should have known of their occurrence. The commission will examine the circumstances of the particular employment relationship and the job functions performed by the individual in determining whether an individual acted in either a supervisory or agency capacity.
(d) With respect to conduct between employees, an employer shall be responsible for acts of sexual harassment in the workplace where the employer or its agents or supervisory employees knows or should have known of the conduct and fails to take immediate and appropriate corrective action. An employee who has been sexually harassed on the job by a co-worker should inform the employer, its agent, or supervisory employee of the harassment; however, an employee’s failure to give such notice may not be an affirmative defense.
(e) An employer may be responsible for the acts of non-employees, with respect to sexual harassment of employees at the workplace, where the employer knows or should have known of the conduct and fails to take immediate and appropriate corrective action. In reviewing these cases, the commission will consider the extent of the employer’s control and any other legal responsibility which the employer may have with respect to the conduct of the non-employees.

(f) Where employment opportunities or benefits are granted because of an individual’s submission to the employer’s sexual advances or requests for sexual favors, the employer may be held liable for unlawful sex discrimination against other persons who were qualified for but denied that employment opportunity or benefit.

(g) Prevention is the best tool for the elimination of sexual harassment. Employers should affirmatively raise the subject, express strong disapproval, develop appropriate sanctions, inform employees of their right to raise and how to raise the issue of sexual harassment, and take any other steps necessary to prevent sexual harassment from occurring.

35.2.12 IDAHO

**Title VII of the Civil Rights Act of 1964**

35.2.13 ILLINOIS

**Illinois Compiled Statutes, as amended**

Chapter 775 – Human Rights

(775 ILCS 5/) Illinois Human Rights Act.

775 ILCS 5 ARTICLE 1. GENERAL PROVISIONS

Sec. 1-101. Short Title. This Act shall be known and may be cited as the Illinois Human Rights Act. [...]

(B) Freedom from Sexual Harassment-Employment and Elementary, Secondary, and Higher Education. To prevent sexual harassment in employment and sexual harassment in elementary, secondary, and higher education. [...]

Sec. 1-103. General definitions. When used in this Act, unless the context requires otherwise, the term:

ARTICLE 2. EMPLOYMENT

Sec. 2-101. Definitions. The following definitions are applicable strictly in the context of this Article.

(A) Employee.

(1) "Employee" includes:

(a) Any individual performing services for remuneration within this State for an employer;

(b) An apprentice;

(c) An applicant for any apprenticeship. For purposes of subsection (D) of Section 2-102 of this Act, "employee" also includes an unpaid intern. An unpaid intern is a person who performs work for an employer under the following circumstances:

(i) the employer is not committed to hiring the person performing the work at the conclusion of the intern's tenure;

(ii) the employer and the person performing the work agree that the person is not entitled to wages for the work performed; and

(iii) the work performed:

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(I) supplements training given in an educational environment that may enhance the employability of the intern;
(II) provides experience for the benefit of the person performing the work;
(III) does not displace regular employees;
(IV) is performed under the close supervision of existing staff; and
(V) provides no immediate advantage to the employer providing the training and may occasionally impede the operations of the employer.

(B) Employer.
(1) "Employer" includes:
(a) Any person employing 15 or more employees within Illinois during 20 or more calendar weeks within the calendar year of or preceding the alleged violation;
(b) Any person employing one or more employees when a complainant alleges civil rights violation due to unlawful discrimination based upon his or her physical or mental disability unrelated to ability, pregnancy, or sexual harassment;
(c) The State and any political subdivision, municipal corporation or other governmental unit or agency, without regard to the number of employees;
(d) Any party to a public contract without regard to the number of employees;
(e) A joint apprenticeship or training committee without regard to the number of employees.

(E) Sexual Harassment. "Sexual harassment" means any unwelcome sexual advances or requests for sexual favors or any 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 for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

(G) Public Employer. "Public employer" means the State, an agency or department thereof, unit of local government, school district, instrumentality or political subdivision.

(H) Public Employee. "Public employee" means an employee of the State, agency or department thereof, unit of local government, school district, instrumentality or political subdivision. "Public employee" does not include public officers or employees of the General Assembly or agencies thereof.

Sec. 2-102. Civil rights violations - employment. It is a civil rights violation:

(D) Sexual harassment. For any employer, employee, agent of any employer, employment agency or labor organization to engage in sexual harassment; provided, that an employer shall be responsible for sexual harassment of the employer's employees by nonemployees or nonmanagerial and nonsupervisory employees only if the employer becomes aware of the conduct and fails to take reasonable corrective measures.

(K) Notice.
(1) For an employer to fail to post or keep posted in a conspicuous location on the premises of the employer where notices to employees are customarily posted, or fail to include in any employee handbook information concerning an employee's rights under this Article, a notice, to be prepared or approved by the Department, summarizing the requirements of this Article and information pertaining to the filing of a charge, including the right to be free from unlawful discrimination, the right to be free from sexual
harassment, and the right to certain reasonable accommodations. The Department shall make the documents required under this paragraph available for retrieval from the Department's website.

(2) Upon notification of a violation of paragraph (1) of this subdivision (K), the Department may launch a preliminary investigation. If the Department finds a violation, the Department may issue a notice to show cause giving the employer 30 days to correct the violation. If the violation is not corrected, the Department may initiate a charge of a civil rights violation.

[...]
private and public places of employment. In the case of a report of sexual harassment and discrimination by a person subject to Article 20 or 25 of the State Officials and Employees Ethics Act, the Department shall, with the permission of the reporting individual, report the allegations to the Executive Inspector General or Legislative Inspector General for further investigation.

(b) The Department shall advertise the helpline on its website and in materials related to sexual harassment and discrimination, including posters made available to the public, and encourage reporting by both those who are subject to sexual harassment and discrimination and those who have witnessed it.

(c) All communications received by the Department via the helpline or Internet communication shall remain confidential and shall be exempt from disclosure under the Freedom of Information Act.

(d) As used in this Section, "helpline" means a toll-free telephone with voicemail capabilities and an Internet website through which persons may report instances of sexual harassment and discrimination.

(e) The Department shall annually evaluate the helpline and report to the Clerk of the House of Representatives and the Secretary of the Senate in electronic form only, in the manner that the Clerk and the Secretary shall direct, the following information: (i) the total number of calls received, including messages left during non-business hours; (ii) the number of calls reporting sexual discrimination claims; (iii) the number of calls reporting harassment claims; (iv) the number of calls reporting sexual harassment claims; (v) the number of calls that were referred to each Executive Inspector General; and (vi) the number of calls that were referred to the Legislative Inspector General.

[...]

ARTICLE 6. ADDITIONAL CIVIL RIGHTS VIOLATIONS

Sec. 6-101. Additional Civil Rights Violations. It is a civil rights violation for a person, or for two or more persons to conspire, to:

(A) Retaliation. Retaliate against a person because he or she has opposed that which he or she reasonably and in good faith believes to be unlawful discrimination, sexual harassment in employment or sexual harassment in elementary, secondary, and higher education, discrimination based on citizenship status in employment, because he or she has made a charge, filed a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing under this Act, or because he or she has requested, attempted to request, used, or attempted to use a reasonable accommodation as allowed by this Act;

(B) Aiding and Abetting; Coercion. Aid, abet, compel or coerce a person to commit any violation of this Act;

(C) Interference. Wilfully interfere with the performance of a duty or the exercise of a power by the Commission or one of its members or representatives or the Department or one of its officers or employees.

Definitions. For the purposes of this Section, "sexual harassment" and "citizenship status" shall have the same meaning as defined in Section 2-101 of this Act.


ARTICLE 7. DEPARTMENT OF HUMAN RIGHTS; DUTIES; PROCEDURES
Sec. 7-101. Powers and Duties. In addition to other powers and duties prescribed in this Act, the Department shall have the following powers:

(A) Rules and Regulations. To adopt, promulgate, amend, and rescind rules and regulations not inconsistent with the provisions of this Act pursuant to the Illinois Administrative Procedure Act.

(B) Charges. To issue, receive, investigate, conciliate, settle, and dismiss charges filed in conformity with this Act.

(C) Compulsory Process. To request subpoenas as it deems necessary for its investigations.

(D) Complaints. To file complaints with the Commission in conformity with this Act.

(E) Judicial Enforcement. To seek temporary relief and to enforce orders of the Commission in conformity with this Act.

Sec. 7-106. Recruitment; Research; Public Communication. For the purpose of promoting equal employment and housing opportunities and eliminating unlawful discrimination, sexual harassment in employment and sexual harassment in elementary, secondary, and higher education, the Department shall have authority to:

(A) Recruitment. Cooperate with public and private organizations, as well as the Department of Central Management Services, in encouraging individuals in underrepresented classifications to seek employment in state government.

(B) Publications; Research. Issue publications, conduct research, and make surveys as it deems necessary.

(C) Public Hearings. Hold public hearings to obtain information from the general public on the effectiveness of the state's equal employment opportunity program and the protection against unlawful discrimination, sexual harassment in employment and sexual harassment in elementary, secondary, and higher education afforded by this Act and to accept public recommendations concerning changes in the program and the Act for inclusion in its annual report.

(D) Promotion of Communication and Goodwill. Establish a program to cooperate with civic, religious and educational organizations in order to improve human communication and understanding, foster equal opportunities in employment and housing, and promote and encourage communication, goodwill and interfaith and interracial harmony.

Sec. 7-108. Local Departments, Commissions.

(A) Authority. A political subdivision, or two or more political subdivisions acting jointly, may create a local department or commission as it or they see fit to promote the purposes of this Act and to secure for all individuals within the jurisdiction of the political subdivision or subdivisions freedom from unlawful discrimination, sexual harassment in employment and sexual harassment in elementary, secondary, and higher education. The provisions of any ordinance enacted by any municipality or county which prohibits broader or different categories of discrimination than are prohibited by this Act are not invalidated or affected by this Act.

35.2.14 INDIANA

Indiana Code, 2019

Title 22. Labor and Safety

Article 9. Civil Rights

IC 22-9-1-2
Public policy; construction of chapter
Sec. 2. (a) It is the public policy of the state to provide all of its citizens equal opportunity for education, employment, access to public conveniences and accommodations, and acquisition through purchase or rental of real property, including but not limited to housing, and to eliminate segregation or separation based solely on race, religion, color, sex, disability, national origin, or ancestry, since such segregation is an impediment to equal opportunity. Equal education and employment opportunities and equal access to and use of public accommodations and equal opportunity for acquisition of real property are hereby declared to be civil rights.

(b) The practice of denying these rights to properly qualified persons by reason of the race, religion, color, sex, disability, national origin, or ancestry of such person is contrary to the principles of freedom and equality of opportunity and is a burden to the objectives of the public policy of this state and shall be considered as discriminatory practices. The promotion of equal opportunity without regard to race, religion, color, sex, disability, national origin, or ancestry through reasonable methods is the purpose of this chapter

[...]

Indiana House of Representatives - Code of Ethics Amendment, 2019 104

COMMITTEE REPORT
MR. SPEAKER:
The Statutory Committee on Ethics has met pursuant to IC 2-2.2- 3-4 to review the House Code of Ethics and recommends that said Code of Ethics be amended as follows:
Part IX. CODE OF ETHICS
[...]
174.
[...]
(c) An individual who believes that:
(1) he or she has been a victim of sexual harassment, retaliation, or another violation of Rule 176; or
(2) another individual has been a victim of sexual harassment, retaliation, or another violation of Rule 176;
may submit a complaint to any member of the ethics committee, the Speaker, the Majority Caucus Chair, the Minority Leader, the Minority Caucus Chair, the Executive Director of the Legislative Services Agency, the Deputy Executive Director of the Legislative Services Agency, or the Ethics Counselor in the Office of Legislative Ethics established by IC 2-2.4-5. The initial complaint may be submitted in any form and by any medium, including an electronic medium such as email. If the complaint has not been reduced to writing and signed, the individual receiving the complaint shall promptly inform the complainant that the complaint must be reduced to writing and signed to be considered by the ethics committee.

(d) The individual receiving a complaint under subsection (b) or (c) shall promptly provide a copy of the complaint after it is reduced to writing and signed by the complainant to the following:
(1) The Speaker or, if the Speaker is the subject of the complaint, to the Majority Caucus Chair.

(2) The Minority Leader or, if the Minority Leader is the subject of the complaint, to the Minority Caucus Chair.

(3) Subject to subsection (f), the Chair and the Vice Chair of the ethics committee, if Chair and Vice Chair have not already received the initial complaint.

(e) A Speaker who is the subject of a complaint may not participate in a matter within the scope of a complaint, except as a respondent. An ethics committee member may not participate in any matter within the scope of the complaint when the ethics committee member is the subject of the complaint, except as a respondent.

(f) If the Chair or Vice Chair of the ethics committee is the subject of a complaint, the next ranking member of the same political party shall carry out the functions of the Chair or Vice Chair. If any member of the ethics committee, including the Chair or Vice Chair, is the subject of a complaint, the appointing authority under IC 2-2.2-3-2 for that member shall appoint another member of the same party to serve as a member of the ethics committee for the purposes of the complaint.

175. The following definitions apply throughout Rules 174 through 180:

(1) Sexual harassment means unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature by a member when:

(A) submission to or rejection of the conduct or silence concerning the conduct is:

(i) made either explicitly or implicitly a condition of an individual's employment or an individual's performance as an independent contractor under a contract with the legislative branch of Indiana state government;

(ii) used as the basis for employment or other contract decisions with the legislative branch of Indiana state government;

(iii) made either explicitly or implicitly a condition for or used as a basis for decisions concerning support of or opposition to legislative initiatives, access to a legislator, or other opportunities related to the functions of the legislative branch of Indiana state government; (quid pro quo violation); or

(B) the conduct is sufficiently severe, persistent, or pervasive and objectionable that it interferes with or limits an individual's ability to participate in or benefit from the legislative or work programs or activities of the legislative branch of Indiana state government (hostile environment violation).

[…]

(4) Protected activity means the following:

(A) Opposing sexual harassment, retaliation, or another violation of Rule 176.

(B) Making a charge or testifying, assisting, or participating in any manner in an investigation, proceeding, or hearing concerning sexual harassment, retaliation, or another violation of Rule 176 with an officer or entity with authority over sexual harassment, retaliation, or another violation of Rule 176. The term does not include conduct taken in bad faith or intentionally, knowingly, or recklessly providing false information or testimony.

(5) Retaliation refers to a member knowingly or intentionally threatening to take, taking, or causing another to take an adverse action that interferes with or limits an individual's employment or ability to participate in or benefit from the legislative or work programs or activities of the legislative branch of Indiana state government because the individual proposes to engage or engaged in protected activity. The term does not include conduct that would be considered subject to the House Rules on decorum. With respect to an employee of the legislative branch of Indiana state government, the term refers to retaliation that would constitute a violation of Section 704 of Title VII of the federal Civil Rights Act of 1964, as amended (42 U.S.C. 2000e-3).

176. (a) Neither sexual harassment nor retaliation in any form are tolerated by the House of Representatives.
(b) A member violates this code of ethics if, after a written copy of this subsection is provided to the member, the member knowingly or intentionally engages in sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) with an individual who is participating in a paid or an unpaid internship with the Senate, the House of Representatives, or another agency within the legislative branch of Indiana state government, regardless of whether the individual consents to the conduct or the conduct occurs outside of the legislative work environment. This subsection does not apply to a member's own spouse.

(c) Upon the filing of a complaint, the ethics committee shall conduct a prompt, thorough, and impartial review as is appropriate for the subject of the complaint.

(d) The:
(1) ethics committee may investigate and consider other conduct that is not in the original complaint if additional information is brought to its attention that indicates that a pattern of sexual harassment or retaliation may exist;
(2) ethics committee may review unwelcome conduct of a sexual nature to address the conduct before it rises to the level of sexual harassment; and
(3) Chair and Vice-Chair of the ethics committee or the ethics committee may delegate any part of the investigation to one (1) or more members of the ethics committee, other than a waiver of confidentiality and a final determination concerning a complaint, and may obtain the assistance of other individuals with appropriate training or experience.

(e) The identity of an individual who submits a complaint, a witness who provides information regarding a complaint (experienced or observed), and the individual experiencing sexual harassment, retaliation; or another violation of Rule 176 (if different), must be kept confidential to the extent possible, consistent with a thorough and impartial investigation. Any information gathered as part of an investigation must be kept confidential to the extent possible consistent with a thorough and impartial investigation.

177. (a) Complainants, witnesses, and individuals experiencing sexual harassment, retaliation, or another violation of Rule 176 (if different) must be protected from retaliation by employees of the legislative branch of Indiana state government and members.

(b) The Speaker (or the Majority Caucus Chair if the Speaker is the subject of a complaint) may at any time take appropriate emergency corrective action to protect individuals from retaliation and further sexual harassment or other misconduct of a sexual nature pending resolution of the matter.

178. When the ethics committee makes a final determination concerning a complaint, the ethics committee shall provide a written copy of its final determination to the member who is the subject of the complaint and to each complainant. If the ethics committee finds, by competent and substantial evidence, that a member has engaged in sexual harassment, retaliation, or another violation of Rule 176, the ethics committee shall do the following:
(1) Provide its findings and recommendations to the Speaker (or the Majority Caucus Chair if the Speaker is found to have engaged in sexual harassment, retaliation, or another violation of Rule 176).
(2) Provide its findings and recommendations to the Minority Leader (or the Minority Caucus Chair if the Minority Leader is found to have engaged in sexual harassment, retaliation, or another violation of Rule 176).
(3) Subject to Rule 179, post the findings and recommendations on the legislative web site.

Upon receipt of the report the Speaker (or the Majority Caucus Chair if the Speaker is found to have engaged in sexual harassment, retaliation, or another violation of Rule 176) shall promptly implement appropriate and proportionate action to protect individuals from retaliation, further sexual harassment or other misconduct of a sexual nature, and other violations of Rule 176 by the
member regardless of whether the House of Representatives disciplines the member. In addition, if the ethics committee recommends in its final report that the member be disciplined, one (1) or more members of the ethics committee may file a motion or resolution with the House of Representatives requesting that the House of Representatives discipline the member in the manner recommended by the ethics committee. When a motion or resolution is filed, the House of Representatives may exercise any of its authority under the Constitution of the State of Indiana to discipline the member. If the ethics committee finds, by competent and substantial evidence, that a member has engaged in sexual harassment, retaliation, or another violation of Rule 176, the final report of the ethics committee becomes a non-confidential public record and may be the basis for the House of Representatives to exercise its authority under the Constitution of the State of Indiana to discipline the member. The release of a document by the ethics committee as a non-confidential public record does not require the release of the name or other identifying information concerning an individual referenced in the document except as provided in this Rule 179. The ethics committee may not redact the name or other identifying information concerning a member who is found by the ethics committee to have committed a violation of Rule 176. Otherwise, the ethics committee may redact in the document the name of and other identifying information concerning any other individual who is a complainant, a witness, an internship participant, or a target of a violation (if different) and shall redact the name of and other identifying information for any individual who is less than eighteen (18) years of age.

180. In addition to the sexual harassment training required under IC 2-2.2-3-9, each member of the ethics committee and each individual who is authorized to receive a complaint under Rule 174 shall complete specialized instruction approved by the Speaker related to receiving, investigating, and evaluating sexual harassment, retaliation, and other violations of Rule 176 that is appropriate for the individual’s duties.

Committee Vote: Adopted by consent.

35.2.15 IOWA

Iowa Code, 2019

Title I – State sovereignty and management
Chapter 19B – Equal opportunity and affirmative action
Section 12 – Sexual harassment prohibited

19B.12 Sexual harassment prohibited.
A state employee shall not sexually harass another state employee, a person in the care or custody of the state employee or a state institution, or a person attending a state educational institution. This section applies to full-time, part-time, or temporary employees, to inpatients and outpatients, and to full-time or part-time students.
1. An employee in a supervisory position shall not threaten or insinuate, explicitly or implicitly, that another employee’s refusal to submit to sexual advances will adversely affect the employee’s employment, evaluation, salary advancement, job assignments, or other terms, conditions, or privileges of employment.
2. An employee shall not discriminate against another state employee, a person in the care or custody of the employee or a state institution, or a person attending a state educational institution based on sex or

create an intimidating, hostile, or offensive working environment in a state work, educational, or correctional situation.

3. a. As used in this section, “sexual harassment” means persistent, repetitive, or highly egregious conduct directed at a specific individual or group of individuals that a reasonable person would interpret as intentional harassment of a sexual nature, taking into consideration the full context in which the conduct occurs, which conduct threatens to impair the ability of a person to perform the duties of employment, or otherwise function normally within an institution responsible for the person’s care, rehabilitation, education, or training.

b. “Sexual harassment” may include, but is not limited to, the following:

(1) Unsolicited sexual advances by a person toward another person who has clearly communicated the other person’s desire not to be the subject of those advances.

(2) Sexual advances or propositions made by a person having superior authority toward another person within the workplace or institution.

(3) Instances of offensive sexual remarks or speech or graphic sexual displays directed at a person in the workplace or institution, who has clearly communicated the person’s objection to that conduct, and where the person is not free to avoid that conduct due to the requirements of the employment or the confines or operations of the institution.

(4) Dress requirements that bear no relation to the person’s employment responsibilities or institutional status.

4. The department of administrative services for all state agencies, and the state board of regents for its institutions, shall adopt rules and appropriate internal, confidential grievance procedures to implement this section, and shall adopt procedures for determining violations of this section and for ordering appropriate dispositions that may include, but are not limited to, discharge, suspension, or reduction in rank or grade as defined in section 8A.413, subsection 19.

5. The department of administrative services shall develop for all state agencies, and all state agencies shall distribute at the time of hiring or orientation, a guide for employees that describes the applicable sexual harassment prohibitions and grievance, violation, and disposition procedures.

6. The state board of regents shall develop, and direct the institutions under its control to distribute at the time of hiring, registration, admission, or orientation, a guide for employees, students, and patients that describes the applicable sexual harassment prohibitions and grievance, violation, and disposition procedures.

7. This section does not supersede a provision of a collective bargaining agreement negotiated under chapter 20, or the grievance procedures provisions of chapter 20.

8. This section does not supersede the remedies provided under chapter 216.

35.2.16 KANSAS

Title VII of the Civil Rights Act of 1964

35.2.17 KENTUCKY

Title VII of the Civil Rights Act of 1964

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35.2.18 LOUISIANA

Louisiana Revised Statutes, 2019 108
Title 42 Public Officers and Employees
CHAPTER 6. PREVENTION OF SEXUAL HARASSMENT
RS 42-341 to 345

§341. Definitions
   Unless the context clearly indicates otherwise, the following words and terms, when used in this
   Chapter, shall have the following meanings:
   (1) "Agency" means a department, office, division, agency, commission, board, committee, or other
       organizational unit of a governmental entity.
   […]
   (5) "Public employee" means anyone who is:
       (a) An administrative officer or official of a governmental entity who is not filling an elective office.
       (b) Appointed to a post or position created by rule, law, resolution, ordinance, charter, or executive
           order.
       (c) Employed by an agency, officer, or official of a governmental entity.
   (6) "Public servant" means a public employee or an elected official.

§342. Mandatory policy prohibiting sexual harassment
   A. Each agency head shall develop and institute a policy to prevent sexual harassment which is
      applicable to all public servants in the agency.
   B. At a minimum, the policy shall contain all of the following:
      (1) A clear statement that unwelcome sexual advances, requests for sexual favors, and other verbal,
          physical, or inappropriate conduct of a sexual nature constitute sexual harassment when the conduct
          explicitly or implicitly affects an individual's employment or the holding of office, unreasonably interferes
          with an individual's work performance, or creates an intimidating, hostile, or offensive work environment
          and shall not be tolerated.
      (2) A description of the behavior the agency defines as inappropriate conduct, including examples.
      (3) An effective complaint or grievance process that includes taking immediate and appropriate
          action when a complaint of sexual harassment involving any public servant in the agency is received. The
          complaint process shall detail who may make a complaint, to whom a complaint may be made, and shall
          provide for alternative designees to receive complaints. Actions taken on the complaint shall be
          documented.
      (4) A clear prohibition against retaliation against an individual for filing a complaint or testifying or
          participating in any way in an investigation or other proceeding involving a complaint of sexual harassment.
      (5) A statement apprising public servants of applicable federal and state law on sexual harassment.

§343. Preventing sexual harassment; mandatory training requirements

A. (1) Each public servant shall receive a minimum of one hour of education and training on preventing sexual harassment during each full calendar year of his public employment or term of office, as the case may be.

(2) An agency head shall require supervisors and any persons designated by the agency to accept or investigate a complaint of sexual harassment in his agency to receive additional education and training.

B. The education and training required pursuant to this Section may be received either in person or via the internet through training and education materials approved by the public servant’s agency head.

C. Each agency head shall ensure that each public servant in the agency is notified of the agency’s policy against sexual harassment and the mandatory training requirement on preventing sexual harassment. The agency head, or his designee, shall be responsible for maintaining records of the compliance of each public servant in the agency with the mandatory training requirement. Each public servant’s record of compliance shall be a public record and available to the public in accordance with the Public Records Law.

D. Each agency head shall ensure that its policy against sexual harassment and its complaint procedure is prominently posted on its website or, if the agency does not have a website, that a notice on how to obtain the information is posted in a conspicuous location in each of the agency’s offices.


§344. Mandatory reports

A. Each agency head shall compile an annual report by February first of each year containing information from the previous calendar year regarding his agency’s compliance with the requirements of this Chapter including the number and percentage of public servants in his agency who have completed the training requirements, the number of sexual harassment complaints received by his agency, 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.

C. The office of risk management, within the division of administration, shall submit an annual report to the speaker of the House of Representatives and the president of the Senate, related to the complaints of sexual harassment which are filed with office for adjustment, as follows:

(1) The total number of sexual harassment cases filed with office of risk management.
(2) The number of cases which are settled and the total monetary amount paid in settlements.
(3) The number of cases for which a lawsuit is filed and the disposition of each case.
(4) The monetary amount paid for attorney fees, court costs, expert witness fees and any other litigation costs to defend each sexual harassment complaint.


NOTE: First reports required pursuant to this Section due February 2020, see Acts 2018, No. 270, §2.

§345. Department of State Civil Service; assistance

A. The Department of State Civil Service shall develop and make available education and training material at no cost to assist state agency heads and state employees in complying with the requirements of this Chapter.

B. As required by Article VII, Section 14 of the Constitution of Louisiana, the Department of State Civil Service shall recoup the costs of copying or reproducing the training material on a compact disc and
recoup the cost of mailing the disc to the agency, unless the agency is subject to the fees assessed for in-service training pursuant to R.S. 42:1262(A).

35.2.19 MAINE

Maine Revised Statutes, 2018
Title 26- Labor and Industry
Chapter 7 – Employment practices
Subchapter 4-B – Sexual Harassment Policies
§807. Requirements
In addition to employer responsibilities set forth in rules adopted under Title 5, section 4572, all employers shall act to ensure a workplace free of sexual harassment by implementing the following minimum requirements. [1991, c. 474, §2 (NEW).]

1. Workplace posting. An employer shall post in a prominent and accessible location in the workplace a poster providing, at a minimum, the following information: the illegality of sexual harassment; a description of sexual harassment, utilizing examples; the complaint process available through the commission; and directions on how to contact the commission. The text of this poster may meet but may not exceed 6th-grade literacy standards. The commission may provide this poster to employers at no charge. This poster must also be available on the department’s publicly accessible website and may be reproduced.

2. Employee notification. Employers shall provide annually all employees with individual written notice that includes at a minimum the following information: the illegality of sexual harassment; the definition of sexual harassment under state law; a description of sexual harassment, utilizing examples; the internal complaint process available to the employee; the legal recourse and complaint process available through the commission; and the protection against retaliation as provided pursuant to Title 5, section 4553, subsection 10, paragraph D. This notice must be initially provided within 90 days after the effective date of this subchapter. The notice must be delivered in a manner to ensure notice to all employees without exception, such as including the notice with an employee’s pay.

3. Education and training. In workplaces with 15 or more employees, employers shall conduct an education and training program for all new employees within one year of commencement of employment. Training provided under this subsection must include the illegality of sexual harassment; the definition of sexual harassment under state and federal laws and federal regulations, including the Maine Human Rights Act and the Civil Rights Act of 1964, 42 United States Code, Title VII, Sections 2000e to 2000e-17; a description of sexual harassment, utilizing examples; the internal complaint process available to the employee; the legal recourse and complaint process available through the commission; directions on how to contact the commission; and the protection against retaliation as provided under Title 5, section 4553, subsection 10, paragraph D. Employers shall conduct additional training for supervisory and managerial employees within one year of commencement of employment that includes, at a minimum, the specific responsibilities of

supervisory and managerial employees and methods that these employees must take to ensure immediate and appropriate corrective action in addressing sexual harassment complaints. Education and training programs conducted under this subsection by the State, a county or a municipality for its public safety personnel, including, but not limited to, law enforcement personnel, corrections personnel and firefighters, may be used to meet training and education requirements mandated by any other law, rule or other official requirement.

4. Compliance checklist. The department shall develop a compliance checklist for employers covering the requirements under subsection 3. The checklist must be made available on the department’s publicly accessible website. The commission shall provide a link to the compliance checklist on the commission’s publicly accessible website. Employers shall use the checklist to develop a sexual harassment training program and shall keep a record of the training, including a record of employees who have received the required training. Training records must be maintained for at least 3 years and must be made available for department inspection upon request.

5. Enforcement. The department shall enforce the notification requirement under this section and, upon inspection or complaint, shall ensure that employers have provided the training as required by subsection 3. If the department has determined that an employer has complied with the provisions of this subchapter, that determination and all completed department enforcement actions are considered final. Department actions under this subchapter do not limit or affect the authority or jurisdiction of the commission. The commission may request department enforcement records related to a complaint filed with the commission when the complaint is related to this subsection. Such records are subject to section 3.

6. Penalties for violations. An employer who violates this section may be assessed a fine by the department in accordance with this subsection.

A. An employer who violates the workplace posting requirement in subsection 1 may be assessed:
(1) For the first violation, a fine of up to $25 per day, not to exceed $1,000;
(2) For a 2nd violation occurring within 3 years of a prior violation, a fine of not less than $25 per day up to $50 per day, not to exceed $2,500; and
(3) For a 3rd or subsequent violation occurring within 3 years of 2 or more prior violations, a fine of not less than $25 per day up to $100 per day, not to exceed $5,000. [2017, c. 162, §2 (NEW).]

B. An employer who violates the notification, education or training requirements set forth in subsection 2 or 3 may be assessed:
(1) For the first violation, a fine of $1,000;
(2) For a 2nd violation, a fine of $2,500; and
(3) For a 3rd or subsequent violation, a fine of $5,000. [2017, c. 162, §2 (NEW).]

35.2.20 MARYLAND

Maryland SB1010 – Disclosing sexual harassment in the workplace act of 2018 110

SECTION 1.
BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article Labor and Employment

3715. (A) (1) SUBJECT TO PARAGRAPH(2) OF THIS SUBSECTION, A EXCEPT AS PROHIBITED BY FEDERAL LAW, A PROVISION IN AN EMPLOYMENT CONTRACT, POLICY, OR AGREEMENT THAT WAIVES ANY FUTURE SUBSTANTIVE OR PROCEDURAL RIGHT OR REMEDY TO A CLAIM THAT ACCRUES IN THE FUTURE OF SEXUAL HARASSMENT, DISCRIMINATION, OR RETALIATION FOR REPORTING OR ASSERTING A RIGHT OR REMEDY BASED ON SEXUAL HARASSMENT IS NULL AND VOID AS BEING AGAINST THE PUBLIC POLICY OF THE STATE.

(2) PARAGRAPH (1) OF THIS SECTION MAY NOT BE CONSTRUED TO APPLY TO THE TERMS OF A COLLECTIVE BARGAINING AGREEMENT.

(B) (1) AN EMPLOYER MAY NOT TAKE ADVERSE ACTION AGAINST AN EMPLOYEE BECAUSE THE EMPLOYEE FAILS OR REFUSES TO ENTER INTO AN AGREEMENT THAT CONTAINS A WAIVER THAT IS VOID UNDER SUBSECTION(A) OF THIS SECTION.

(2) ADVERSE ACTION PROHIBITED UNDER THIS SUBSECTION INCLUDES:

(I) FAILURE TO HIRE;

(II) DISCHARGE;

(III) SUSPENSION;

(IV) DEMOTION;

(V) DISCRIMINATION IN THE TERMS, CONDITIONS, OR PRIVILEGES OF EMPLOYMENT; OR

(VI) ANY OTHER RETALIATORY ACTION THAT RESULTS IN A CHANGE TO THE TERMS OR CONDITIONS OF EMPLOYMENT THAT WOULD DISSUADE A REASONABLE EMPLOYEE FROM MAKING A COMPLAINT, BRINGING AN ACTION, OR TESTIFYING IN AN ACTION REGARDING A VIOLATION OF THIS SECTION.

(C) AN EMPLOYER WHO ENFORCES OR ATTEMPTS TO ENFORCE A PROVISION THAT VIOLATES SUBSECTION(A) OF THIS SECTION SHALL BE LIABLE FOR THE EMPLOYEE’S REASONABLE ATTORNEYS FEES AND COSTS.

Article State Government

20101. (a) In Subtitles 1 through 11 of this title the following words have the meanings indicated.

(b) Commission means the Commission on Civil Rights.

(A) IN THIS SECTION, EMPLOYER MEANS AN EMPLOYER WITH 50 OR MORE EMPLOYEES.

(B) (1) ON OR BEFORE JANUARY JULY 1 EACH YEAR, AN EMPLOYER SHALL SUBMIT A REPORT SHORT SURVEY TO THE COMMISSION ON:

(I) THE NUMBER OF SETTLEMENTS MADE BY OR ON BEHALF OF THE EMPLOYER AFTER AN ALLEGATION OF SEXUAL HARASSMENT BY AN EMPLOYEE;

(II) THE NUMBER OF TIMES THE EMPLOYER HAS PAID A SETTLEMENT TO RESOLVE A SEXUAL HARASSMENT ALLEGATION AGAINST THE SAME EMPLOYEE OVER THE PAST 10 YEARS OF EMPLOYMENT;

AND

(III) THE NUMBER OF SETTLEMENTS MADE AFTER AN ALLEGATION OF SEXUAL HARASSMENT THAT INCLUDED A PROVISION REQUIRING BOTH PARTIES TO KEEP THE TERMS OF THE SETTLEMENT CONFIDENTIAL.

(2) (I) AN EMPLOYER SHALL SUBMIT THE SURVEY REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION TO THE COMMISSION ELECTRONICALLY.

(II) THE COMMISSION SHALL INCLUDE IN THE SURVEY A SPACE FOR AN EMPLOYER TO REPORT WHETHER THE EMPLOYER TOOK PERSONNEL ACTION AGAINST AN EMPLOYEE WHO WAS THE SUBJECT OF A SETTLEMENT INCLUDED IN THE SURVEY UNDER PARAGRAPH(1)(II) OF THIS SUBSECTION.
(C) (1) THE COMMISSION SHALL PUBLISH AND MAKE ACCESSIBLE TO THE PUBLIC: ON THE COMMISSIONS WEBSITE EACH EMPLOYERS ANNUAL REPORT REQUIRED UNDER SUBSECTION(B) OF THIS SECTION. (I) BY POSTING ON THE COMMISSIONS WEBSITE, THE AGGREGATE NUMBER OF RESPONSES FROM EMPLOYERS FOR EACH ITEM LISTED UNDER SUBSECTION(B) OF THIS SECTION; AND (II) BY RETAINING FOR PUBLIC INSPECTION ON REQUEST, THE RESPONSE FROM A SPECIFIC EMPLOYER REGARDING THE NUMBER OF SETTLEMENTS INCLUDED IN THE SURVEY UNDER SUBSECTION(B)(1)(II) OF THIS SECTION. (2) ON OR BEFORE DECEMBER 15 EACH YEAR, THE COMMISSION SHALL: (I) REVIEW A RANDOM SELECTION OF SURVEYS SUBMITTED UNDER SUBSECTION(B) OF THIS SECTION; (II) CREATE AN EXECUTIVE SUMMARY OF THE RANDOMLY SELECTED SURVEYS, REDACTING ANY IDENTIFYING INFORMATION FOR SPECIFIC EMPLOYERS; AND (III) SUBMIT THE EXECUTIVE SUMMARY TO THE GOVERNOR AND, IN ACCORDANCE WITH 21246 OF THIS ARTICLE, THE SENATE FINANCE COMMITTEE AND THE HOUSE ECONOMIC MATTERS COMMITTEE.

SECTION 2.

AND BE IT FURTHER ENACTED, That:
(a) (1) In this section the following words have the meanings indicated.
(2) Commission means the Maryland Commission on Civil Rights.
(3) Employer means an employer with 50 or more employees.
(b) (1) On or before July 1, 2020, and on or before July 1, 2022, an employer shall submit a short survey to the Commission on:
(i) the number of settlements made by or on behalf of the employer after an allegation of sexual harassment by an employee;
(ii) the number of times the employer has paid a settlement to resolve a sexual harassment allegation against the same employee over the past 10 years of employment; and
(iii) the number of settlements made after an allegation of sexual harassment that included a provision requiring both parties to keep the terms of the settlement confidential.
(2) (i) An employer shall submit the survey required under paragraph (1) of this subsection to the Commission electronically.
(ii) The Commission shall include in the survey a space for an employer to report whether the employer took personnel action against an employee who was the subject of a settlement included in the survey under paragraph (1)(ii) of this subsection.
(c) (1) The Commission shall publish and make accessible to the public:
(i) by posting on the Commissions website, the aggregate number of responses from employers for each item listed under subsection (b) of this section; and
(ii) by retaining for public inspection on request, the response from a specific employer regarding the number of settlements included in the survey under subsection (b)(1)(ii) of this section.
(2) On or before December 15, 2020, and on or before December 15, 2022, the Commission shall:
(i) review a random selection of surveys submitted under subsection (b) of this section;
(ii) create an executive summary of the randomly selected surveys, redacting any identifying information for specific employers; and
(iii) submit the executive summary to the Governor and, in accordance with 21246 of the State Government Article, the Senate Finance Committee and the House Economic Matters Committee.

SECTION 3.

AND BE IT FURTHER ENACTED, That this Act shall apply to any employment contract, policy, or agreement executed, implicitly or explicitly extended, or renewed on or after the effective date of this Act.

SECTION 3.
4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2018. Section 2 of this Act shall remain effective for a period of 4 years and 9 months and, at the end of June 30, 2023, Section 2 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

Approved by the Governor, May 15, 2018.

35.2.21 MASSACHUSETTS

Massachusetts General Laws, 2019

Part 1 Administration of the Government
Title XXI Labor and Industries
Chapter 151B Unlawful Discrimination because of Race, Color, Religious Creed, National Origin, Ancestry or Sex
(Also known as the Fair Employment Practices Law (FEPL))

Section 1 Definitions
18. The term "sexual harassment" shall mean sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when (a) submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions; (b) such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment. Discrimination on the basis of sex shall include, but not be limited to, sexual harassment.

Section 3A: Employers' policies against sexual harassment; preparation of model policy; education and training programs

Section 3A. (a) All employers, employment agencies and labor organizations shall promote a workplace free of sexual harassment.
(b) Every employer shall:
(1) adopt a policy against sexual harassment which shall include:
(i) a statement that sexual harassment in the workplace is unlawful;
(ii) a statement that it is unlawful to retaliate against an employee for filing a complaint of sexual harassment or for cooperating in an investigation of a complaint for sexual harassment;
(iii) a description and examples of sexual harassment;
(iv) a statement of the range of consequences for employees who are found to have committed sexual harassment;
(v) a description of the process for filing internal complaints about sexual harassment and the work addresses and telephone numbers of the person or persons to whom complaints should be made; and
(vi) the identity of the appropriate state and federal employment discrimination enforcement agencies, and directions as to how to contact such agencies.
(2) provide annually to all employees an individual written copy of the employer's policy against sexual harassment; provided, however, that a new employee shall be provided such a copy at the time of his employment.

(c) The commission shall prepare and provide to employers subject to this section a model policy and poster consistent with federal and state statutes and regulations, which may be used by employers for the purposes of this section.

(d) An employer’s failure to provide the information required to be provided by this section shall not, in and of itself, result in the liability of said employer to any current or former employee or applicant in any action alleging sexual harassment. An employer’s compliance with the notice requirements of this section shall not, in and of itself, protect the employer from liability for sexual harassment of any current or former employee or applicant.

(e) Employers and labor organizations are encouraged to conduct an education and training program for new employees and members, within one year of commencement of employment or membership, which includes at a minimum the information set forth in this section. Employers are encouraged to conduct additional training for new supervisory and managerial employees and members within one year of commencement of employment or membership, which shall include at a minimum the information set forth in subsection (b), the specific responsibilities of supervisory and managerial employees and the methods that such employees should take to ensure immediate and appropriate corrective action in addressing sexual harassment complaints. Employers, labor organizations and appropriate state agencies are encouraged to cooperate in making such training available.

Section 4 Unlawful practices

16A. For an employer, personally or through its agents, to sexually harass any employee.

17. Notwithstanding any provision of this chapter, it shall not be an unlawful employment practice for any person, employer, labor organization or employment agency to:

(a) observe the terms of a bona fide seniority system or any bona fide employee benefit plan such as a retirement, pension, or insurance plan, which is not a subterfuge to evade the purposes of this section, except that no such employee benefit plan shall excuse the failure to hire any person, and no such seniority system or employee benefit plan shall require or permit the involuntary retirement of any person because of age except as permitted by paragraph (b).

(b) require the compulsory retirement of any person who has attained the age of sixty-five and who, for the two year period immediately before retirement, is employed in a bona fide executive or high policymaking position, if such person entitled to an immediate nonforfeitable annual retirement benefit from a pension, profit-sharing, savings or deferred compensation plan, or any combination of such plans, of the employer, which equals, in the aggregate, at least forty-four thousand dollars.

(c) require the retirement of any employee who has attained seventy years of age and who is serving under a contract of unlimited tenure or similar arrangement providing for unlimited tenure at an independent institution of higher education, or to limit the employment in a faculty capacity of such an employee, or another person who has attained seventy years of age who was formerly employed under a contract of unlimited tenure or similar arrangement, to such terms and to such a period as would serve the present and future needs of the institution, as determined by it; provided, however, that in making such a determination, no institution shall use as a qualification for employment or reemployment, the fact that the individual is under any particular age.

18. For the owner, lessee, sublessee, licensed real estate broker, assignee, or managing agent of publicly assisted or multiple dwelling or contiguously located housing accommodations or other covered housing accommodations, or other person having the right of ownership or possession, or right to rent or lease, or sell or negotiate for the sale of such accommodations, or any agent or employee of such person or any organization of unit owners in a condominium or housing cooperative to sexually harass any tenant, prospective tenant, purchaser or prospective purchaser of property.

[...]
35.2.22 MICHIGAN

Elliot-Larsen Civil Rights Act
Chapter 37 Civil Rights
Article 1 (37.2101 ... 37.2103)

37.2102 Recognition and declaration of civil right; action arising out of discrimination based on sex or familial status.
Sec. 102.
(1) The opportunity to obtain employment, housing and other real estate, and the full and equal utilization of public accommodations, public service, and educational facilities without discrimination because of religion, race, color, national origin, age, sex, height, weight, familial status, or marital status as prohibited by this act, is recognized and declared to be a civil right.
(2) This section shall not be construed to prevent an individual from bringing or continuing an action arising out of sex discrimination before July 18, 1980 which action is based on conduct similar to or identical to harassment.
(3) This section shall not be construed to prevent an individual from bringing or continuing an action arising out of discrimination based on familial status before the effective date of the amendatory act that added this subsection which action is based on conduct similar to or identical to discrimination because of the age of persons residing with the individual bringing or continuing the action.

2103 Definitions
Section 103
As used in this act:
[...]
(i) Discrimination because of sex includes sexual harassment. Sexual harassment means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or communication of a sexual nature under the following conditions:
(ii) Submission to the conduct or communication is made a term or condition either explicitly or implicitly to obtain employment, public accommodations or public services, education, or housing.
(iii) Submission to or rejection of the conduct or communication by an individual is used as a factor in decisions affecting the individual's employment, public accommodations or public services, education, or housing.
(iv) The conduct or communication has the purpose or effect of substantially interfering with an individual's employment, public accommodations or public services, education, or housing, or creating an intimidating, hostile, or offensive employment, public accommodations, public services, educational, or housing environment.

35.2.23 MINNESOTA

Subd. 43. Sexual harassment. "Sexual harassment" includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal or physical conduct or communication of a sexual nature when:

(1) submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining employment, public accommodations or public services, education, or housing;

(2) submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment, public accommodations or public services, education, or housing; or

(3) that conduct or communication has the purpose or effect of substantially interfering with an individual's employment, public accommodations or public services, education, or housing, or creating an intimidating, hostile, or offensive employment, public accommodations, public services, educational, or housing environment.

363A.05 DEPARTMENT OF HUMAN RIGHTS.

§ Subdivision 1. Creation; commissioner. There is established a Department of Human Rights under the direction and supervision of a commissioner who shall be appointed by the governor under the provisions of section 15.06. [...]

363A.06 POWERS AND DUTIES OF COMMISSIONER.

§ Subdivision 1. Formulation of policies.

(a) The commissioner shall formulate policies to effectuate the purposes of this chapter and shall do the following:

[...]

363A.28 GRIEVANCES.

§ Subdivision 1. Actions.

Any person aggrieved by a violation of this chapter may bring a civil action as provided in section 363A.33, subdivision 1, or may file a verified charge with the commissioner or the commissioner's designated agent. A charge filed with the commissioner must be in writing on a form provided by the commissioner and signed by the charging party.

[...]

Subd. 3. Determination of discriminatory practice.

The administrative law judge shall make findings of fact and conclusions of law, and if the administrative law judge finds that the respondent has engaged in an unfair discriminatory practice, the administrative law judge shall issue an order directing the respondent to cease and desist from the unfair discriminatory practice found to exist and to take such affirmative action as in the judgment of the administrative law judge will effectuate the purposes of this chapter. The order shall be a final decision of the department.

Subd. 4. Civil penalty; punitive damages.
(a) The administrative law judge shall order any respondent found to be in violation of any provision of sections 363A.08 to 363A.19 and 363A.28, subdivision 10, to pay a civil penalty to the state. This penalty is in addition to compensatory and punitive damages to be paid to an aggrieved party.

Subd. 5. Alternative dispute resolution.
The running of the 12-month period during which the commissioner must make a determination of probable cause to credit allegations is suspended during a period of time specified by the commissioner during which the parties are involved in mediation or other alternative dispute resolution that has been sanctioned by the commissioner.

Subd. 6. Charge processing.
(a) Consistent with paragraph (h), the commissioner shall promptly inquire into the truth of the allegations of the charge. The commissioner shall make an immediate inquiry when a charge alleges actual or threatened physical violence. The commissioner shall also make an immediate inquiry when it appears that a charge is frivolous or without merit and shall dismiss those charges.

[...]

35.2.24 MISSISSIPPI

**Title VII of the Civil Rights Act of 1964**\(^{114}\)

35.2.25 MISSOURI

**Missouri Code of State Regulations, 2019**\(^{115}\)
Division 60—Missouri Commission on Human Rights;
Chapter 3—Guidelines and Interpretations of Employment Anti-Discrimination Laws -

8 CSR 60-3.040 Employment Practices Related to Men and Women
(17) Harassment on the basis of sex is a violation of Chapter 213, RSMo.
(A) Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature constitute sexual harassment 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 for employment decisions affecting the individual; or
3. Such conduct has the purpose or effect of substantially interfering with an individual’s work performance or creating an intimidating, hostile or offensive working environment.
(B) In determining whether alleged conduct constitutes sexual harassment, the commission will look at the record as a whole and at the totality of the circumstances, such as the nature of the sexual advances and the context in which the alleged incidents occurred.
The determination of the legality of a particular action will be made from the facts, on a

---


case-by-case basis.

(C) Applying general principles of Chapter 213, RSMo, an employer, employment agency, joint
apprenticeship committee or labor organization (hereinafter collectively referred to as employer) is
responsible for its acts and those of its agents, employees and supervisory employees with respect to sexual
harassment regardless of whether the specific acts complained of were authorized or even forbidden by
the employer if the employer knew or should have known of their occurrence.

(D) An employer is subject to vicarious liability to a victimized employee with respect to sexual harassment
by a supervisor with immediate (or successively higher) authority over an employee or other supervisor
who the employee reasonably believes has the ability to significantly influence employment decisions
affecting him or her even if the harasser is outside the employee’s chain of command.

1. When no tangible employment action is taken, an employer may raise an affirmative defense to liability
or damages, subject to proof by a preponderance of the evidence.

The defense comprises two necessary elements: a) that the employer exercised reasonable care to prevent
and correct promptly any sexually harassing behavior, and b) that the employee unreasonably failed to take
advantage of any preventive or corrective opportunities provided by the employer or to avoid harm
otherwise.

2. No affirmative defense is available, however, when the supervisor’s harassment culminates in a tangible
employment action.

3. A tangible employment action is a significant change in employment status. It is the means by which the
supervisor brings official power of the enterprise to bear on subordinates, as demonstrated by the
following: it requires an official act of the enterprise; it usually is documented in official company records;
it may be subject to review by higher level supervisors; and it often requires the formal approval of the
enterprise and use of its internal processes. A tangible employment action usually inflicts direct economic
harm.

4. Examples of tangible employment actions include but are not limited to: hiring and firing; promotion and
failure to promote; demotion; undesirable reassignment; a decision causing a significant change in benefits;
compensation decisions; and work assignments.

5. The commission will examine the circumstances of the particular employment relationship and the job
functions performed by the individual in determining whether an individual acts in a supervisory capacity
with immediate (or successively higher) authority over an employee or is another supervisor
who the employee reasonably believes has the ability to significantly influence employment decisions
affecting him or her even if the harasser is outside the employee’s chain of command.

35.2.26 MONTANA

Montana Administrative Rules ¹¹⁶

Chapter 2.21 State Human Resources Division
Subchapter 40 Equal employment opportunity, nondiscrimination, and harassment prevention policy

2.21.4013 HARASSMENT

(1) Harassment, including sexual harassment, consists of, but is not limited to, oral, written, or electronic communications (for example, voice mails, e-mails, text messages, or other social networking tools) in the form of repeated and unwelcomed jokes, slurs, comments, visual images, or innuendos based on a protected class. Even mutually agreeable behavior, or behavior accepted between two or more people, can be offensive to others; for this reason it is prohibited in the workplace.

(2) Sexual harassment is a form of discrimination that includes unwelcome verbal or physical conduct of a sexual nature when:
   (a) submission to the conduct is implicitly or explicitly made a term or condition of employment;
   (b) submission to or rejection of the conduct is used as the basis for an employment decision affecting the individual; or
   (c) the conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

(3) Agency managers may not tolerate any behavior that negatively focuses on a protected class. Although a behavior or pattern of behavior might not constitute illegal discrimination, it might still violate this rule.

(4) Agency managers who observe behaviors that could be viewed as discrimination or harassment shall stop the behavior and notify their agency's EEO officer, ADA coordinator, or human resources manager.

2.21.4014 RETALIATION

(1) Agency managers may not retaliate or allow, condone, or encourage others to retaliate against any customer, applicant, or current or former employee for opposing unlawful discriminatory practices, filing a discrimination complaint or participating in a discrimination proceeding, including testifying in court.

(2) Agency managers who become aware of retaliation shall inform the agency's human resource manager, human resource staff, EEO officer, or ADA coordinator. The human resource manager, human resource staff, EEO officer, or ADA coordinator shall advise management on the appropriate course of action.

2.21.4019 INITIATING AN INTERNAL COMPLAINT

(1) Agency managers shall encourage employees, applicants, clients, and customers who believe they have been discriminated against or harassed to contact their supervisor, another manager, or the agency's EEO officer, ADA coordinator, or human resources staff.

(2) Complaints may be oral or in writing; however, complainants are encouraged to use the Department of Administration's complaint form found at http://hr.mt.gov/hrpp/policies.mcpx.

(3) For complaints not submitted on a complaint form, the agency representative receiving the complaint shall obtain and document the following information:
   (a) name, address, and phone number(s) of the complainant(s);
   (b) date(s), time(s), and location(s) of the alleged discriminatory behavior or conduct;
   (c) name(s), if known, of the accused(s);
   (d) description of the behavior or conduct that resulted in an alleged violation;
   (e) whether the alleged discrimination was based on a protected class; and
   (f) names of potential witnesses who may have heard or observed the alleged discriminatory conduct or behavior.

(4) Agency representatives who receive a complaint or become aware of allegations of discrimination or harassment shall promptly notify the human resource manager, EEO officer, or ADA coordinator, regardless of their perception of the validity of the complaint.

(5) The human resource manager, EEO officer or ADA coordinator, legal counsel, and appropriate manager shall meet to discuss the appropriate course of action. If the complaint is against any of these individuals, that individual is excluded from the meeting. The discussion must focus on measures to stop the alleged behavior, a review of the investigative process, and management's role in the process.
(6) If management determines an internal investigation would not be appropriate because of a potential conflict, they may request assistance from the State Human Resources Division or other outside source.

(7) The human resource manager or human resource staff, as appropriate, shall coordinate with the investigator and advise management throughout the course of the investigation.

2.21.4020 INVESTIGATING A COMPLAINT
(1) The EEO officer, ADA coordinator, or another representative chosen by management shall begin an investigation upon receiving a complaint.

(2) Before the investigation begins, the appropriate manager shall separately explain the following to the complainant and accused:
   (a) the investigation process and anticipated timelines; and
   (b) what retaliation is and that it is illegal.

(3) Agency managers shall provide:
   (a) periodic updates to the complainant and the accused; and
   (b) documentation of their initial meeting and all subsequent follow-up action to the investigator.

(4) The investigator shall:
   (a) gather evidence to determine a "cause" or "no-cause" finding;
   (b) coordinate with the agency's legal counsel before conducting interviews and throughout the investigation; and
   (c) provide periodic updates to the agency's human resource manager.

2.21.4021 POST-INVESTIGATION ACTIONS
(1) After receiving the final report, the appropriate manager shall promptly inform the complainant and accused of the outcome of the investigation in writing.

(2) In the case of a cause finding, the appropriate agency manager shall:
   (a) take appropriate disciplinary action, if necessary, according to the ARM Title 2, chapter 21, subchapter 65, Discipline Policy;
   (b) advise the complainant corrective action to stop the behavior has been taken, but not disclose the details or nature of disciplinary action;
   (c) reemphasize that retaliation is unacceptable behavior; and
   (d) contact the complainant within 30 days to ensure the behavior has stopped and no retaliation has occurred.

(3) In the case of a no-cause finding, the appropriate agency manager shall contact the complainant within 30 days to ensure the complainant has not experienced retaliation.

2.21.4022 CONFIDENTIALITY REQUIREMENTS
(1) Agency managers shall make every attempt to protect the privacy of individuals involved in the complaint process; however, individual privacy cannot be guaranteed.

(2) Agency managers may not prohibit employees from discussing a complaint or ongoing investigation with coworkers unless management conducts an individualized assessment and demonstrates that one of the following factors exists:
   (a) there are witnesses in need of protection;
   (b) evidence is in danger of being destroyed;
   (c) testimony is in danger of being fabricated; or
   (d) there is a need to prevent a cover-up.
(3) Agency managers shall document their rationale for requiring that employees refrain from discussing a complaint or ongoing investigation.
(4) The human resource staff shall maintain the investigative report and supporting documents in a secure, confidential case file separate from the regular employee file.

2.21.4027 TRACKING AND REPORTING INTERNAL COMPLAINTS
(1) Agency EEO officers shall track internal complaints using the Complaint Tracking Sheet located on the State Human Resources Division web site: http://hr.mt.gov/hrpp/policies.mcpx. EEO officers shall provide quarterly summaries of internal complaints to the State Human Resources Division no later than the fifteenth day of each quarter.
(2) The report must include:
(a) the total number of complaints;
(b) whether the complainant and accused was an employee, customer, or client;
(c) the protected class or basis of the complaint;
(d) the reason for complaint (for example, employment-related, denied access to a program or service, or inappropriate comment); and
(e) the outcome of the complaint.
(3) The report is for tracking purposes only and may not include confidential information such as names of individuals involved.
(4) The State Human Resources Division shall collect and analyze the data to:
(a) assess program effectiveness;
(b) develop or modify existing policies, procedures, and guides; and
(c) promote compliance with applicable laws, regulations, and policies.

2.21.4028 INITIATING AN EXTERNAL COMPLAINT
(1) In addition to the internal complaint process, complaints may be filed with the following agencies:
(a) Montana Human Rights Bureau, 33 S. Last Chance Gulch, Suite 2, P.O. Box 1728, Helena, MT 59624-1728, (406) 444-4356, (800) 542-0807, Montana Relay Service 711; or
(b) United States Equal Employment Opportunity Commission (EEOC) Seattle Field Office, 909 First Avenue, Suite 400, Seattle, WA 98104-1061, (800) 669-4000, TTY (800) 669-6820, ASL Video (844) 234-5122.
(2) Jurisdiction may vary based on the nature of the complaint. For example, neither the Human Rights Bureau nor the EEOC considers complaints based on culture, social origin or condition, ancestry, or military or veteran status.
(3) The Human Rights Bureau must receive the complaint within 180 days of when the alleged discriminatory practice occurred or was discovered unless the person has filed an internal complaint. A person who files an internal complaint under these rules has 180 days from the conclusion of the internal investigation to file a complaint with the Human Rights Bureau if management completes the investigation within 120 days of when the alleged discriminatory practice occurred or was discovered. If management does not complete the investigation within 120 days, the person must file a complaint with the Human Rights Bureau within 300 days of when the alleged discriminatory practice occurred or was discovered.
(4) The EEOC must receive the complaint within 300 calendar days from the date the discrimination took place if the Human Rights Bureau enforces a law prohibiting employment discrimination against the same protected class. Otherwise, the complaint must be filed with the EEOC in 180 days.
(5) Service members and veterans who believe they have been discriminated against in employment based on military service or veteran status may contact:
(a) the Employer Support of the Guard and Reserve at (800) 336-4590; or
(b) the Veterans’ Employment and Training Service (VETS) at (866)-487-2365. Service members and veterans may submit a formal, online complaint with VETS at http://webapps.dol.gov/elaws/vets/userra/1010.asp.

2.21.4029 RULE VIOLATIONS
(1) Employees who violate these rules are subject to discipline, up to and including discharge under ARM Title 2, chapter 21, subchapter 65, Discipline Policy. A rule violation includes managers who allow discrimination to occur or fail to take appropriate action to correct inappropriate behavior, including discrimination or harassment.
(2) Failure to conduct an investigation in a proper and timely manner, interference with an investigation, failure to cooperate with an investigator, or making a false statement to an investigator may result in disciplinary action, up to and including discharge.

35.2.27 NEBRASKA

Nebraska Revised Statutes, 2019
Chapter 48 – Labor (Nebraska Fair Employment Act)
48-1102 Terms, Defined

Section (14) Harass because of sex shall include making unwelcome sexual advances, requesting sexual favors, and engaging in other verbal or physical conduct of a sexual nature if (a) submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment, (b) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (c) such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile, or offensive working environment;

[...]
Section 48-1114. Opposition to unlawful practice; participation in investigation; discrimination prohibited.
It shall be unlawful employment practice for an employer to discriminate against any of his or her employees or applicants for employment, for an employment agency to discriminate against any individual, or for a labor organization to discriminate against any member thereof or applicant for membership, because he or she (1) has opposed any practice made an unlawful employment practice by the Nebraska Fair Employment Practice Act, (2) has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under the act, or (3) has opposed any practice or refused to carry out any action unlawful under the laws of the United States or this state.

[...]
Section 48-1116. Equal Opportunity Commission; members; appointment; term; quorum; compensation; executive director; representation.
There is hereby established an Equal Opportunity Commission to consist of seven members to be appointed by the Governor.

[...]
Section 48-1117. Commission; powers; duties; enumerated.

The commission shall have the following powers and duties:
(1) To receive, investigate, and pass upon charges of unlawful employment practices anywhere in the state;
(2) To hold hearings, subpoena witnesses, compel their attendance, administer oaths, take the testimony of any person under oath, and in connection therewith, to require the production for examination of any books and papers relevant to any allegation of unlawful employment practice pending before the commission. The commission may make rules as to the issuance of subpoenas, subject to the approval by a constitutional majority of the elected members of the Legislature;
(6) To report, not less than once every two years, to the Clerk of the Legislature and the Governor, on the hearings it has conducted and the decisions it has rendered, the other work performed by it to carry out the purposes of the act, and to make recommendations for such further legislation concerning abuses and discrimination because of race, color, religion, sex, disability, marital status, or national origin, as may be desirable.

Section 48-1118. Unlawful practice; charge; time for filing; prescreening procedure and determination; investigation; confidential informal actions; procedure; violation; penalty; interrogatories.

Section 48-1119. Unlawful practice; complaint; notice; hearing; witnesses; evidence; findings; civil action authorized; order.
(1) In case of failure to eliminate any unlawful employment practice by informal methods of conference, conciliation, persuasion, mediation, or arbitration, the commission may order a public hearing. If such hearing is ordered, the commission shall cause to be issued and served a written notice, together with a copy of the complaint, requiring the person, employer, labor organization, or employment agency named in the complaint, hereinafter referred to as respondent, to answer such charges at a hearing before the commission at a time and place which shall be specified in such notice. Such hearing shall be within the county where the alleged unlawful employment practice occurred. The complainant shall be a party to the proceeding, and in the discretion of the commission any other person whose testimony has a bearing on the matter may be allowed to intervene therein. Both the complainant and the respondent, in addition to the commission, may introduce witnesses at the hearing. The respondent may file a verified answer to the allegations of the complaint and may appear at such hearing in person and with or without counsel. Testimony or other evidence may be introduced by either party. All evidence shall be under oath and a record thereof shall be made and preserved. Such proceedings shall, so far as practicable, be conducted in accordance with the rules of evidence applicable in the district courts of the State of Nebraska, and shall be of public record.
(3) After the conclusion of the hearing, the commission shall, within ten days of the receipt of the transcript or the receipt of the recommendations from the hearing officer, make and file its findings of fact and conclusions of law and make and enter an appropriate order. [..] If the commission determines that the respondent has intentionally engaged in or is intentionally engaging in any unlawful employment practice, it shall issue and cause to be served on such respondent an order requiring such respondent to cease and desist from such unlawful employment practice and order such other affirmative action as may be appropriate which may include, but shall not be limited to, reinstatement or hiring of employees, with or without backpay. Backpay liability shall not accrue from a date more than two years prior to the filing of the charge with the commission.
Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the backpay otherwise allowable.

(4) A complainant who has suffered physical, emotional, or financial harm as a result of a violation of section 48-1104 or 48-1114 may, at any stage of the proceedings prior to dismissal, file an action directly in the district court of the county where such alleged violation occurred. If the complainant files a district court action on the charge, the complainant shall provide written notice of such filing to the commission, and such notification shall immediately terminate all proceedings before the commission. The district court shall docket and try such case as any other civil action, and any successful complainant shall be entitled to appropriate relief, including temporary or permanent injunctive relief, general and special damages, reasonable attorney's fees, and costs.

Section 48-1120. Appeal; procedure; attorney's fees; failure to appeal; effect.

(1) Any party to a proceeding before the commission aggrieved by such decision and order and directly affected thereby may appeal the decision and order, and the appeal shall be in accordance with the Administrative Procedure Act. (84-917)

(2) In any action or proceeding under the Nebraska Fair Employment Practice Act wherein an appeal is lodged in the district court, the court, in its discretion, may allow the prevailing party a reasonable attorney's fees as part of the costs.

Section 48-1121. Posting excerpts of law.

Every employer, employment agency and labor organization subject to the provisions of the Nebraska Fair Employment Practice Act shall post in a conspicuous place or places on his or its premises a notice to be prepared or approved by the commission which shall set forth excerpts of the act and such other relevant information which the commission deems necessary to explain the act.

Section 613.330 Unlawful employment practices: Discrimination on basis of race, color, religion, sex, sexual orientation, gender identity or expression, age, disability, national origin or discussion of wages

1. Except as otherwise provided in NRS 613.350, it is an unlawful employment practice for an employer:
   (a) To fail or refuse to hire or to discharge any person, or otherwise to discriminate against any person with respect to the person's compensation, terms, conditions or privileges of employment, because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin;
   (b) To limit, segregate or classify an employee in a way which would deprive or tend to deprive the employee of employment opportunities or otherwise adversely affect his or her status as an employee,

Nevada Revised Statutes, 2019

Chapter 63. Employment Practices
Equal Opportunities for Employment
NRS 613.330 Unlawful employment practices: Discrimination on basis of race, color, religion, sex, sexual orientation, gender identity or expression, age, disability, national origin or discussion of wages

because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin; or
(c) Except as otherwise provided in subsection 7, to discriminate against any employee because the employee has inquired about, discussed or voluntarily disclosed his or her wages or the wages of another employee.

2. It is an unlawful employment practice for an employment agency:
   (a) To fail or refuse to refer for employment, or otherwise to discriminate against, any person because of the race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin of that person;
   (b) To classify or refer for employment any person on the basis of the race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin of that person; or
   (c) Except as otherwise provided in subsection 7, to discriminate against any person because the person has inquired about, discussed or voluntarily disclosed his or her wages or the wages of another person. [...]

Nevada Equal Rights Commission 119
(Nevada Department of Employment, Training and Rehabilitation)

Sexual Harassment
Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when submission to or rejection of this conduct, explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment.

Sexual harassment can occur in a variety of circumstances, including but not limited to the following:
• The victim as well as the harasser may be a woman or a man. The victim does not have to be of the opposite sex.
• The harasser can be the victim's supervisor, an agent of the employer, a supervisor in another area, a co-worker, or a non-employee.
• The victim does not have to be the person harassed, but could be anyone affected by the offensive conduct.
• Unlawful sexual harassment may occur without economic injury to or discharge of the victim.
• The harasser's conduct must be unwelcome.

It is helpful for the victim to directly inform the harasser that the conduct is unwelcome and must stop. The victim should use any employer complaint mechanism or grievance system available. Failure to report sexual harassment to the employer may limit the remedies available to the victim.

Persons who file a charge, oppose unlawful employment discrimination, participate in employment discrimination proceedings, or otherwise assert their rights under the laws enforced by the Commission are protected against retaliation.

When investigating allegations of sexual harassment, the Nevada Equal Rights Commission considers the circumstances, such as the nature of the sexual advances, and the context in which the alleged incidents occurred, and the severity and pervasiveness of the sexual conduct.

35.2.29 NEW HAMPSHIRE

New Hampshire Revised Statutes, 2018
Title XXXI Trade and Commerce

Section 354-A:7 Unlawful Discriminatory Practices. –
It shall be an unlawful discriminatory practice:

V. Harassment on the basis of sex constitutes unlawful sex discrimination. Unwelcome sexual advances, requests for sexual favors, and other verbal, non-verbal or physical conduct of a sexual nature constitutes sexual harassment when:

(a) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
(b) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
(c) Such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile, or offensive working environment.

VI. (a) For the purposes of this chapter, the word “sex” includes pregnancy and medical conditions which result from pregnancy.
(b) An employer shall permit a female employee to take leave of absence for the period of temporary physical disability resulting from pregnancy, childbirth or related medical conditions. When the employee is physically able to return to work, her original job or a comparable position shall be made available to her by the employer unless business necessity makes this impossible or unreasonable.
(c) For all other employment related purposes, including receipt of benefits under fringe benefit programs, pregnancy, childbirth, and related medical conditions shall be considered temporary disabilities, and a female employee affected by pregnancy, childbirth, or related medical conditions shall be treated in the same manner as any employee affected by any other temporary disability.

VII. (a) For any employer not to make reasonable accommodations for the known physical or mental limitations of a qualified individual with a disability who is an applicant or employee, unless such employer can demonstrate that the accommodation would impose an undue hardship on the operation of the business of the employer.
(b) For any employer to deny employment opportunities, compensation, terms, conditions, or privileges of employment to a job applicant or employee who is a qualified individual with a disability, if such denial is based on the need of such employer to make reasonable accommodation to the physical or mental impairments of the applicant or employee.

354-A:19 Retaliation and Required Records. – It shall be an unlawful discriminatory practice for any person engaged in any activity to which this chapter applies to discharge, expel, or otherwise retaliate or discriminate against any person because he has opposed any practices forbidden under this chapter or because he has filed a complaint, testified or assisted in any proceeding under this chapter.

354-A:20 Required Records. – It shall not be an unlawful discriminatory practice to record any data required by law, or by the rules and regulations of any state or federal agency, provided such records are kept in good faith for the purpose of complying with law, and are not used for the purpose of discrimination in violation of this chapter.

354-A:21 Procedure on Complaints. –
I. (a) Any person claiming to be aggrieved by an unlawful discriminatory practice may make, sign and file with the commission a verified complaint in writing which shall state the name and address of the person, employer, labor organization, employment agency or public accommodation alleged to have committed the unlawful discriminatory practice complained of and which shall set forth the particulars thereof and contain such other information as may be required by the commission. The attorney general or one of the commissioners may, in like manner, make, sign, and file such complaint.
(b) In connection with the filing of such complaint, the attorney general is authorized to take proof, issue subpoenas and administer oaths in the manner provided in the civil practice law and rules. Any employer whose employees, or some of them, refuse or threaten to refuse to cooperate with the provisions of this chapter, may file with the commission a verified complaint asking for assistance by conciliation or other remedial action.

II. (a) After the filing of any complaint, one of the commissioners designated by the chair shall make, with the assistance of the commission’s staff, prompt investigation in connection therewith; during the course of the investigation, the commission shall encourage the parties to resolve their differences through settlement negotiations; and if such commissioner shall determine after such investigation that probable cause exists for crediting the allegations of the complaint, the commissioner shall immediately endeavor to eliminate the unlawful discriminatory practice complained of by conference, conciliation and persuasion. [...] When the investigating commissioner finds no probable cause to credit the allegations in the complaint, the complaint shall be dismissed, subject to a right of appeal to superior court. To prevail on appeal, the moving party shall establish that the commission decision is unlawful or unreasonable by a clear preponderance of the evidence. The findings of the investigating commissioner upon questions of fact shall be upheld as long as the record contains credible evidence to support them. If it reverses the finding of the investigating commissioner, the superior court shall remand the case for further proceedings in accordance with RSA 354-A:21, II, unless the complainant or respondent elects to proceed with a hearing in superior court pursuant to RSA 354-A:21-a.
(b) In case of failure to eliminate an unlawful discriminatory practice complained of, or in advance thereof, if, in the judgment of the commissioner making the investigation, circumstances so warrant, the commissioner shall cause to be issued and served in the name of the commission, a written notice, together with a copy of such complaint, as the same may have been amended, requiring the person, employer, labor organization or employment agency named in such complaint, hereinafter referred to as respondent, to answer charges of such complaint at a hearing before 3 members of the commission, designated by the chair and sitting as the commission, at a time and place to be fixed by the chair and specified in such notice. The place of any such hearing shall be the office of the commission or such other place as may be designated by it.
(c) The case in support of the complaint may be presented before the commission by the complainant or complainant’s representative and the commissioner who shall have previously made the investigation and caused the notice to be issued shall not participate in the hearing except as a witness, nor shall he participate in the subsequent deliberation of the commission in such case; and the aforesaid endeavors at conciliation shall not be received in evidence. The respondent shall file a written verified answer to the complaint and appear at such hearing in person or otherwise, with or without counsel, and submit testimony. [...]

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(d) If, upon all the evidence at the hearing, the commission shall find that a respondent has engaged in any unlawful discriminatory practice as defined in this chapter, the commission shall state its findings of fact and shall issue and cause to be served on such respondent an order requiring such respondent to cease and desist from such unlawful discriminatory practice and to take such affirmative action, including, but not limited to, hiring, reinstatement or upgrading of employees, with or without back pay, restoration to membership in any respondent labor organization, or the extension of full, equal and unsegregated accommodations, advantages, facilities and privileges to all persons, as in the judgment of the commission, will effectuate the purpose of this chapter and including a requirement for report of the manner of compliance. Such cease and desist orders for affirmative relief may be issued to operate prospectively. The commission may also order compensatory damages to be paid to the complainant by the respondent and, in order to vindicate the public interest, order the respondent to pay an administrative fine. The administrative fine shall be deposited in the general fund. The amount of the administrative fine shall not exceed:

(1) $10,000 if the respondent has not been adjudged to have committed any prior discriminatory practice in any administrative hearing or civil action.

(2) $25,000 if the respondent has been adjudged to have committed a prior discriminatory practice in any administrative hearing or civil action and the adjudication was made no more than 5 years prior to the date of filing the current charge.

(3) $50,000 if the respondent has been adjudged to have committed 2 or more discriminatory practices in any administrative hearings or civil actions and the adjudications were made during the 7-year period preceding the date of filing of the charge.

(e) When issuing an order awarding back pay, the commission shall calculate the back pay award by determining the amount the complainant would have earned but for the unlawful discriminatory practice. The commission shall subtract from that amount any unemployment compensation or interim earnings received by the complainant for the time period covered by the back pay award.

(f) If upon all the evidence the commission shall find that a respondent has not engaged in any such unlawful discriminatory practice, the commission shall state its findings of fact and shall issue and cause to be served on the complainant an order dismissing the said complaint as to such respondent. A copy of its order shall be delivered in all cases to the attorney general, and such other public officers as the commission deems relevant or proper. The commission shall establish rules of practice to govern, expedite, and effectuate the foregoing procedure and its own actions thereunder.

III. Any complaint filed pursuant to this section by an aggrieved person must be filed within 180 days after the alleged act of discrimination. Any complaint filed pursuant to this section by the attorney general or one of the commissioners must be so filed within 180 days after the alleged unlawful discriminatory practice.

IV. In administering this section, the commission shall be exempt from the provisions of RSA 541-A:29, II, but shall close each case or commence adjudicative proceedings on such case under RSA 354-A:21 within 24 months after the filing date of the complaint.

[...]

354-A:22 Judicial Review and Enforcement. –

I. Any complainant, respondent or other person aggrieved by such order of the commission may obtain judicial review of the order, and the commission or any interested person may obtain an order of court for its enforcement, in a proceeding as provided in this section. Such proceeding shall be brought in the superior court of the state within any county in which the unlawful practice which is the subject of the commission's order occurs or in which any person required in the order to cease and desist from an unlawful practice or to take other affirmative action resides or transacts business.
35.2.30 NEW JERSEY

New Jersey Revised Statutes, 2018

Title 10 Civil Rights
Chapter 5
Section: 10:5-12: Unlawful employment practices, discrimination.

11. It shall be an unlawful employment practice, or, as the case may be, an unlawful discrimination:
   a. For an employer, because of the race, creed, color, national origin, ancestry, age, marital status, civil union status, domestic partnership status, affectional or sexual orientation, genetic information, sex, gender identity or expression, disability or atypical hereditary cellular or blood trait of any individual, or because of the liability for service in the Armed Forces of the United States or the nationality of any individual, or because of the refusal to submit to a genetic test or make available the results of a genetic test to an employer, to refuse to hire or employ or to bar or to discharge or require to retire, unless justified by lawful considerations other than age, from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment; provided, however, it shall not be an unlawful employment practice to refuse to accept for employment an applicant who has received a notice of induction or orders to report for active duty in the armed forces; provided further that nothing herein contained shall be construed to bar an employer from refusing to accept for employment any person on the basis of sex in those certain circumstances where sex is a bona fide occupational qualification, reasonably necessary to the normal operation of the particular business or enterprise; provided further that nothing herein contained shall be construed to bar an employer from refusing to accept for employment or to promote any person over 70 years of age; provided further that it shall not be an unlawful employment practice for a club exclusively social or fraternal to use club membership as a uniform qualification for employment, or for a religious association or organization to utilize religious affiliation as a uniform qualification in the employment of clergy, religious teachers or other employees engaged in the religious activities of the association or organization, or in following the tenets of its religion in establishing and utilizing criteria for employment of an employee; provided further, that it shall not be an unlawful employment practice to require the retirement of any employee who, for the two-year period immediately before retirement, is employed in a bona fide executive or a high policy-making position, if that employee is entitled to an immediate non-forfeitable annual retirement benefit from a pension, profit sharing, savings or deferred retirement plan, or any combination of those plans, of the employer of that employee which equals in the aggregate at least $27,000.00; and provided further that an employer may restrict employment to citizens of the United States where such restriction is required by federal law or is otherwise necessary to protect the national interest.

d. For any person to take reprisals against any person because that person has opposed any practices or acts forbidden under this act or because that person has filed a complaint, testified or assisted in any proceeding under this act or to coerce, intimidate, threaten or interfere with any person in the exercise or
enjoyment of, or on account of that person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this act.

Section: 10:5-13: Filing complaint; prosecution of suit in Superior Court, jury trial
Any person claiming to be aggrieved by an unlawful employment practice or an unlawful discrimination may, personally or by an attorney-at-law, make, sign and file with the division a verified complaint in writing which shall state the name and address of the person, employer, labor organization, employment agency, owner, lessee, proprietor, manager, superintendent, or agent alleged to have committed the unlawful employment practice or unlawful discrimination complained of and which shall set forth the particulars thereof and shall contain such other information as may be required by the division. Upon receipt of the complaint, the division shall notify the complainant on a form promulgated by the director of the division and approved by the Attorney General of the complainant's rights under this act, including the right to file a complaint in the Superior Court to be heard before a jury; of the jurisdictional limitations of the division; and any other provisions of this act, without interpretation, that may apply to the complaint. The Commissioner of Labor, the Attorney General, or the Commissioner of Education may, in like manner, make, sign and file such complaint. Any employer whose employees, or some of them, refuse or threaten to refuse to co-operate with the provisions of this act, may file with the division a verified complaint asking for assistance by conciliation or other remedial action.

Any complainant may initiate suit in Superior Court under this act without first filing a complaint with the division or any municipal office. Upon the application of any party, a jury trial shall be directed to try the validity of any claim under this act specified in the suit. All remedies available in common law tort actions shall be available to prevailing plaintiffs. These remedies are in addition to any provided by this act or any other statute. Prosecution of such suit in Superior Court under this act shall bar the filing of a complaint with the division or any municipal office during the pendency of any such suit.

At any time after 180 days from the filing of a complaint with the division, a complainant may file a request with the division to present the action personally or through counsel to the Office of Administrative Law. Upon such request, the director of the division shall file the action with the Office of Administrative Law, provided that no action may be filed with the Office of Administrative Law where the director of the division has found that no probable cause exists to credit the allegations of the complaint or has otherwise dismissed the complaint.

A party to an action based upon a violation of this act shall mail a copy of the initial pleadings or claims, amended pleadings or claims, counterclaims, briefs, and legal memoranda to the division at the same time as filing such documents with the Office of Administrative Law or the court. Upon application to the Office of Administrative Law or to the court wherein the matter is pending, the division shall be permitted to intervene.

Section: 10:5-17: Findings and conclusions of director; order.
16. If, upon all evidence at the hearing, the director shall find that the respondent has engaged in any unlawful employment practice or unlawful discrimination as defined in this act, the director shall state his findings of fact and conclusions of law and shall issue and cause to be served on such respondent an order requiring such respondent to cease and desist from such unlawful employment practice or unlawful discrimination and to take such affirmative action, including, but not limited to, hiring, reinstatement or upgrading of employees, with or without back pay, or restoration to membership, in any respondent labor organization, or extending full and equal accommodations, advantages, facilities, and privileges to all persons, as, in the judgment of the director, will effectuate the purpose of this act, and including a requirement for report of the manner of compliance. [...]
Section: 10:5-19: Enforcement of orders
Observance of an order of the director issued pursuant to the provisions of this act including collection or enforcement of damages or penalties may be enforced by a summary civil action brought by the director in the Superior Court to obtain such relief as may be necessary to effectuate the terms of said order.

Section: 10:5-21: Appeals
Any person aggrieved by a final order of the director may take an appeal therefrom to the Superior Court, Appellate Division as an appeal from a State administrative agency.

Section: 10:5-26: Resisting or impeding performance of duties; violation of orders; punishment
Any person who shall willfully resist, prevent, impede or interfere with the Attorney General or any representative of the division in the performance of duty under this act, or shall willfully violate an order of the Attorney General, or the director, shall be guilty of a misdemeanor and shall be punishable by imprisonment for not more than one year, or by a fine of not more than $500.00, or by both; but procedure for the review of the order shall not be deemed to be such willful conduct.

35.2.31 NEW MEXICO

New Mexico Administrative Code, 2019
Title 9 Human Rights
Chapter 1 Human rights general provisions
Part 1 Administrative procedures for the human rights bureau/commission

9.1.1.6 OBJECTIVE: These rules and regulations govern procedure for discrimination complaints with the human rights bureau, and the subsequent investigation and administrative hearing process.

9.1.1.7 DEFINITIONS: As used in these rules incorporates the definitions of 28-1-2 NMSA 1978 and:
AA. “sex discrimination” is defined to include, but is not limited to, the following:
(1) “Sexual harassment” means any unwanted or repeated physical or verbal act that is sexual, including sexual advances, sexual conduct, verbal or nonverbal sexual suggestions, sexual ridicule or sexual innuendoes in order to:
(a) affect employment status relating to matters of compensation or the terms and conditions of employment;
[...]
9.1.1.8 FILING A COMPLAINT:
A. Persons who may file a complaint:

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(1) Any person claiming to be aggrieved by an unlawful discriminatory practice may by himself or herself, or through his or her legally authorized representative, make and sign a complaint and file said complaint with the bureau.
(2) Any member of the commission who has reason to believe that an unlawful discriminatory practice has occurred may make, sign and file a written complaint with the bureau, on behalf of a complainant. The complaint must state the facts which gave the member of the commission reason to believe that an unlawful discriminatory practice has occurred.

B. Time limit for filing: All complaints shall be filed with the bureau within 300 days after the last alleged act of unlawful discrimination was committed.

[...]

9.1.1.9 INVESTIGATIONS AND ALTERNATIVE DISPUTE RESOLUTION (ADR):

A. Investigative procedure:
(1) The respondent will be required to respond and submit documents within 30 days from the date of the inquiry from the bureau with the investigator’s request for information. The deadline may be extended by the investigator for up to 10 days. Any requests for additional time beyond that must be made in writing to the bureau detailing the reason for the request, and may be granted for good cause.
(2) The complainant will be required to provide a rebuttal to the respondent’s response by the deadline provided with the investigator’s request for rebuttal. The deadline may be extended by the investigator up to 20 days. Any requests for additional time beyond that must be made in writing to the bureau detailing the reason for the request, and may be granted for good cause. The complainant may file an amendment to the complaint at any time prior to the rebuttal request. After the rebuttal has been requested, the complainant will be required to file a new complaint if the complainant wishes to make additional allegations not included within the original complaint.

B. The bureau’s authority to investigate a complaint is not limited to the procedure outlined in Subsection A of this section.

C. Prior to an investigation, the director will invite the parties to engage in mediation discussions. Should an agreement resolving the complaint be reached through mediation, the terms shall be reduced to writing in a settlement agreement and will be signed by the parties. If a settlement agreement is signed, no determination will be issued by the director. The bureau shall dismiss the complaint upon receipt of the fully-executed settlement agreement.

D. Failure of the respondent or the complainant to abide by a fully-executed settlement agreement will require the aggrieved party to seek enforcement of the agreement in court.

9.1.1.10 DIRECTOR’S DETERMINATION OF PROBABLE CAUSE OR NO PROBABLE CAUSE:

A. After an investigation is completed, the director will issue a determination of probable or no probable cause.

B. If the director determines that no probable cause exists, the director shall dismiss the complaint and notify the parties of the dismissal. The complainant will be notified by certified mail, and the respondent will be notified by regular mail. Upon dismissing the complaint, the director will advise the complainant of his or her right to appeal the determination in district court within 90 days after receipt of the determination.

C. If the director determines that probable cause exists, both parties will be notified of the determination by certified mail. The director will attempt to conciliate the matter. If conciliation attempts fail, the director shall have a commission complaint issued, setting the matter for hearing before the commission; provided that the complainant has not requested a waiver of right to hearing pursuant to Subsection J of Section 28-1-10 NMSA 1978.
9.1.1.11 WAIVER OF COMPLAINANT’S RIGHT TO HEARING:
A. Within 60 days of service of the director’s determination of probable cause, the complainant may make a written request to the director for a waiver of complainant’s right to a commission hearing and seek a trial de novo in district court, pursuant to Subsection J of Section 28-1-10 NMSA 1978, as amended.
B. The director shall approve a waiver request which is timely made and shall serve notice of the waiver upon the complainant and the respondent. The director’s issuance of a waiver notice shall be deemed a final order of the commission for the purpose of appeal, pursuant to Section 28-1-13 NMSA 1978, as amended.
C. Within 90 days from the date of service of the waiver notice, the complainant may request a trial de novo, pursuant to Section 28-1-13 NMSA 1978, as amended.

9.1.1.12 CONCILIATION PROCESS BEFORE AND AFTER ISSUANCE OF COMMISSION COMPLAINT:
A. Conciliation process prior to issuance of commission complaint:
(1) The director will attempt to achieve a satisfactory adjustment of the complaint by means of conciliation with the complainant and the respondent.
(2) If conciliation attempts are successful, the parties shall prepare and sign a written settlement agreement. When the complainant and the respondent have executed a written settlement agreement by signing it, they shall provide the director with written notification that a settlement agreement between the parties has been executed.
(3) If a settlement agreement is reached between the complainant and the respondent through bureau mediation, the executed settlement agreement shall be forwarded to the director and will serve as the parties’ written notification to the director of the executed settlement agreement.
(4) Once the director has received the parties’ written notification that a settlement agreement has been executed, the complaint will be dismissed and the case will be administratively closed. The parties will be provided with notice by mail of the dismissal of the complaint and the administrative closure of the case.
(5) Failure by the respondent or the complainant to abide by a fully-executed settlement agreement will require the aggrieved party to seek enforcement of the agreement in court.
B. Conciliation process after issuance of commission complaint:
(1) If a settlement agreement is reached between the complainant and the respondent through the conciliation process, the complainant will be required to submit a motion to dismiss pursuant to this rule.
(2) The motion to dismiss will be deliberated and decided upon at a commission review panel.
(3) The parties will be notified by regular mail of the date, time, and location of the review panel at which the motion will be considered. The parties are not required to attend the review panel in person.
(4) Following its deliberation, the commission will issue an order on the matter and notify the parties pursuant to Subsection E of Section 28-1-11 NMSA 1978.

9.1.1.13 HEARING PREPARATION:
A. Time limits:
(1) Unless the complaint has already been dismissed or a satisfactory adjustment of the complaint has been reached, a commission complaint will be issued on behalf of the complainant within one year of the complainant’s filing of a complaint with the bureau, as provided in Subsection G of Section 28-1-10 NMSA 1978 of the New Mexico Human Rights Act, or as such time limit may be otherwise amended by law.
(2) A hearing date will be set not more than 15 days or less than 10 days after service of the commission complaint, pursuant to Subsection F of Section 28-1-10 NMSA 1978 of the New Mexico Human Rights Act, or as such provision may be otherwise amended by law.
B. Case preparation for commission hearing:
   (1) Case presentation: Each party is responsible for preparing its case for presentation to the commission at hearing. Each party may represent himself or herself at hearing or may be represented by an attorney or another qualified representative.
   (2) Evidence:
      (a) Each party, either in person or through its attorney or other representative, may present evidence in support of its case at hearing, by calling witnesses to testify and introducing exhibits. Each party, either in person or through its attorney or other representative, may examine and cross-examine witnesses.
      (b) Any materials or information contained in the bureau investigative files are not before the commission or the hearing officer at hearing, unless a party has obtained these materials before the time of hearing and seeks to introduce them as evidence at the hearing. Once a commission complaint is issued and the matter is set for hearing, the materials generally before the commission or the hearing officer are the commission complaint and the notice of hearing.
      (c) A party’s preparation for hearing should include, but is not limited to: determining what evidence a party intends to present at hearing; identifying the witnesses whom a party wishes to call at hearing; verifying the witnesses’ availability to appear at hearing; determining whether subpoenas will be needed to secure the witnesses’ appearance at hearing; requesting issuance of subpoenas and subpoenas duces tecum, if needed; arranging for service of subpoenas; identifying materials to be introduced as exhibits through witness testimony; obtaining the materials to be introduced as exhibits; and preparing exhibits for presentation at hearing.

D. Witness identification:
   (1) Request for identity of witnesses: Prior to the hearing any party is entitled to obtain and may request from another party witness information, to the extent that it is known, unless a protective order is issued to protect such information from disclosure. [...]
   (3) Response to request for identity of witnesses: A party’s request for the identity of witnesses shall be answered within 10 days of service, unless otherwise ordered by the commission or the hearing officer, upon a motion for a protective order and a showing of good cause.
   (4) Protective order: Upon a motion for a protective order and upon a showing of good cause, the commission or the hearing officer may grant a motion for a protective order and issue an order to protect such witness information from disclosure. If the motion for a protective order is denied, the requested information shall be disclosed.

E. Subpoenas and subpoenas duces tecum:
   (1) The commission may issue subpoenas commanding the appearance and testimony of witnesses at the hearing. The commission may also issue subpoenas duces tecum commanding the appearance of witnesses and their production of certain specific documents or other items at the hearing.
   (2) The commission may issue subpoenas and subpoenas duces tecum upon the request of a party to the proceeding.

9.1.1.14 COMMISSION HEARING:
A. Issuance of commission complaint:
   (1) If after a probable cause determination, efforts at conciliation have failed, the commission shall issue a written complaint in its own name, on behalf of the complainant, against the respondent. The commission shall set forth the alleged discriminatory practice, the section of the Human Rights Act alleged to have been violated and the relief requested.
(2) The commission complaint shall require the respondent to answer the allegations of the commission complaint by appearing at a hearing before the commission on the date, time and place specified in the commission complaint. The respondent may also file a written answer to the commission complaint.

(3) The commission complaint shall be served on the complainant and the respondent or their legal representatives by certified mail, return receipt requested. Such complaint shall advise the parties that failure to appear at the hearing may result in the entry of a judgment or order against the party that fails to appear.

(4) The complainant shall review the commission complaint and verify that the complaint sets forth the discriminatory practice that is alleged to have occurred. Any motion by the complainant to amend the commission complaint should be made as soon as possible and in advance of the hearing. [...] C. Hearing procedures:

(1) Appearance and representation:

(a) The complainant shall be present at the hearing, may present testimony or evidence and may be represented by an attorney or other representative. The complainant or complainant’s representative shall present the case supporting the complaint at hearing.

(b) If the complainant does not appear at the hearing after proper notice has been served, the complaint may be dismissed for failure of the complainant to appear and present the complainant’s case at hearing as required in Subsections A and C of Section 28-1-11 NMSA 1978, as amended.

(c) The respondent to a complaint may file a written answer to the complaint, may appear at the hearing, may give testimony and may be represented by an attorney or other representative. If the respondent is an entity, the respondent may designate a person to serve as its representative at the hearing. The respondent, respondent’s representative or respondent’s counsel may present the case responding to the complaint at hearing.

(6) Matters of proof:

(a) Burden of proof: Complainant has the burden of proof.

(b) Standard of proof: The complainant must prove his or her case by a preponderance of the evidence.

[...] 9.1.1.15 COMMISSION RULING AND FINAL ORDER:

A. The final decision and ruling on the merits in each case is reserved to the commission.

B. Where a hearing is before a three-member panel of commissioners, the commission will publicly announce its decision and final order within 30 days, or at such other time as the commission may direct. The decision and final order will be announced orally at a public meeting, for which notice will be given. Within five days thereafter, the commission shall cause a written copy of the decision and final order to be sent by certified mail, return receipt requested, to each party and to the party’s attorney, if any, at the address of record for the party and for the party’s attorney.

C. Where a hearing is conducted by a hearing officer, the hearing officer shall prepare a written report, setting forth proposed findings of fact, proposed conclusions of law and a recommended action to be taken by the commission, after the last time set for the submission of all documents following the final adjournment of a hearing, or at such other time as the commission may direct. The hearing officer’s report shall be submitted for consideration by a review panel, consisting of no more than three commissioners designated by the chairperson. The commission may adopt, modify or reject the findings of fact, the conclusions of law and the recommended action proposed by the hearing officer. The commission’s decision and final order will be announced orally at a public meeting, for which notice will be given. Within
five days thereafter, the commission shall cause a written copy of the decision and final order to be sent
by certified mail, return receipt requested, to each party and to the party’s attorney, if any, at the address
of record for the party and for the party’s attorney.

[...]

35.2.32 NEW YORK

New York Senate Bill S6577 123
(Passed June 16, 2019, amending New York Statutes Executive, Article 15 Human Rights, Section 296
Unlawful discriminatory practices 124 and New York Statutes Labor, Article 7 General Provisions, Section 201
G Prevention of sexual harassment 125 – new language not yet reflected in the online NY Statutes as of this
writing)

SB 6577
2019-2020 Regular Sessions
IN SENATE
June 16, 2019

Introduced by Sen. BIAGGI -- read twice and ordered printed, and when printed to be committed to the
Committee on Rules

AN ACT to amend the executive law, in relation to increased protections for protected classes and special
protections for employees who have been sexually harassed; to amend the general obligations law, in
relation to nondisclosure agreements; to amend the civil practice law and rules and the executive law, in
relation to discrimination; to amend the labor law, in relation to requiring employers to provide employees
notice of their sexual harassment prevention training program in writing in English and in employees'
primary languages; to amend the executive law, in relation to extending the statute of limitations for claim
resulting from unlawful or discriminatory practices constituting sexual harassment to three years; to
amend the labor law, in relation to the model sexual harassment prevention guidance document and sexual
harassment prevention policy; and directing the commissioner of labor to conduct a study on strengthening
sexual harassment prevention laws

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 5 of section 292 of the executive law, as amended by chapter 363 of the laws of
2015, is amended to read as follows:
5. The term "employer" shall include all employers within the state, including the state and all political
subdivisions thereof.

§ 1-a. Section 292 of the executive law is amended by adding a new subdivision 37 to read as follows:
37. The term "private employer" as used in section two hundred ninety-seven of this article shall include
any person, company, corporation, labor organization or association. It shall not include the state or any
local subdivision thereof, or any state or local department, agency, board or commission.

(last visited 15 November 2019).
124 New York Statutes 2018, Executive; Article 15 Human Rights, Section 296 Unlawful discriminatory practices, available at
125 New York Statutes 2018, Labor, Article 7 General provisions, Section 201G Prevention of sexual harassment, available at
§ 2. Subdivision 1 of section 296 of the executive law is amended by adding a new paragraph (h) to read as follows:

(h) For an employer, licensing agency, employment agency or labor organization to subject any individual to harassment because of an individual's age, race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, domestic violence victim status, or because the individual has opposed any practices forbidden under this article or because the individual has filed a complaint, testified or assisted in any proceeding under this article, regardless of whether such harassment would be considered severe or pervasive under precedent applied to harassment claims. Such harassment is an unlawful discriminatory practice when it subjects an individual to inferior terms, conditions or privileges of employment because of the individual's membership in one or more of these protected categories. The fact that such individual did not make a complaint about the harassment to such employer, licensing agency, employment agency or labor organization shall not be determinative of whether such employer, licensing agency, employment agency or labor organization shall be liable. Nothing in this section shall imply that an employee must demonstrate the existence of an individual to whom the employee's treatment must be compared. It shall be an affirmative defense to liability under this subdivision that the harassing conduct does not rise above the level of what a reasonable victim of discrimination with the same protected characteristic would consider petty slights or trivial inconveniences.

§ 3. Paragraph (b) of subdivision 2 of section 296-b of the executive law, as amended by chapter 8 of the laws of 2019, is amended to read as follows:

(b) Subject a domestic worker to harassment as set out in paragraph (h) of subdivision 1 of section two hundred ninety-six of this article.

§ 4. Section 296-d of the executive law, as added by section 1 of subpart F of part KK of chapter 57 of the laws of 2018, is amended to read as follows:

§ 296-d. Unlawful discriminatory practices relating to non-employees. It shall be an unlawful discriminatory practice for an employer to permit unlawful discrimination against non-employees in its workplace. An employer may be held liable to a non-employee who is a contractor, subcontractor, vendor, consultant or other person providing services pursuant to a contract in the workplace or who is an employee of such contractor, subcontractor, vendor, consultant or other person providing services pursuant to a contract in the workplace, with respect to an unlawful discriminatory practice, when the employer, its agents or supervisors knew or should have known that such non-employee was subjected to an unlawful discriminatory practice in the employer's workplace, and the employer failed to take immediate and appropriate corrective action. In reviewing such cases involving non-employees, the extent of the employer's control and any other legal responsibility which the employer may have with respect to the conduct of the person who engaged in the unlawful discriminatory practice shall be considered.

§ 5. Subdivision 1, paragraph c of subdivision 4 and subdivisions 9 and 10 of section 297 of the executive law, subdivision 1 and paragraph c of subdivision 4 as amended by chapter 166 of the laws of 2000, subparagraph (vi) of paragraph c of subdivision 4 as amended by section 1 of part AA of chapter 57 of the laws of 2009, subdivision 9 as amended by section 16 of part D of chapter 405 of the laws of 1999 and subdivision 10 as amended by chapter 364 of the laws of 2015, are amended to read as follows:

1. Any person claiming to be aggrieved by an unlawful discriminatory practice may, by himself or herself or his or her attorney-at-law, make, sign and file with the division a verified complaint in writing which shall state the name and address of the person alleged to have committed the unlawful discriminatory practice complained of and which shall set forth the particulars thereof and contain such other information as may be required by the division. The commissioner of labor or the attorney general, or the chair of the commission on quality of care for the mentally disabled, or the division on its own motion may, in like manner, make, sign and file such complaint. In connection with the filing of such complaint, the attorney
general is authorized to take proof, issue subpoenas and administer oaths in the manner provided in the
civil practice law and rules. Any employer whose employees, or some of them, refuse or threaten to refuse
to cooperate with the provisions of this article, may file with the division a verified complaint asking for
assistance by conciliation or other remedial action.
c. Within one hundred eighty days after the commencement of such hearing, a determination shall be
made and an order served as hereinafter provided. If, upon all the evidence at the hearing, the
commissioner shall find that a respondent has engaged in any unlawful discriminatory practice as defined
in this article, the commissioner shall state findings of fact and shall issue and cause to be served on such
respondent an order, based on such findings and setting them forth, and including
such of the following provisions as in the judgment of the division will effectuate the purposes of this article:
(i) requiring such respondent to cease and desist from such unlawful discriminatory practice; (ii)
requiring such respondent to take such affirmative action, including (but not limited to) hiring,
reinstatement or upgrading of employees, with or without back pay, restoration to membership in any
respondent labor organization, admission to or participation in a guidance program, apprenticeship training
program, on-the-job training program or other occupational training or retraining program, the extension
of full, equal and unsegregated accommodations, advantages, facilities and privileges to all persons,
granting the credit which was the subject of any complaint, evaluating applicants for membership in a place
of accommodation without discrimination based on race, creed, color, national
origin, sex, disability or marital status, and without retaliation or discrimination based on opposition to
practices forbidden by this article or filing a complaint, testifying or assisting in any proceeding under this
article; (iii) awarding of compensatory damages to the person aggrieved by such practice; (iv) awarding of
punitive damages, in cases of employment discrimination related to private employers, and, in cases of
housing discrimination, with damages in housing discrimination cases in an amount not to exceed ten
thousand dollars, to the person aggrieved by such practice; (v) requiring payment to the state of profits
obtained by a respondent through the commission of unlawful discriminatory acts described in subdivision
three-b of section two hundred ninety-six of this article; and (vi) assessing civil fines and penalties, in an
amount not to exceed fifty thousand dollars, to be paid to the state by a respondent found to have
committed an unlawful discriminatory act which is found to be willful, wanton or malicious; (vii) requiring a report of the manner of compliance. If, upon all the evidence,
the commissioner shall find that a respondent has not engaged in any such unlawful discriminatory
practice, he or she shall state findings of fact and shall issue and cause to be served on the complainant an
order based on such findings and setting them forth dismissing the said complaint as to such respondent.
A copy of each order issued by the commissioner shall be delivered in all cases to the attorney general, the
secretary of state, if he or she has issued a license to the respondent, and such other public officers as the
division deems proper, and if any such order concerns a regulated creditor, the
commissioner shall forward a copy of any such order to the superintendent. A copy of any complaint filed
against any respondent who has previously entered into a conciliation agreement pursuant to paragraph a
of subdivision three of this section or as to whom an order of the division has previously been entered
pursuant to this paragraph shall be delivered to the attorney general, to the secretary of state if he or she
has issued a license to the respondent and to such other public officers as the division deems proper, and
if any such respondent is a regulated creditor, the commissioner shall forward a copy of any such complaint
to the superintendent.
9. Any person claiming to be aggrieved by an unlawful discriminatory practice shall have a cause of action
in any court of appropriate jurisdiction for damages, including, in cases of employment discrimination
related to private employers and housing discrimination only, punitive damages, and such other remedies
as may be appropriate, including any civil fines and penalties provided in subdivision four of this section,
unless such person had filed a complaint hereunder or with any local commission on human rights, or with the superintendent pursuant to the provisions of section two hundred ninety-six-a of this chapter, provided that, where the division has dismissed such complaint on the grounds of administrative convenience, on the grounds of untimeliness, or on the grounds that the election of remedies is annulled, such person shall maintain all rights to bring suit as if no complaint had been filed with the division. At any time prior to a hearing before a hearing examiner, a person who has a complaint pending at the division may request that the division dismiss the complaint and annul his or her election of remedies so that the human rights law claim may be pursued in court, and the division may, upon such request, dismiss the complaint on the grounds that such person's election of an administrative remedy is annulled. Notwithstanding subdivision (a) of section two hundred forty of the civil practice law and rules, if a complaint is so annulled by the division, upon the request of the party bringing such complaint before the division, such party's rights to bring such cause of action before a court of appropriate jurisdiction shall be limited by the statute of limitations in effect in such court at the time the complaint was initially filed with the division.

[...]

§ 7. Section 5-336 of the general obligations law, as added by section 1 of subpart D of part KK of chapter 57 of the laws of 2018, is amended to read as follows:

§ 5-336. Nondisclosure agreements. 1. (a) Notwithstanding any other law to the contrary, no employer, its officers or employees shall have the authority to include or agree to include in any settlement, agreement or other resolution of any claim, the factual foundation for which involves discrimination, in violation of laws prohibiting discrimination, including but not limited to, article fifteen of the executive law, any term or condition that would prevent the disclosure of the underlying facts and circumstances to the claim or action unless the condition of confidentiality is the complainant's preference.

(b) Any such term or condition must be provided in writing to all parties in plain English, and, if applicable, the primary language of the complainant, and the complainant shall have twenty-one days to consider such term or condition. If after twenty-one days such term or condition is the complainant's preference, such preference shall be memorialized in an agreement signed by all parties. For a period of at least seven days following the execution of such agreement, the complainant may revoke the agreement, and the agreement shall not become effective or be enforceable until such revocation period has expired.

(c) Any such term or condition shall be void to the extent that it prohibits or otherwise restricts the complainant from: (i) initiating, testifying, assisting, complying with a subpoena from, or participating in any manner with an investigation conducted by the appropriate local, state, or federal agency; or (ii) filing or disclosing any facts necessary to receive unemployment insurance, Medicaid, or other public benefits to which the complainant is entitled.

2. Notwithstanding any provision of law to the contrary, any provision in a contract or other agreement between an employer or an agent of an employer and any employee or potential employee of that employer entered into on or after January first, two thousand twenty, that prevents the disclosure of factual information related to any future claim of discrimination is void and unenforceable unless such provision notifies the employee or potential employee that it does not prohibit him or her from speaking with law enforcement, the equal employment opportunity commission, the state division of human rights, a local commission on human rights, or an attorney retained by the employee or potential employee.

[...]

§ 11. Paragraph b of subdivision 1 of section 201-g of the labor law, as added by section 1 of subpart E of part KK of chapter 57 of the laws of 2018, is amended and a new subdivision 2-a is added to read as follows:
b. Every employer shall adopt the model sexual harassment prevention policy promulgated pursuant to this subdivision or establish a sexual harassment prevention policy to prevent sexual harassment that equals or exceeds the minimum standards provided by such model sexual harassment prevention policy. Such sexual harassment prevention policy shall be provided to all employees in writing as required by subdivision two-a of this section. Such model sexual harassment prevention policy shall be publicly available and posted on the websites of both the department and the division of human rights.

2-a. a. Every employer shall provide his or her employees, in writing in English and in the language identified by each employee as the primary language of such employee, at the time of hiring and at every annual sexual harassment prevention training provided pursuant to subdivision two of this section, a notice containing such employer’s sexual harassment prevention policy and the information presented at such employer’s sexual harassment prevention training program.

b. The commissioner shall prepare templates of the model sexual harassment prevention policy created and published pursuant to subdivision one of this section and the model sexual harassment prevention training program produced pursuant to subdivision two of this section. The commissioner shall determine, in his or her discretion, which languages to provide in addition to English, based on the size of the New York state population that speaks each language and any other factor that the commissioner shall deem relevant. All such templates shall be made available to employers in such manner as determined by the commissioner.

c. When an employee identifies as his or her primary language a language for which a template is not available from the commissioner, the employer shall comply with this subdivision by providing that employee an English-language notice.

d. An employer shall not be penalized for errors or omissions in the non-English portions of any notice provided by the commissioner.

§ 12. The commissioner of labor in collaboration with the commissioner of human rights shall conduct a study on how to build on the requirements of section two hundred one-g of the labor law, in order to further combat unlawful harassment and discrimination in the workplace. The study shall include but not be limited to: a review of the section two hundred one-g of the labor law requirements for employers to provide a sexual harassment training and policy to all employees and comparison with similar requirements across other jurisdictions; a review of the full scope of discriminatory practices in the workplace made unlawful by relevant state and federal laws; engagement with relevant stakeholders on the most effective tools to prevent and remediate such discriminatory practices; and the efficacy of requiring such training in the workplace in reducing discrimination. On or before December 1, 2019, the commissioner of labor shall submit his report and recommendations to the governor, the temporary president of the senate and the speaker of the assembly.

§ 13. Subdivision 5 of section 297 of the executive law, as amended by chapter 958 of the laws of 1968, is amended to read as follows:

5. Any complaint filed pursuant to this section must be so filed within one year after the alleged unlawful discriminatory practice. In cases of sexual harassment in employment, any complaint filed pursuant to this section must be so filed within three years after the alleged unlawful discriminatory practices.

§ 14. Section 201-g of the labor law is amended by adding a new subdivision 4 to read as follows:

4. Beginning in the year two thousand twenty-two, and every succeeding four years thereafter, the department in consultation with the division of human rights shall evaluate, using the criteria within this section, the impact of the current model sexual harassment prevention guidance document and sexual harassment prevention policy. Upon the completion of each evaluation the department shall update the model sexual harassment prevention guidance document and sexual harassment prevention policy as needed.
§ 15. Severability clause. If any clause, sentence, paragraph, subdivision, section or subpart of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or subject thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein. [...]

35.2.33 NORTH CAROLINA

North Carolina Administrative Code 126
Title 25 State Human Resources
Chapter 01 Office of State Human Resources
Subchapter J
25 NCAC 01J. 1101 Unlawful Workplace Harassment and Retaliation

SECTION .1100 - UNLAWFUL WORKPLACE HARRASSMENT
25 NCAC 01J .1101 UNLAWFUL WORKPLACE HARASSMENT AND RETALIATION
(a) Purpose. The purpose of this Rule is to establish that the State of North Carolina prohibits in any form unlawful workplace harassment, including sexual harassment or retaliation based on opposition to unlawful workplace harassment of state employees or applicants. Every agency with employees subject to the State Human Resources Act shall develop strategies to ensure that work sites are free of unlawful workplace harassment, sexual harassment discrimination and retaliation.
(b) As used in this Rule:
(1) "unlawful workplace harassment" means unsolicited and unwelcome speech or conduct based upon race, religion, color, national origin, sex, age, disability, genetic information, or political affiliation that creates a hostile work environment or under circumstances involving quid pro quo."
(2) "sexual harassment" means unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct when:
(A) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
(B) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; and
(C) the conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.
(3) "retaliation" means adverse action taken against an individual for filing a discrimination charge; testifying; or participating in any way in an investigation, proceeding, or lawsuit related to discriminatory employment practices based on race, religion, color, national origin, sex, age, disability, political affiliation or genetic information; or because of opposition to employment practices in violation of the unlawful workplace harassment policy.
(c) Policy. No state employee shall engage in conduct that falls under the definition of unlawful workplace harassment.

harassment, sexual harassment or retaliation, and no personnel employment decisions shall be made on
the basis of race, sex, religion, national origin, age, color, disability, political affiliation, or genetic
information.
(d) All employees are guaranteed the right to work in an environment free from unlawful workplace
harassment and retaliation.
(e) Coverage of this Rule includes:
(1) applicants,
(2) former employees, and
(3) full-time and part-time employees with either a permanent, probationary, trainee, time-limited, or
temporary appointment.
(f) Agency Workplace Harassment Prevention Strategies. Each agency head shall develop strategies to
prevent unlawful workplace harassment, sexual harassment, or retaliation. These strategies shall include:
(1) a commitment by the agency to the prohibition of unlawful workplace harassment, sexual
harassment or retaliation;
(2) training and other methods to prevent harassing or retaliating actions; and
(3) a process for disseminating information prohibiting unlawful workplace harassment and retaliation
to all agency employees.
Workplace harassment prevention strategies shall be included as part of the agency Equal Employment
Opportunity (EEO) plan

35.2.34 NORTH DAKOTA

North Dakota Century Code, 2019 127
Title 14 Domestic Relations and Persons
Chapter 14.02.4 Human Rights
Section 14-02.4-01 State policy against discrimination

6. "Discriminatory practice" means an act or attempted act which because of race, color, religion, sex,
national origin, age, physical or mental disability, status with regard to marriage or public assistance, or
participation in lawful activity off the employer's premises during nonworking hours which is not in direct
conflict with the essential business-related interests of the employer results in the unequal treatment or
separation or segregation of any persons, or denies, prevents, limits, or otherwise adversely affects, or if
accomplished would deny, prevent, limit, or otherwise adversely affect, the benefit of enjoyment by any
person of employment, labor union membership, public accommodations, public services, or credit
transactions. The term "discriminate" includes segregate or separate and for purposes of discrimination
based on sex, it includes sexual harassment. Sexual harassment includes unwelcome sexual advances,
requests for sexual favors, sexually motivated physical conduct or other verbal or physical conduct or
communication of a sexual nature when:
a. Submission to that conduct or communication is made a term or condition, either explicitly or implicitly,
of obtaining employment, public accommodations or public services, or education;

127 North Dakota Century Code 2019, Title 14 Domestic Relations and Persons, Chapter 14.02.4 Human Rights, Section 14-02.4-01
State policy against discrimination, available at https://www.legis.nd.gov/cencode/t14c02-4.pdf#nameddest=14-02p4-01 (last
visited 15 November 2019).
b. Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual’s employment, public accommodations or public services, education, or housing; or

c. That conduct or communication has the purpose or effect of substantially interfering with an individual's employment, public accommodations, public services, or educational environment; and in the case of employment, the employer is responsible for its acts and those of its supervisory employees if it knows or should know of the existence of the harassment and fails to take timely and appropriate action.

14-02.4-18. Retaliation prohibited.
It is a discriminatory practice for a person to conceal unlawful discrimination or aid, abet, compel, coerce, incite, or induce another person to unlawfully discriminate in violation of this chapter, or to engage in any form of threats, retaliation, or discrimination against a person who has opposed any unlawful discriminatory practice or who, in good faith, has filed a complaint, testified, assisted, or participated in an investigation, proceeding, hearing, or litigation under this chapter.

14-02.4-19. Actions - Limitations.
1. Any person claiming to be aggrieved by a discriminatory practice with regard to public services or public accommodations in violation of this chapter may file a complaint of discriminatory practices with the department or may bring an action in the district court in the judicial district in which the unlawful practice is alleged to have been committed or in the district in which the person would have obtained public accommodations or services were it not for the alleged discriminatory act within one hundred eighty days of the alleged act of wrongdoing.
2. Any person claiming to be aggrieved by any discriminatory practice other than public services or public accommodations in violation of this chapter may file a complaint of discriminatory practice with the department or, except as limited by this section, may bring an action in the district court in the judicial district in which the unlawful practice is alleged to have been committed, in the district in which the records relevant to the practice are maintained and administered, or in the district in which the person would have worked or obtained credit were it not for the alleged discriminatory act within three hundred days of the alleged act of wrongdoing.

14-02.4-20. Relief.
If the department, as the result of an administrative hearing, or the court determines that the respondent has engaged in or is engaging in a discriminatory practice, the department or the court may enjoin the respondent from engaging in the unlawful practice and order temporary or permanent injunctions, equitable relief, and backpay limited to no more than two years from the date a minimally sufficient complaint was filed with the department or the court. Neither the department nor an administrative hearing officer may order compensatory or punitive damages under this chapter. Interim earnings or amounts earnable with reasonable diligence by the person discriminated against reduce the backpay otherwise allowable. In any action or proceeding under this chapter, the court may grant the prevailing party a reasonable attorney’s fee as part of the costs. If the court finds that the complainant’s allegation of a discriminatory practice is false and not made in good faith, the court shall order the complainant to pay court costs and reasonable attorney’s fees incurred by the respondent in responding to the allegation.

14-02.4-21. Records exempt
A complaint filed with the department under this chapter is an open record. [...] A conciliation agreement is an open record unless the complainant and respondent agree that it is not and the department determines that disclosure is not necessary to further the purposes of this chapter. Investigative working papers are exempt from section 44-04-18.

14-02.4-22. Duties and powers of department.
1. The department shall receive and investigate complaints alleging violations of this chapter. The department shall emphasize conciliation to resolve complaints. [...] 6. Within the limits of legislative appropriations, the department shall foster prevention of discrimination under this chapter through education for the public, employers, providers of public accommodations or services, and commercial lenders on the rights and responsibilities provided under this chapter and ways to respect those protected rights. [...] 14-02.4-23. Complaints - Probable cause - Administrative hearing.
1. The department shall investigate complaints of alleged discriminatory practices. An aggrieved person may file a complaint with the department alleging the discriminatory practice. The department may file a complaint. A complaint must be in writing and in the form prescribed by the department. 2. Unless the complaint is resolved through informal negotiations, conciliation, or is otherwise administratively closed, the department shall determine from the facts whether probable cause exists to believe that a discriminatory practice has occurred with regard to one or more of the claims of the aggrieved person's complaint. If the department determines that no probable cause exists to believe that a discriminatory practice has occurred with regard to one or more of the claims of the aggrieved person's complaint, the department shall promptly dismiss all or a portion of the complaint. 3. If the department determines that probable cause exists to believe that a discriminatory practice has occurred and is unable to resolve the complaint through informal negotiations or conciliation, the department shall issue a probable cause determination and provide for an administrative hearing in the manner provided in chapter 28-32 on the complaint. 4. A probable cause determination is prima facie evidence of a violation of this chapter. 5. If a claim filed by an aggrieved person proceeds to a hearing, the aggrieved person is a party in the hearing. The aggrieved person may be accompanied, advised, and represented throughout the proceeding by a representative chosen by the employee, including private counsel. Neither the department nor the attorney general may represent an aggrieved person at a hearing under this chapter. The attorney general, at the request of and on behalf of the department, may participate in the hearing and advocate in favor of the department's finding of probable cause. 6. If a claim filed by the department proceeds to a hearing, the department is a party in the hearing. The attorney general shall represent the department in any action or proceeding under this chapter.

35.2.35 OHIO

Ohio Administrative Code 128
4112 Ohio Civil Rights Commission
Chapter 4112-5 Discrimination

4112-5-05 Sex discrimination
(J) Sexual harassment.
(1) Harassment on the basis of sex is a violation of division (A) of section 4112.02 of the Revised Code. Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature constitute sexual harassment when:
(a) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
(b) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
(c) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.
(2) In determining whether alleged conduct constitutes sexual harassment, the commission will look at the record as a whole and the totality of the circumstances, such as the nature of the sexual advances and the context in which the alleged incidents occurred. The determination of the legality of a particular action will be made from the facts on a case-by-case basis.
(3) Applying general agency principles, an employer, employment agency, joint apprenticeship committee or labor organization (hereinafter collectively referred to as "employer") is responsible for its acts and those of its agents and supervisory employees with respect to sexual harassment regardless of whether the specific acts complained of were authorized or even forbidden by the employer and regardless of whether the employer knew or should have known of their occurrence. The commission will examine the circumstances of the particular employment relationship and the job functions performed by the individual in determining whether an individual acts in either a supervisory or agency capacity.
(4) With respect to conduct between fellow employees, an employer is responsible for acts of sexual harassment in the workplace where the employer (or its agents or supervisory employees) knows or should have known of the conduct, unless the employer can show that it took immediate and appropriate corrective action.
(5) An employer may also be responsible for the acts of nonemployees (e.g., customers) with respect to sexual harassment of employees in the workplace, where the employer (or its agents or supervisory employees) knows or should have known of the conduct and fails to take immediate and appropriate corrective action. In reviewing these cases the commission will consider the extent of the employer's control and any other legal responsibility which the employer may have with respect to the conduct of such nonemployees.
(6) Prevention is the best tool for the elimination of sexual harassment. An employer should take all steps necessary to prevent sexual harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate sanctions, informing employees of their right to raise and how to raise the issue of harassment under Chapter 4112. of the Revised Code and developing methods to sensitize all concerned.
(7) Other related practices. Where employment opportunities or benefits are granted because of an individual's submission to the employer's requests for sexual favors, the employer may be held liable for unlawful sex discrimination against other persons who were qualified for but denied that employment opportunity or benefit.

35.2.36 OKLAHOMA
335:15-1-1. Purpose
The rules in this Chapter have been adopted to serve as interpretive guidelines on discrimination in employment under the Anti-Discrimination Act, Title 25 O.S. Section 1101 et. seq.

335:15-1-2. Employment discrimination defined
Discrimination in employment as an act or practice of an employer in failing to hire, discharging, or otherwise discriminating against an individual with respect to compensation or the terms, conditions, privileges or responsibilities of employment because of race, color, religion, sex, national origin, handicap, or age. It is a discriminatory practice for an employer to limit, segregate, or classify an employee in a way which would deprive or tend to deprive an individual of employment opportunities or otherwise adversely affect the status of an employee, because of race, color, religion, sex, national origin, handicap, or age. [25 O.S. Section 1302]. […]

335:15-3-1. "Employer" defined; labor organizations and employment agencies; case-by-case consideration
(a) References to "employer" or "employers" state principles that are applicable in this Subchapter not only to employers, but also to labor organizations and to employment agencies insofar as their action or inaction may adversely affect employment opportunities.
(b) The Commission will continue to consider particular problems relating to sex discrimination on a case-by-case basis.

335:15-3-10. Sexual harassment related to employment
(a) Harassment on the basis of sex is a violation of Article 3 of Title 25 O.S. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment 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 for employment decisions affecting such individual.
(3) Such conduct has the purpose of effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.
(b) In determining whether alleged conduct constitutes sexual harassment, the Commission will look at the record as a whole and at the totality of the circumstances, such as the nature of the sexual advances and the context in which the alleged incidents occurred. The determination of the legality of a particular action will be made from the facts, on a case-by-case basis.
(c) Applying general Title 25 of the Oklahoma Statutes principles, an employer, employment agency, joint apprenticeship committee or labor organization (hereinafter referred to in this Section as "employer") is responsible for its acts and those of its agents and supervisory employees with respect to sexual

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Oklahoma Administrative Code, 2019
Title 335 Oklahoma Human Rights Commission
Chapter 15 Interpretive Guidelines on Employment Discrimination
Subchapter 3 Interpretive Guidelines on Sex Discrimination

harassment regardless of whether the specific acts complained of were authorized or even forbidden by the employer and regardless of whether the employer knew or should have known of their occurrence. The Commission will examine the circumstances of the particular employment relationship and the job functions performed by the individual in determining whether an individual acts in either a supervisory or agency capacity.

(d) With respect to conduct between fellow employees, an employer is responsible for acts of sexual harassment in the workplace where the employer (or its agents or supervisory employees) knows or should have known of the conduct, unless it can show that it took immediate and appropriate corrective action.

(e) An employer may also be responsible for the acts of non-employees, with respect to sexual harassment of employees in the workplace, where the employer (or its agents or supervisory employees) knows or should have known of the conduct and fails to take immediate and appropriate corrective action. In reviewing these cases, the Commission will consider the extent of the employer's control and any other legal responsibility which the employer may have respect to the conduct of such non-employees.

(f) Prevention is the best tool for the elimination of sexual harassment. An employer should take all steps necessary to prevent sexual harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate sanctions, informing employees of their right to raise and how to raise the issue of harassment under Title 25 of the Oklahoma Statutes and developing methods to sensitize all concerned.

(g) Where employment opportunities or benefits are granted because of an individual's submission to the employer's sexual advances or requests for sexual favors, the employer may be held liable for other unlawful sex discrimination against other persons who were qualified for but denied that employment opportunity or benefit.

35.2.37 OREGON

Oregon Administrative Rules, current 130
Chapter 839 Bureau of Labor and Industries
Division 5 Discrimination
839-005-0030 Sexual Harassment in Employment

(1) Sexual harassment is unlawful discrimination on the basis of sex and includes the following types of conduct:

(a) Unwelcome sexual advances, requests for sexual favors, or other conduct of a sexual nature when such conduct is directed toward an individual because of that individual's sex and:

(A) Submission to such conduct is made either explicitly or implicitly a term or condition of employment; or

(B) Submission to or rejection of such conduct is used as the basis for employment decisions affecting that individual.

(b) Any unwelcome verbal or physical conduct that is sufficiently severe or pervasive to have the purpose or effect of unreasonably interfering with work performance or creating a hostile, intimidating or offensive working environment.

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(2) The standard for determining whether harassment based on an individual's sex is sufficiently severe or pervasive to create a hostile, intimidating or offensive working environment is whether a reasonable person in the circumstances of the complaining individual would so perceive it.

(3) Employer proxy: An employer is liable for harassment when the harasser’s rank is sufficiently high that the harasser is the employer's proxy, for example, the respondent's president, owner, partner or corporate officer.

(4) Harassment by Supervisor plus Tangible Employment Action: An employer is liable for sexual harassment by a supervisor with immediate or successively higher authority over an individual when the harassment results in a tangible employment action that the supervisor takes or causes to be taken against that individual. A tangible employment action includes but is not limited to the following:
   (a) Terminating employment, including constructive discharge;
   (b) Failing to hire;
   (c) Failing to promote; or
   (d) Changing a term or condition of employment, such as work assignment, work schedule, compensation or benefits or making a decision that causes a significant change in an employment benefit.

(5) Harassment by Supervisor, No Tangible Employment Action: When sexual harassment by a supervisor with immediate or successively higher authority over an individual is found to have occurred, but no tangible employment action was taken, the employer is liable if:
   (a) The employer knew of the harassment, unless the employer took immediate and appropriate corrective action.
   (b) The employer should have known of the harassment. The division will find that the employer should have known of the harassment unless the employer can demonstrate:
      (A) That the employer exercised reasonable care to prevent and promptly correct any sexually harassing behavior; and
      (B) That the aggrieved person unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer or to otherwise avoid harm.

(6) Harassment by Co-Workers or Agents: An employer is liable for sexual harassment by the employer's employees or agents who do not have immediate or successively higher authority over the aggrieved person when the employer knew or should have known of the conduct, unless the employer took immediate and appropriate corrective action.

(7) Harassment by Non-Employees: An employer is liable for sexual harassment by non-employees in the workplace when the employer or the employer's agents knew or should have known of the conduct unless the employer took immediate and appropriate corrective action. In reviewing such cases the division will consider the extent of the employer's control and any legal responsibility the employer may have with respect to the conduct of such non-employees.

(8) Withdrawn Consent: An employer is liable for sexual harassment of an individual by the employer's supervisory or non-supervisory employees, agents or non-employees, even if the acts complained of were of a kind previously consented to by the aggrieved person, if the employer knew or should have known that the aggrieved person had withdrawn consent to the offensive conduct.

(9) When employment opportunities or benefits are granted because of an individual's submission to an employer's sexual advances, requests for sexual favors, or other sexual harassment, the employer is liable for unlawful sex discrimination against other individuals who were qualified for but denied that opportunity or benefit.

35.2.38 PENNSYLVANIA
§ 1.861. Prohibition of discrimination and affirmation of equal employment opportunity.
(a) An agency under the Governor’s jurisdiction may not discriminate against any employee or applicant for employment on the basis of race, color, religious creed, ancestry, union membership, age, gender, sexual orientation, gender identity or expression, national origin, AIDS or HIV status, or disability.
(b) Each agency under the Governor’s jurisdiction shall ensure fair and equal employment opportunities exist at every level of government.
(c) Sexual harassment or harassment based on any of the factors in subsection (a) is prohibited.

§ 1.863. Responsibility for implementing equal employment opportunity.
(a) The Secretary of Administration shall supervise the development, implementation and enforcement of the Commonwealth’s equal employment opportunity programs through the Bureau of Workforce Planning, Development and Equal Employment Opportunity, which shall in turn:

(5) Review complaint investigation reports at any stage of the complaint process.

35.2.39 RHODE ISLAND

Rhode Island General Laws, 2019
TITLE 28 - Labor and Labor Relations
CHAPTER 28-51 - Sexual Harassment, Education and Training in the Workplace

§ 28-51-1. Definitions.
(a) As used in this chapter, "Employer" means any entity employing fifty (50) or more employees.
(b) As used in this chapter, "Sexual harassment" means any unwelcome sexual advances or requests for sexual favors or any other verbal or physical conduct of a sexual nature when:
(1) Submission to that conduct or those advances or requests is made either explicitly or implicitly a term or condition of an individual's employment; or
(2) Submission to or rejection of the conduct or advances or requests by an individual is used as the basis for employment decisions affecting the individual; or
(3) The conduct or advances or requests have the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

§ 28-51-2. Adoption of workplace policy and statement.

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(a) All employers and employment agencies shall promote a workplace free of sexual harassment.
(b) Every employer shall:
   (1) Adopt a policy against sexual harassment that shall include:
      (i) A statement that sexual harassment in the workplace is unlawful;
      (ii) A statement that it is unlawful to retaliate against an employee for filing a complaint of sexual
           harassment or for cooperating in an investigation of a complaint for sexual harassment;
      (iii) A description and examples of sexual harassment;
      (iv) A statement of the range of consequences for employees who are found to have committed sexual
           harassment;
      (v) A description of the process for filing internal complaints about sexual harassment and the work
           addresses and telephone numbers of the person or persons to whom complaints should be made; and
      (vi) The identity of the appropriate state and federal employment discrimination enforcement agencies,
           and directions as to how to contact these agencies.
   (2) Provide to all employees a written copy of the employer’s policy against sexual harassment; provided,
       that a new employee shall be provided such a copy at the time of his or her employment.
(c) Employers are encouraged to conduct an education and training program for new employees and
    members, within one year of commencement of employment or membership, which includes at a
    minimum the information set forth in this section. Employers are encouraged to conduct additional training
    for new supervisory and managerial employees within one year of commencement of employment which
    shall include at a minimum the information set forth in subsection (b) of this section, the specific
    responsibilities of supervisory and managerial employees and the methods that these employees should
    take to ensure immediate and appropriate corrective action in addressing sexual harassment complaints.
    Employers and appropriate state agencies are encouraged to cooperate in making this training available.
(d) Employers shall provide copies of their written policies on sexual harassment to all employees upon
    their request.
(e) Employers shall be required to maintain copies of their written policies on sexual harassment at their
    business premises, and copies of such policies shall be made available to any state or federal employment
    discrimination enforcement agency upon request.

§ 28-51-3. Education and training programs.
Employers are encouraged to conduct an education and training program on sexual harassment consistent
with the aims and purposes of this chapter for all employees, including, but not limited to supervisory or
managerial personnel, on or before September 1, 1997.

35.2.40 SOUTH CAROLINA

South Carolina Code of Laws, 2018 133
Title 1 Administration of the Government
CHAPTER 13 State Human Affairs Commission

SECTION 1-13-10. Short title.
This chapter shall be known as the "South Carolina Human Affairs Law."

133 South Carolina Code of Laws 2018, Title 1 Administration of the Government, Chapter State Human Affairs Commission,
This chapter is an expression of the concern of the State for the promotion of harmony and the betterment of human affairs. The General Assembly declares the practice of discrimination against an individual because of race, religion, color, sex, age, national origin, or disability as a matter of state concern and declares that this discrimination is unlawful and in conflict with the ideals of South Carolina and the nation, as this discrimination interferes with opportunities of the individual to receive employment and to develop according to the individual's own ability and is degrading to human dignity. The General Assembly further declares that to alleviate these problems a state agency is created which shall seek to eliminate and prevent discrimination because of race, religion, color, sex, age, national origin, or disability.

The following words and phrases used herein shall be construed as follows:
[...]
(e) "Employer" means any person who has fifteen or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, and any agent of such a person, but such term does not include an Indian tribe or a bona fide private membership club other than a labor organization.
[...]
(h) "Employee" means an individual employed by an employer, except that the term "employee" shall not include any person elected to public office in this State, or any person chosen by such officer to be on such officer's personal staff, or an appointee on the policy-making level or an immediate adviser with respect to the exercise of the constitutional or legal powers of the office. The exemption set forth in the preceding sentence shall not include employees subject to the civil service laws of the State or any of its agencies, departments, local subdivisions, or political subdivisions of the State, local government, or local governmental agencies.
[...]
SECTION 1-13-40. Creation of South Carolina Commission on Human Affairs.
(a) There is hereby created in the executive department the South Carolina Human Affairs Commission, to encourage fair treatment for, and to eliminate and prevent discrimination against, any member of a group protected by this chapter, and to foster mutual understanding and respect among all people in this State.
(b) The commission shall consist of a member from each congressional district appointed by the Governor, with the advice and consent of the Senate, and two members at large appointed by the Governor. Each member shall serve for a term of three years and until their successors are appointed and qualify.
[...]
The Commission shall have the power:
[...]
(n) To investigate problems in human affairs in the State and in connection therewith, to hold hearings, to request the attendance of persons who shall give testimony, to receive for the record of any such hearing written statements, documents, exhibits and other items pertinent to the subject matter of any such hearing, and following any such investigation or hearing to issue such report and recommendations as in its opinion will assist in effectuating the purposes of this chapter.
(o) To receive and resolve complaints in accordance with the provisions of Section 1-13-90.
(p) Pursuant to subsections (e) and (i), if a person fails to permit access, or otherwise refuses to cooperate, the Commission may request an order of a court of competent jurisdiction requiring access and other related good faith compliance.
(q) To furnish technical assistance requested by persons subject to this chapter to assist them in their compliance with this chapter, the regulations promulgated hereunder, a conciliation agreement or an order issued thereunder.

(r) To petition for an order of a court of competent jurisdiction requiring compliance with an order issued by the Commission pursuant to the procedure set forth in item (16) of subsection (c) of Section 1-13-90; provided, that a complainant, respondent or intervenor aggrieved by an order of the Commission is entitled to judicial review. The procedure for compliance, enforcement or review shall be as set forth in item (19) of subsection (c) of Section 1-13-90.

(s) To institute proceedings in a court of competent jurisdiction, for cause shown, to prevent or restrain any person from violating any provision of this chapter.

[...]

SECTION 1-13-80. Unlawful employment practices; exceptions.

(A) It is an unlawful employment practice for an employer:

(1) to fail or refuse to hire, bar, discharge from employment, or otherwise discriminate against an individual with respect to the individual's compensation or terms, conditions, or privileges of employment because of the individual's race, religion, color, sex, age, national origin, or disability;

(2) to limit, segregate, or classify employees or applicants for employment in a way which would deprive or tend to deprive an individual of employment opportunities, or otherwise adversely affect the individual's status as an employee, because of the individual's race, color, religion, sex, age, national origin, or disability;

(3) to discriminate against an individual in compensation, terms, conditions, or privileges of employment because of the individual's race, color, religion, sex, age, national origin, or disability;

(4) to limit, segregate, or classify employees or applicants for employment in a way which would deprive or tend to deprive an individual of employment opportunities, or otherwise adversely affect the individual's status as an employee, because of the individual's race, color, religion, sex, age, national origin, or disability;

(5) to discriminate against any individual because of the individual's race, color, religion, sex, national origin, or disability in the provision of any fringe benefit program of the employer, including any such program to which the employer contributes or has contributed.

(B) It is an unlawful employment practice for an employment agency to fail or refuse to refer for employment or otherwise to discriminate against an individual because of the individual's race, color, religion, sex, age, national origin, or disability, or to classify or refer for employment an individual on the basis of the individual's race, color, religion, sex, age, national origin, or disability.

[E] It is an unlawful employment practice for an employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against an individual because of the individual's race, color, religion, sex, national origin, or disability in admission to or employment in a program established to provide apprenticeship or other training.

(F) It is an unlawful employment practice for an employer to discriminate against an employee or applicant for employment, for an employment agency, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against an individual or for a labor organization to discriminate against a member or applicant for membership because the individual has opposed a practice made an unlawful employment practice by this chapter or because the individual has made a charge, testified, assisted, or participated in an investigation, proceeding, or hearing under this chapter.

[...]

South Carolina Human Affairs Commission 134
SEXUAL HARASSMENT DISCRIMINATION

It is unlawful to harass a person (an applicant or employee) because of that person’s sex. Harassment can include “sexual harassment” or unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature. Harassment does not have to be of a sexual nature, however, and can include offensive remarks about a person’s sex. For example, it is illegal to harass a man or a woman by making offensive comments in general about either gender.

Both victim and the harasser can be either a woman or a man, and the victim and harasser can be the same sex. Although the law doesn’t prohibit simple teasing, offhand comments, or isolated incidents that are not very serious, harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted). The harasser can be the victim’s supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer.

35.2.41 SOUTH DAKOTA

South Dakota Codified Laws, 2018 135
Title 20 Personal Rights and Obligations
Chapter 13 Human Rights

20-13-1. Definition of terms. Terms used in this chapter mean:

(6) “Employee," any person who performs services for any employer for compensation, whether in the form of wages, salary, commission, or otherwise;

(7) "Employer," any person within the State of South Dakota who hires or employs any employee, and any person wherever situated who hires or employs any employee whose services are to be partially or wholly performed in the State of South Dakota;

(16) "Unfair or discriminatory practice," any act or attempted act which because of race, color, creed, religion, sex, ancestry, disability, or national origin accords unequal treatment or separation or segregation of any person, or denies, prevents, limits, or otherwise adversely affects, or if accomplished would deny, prevent, limit, or otherwise adversely affect, the benefit or enjoyment by any person of employment, labor union membership, housing accommodations, property rights, education, public accommodations, and public services.

20-13-1.1. Probable cause defined. For purposes of findings under this chapter, probable cause is defined as a determination that it is more likely than not that the charging party and members of a class, or both, were discriminated against based on a violation of this chapter. The likelihood that discrimination occurred is assessed based upon evidence that establishes a prima facie case, and if the respondent has provided a viable defense, whether there is evidence of pretext.[...]

20-13-7. Investigation and elimination of discrimination by education and conciliation. The Division of Human Rights may investigate and study the existence, character, causes, and extent of discrimination in

employment, labor unions, housing accommodations, property rights, education, public accommodations, and public services in this state and attempt to eliminate any discrimination by education and conciliation.

20-13-10. Employer's unfair or discriminatory practices. It is an unfair or discriminatory practice for any person, because of race, color, creed, religion, sex, ancestry, disability, or national origin, to fail or refuse to hire, to discharge an employee, or to accord adverse or unequal treatment to any person or employee with respect to application, hiring, training, apprenticeship, tenure, promotion, upgrading, compensation, layoff, or any term or condition of employment.

20-13-26. Concealing, aiding, compelling, or inducing unlawful discrimination--Threats or reprisals. It is an unfair or discriminatory practice for any person, directly or indirectly; to conceal any unlawful discrimination; to aid, abet, compel, coerce, incite, or induce another person to discriminate; or by any means, trick, artifice, advertisement, or sign, or use any form of application, or make any record or inquiry, or device whatsoever to bring about or facilitate discrimination; or to engage in or threaten to engage in any reprisal, economic or otherwise, against any person by reason of the latter's filing a charge, testifying or assisting in the observance and support of the purposes and provisions of this chapter.

20-13-28. Complaints acted upon by division. The Division of Human Rights may receive, investigate, and pass upon charges alleging unfair or discriminatory practices.

20-13-31. Time for filing charge. Any charge filed under this chapter shall be filed within one hundred and eighty days after the alleged discriminatory or unfair practice occurred.

20-13-32. Service of charge--Investigation--Conference or conciliation to eliminate practice. After filing a verified charge, a true copy shall be served by registered or certified mail to the person against whom the charge is filed. A commissioner or a duly authorized Division of Human Rights agent shall promptly investigate the charge. If the investigating official determines that probable cause exists to support the allegations of the charge, the investigating official shall immediately endeavor to eliminate the discriminatory or unfair practice by conference or conciliation.

20-13-32.2. Investigative materials confidential-- [...]

20-13-35.1. Right to proceed by civil action in lieu of hearing--Forms of relief available. No later than twenty days after the issuance of notice requiring the respondent to answer the charge, the charging party or the respondent may elect to have the claims asserted in the charge decided in a civil action, in lieu of a hearing, under the provisions of this section. Any civil action shall be filed within one year of such election. Upon receipt of notice of election, the Division of Human Rights or the Commission of Human Rights has no further jurisdiction over the parties concerning the charge filed. The Division of Human Rights or the Commission of Human Rights shall notify the parties in writing of the election and of the one year limitation period in which to file a civil action. In a civil action, if the court or jury finds that an unfair or discriminatory practice has occurred, it may award the charging party compensatory damages. The court may grant as relief any injunctive order, including affirmative action, to effectuate the purpose of this chapter. Punitive damages may be awarded under § 21-3-2 for a violation of §§ 20-13-20 to 20-13-21.2, inclusive, 20-13-23.4, 20-13-23.7, or 20-13-26. Attorneys' fees and costs may be awarded to the prevailing party for housing matters.

20-13-42. Finding of discriminatory or unfair practice--Cease and desist order--Affirmative action required. If, upon taking into consideration all the evidence at a hearing, the commission finds that a respondent has engaged in, or is engaging in, any discriminatory or unfair practice as defined in this chapter, the commission shall state its findings of fact and shall issue and cause to be served upon such respondent an order requiring such respondent to cease and desist from such discriminatory or unfair practice and to take such affirmative action, including hiring, reinstatement, or upgrading of employees, with or without back
pay; the referring of applicants for employment by any respondent employment agency; the admittance or restoration to membership by any respondent labor organization; the admission to or continuation in enrollment in an apprenticeship program or on-the-job training program; the posting of notices; the making of reports as to the manner of compliance; compensation incidental to the violation, other than pain and suffering, punitive, or consequential damages; costs allowable under chapter 15-17; any other appropriate relief; and reasonable attorneys' fees for housing matters, as in the judgment of the commission effectuates the purposes of this chapter.

[

20-13-47. Judicial review of commission—court order for enforcement of order. Any charging party or respondent claiming to be aggrieved by a final order of the Commission of Human Rights, including a refusal to issue an order, may obtain judicial review thereof under chapter 1-26. The commission or party may obtain an order of court for the enforcement of commission orders in a proceeding as provided under chapter 21-34. The court may allow the prevailing party reasonable attorneys' fees and costs against the respondent. The court also may assess a civil penalty against the respondent in an amount not to exceed ten thousand dollars for willful or repeated violations or refusal to comply with an order of the commission. [

35.2.42 TENNESSEE

Tennessee Code, 2019 136
Title 50. Employer and Employee,
Chapter 1. Employment Relationship and Practices,
Part 1. Hiring Practices

§ 50-1-108. Non-disclosure agreement with respect to sexual harassment in workplace as condition of employment prohibited.
(a) An employer, as defined in § 50-1-304, shall not require an employee, as defined in § 50-1-304, or a prospective employee to execute or renew a non-disclosure agreement with respect to sexual harassment in the workplace as a condition of employment.
(b) Any employee injured as a result of a violation of subsection (a) has the same rights and remedies available to employees under § 50-1-304.

50-1-501. Short title. This part shall be known and may be cited as the "Healthy Workplace Act."

50-1-502. Part definitions. As used in this part:
(1) "Abusive conduct" means acts or omissions that would cause a reasonable person, based on the severity, nature, and frequency of the conduct, to believe that an employee was subject to an abusive work environment, such as:
(A) Repeated verbal abuse in the workplace, including derogatory remarks, insults, and epithets;

(B) Verbal, nonverbal, or physical conduct of a threatening, intimidating, or humiliating nature in the workplace; or
(C) The sabotage or undermining of an employee's work performance in the workplace;
(2) "Agency" means any department, commission, board, office or other agency of the executive, legislative or judicial branch of state government;
(3) "Employee" means an employee of any county, metropolitan government, municipality, or other political subdivision of this state;
(4) "Employer" means a private employer and a state or local governmental entity;
(5) "Harassment" means two (2) or more instances of contact serving no legitimate purpose directed at an employee, in connection with that person's status as an employee, that a reasonable person would consider alarming, threatening, intimidating, abusive, or emotionally distressing and that does or reasonably could interfere with the performance of the employee's duties; and
(6) "Instance of contact" means a direct communication or physical touching.

50-1-503. Development of model policy for employers to prevent abusive conduct in the workplace -- Requirements of policy.
(a) No later than March 1, 2015, the Tennessee advisory commission on intergovernmental relations (TACIR) shall create a model policy for employers to prevent abusive conduct in the workplace. The model policy shall be developed in consultation with the department of human resources and interested municipal and county organizations including, but not limited to, the Tennessee municipal league, the Tennessee county services association, the municipal technical advisory service (MTAS), and the county technical assistance service (CTAS).
(b) The model policy created pursuant to subsection (a) shall:
(1) Assist employers in recognizing and responding to abusive conduct in the workplace; and
(2) Prevent retaliation against any employee who has reported abusive conduct in the workplace.
(c) Each employer may adopt the policy created pursuant to subsection (a) as a policy to address abusive conduct in the workplace.

50-1-504. Immunity of employer when policy adopted -- Cause of action against employer not created.
(a) Notwithstanding § 29-20-205, if an employer adopts the model policy created by TACIR pursuant to § 50-1-503(a) or adopts a policy that conforms to the requirements set out in § 50-1-503(b), then the employer is immune from suit for any employee's abusive conduct that results in negligent or intentional infliction of mental anguish. Nothing in this section limits the personal liability of an employee for any abusive conduct in the workplace.
(b) Nothing in this section creates a cause of action against an employer who does not adopt the model policy created by TACIR pursuant to § 50-1-503(a) or adopt a policy conforming to the requirements set out in § 50-1-503(b).

50-1-505 Injunction against person who commits harassment against employee.
A county, municipal, or metropolitan government may, through its attorney, seek an injunction against a person who commits harassment against an employee. The injunction may be sought in any court of competent jurisdiction having the power to grant injunctions. Nothing in this section shall be construed to authorize any cause of action unrelated to a person's status as an employee.

50-1-801. Burden of proof in case of retaliatory discharge.
In any civil cause of action alleging wrongful discharge in violation of Tennessee public policy, including, but not limited to a discharge in retaliation for the exercise of rights under the Tennessee workers'
compensation law, the plaintiff shall have the burden of establishing a prima facie case of retaliatory discharge. If the plaintiff satisfies this burden, the burden shall then be on the defendant to produce evidence that one (1) or more legitimate, nondiscriminatory reasons existed for the plaintiff's discharge. The burden on the defendant is one of production and not persuasion. If the defendant produces such evidence, the presumption of discrimination raised by the plaintiff's prima facie case is rebutted, and the burden shifts to the plaintiff to demonstrate that the reason given by the defendant was not the true reason for the plaintiff's discharge and that the stated reason was a pretext for unlawful retaliation. The foregoing allocations of burdens of proof shall apply at all stages of the proceedings, including motions for summary judgment. The plaintiff at all times retains the burden of persuading the trier of fact that the plaintiff has been the victim of unlawful retaliation or wrongful discharge.

35.2.43 TEXAS

Texas Labor Code, 2019
Title 2. Protection of Laborers
Subtitle A. Employment Discrimination
Chapter 21. Employment Discrimination

Sec. 21.001. PURPOSES. The general purposes of this chapter are to:
(1) provide for the execution of the policies of Title VII of the Civil Rights Act of 1964 and its subsequent amendments (42 U.S.C. Section 2000e et seq.);

Sec. 21.010. EMPLOYMENT DISCRIMINATION TRAINING FOR STATE EMPLOYEES.
(a) Each state agency shall provide to employees of the agency an employment discrimination training program that complies with this section.
(b) The training program must provide the employee with information regarding the agency's policies and procedures relating to employment discrimination, including employment discrimination involving sexual harassment.
(c) Each employee of a state agency shall attend the training program required by this section not later than the 30th day after the date the employee is hired by the agency and shall attend supplemental training every two years.
(d) The commission shall develop materials for use by state agencies in providing employment discrimination training as required by this section.
(e) Each state agency shall require an employee of the agency who attends a training program required by this section to sign a statement verifying the employee's attendance at the training program. The agency shall file the statement in the employee's personnel file.

Sec. 21.055. RETALIATION. An employer, labor union, or employment agency commits an unlawful employment practice if the employer, labor union, or employment agency retaliates or discriminates against a person who, under this chapter:
(1) opposes a discriminatory practice;
(2) makes or files a charge;
(3) files a complaint; or

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(4) testifies, assists, or participates in any manner in an investigation, proceeding, or hearing.

Sec. 21.056. AIDING OR ABETTING DISCRIMINATION. An employer, labor union, or employment agency commits an unlawful employment practice if the employer, labor union, or employment agency aids, abets, incites, or coerces a person to engage in a discriminatory practice.

Sec. 21.057. INTERFERENCE WITH COMMISSION. An employer, labor union, or employment agency commits an unlawful employment practice if the employer, labor union, or employment agency wilfully interferes with the performance of a duty or the exercise of a power under this chapter or Chapter 461, Government Code, by the commission, the commission's staff, or the commission's representative.

Sec. 21.058. PREVENTION OF COMPLIANCE. An employer, labor union, or employment agency commits an unlawful employment practice if the employer, labor union, or employment agency wilfully obstructs or prevents a person from complying with this chapter or a rule adopted or order issued under this chapter.

Sec. 21.1065. SEXUAL HARASSMENT PROTECTIONS FOR UNPAID INTERNS.

(a) In this section, "sexual harassment" means an unwelcome sexual advance, a request for a sexual favor, or any other verbal or physical conduct of a sexual nature if:
(1) submission to the advance, request, or conduct is made a term or condition of an individual's internship, either explicitly or implicitly;
(2) submission to or rejection of the advance, request, or conduct by an individual is used as the basis for a decision affecting the individual's internship;
(3) the advance, request, or conduct has the purpose or effect of unreasonably interfering with an individual's work performance at the individual's internship; or
(4) the advance, request, or conduct has the purpose or effect of creating an intimidating, hostile, or offensive working environment.

(b) An employer commits an unlawful employment practice if sexual harassment of an unpaid intern occurs and the employer or the employer's agents or supervisors:
(1) know or should have known that the conduct constituting sexual harassment was occurring; and
(2) fail to take immediate and appropriate corrective action.

(c) In this section, an individual is considered to be an unpaid intern of an employer if:
(1) the individual's internship, even though it includes engagement in the employer's operations or the performance of productive work for the employer, is similar to training that would be given in an educational environment;
(2) the individual's internship experience is for the individual's benefit;
(3) the individual does not displace the employer's regular employees but works under close supervision of the employer's existing staff;
(4) the employer does not derive any immediate advantage from the individual's internship activities and on occasion the employer's operations may be impeded by those activities;
(5) the individual is not entitled to a job at the conclusion of the internship; and
(6) the individual is not entitled to wages for the time spent in the internship.

SUBCHAPTER E. ADMINISTRATIVE REVIEW

Sec. 21.201. FILING OF COMPLAINT; FORM AND CONTENT; SERVICE. (a) A person claiming to be aggrieved by an unlawful employment practice or the person's agent may file a complaint with the commission.

(b) The complaint must be in writing and made under oath.

(c) The complaint must state:
(1) that an unlawful employment practice has been committed;
(2) the facts on which the complaint is based, including the date, place, and circumstances of the alleged unlawful employment practice; and
(3) facts sufficient to enable the commission to identify the respondent.
(d) The executive director or the executive director’s designee shall serve the respondent with a copy of the perfected complaint not later than the 10th day after the date the complaint is filed.

(e) A complaint may be amended to cure technical defects or omissions, including a failure to verify the complaint or to clarify and amplify an allegation made in the complaint.

(f) An amendment to a complaint alleging additional facts that constitute unlawful employment practices relating to or arising from the subject matter of the original complaint relates back to the date the complaint was first received by the commission.

(g) If a perfected complaint is not received by the commission within 180 days of the alleged unlawful employment practice, the commission shall notify the respondent that a complaint has been filed and that the process of perfecting the complaint is in progress.

Sec. 21.202. STATUTE OF LIMITATIONS. (a) A complaint under this subchapter must be filed not later than the 180th day after the date the alleged unlawful employment practice occurred.

(b) The commission shall dismiss an untimely complaint.

Sec. 21.203. ALTERNATIVE DISPUTE RESOLUTION; OFFICE. (a) The use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, fact-finding, minitrials, and arbitration, is encouraged to resolve disputes arising under this chapter. The settlement of a disputed claim under this chapter that results from the use of traditional or alternative means of dispute resolution is binding on the parties to the claim.

(b) The commission shall establish an office of alternative dispute resolution. At any time after a complaint is received under Section 21.201, at the request of a party or at the direction of the commission the matter may be referred to the office of alternative dispute resolution.

Sec. 21.204. INVESTIGATION BY COMMISSION. (a) The executive director or a staff member of the commission designated by the executive director shall investigate a complaint and determine if there is reasonable cause to believe that the respondent engaged in an unlawful employment practice as alleged in the complaint.

(b) If the federal government has referred the complaint to the commission or has deferred jurisdiction over the subject matter of the complaint to the commission, the executive director or the executive director’s designee shall promptly investigate the allegations stated in the complaint.

Sec. 21.205. LACK OF REASONABLE CAUSE; DISMISSAL OF COMPLAINT. (a) If after investigation the executive director or the executive director’s designee determines that reasonable cause does not exist to believe that the respondent engaged in an unlawful employment practice as alleged in a complaint, the executive director or the executive director’s designee shall issue a written determination, incorporating the finding that the evidence does not support the complaint and dismissing the complaint.

(b) The executive director or the executive director’s designee shall serve a copy of the determination on the complainant, the respondent, and other agencies as required by law.

Sec. 21.206. DETERMINATION OF REASONABLE CAUSE; REVIEW BY COMMISSION. (a) If after investigation the executive director or the executive director’s designee determines that there is reasonable cause to believe that the respondent engaged in an unlawful employment practice as alleged in a complaint, the executive director or the executive director’s designee shall review with the commission members the evidence in the record.

(b) If after the review at least two of the three commission members determine that there is reasonable cause to believe that the respondent engaged in an unlawful employment practice, the executive director shall:

(1) issue a written determination incorporating the executive director's finding that the evidence supports the complaint; and

(2) serve a copy of the determination on the complainant, the respondent, and other agencies as required by law.
Sec. 21.207. RESOLUTION BY INFORMAL METHODS. (a) If a determination of reasonable cause is made under Section 21.206, the commission shall endeavor to eliminate the alleged unlawful employment practice by informal methods of conference, conciliation, and persuasion.

(b) Without the written consent of the complainant and respondent, the commission, its executive director, or its other officers or employees may not disclose to the public information about the efforts in a particular case to resolve an alleged discriminatory practice by conference, conciliation, or persuasion, regardless of whether there is a determination of reasonable cause.

Sec. 21.208. NOTICE OF DISMISSAL OR UNRESOLVED COMPLAINT. If the commission dismisses a complaint filed under Section 21.201 or does not resolve the complaint before the 181st day after the date the complaint was filed, the commission shall inform the complainant of the dismissal or failure to resolve the complaint in writing by certified mail.

Sec. 21.210. TEMPORARY INJUNCTIVE RELIEF. (a) If the commission concludes from a preliminary investigation of an unlawful employment practice alleged in a complaint that prompt judicial action is necessary to carry out the purpose of this chapter, the commission shall file a petition seeking appropriate temporary relief against the respondent pending final determination of a proceeding under this chapter.

[...]

(c) A court may not issue temporary injunctive relief unless the commission shows:

(1) a substantial likelihood of success on the merits; and

(2) irreparable harm to the complainant in the absence of the preliminary relief pending final determination on the merits.

Sec. 21.211. ELECTION OF REMEDIES. A person who has initiated an action in a court of competent jurisdiction or who has an action pending before an administrative agency under other law or an order or ordinance of a political subdivision of this state based on an act that would be an unlawful employment practice under this chapter may not file a complaint under this subchapter for the same

SUBCHAPTER F. JUDICIAL ENFORCEMENT

Sec. 21.251. CIVIL ACTION BY COMMISSION. (a) The commission may bring a civil action against a respondent if:

(1) the commission determines that there is reasonable cause to believe that the respondent engaged in an unlawful employment practice;

(2) the commission's efforts to resolve the discriminatory practice to the satisfaction of the complainant and respondent through conciliation have been unsuccessful; and

(3) a majority of the commissioners determines that the civil action may achieve the purposes of this chapter.

(b) The complainant may intervene in a civil action brought by the commission.

Sec. 21.252. NOTICE OF COMPLAINANT'S RIGHT TO FILE CIVIL ACTION. (a) A complainant who receives notice under Section 21.208 that the complaint is not dismissed or resolved is entitled to request from the commission a written notice of the complainant's right to file a civil action.

(b) The complainant must request the notice in writing.

(c) The executive director may issue the notice.

(d) Failure to issue the notice of a complainant's right to file a civil action does not affect the complainant's right under this subchapter to bring a civil action against the respondent.

Sec. 21.253. EXPEDITED NOTICE OF COMPLAINANT'S RIGHT TO FILE CIVIL ACTION. (a) On receipt of a written request by a complainant, the commission shall issue before the 181st day after the date the complaint was filed a notice of the right to file a civil action if:

(1) the complainant alleges an unlawful employment practice based on the complainant's status as an individual with a life-threatening illness, as confirmed in writing by a physician licensed to practice medicine in this state; or
(2) the executive director certifies that administrative processing of the complaint cannot be completed before the 181st day after the date the complaint was filed.

(b) The commission shall issue the expedited notice by certified mail not later than the fifth business day after the date the commission receives the written request.

Sec. 21.254. CIVIL ACTION BY COMPLAINANT. Within 60 days after the date a notice of the right to file a civil action is received, the complainant may bring a civil action against the respondent.

Sec. 21.255. COMMISSION'S INTERVENTION IN CIVIL ACTION BY COMPLAINANT. After receipt of a timely application, a court may permit the commission to intervene in a civil action filed under Section 21.254 if:

(1) the commission certifies that the case is of general public importance; and

(2) before commencement of the action the commission issued a determination of reasonable cause to believe that this chapter was violated.

Sec. 21.256. STATUTE OF LIMITATIONS. A civil action may not be brought under this subchapter later than the second anniversary of the date the complaint relating to the action is filed.

Sec. 21.257. ASSIGNMENT TO EARLY HEARING. The court shall set an action brought under this subchapter for hearing at the earliest practicable date to expedite the action.

Sec. 21.258. INJUNCTION; EQUITABLE RELIEF. (a) On finding that a respondent engaged in an unlawful employment practice as alleged in a complaint, a court may:

(1) prohibit by injunction the respondent from engaging in an unlawful employment practice; and

(2) order additional equitable relief as may be appropriate.

(b) Additional equitable relief may include:

(1) hiring or reinstating with or without back pay;

(2) upgrading an employee with or without pay;

(3) admitting to or restoring union membership;

(4) admitting to or participating in a guidance program, apprenticeship, or on-the-job training or other training or retraining program, using objective job-related criteria in admitting an individual to a program;

(5) reporting on the manner of compliance with the terms of a final order issued under this chapter; and

(6) paying court costs.

(c) Liability under a back pay award may not accrue for a date more than two years before the date a complaint is filed with the commission. Interim earnings, workers' compensation benefits, and unemployment compensation benefits received operate to reduce the back pay otherwise allowable.

Sec. 21.2585. COMPENSATORY AND PUNITIVE DAMAGES. (a) On finding that a respondent engaged in an unlawful intentional employment practice as alleged in a complaint, a court may, as provided by this section, award:

(1) compensatory damages; and

(2) punitive damages.

(b) A complainant may recover punitive damages against a respondent, other than a respondent that is a governmental entity, if the complainant demonstrates that the respondent engaged in a discriminatory practice with malice or with reckless indifference to the state-protected rights of an aggrieved individual.

(c) Compensatory damages awarded under this section may not include:

(1) back pay;

(2) interest on back pay; or

(3) other relief authorized under Section 21.258(b).

(d) The sum of the amount of compensatory damages awarded under this section for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses and the amount of punitive damages awarded under this section may not exceed, for each complainant:

(1) $50,000 in the case of a respondent that has fewer than 101 employees;
(2) $100,000 in the case of a respondent that has more than 100 and fewer than 201 employees;
(3) $200,000 in the case of a respondent that has more than 200 and fewer than 501 employees; and
(4) $300,000 in the case of a respondent that has more than 500 employees.
(e) For the purposes of Subsection (d), in determining the number of employees of a respondent, the
requisite number of employees must be employed by the respondent for each of 20 or more calendar
weeks in the current or preceding calendar year.

Sec. 21.261. COMPELLED COMPLIANCE. If an employer, employment agency, or labor organization fails to
comply with a court order issued under this subchapter, a party to the action or the commission, on the
written request of a person aggrieved by the failure, may commence proceedings to compel compliance
with the order.

Sec. 21.262. TRIAL DE NOVO. (a) A judicial proceeding under this chapter is by trial de novo.
(b) A commission finding, recommendation, determination, or other action is not binding on a court.

35.2.44 UTAH

Utah Administrative Code, 2019 138
Rule R477-15. Workplace Harassment Prevention

It is the policy of the State of Utah to provide a work environment free from discrimination and harassment
based on race, religion, national origin, color, sex, age, disability, pregnancy, sexual orientation, gender
identity, or protected activity or class under state or federal law. This policy seeks to regulate behaviors
that are harassing, discriminatory, or retaliatory regardless of whether the behavior would constitute a
violation of applicable state or federal laws.
(1) Workplace harassment includes the following subtypes:
(a) conduct in violation of Section R477-15-1 that is unwelcome, pervasive, demeaning, ridiculing, derisive,
or coercive, and results in a hostile, offensive, or intimidating work environment;
(b) conduct in violation of Section R477-15-1 that results in a tangible employment action against the
harassed employee.
(2) An employee may be subject to discipline for violating workplace policies, even if:
(a) the conduct occurs outside of scheduled work time or work location; or
(b) the conduct is not sufficiently severe to constitute a violation of law.
(3) Once a complaint has been filed, the accused may not communicate with the complainant regarding
allegations of harassment.

(1) No person may retaliate against any employee who opposes a practice forbidden under this policy, or
has filed a charge, testified, assisted or participated in any manner in an investigation, proceeding or
hearing, or is otherwise engaged in protected activity.


Management shall permit employees who allege workplace harassment, retaliation, or both to file complaints and engage in a review process free from bias, collusion, intimidation or retaliation. Complainants shall be provided a reasonable amount of work time to prepare for and participate in internal complaint processes.

1) Employees who feel they are being subjected to workplace harassment, retaliation, or both should do the following:
   a) document the occurrence;
   b) continue to report to work; and
   c) identify a witness(es), if applicable.

2) An employee may file an oral or written complaint of workplace harassment, retaliation, or both with their immediate supervisor, any other supervisor within their direct chain of command, or the Department of Human Resource Management, including the agency human resource field office.
   a) Complaints may be submitted by any employee, witness, volunteer or other individual.
   b) Complaints may be made through either oral or written notification and shall be handled in compliance with investigative procedures and records requirements in Sections R477-15-5 and R477-15-6.
   c) Any supervisor who has knowledge of workplace harassment, retaliation, or both shall take immediate, appropriate action in consultation with DHRM and document the action.

3) All complaints of workplace harassment, retaliation, or both shall be acted upon following receipt of the complaint.

4) If an immediate investigation by agency management is deemed unwarranted, the complainant shall be notified.

   1) When warranted investigations shall be conducted based on DHRM standards and business practices.
   2) Results of Investigation
      a) If the investigation finds the allegations to be sustained, agency management shall take appropriate administrative action.
      b) If an investigation reveals evidence of criminal conduct in workplace harassment allegations, the agency head or Executive Director, DHRM, may refer the matter to the appropriate law enforcement agency.
      c) At the conclusion of the investigation, the appropriate parties shall be notified.

   1) A separate confidential file of all workplace harassment and retaliation complaints shall be maintained and stored in the agency human resource field office, or in the possession of an authorized official.
      a) Removal or disposal of these files shall only be done with the approval of the agency head or Executive Director, DHRM.
      b) Files shall be retained in accordance with the retention schedule after the active case ends.
      c) All information contained in the complaint file shall be classified as protected under Section 63G-2-305.
      d) Information contained in the workplace harassment and retaliation file shall only be released by the agency head or Executive Director, DHRM, when required by law.
   2) Supervisors may not keep separate files related to complaints of workplace harassment or retaliation.
   3) Participants in any workplace harassment or retaliation proceeding shall treat all information pertaining to the case as confidential.

   1) DHRM shall provide employees training, including additional training for supervisors, on the prevention of workplace harassment.
(a) The curriculum shall be approved by the Division of Risk Management.
(b) Agencies shall ensure employees complete workplace harassment prevention training upon hire and at least every two years thereafter.
(c) Training records shall be submitted to DHRM including who provided the training, who attended the training, and when they attended it.

35.2.45 VERMONT

Vermont Statutes, 2018
Title 21 Labor
Chapter 005 Employment Practices
Subchapter 006 Fair Employment Practices

§ 495h. Sexual harassment
(a)(1) All employers, employment agencies, and labor organizations have an obligation to ensure a workplace free of sexual harassment.
(b) Every employer shall:
(1) Adopt a policy against sexual harassment which shall include:
(A) a statement that sexual harassment in the workplace is unlawful;
(B) a statement that it is unlawful to retaliate against an employee for filing a complaint of sexual harassment or for cooperating in an investigation of sexual harassment;
(C) a description and examples of sexual harassment;
(D) a statement of the range of consequences for employees who commit sexual harassment;
(E) if the employer has more than five employees, a description of the process for filing internal complaints about sexual harassment and the names, addresses, and telephone numbers of the person or persons to whom complaints should be made; and
(F) the complaint process of the appropriate State and federal employment discrimination enforcement agencies, and directions as to how to contact such agencies.
(2) Post in a prominent and accessible location in the workplace, a poster providing, at a minimum, the elements of the employer's sexual harassment policy required by subdivision (1) of this subsection.
(3) Provide to all employees an individual written copy of the employer's policy against sexual harassment.
(c)(1) Employers shall provide individual copies of their written policies to new employees upon their being hired.
(2) If an employer makes changes to its policy against sexual harassment, it shall provide to all employees a written copy of the updated policy.
(d) The Commissioner of Labor shall prepare and provide to employers subject to this section a model policy and a model poster, which may be used by employers for the purposes of this section.

(e) A claim that an individual did not receive the information required to be provided by this section shall not, in and of itself, result in the automatic liability of any employer to any current or former employee or applicant in any action alleging sexual harassment. An employer’s compliance with the notice requirements of this section does not insulate the employer from liability for sexual harassment of any current or former employee or applicant.

(f)(1) Employers and labor organizations are encouraged to conduct an education and training program for all new employees and members that includes at a minimum all the information outlined in this section within one year after commencement of employment.

(2) Employers and labor organizations are encouraged to conduct an annual education and training program for all employees and members that includes at a minimum all the information outlined in this section.

(3) Employers are encouraged to conduct additional training for new supervisory and managerial employees and members within one year after commencement of employment or membership, which should include at a minimum the information outlined in this section, the specific responsibilities of supervisory and managerial employees, and the actions that these employees must take to ensure immediate and appropriate corrective action in addressing sexual harassment complaints.

(4) Employers, labor organizations, and appropriate State agencies are encouraged to cooperate in making this training available.

(g)(1) An employer shall not require any employee or prospective employee, as a condition of employment, to sign an agreement or waiver that does either of the following:

(A) prohibits, prevents, or otherwise restricts the employee or prospective employee from opposing, disclosing, reporting, or participating in an investigation of sexual harassment; or

(B) except as otherwise permitted by State or federal law, purports to waive a substantive or procedural right or remedy available to the employee with respect to a claim of sexual harassment.

(2) Any provision of an agreement that violates subdivision (1) of this subsection shall be void and unenforceable.

(h)(1) An agreement to settle a claim of sexual harassment shall not prohibit, prevent, or otherwise restrict the employee from working for the employer or any parent company, subsidiary, division, or affiliate of the employer.

(2) An agreement to settle a sexual harassment claim shall expressly state that:

(A) it does not prohibit, prevent, or otherwise restrict the individual who made the claim from doing any of the following:

(i) lodging a complaint of sexual harassment committed by any person with the Attorney General, a State’s Attorney, the Human Rights Commission, the Equal Employment Opportunity Commission, or any other State or federal agency;

(ii) testifying, assisting, or participating in any manner with an investigation related to a claim of sexual harassment conducted by the Attorney General, a State’s Attorney, the Human Rights Commission, the Equal Employment Opportunity Commission, or any other State or federal agency;

(iii) complying with a valid request for discovery in relation to civil litigation or testifying in a hearing or trial related to a claim of sexual harassment that is conducted by a court, pursuant to an arbitration agreement, or before another appropriate tribunal; or

(iv) exercising any right the individual may have pursuant to State or federal labor relations laws to engage in concerted activities with other employees for the purposes of collective bargaining or mutual aid and protection; and

(B) it does not waive any rights or claims that may arise after the date the settlement agreement is executed.
(3) Any provision of an agreement to settle a sexual harassment claim that violates subdivision (1) or (2) of this subsection shall be void and unenforceable with respect to the individual who made the claim.

(4) Nothing in subdivision (2) of this subsection shall be construed to prevent an agreement to settle a sexual harassment claim from waiving or releasing the claimant's right to seek or obtain any remedies relating to sexual harassment of the claimant by another party to the agreement that occurred before the date on which the agreement is executed.

(i)(1)(A)(i) For the purpose of assessing compliance with the provisions of this section, the Attorney General or designee, or, if the employer is the State, the Human Rights Commission or designee, may, with 48 hours' notice, at reasonable times and without unduly disrupting business operations enter and inspect any place of business or employment, question any person who is authorized by the employer to receive or investigate complaints of sexual harassment, and examine an employer's records, policies, procedures, and training materials related to the prevention of sexual harassment and the requirements of this section.

(ii) An employer may agree to waive or shorten the 48-hour notice period.

(iii) As used in this subsection (i), the term "records" includes de-identified data regarding the number of complaints of sexual harassment received and the resolution of each complaint.

(B) The employer shall at reasonable times and without unduly disrupting business operations make any persons who are authorized by the employer to receive or investigate complaints of sexual harassment and any records, policies, procedures, and training materials related to the prevention of sexual harassment and the requirements of this section available to the Attorney General or designee or, if the employer is the State, the Human Rights Commission or designee.

(2) Following an inspection and examination pursuant to subdivision (1) of this subsection (i), the Attorney General or the Human Rights Commission shall notify the employer of the results of the inspection and examination, including any issues or deficiencies identified, provide resources regarding practices and procedures for the prevention of sexual harassment that the employer may wish to adopt or utilize, and identify any technical assistance that the Attorney General or the Human Rights Commission may be able to provide to help the employer address any identified issues or deficiencies. If the Attorney General or the Human Rights Commission determines that it is necessary to ensure the employer's workplace is free from sexual harassment, the employer may be required, for a period of up to three years, to provide an annual education and training program that satisfies the provisions of subdivision (4) of this subsection to all employees or to conduct an annual, anonymous working-climate survey, or both.

(3)(A) The Attorney General shall keep records, materials, and information related to or obtained through an inspection carried out pursuant to this subsection (i) confidential as provided pursuant to 9 V.S.A. § 2460(a)(4).

(B) The Human Rights Commission shall keep records, materials, and information related to or obtained through an inspection carried out pursuant to this subsection (i) confidential as provided pursuant to 9 V.S.A. § 4555.

(4) If required by the Attorney General or Human Rights Commission pursuant to subdivision (2) of this subsection, an employer shall conduct:

(A) an annual education and training program for all employees that includes at a minimum all the information outlined in this section; and

(B) an annual education and training program for supervisory and managerial employees that includes at a minimum all the information outlined in this section, the specific responsibilities of supervisory and managerial employees, and the actions that these employees must take to ensure immediate and appropriate corrective action in addressing sexual harassment complaints.

(j) The Attorney General shall adopt rules as necessary to implement the provisions of this section.
35.2.46 VIRGINIA

Virginia Employment Commission 140
Sexual Harassment Policy
VEC Human Resource Management Services
Effective Date: July 17, 2018

POLICY
The Virginia Employment Commission, in law and in spirit, is committed to providing a work environment that is conducive to the performance of job duties and free from intimidation or coercion in any form. As an employer, the VEC is dedicated to a stringent policy against discrimination as indicated in Executive Order Number One (2018). Harassment on the basis of race, color, sex, national origin, religion, age or disability is a form of discrimination prohibited by federal and state law. It is the intent of this policy to further detail harassment on the basis of sex.

Sexual harassment is an unlawful employment practice, which potentially can subject both the agency and the harasser to financial liability. The agency intends to avoid such liability by prohibiting the practice of sexual harassment of any employee, applicant for employment, contractor, or volunteer and requiring that its employees refrain from conduct that could give rise to allegations of sexual harassment.

BACKGROUND
4. Department of Human Resource Management Policy Number 2.30 (Workplace Harassment)

DEFINITIONS
What Constitutes Sexual Harassment
A. Sexual harassment is defined by the Equal Employment Opportunity Commission (EEOC) as any unwelcome sexual advance, request for sexual favors, or other verbal or physical conduct of a sexual nature, when:
   1. Submission to such conduct is made 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 a basis for employment decisions affecting that individual, or;
   3. Such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile, or offensive work environment.

B. Forms of behavior which may be considered sexual harassment include, but are not limited to:
   1. Verbal - Specific demands for sexual favors, sexual innuendoes, sexually suggestive comments, jokes of a sexual nature, sexual propositions, sexual threats.
   2. Non-Verbal - Sexually suggestive objects or pictures, graphic commentaries, suggestive or insulting sounds, leering, whistling, obscene gestures.

3. Physical - Unwelcome physical contact, including touching, pinching, brushing the body, coerced sexual intercourse, sexual assault.

C. In addition to being prohibited in the work environment, these behaviors are also not to be tolerated at agency-sponsored activities, such as conferences, workshops, retreats, etc.

D. The VEC may be liable for acts of sexual harassment committed in the agency workplace by non-employees such as vendors or clients for services. The VEC may also be liable for acts of sexual harassment committed by agency employees against these non-employees.

E. Sexual harassment does not refer to behavior or occasional compliments of a socially acceptable nature. It refers to behavior that is not welcome, that is personally offensive, and that fails to respect the rights of others. In addition to being personally offensive, the behavior must be severe or pervasive enough to create a work environment that a reasonable person would find abusive.

PROCEDURES
I. Avenues of Redress
   A. Internal
      1. Employees who believe they are sexually harassed should make it clear that such behavior is unwelcome and should report the harassment to the appropriate supervisory level. In instances where the alleged harasser is the immediate supervisor, the violation should be reported to the harasser’s supervisor by the most expeditious means possible. Allegations may also be reported directly to the Human Relations Manager or the Human Resource Management Services (HRMS) Director.
      2. Employees may utilize the Employee Grievance Procedure (classified, non-probationary employees). Sexual harassment is a violation of Title VII of the Civil Rights Act of 1964 and is thus a grievable issue because it is a complaint of discrimination on the basis of sex. Per the Grievance Procedure, if a grievance deals with a charge of discrimination against the immediate supervisor, the employee shall be permitted to initiate the grievance with the next higher level of management. As specified in the Commonwealth of Virginia Employee Grievance Procedure, a grievance must be initiated within 30 calendar days of the action giving rise to the grievance.
   B. External
      1. Employees can utilize the State Employee’s Discrimination Complaint Procedure, which is administered by the Office of Equal Employment Services of the Department of Human Resource Management. The complaint must be filed within 180 days of the alleged discrimination.
      2. Employees can file a complaint with the US Equal Employment Opportunity Commission. A complaint must be filed within 300 days of the alleged discrimination.

II. Agency Responsibility
   A. All employees of the Virginia Employment Commission are encouraged to ensure enforcement of this policy by reporting any known or suspected violations.
B. Agency managers and supervisors must immediately investigate an allegation of sexual harassment with the counsel and/or assistance of the HRMS staff and take the necessary action to ensure that all instances of sexual harassment are addressed swiftly, fairly, and effectively. All allegations of sexual harassment must immediately be reported to the Human Relations Manager or HRMS Director. HRMS will recommend the appropriate investigator on a case-by-case basis.

C. All managers and supervisors of the VEC are directed to take affirmative action to ensure that the principles of this policy are fully implemented at all levels and locations of the VEC and to ensure an environment free from sexual harassment.

III. Response to Policy Violators
A. Sexual Harassment is a serious offense. As a consequence, any employee who engages in such conduct shall be subject to corrective action. Depending on the circumstances involved, such corrective action may include dismissal from State service. Consultation with the Human Relations Manager or HRMS Director is required to determine if the Standards of Conduct should be applied as corrective action in any case of sexual harassment.

B. Managers and supervisors who fail to respond appropriately to allegations of sexual harassment may also be subject to corrective action, including demotion or discharge.

IV. Distribution and Maintenance of Policy Statement
This policy statement will be disseminated to all agency employees. Each local office and the Central Office are required to display this policy statement publicly. This policy statement will be subject to review during Equal Opportunity (EO) Technical Assistance Reviews.

V. Resources for Information
For questions regarding this policy or any issues related to harassment employees may contact any of the following: VEC Human Resource Management Services, the Department of Human Resource Management, the Department of Employment Dispute Resolution, and the US Equal Employment Opportunity Commission.

AGENCY RIGHT
The Virginia Employment Commission reserves the right to revise or eliminate this policy.

[...]

35.2.47 WASHINGTON

Revised Code of Washington 2018 141
Title 49 Labor Regulations
Chapter 49.44 Violations – Prohibited Practices

RCW 49.44.210 Nondisclosure agreements that prevent disclosure of sexual assault or sexual harassment prohibited—Settlement agreement exception.
(1) Except for settlement agreements under subsection (4) of this section, an employer may not require an employee, as a condition of employment, to sign a nondisclosure agreement, waiver, or other document

141 Revised Code of Washington 2018, Title 49 Labor Regulations, Chapter 49.44 Violations – Prohibited Practices, Section 210
Nondisclosure agreements that prevent disclosure of sexual assault or sexual harassment prohibited—Settlement agreement exception, available at https://app.leg.wa.gov/RCW/default.aspx?cite=49.44.210 (last visited 15 November 2019).
that prevents the employee from disclosing sexual harassment or sexual assault occurring in the workplace, at work-related events coordinated by or through the employer, or between employees, or between an employer and an employee, off the employment premises.

(2) Except for settlement agreements under subsection (4) of this section, any nondisclosure agreement, waiver, or other document signed by an employee as a condition of employment that has the purpose or effect of preventing the employee from disclosing or discussing sexual harassment or sexual assault occurring in the workplace, at work-related events coordinated by or through the employer, or between employees, or between an employer and an employee, off the employment premises is against public policy and is void and unenforceable.

(3) It is an unfair practice under chapter 49.60 RCW for an employer to discharge or otherwise retaliate against an employee for disclosing or discussing sexual harassment or sexual assault occurring in the workplace, at work-related events coordinated by or through the employer, or between employees, or between an employer and an employee, off the employment premises.

(4) This section does not prohibit a settlement agreement between an employee or former employee alleging sexual harassment and an employer from containing confidentiality provisions.

(5) For the purposes of this section:

(a) "Sexual assault" means any type of sexual contact or behavior that occurs without the explicit consent of the recipient.

(b) "Sexual contact" has the same meaning as in RCW 9A.44.010.

(c) "Sexual harassment" has the same meaning as in RCW 28A.640.020.

(d) "Employee" does not include human resources staff, supervisors, or managers when they are expected to maintain confidentiality as part of their assigned job duties. It also does not include individuals who are notified and asked to participate in an open and ongoing investigation into alleged sexual harassment and requested to maintain confidentiality during the pendency of that investigation.

Revised Code of Washington, 2019 142
Title 28A Common School Provisions
Chapter 28 A.640 Sexual Equality

RCW 28A.640.020
Regulations, guidelines to eliminate discrimination—Scope—Sexual harassment policies.
(1) The superintendent of public instruction shall develop regulations and guidelines to eliminate sex discrimination as it applies to public school employment, counseling and guidance services to students, recreational and athletic activities for students, access to course offerings, and in textbooks and instructional materials used by students.

(a) Specifically with respect to public school employment, all schools shall be required to:

(i) Maintain credential requirements for all personnel without regard to sex;

(ii) Make no differentiation in pay scale on the basis of sex;

(iii) Assign school duties without regard to sex except where such assignment would involve duty in areas or situations, such as but not limited to a shower room, where persons might be disrobed;

(iv) Provide the same opportunities for advancement to males and females; and

(v) Make no difference in conditions of employment including, but not limited to, hiring practices, leaves of absence, hours of employment, and assignment of, or pay for, instructional and noninstructional duties, on the basis of sex.

[...]

(2) (a) By December 31, 1994, the superintendent of public instruction shall develop criteria for use by school districts in developing sexual harassment policies as required under (b) of this subsection. The criteria shall address the subjects of grievance procedures, remedies to victims of sexual harassment, disciplinary actions against violators of the policy, and other subjects at the discretion of the superintendent of public instruction. Disciplinary actions must conform with collective bargaining agreements and state and federal laws. The superintendent of public instruction also shall supply sample policies to school districts upon request.

(b) By June 30, 1995, every school district shall adopt and implement a written policy concerning sexual harassment. The policy shall apply to all school district employees, volunteers, parents, and students, including, but not limited to, conduct between students.

(c) School district policies on sexual harassment shall be reviewed by the superintendent of public instruction considering the criteria established under (a) of this subsection as part of the monitoring process established in RCW 28A.640.030.

(d) The school district's sexual harassment policy shall be conspicuously posted throughout each school building, and provided to each employee. A copy of the policy shall appear in any publication of the school or school district setting forth the rules, regulations, procedures, and standards of conduct for the school or school district.

(e) Each school shall develop a process for discussing the district's sexual harassment policy. The process shall ensure the discussion addresses the definition of sexual harassment and issues covered in the sexual harassment policy.

(f) "Sexual harassment" as used in this section means unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact, or other verbal or physical conduct or communication of a sexual nature if:

(i) Submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining an education or employment;

(ii) Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's education or employment; or

(iii) That conduct or communication has the purpose or effect of substantially interfering with an individual's educational or work performance, or of creating an intimidating, hostile, or offensive educational or work environment.

RCW 28A.640.030
Administration.

The office of the superintendent of public instruction shall be required to monitor the compliance by local school districts with this chapter, shall establish a compliance timetable and regulations for enforcement of this chapter, and shall establish guidelines for affirmative action programs to be adopted by all school districts.

RCW 28A.640.040
Civil relief for violations.

Any person aggrieved by a violation of this chapter, or aggrieved by the violation of any regulation or guideline adopted hereunder, shall have a right of action in superior court for civil damages and such equitable relief as the court shall determine.

RCW 28A.640.050
Enforcement—Superintendent's orders, scope.
The superintendent of public instruction shall have the power to enforce and obtain compliance with the provisions of this chapter and the regulations and guidelines adopted pursuant thereto by appropriate order made pursuant to chapter 34.05 RCW, which order, by way of illustration, may include, the termination of all or part of state apportionment or categorical moneys to the offending school district, the termination of specified programs in which violations may be flagrant within the offending school district, the institution of a mandatory affirmative action program within the offending school district, and the placement of the offending school district on probation with appropriate sanctions until compliance is achieved.

RCW 28A.640.900
Chapter supplementary.
This chapter shall be supplementary to, and shall not supersede, existing law and procedures and future amendments thereto relating to unlawful discrimination based on sex.

Washington Legislature, Senate Bill 6471 143
SENATE BILL 6471, AS AMENDED BY THE HOUSE
Passed Legislature - 2018 Regular Session

AN ACT Relating to developing model policies to create workplaces that are safe from sexual harassment; adding a new section to chapter 49.60 RCW; and creating a new section.
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:
NEW SECTION. Sec. 1. The legislature finds that the equal employment opportunity commission estimates that twenty-five to eighty-five percent of working women have experienced sexual harassment on the job. Organizational tolerance of sexual harassment has a detrimental influence in workplaces by creating a hostile environment for women, reducing productivity, and increasing legal liability. It is the legislature's intent to encourage employers to adopt and actively implement policies to ensure their workplaces are safe for women workers to report concerns about sexual harassment without fear of retaliation, loss of status, or loss of promotional opportunities.
NEW SECTION. Sec. 2. A new section is added to chapter 49.60 RCW to read as follows:
(1) The commission must convene a stakeholder work group to develop model policies and best practices for employers and employees to keep workplaces safe from sexual harassment.
(2) To the extent practicable, the following groups should be represented in the work group:
(a) Representatives from the business community;
(b) Human resource professionals;
(c) Representatives from groups advocating for survivors of sexual harassment;
(d) Representatives of labor organizations;
(e) Representatives of farmworkers or groups advocating for farmworkers;
(f) Representatives from agricultural industries; and
(g) Subject matter experts as deemed necessary by the commission.
(3) In developing best practices, the work group may consider:

(a) How workplace leaders can signal commitment to stopping sexual harassment;
(b) How to create and protect anonymous reporting channels to allow employees to raise concerns about workplace misconduct and to share ideas with leadership without worrying about being identified;
(c) How to ensure human resource departments are accountable for enforcing sexual harassment policies, aiding victims of sexual harassment, and encouraging victims to speak up;
(d) How to protect against retaliation for complainants and observers;
(e) Providing the opportunity for employees to establish affinity groups as a mechanism for sharing concerns about discrimination and harassment and to provide mentoring opportunities for employees;
(f) The use of exit surveys to identify the reason employees leave the workplace and to enhance working conditions to promote retention and an inclusive environment;
(g) The use of employee engagement surveys that contain questions regarding sexual harassment prevention;
(h) Using new employee orientations to emphasize inclusion and sexual harassment prevention;
(i) Evaluating executives, managers, and supervisors on their specific efforts to support an inclusive workplace and prevent sexual harassment;
(j) Requiring training for all employees in a classroom environment; and
(k) How to create an internal communication plan for communicating a commitment to inclusion and sexual harassment prevention.

(4)(a) By January 1, 2019, the commission must adopt model policies and best practices developed by the work group for employers and employees to keep workplaces safe from sexual harassment and post the model policies and best practices prominently on its web site for the public to access.
(b) Within thirty days of the commission adopting model policies and best practices, the department of labor and industries must post the model policies and best practices prominently on its web site for the public to access.

Passed by the Senate March 6, 2018.
Passed by the House February 27, 2018.
Approved by the Governor March 21, 2018.
Filed in Office of Secretary of State March 23, 2018.

35.2.48 WEST VIRGINIA

West Virginia Administrative Law
Title 77 Human Rights Commission
Series 4 Sexual Harassment

77-4-1. General.
1. Scope. -- The following legislative regulations of the West Virginia Human Rights Act (HRA), W. Va. Code '5-11-1 et seq., set forth guidelines for interpreting the Act’s prohibition against discrimination on the basis of sex by means of sexual harassment and are intended to assist all persons in understanding their rights, obligations, and duties under the law in regard to this aspect of the HRA.
2. Authority. -- W. Va. Code "5-11-8(h) and 29A-3-1 et seq. They are based on the decision of the West Virginia Supreme Court of Appeals in Westmoreland Coal Co. v. Human Rights Commission, __ W. Va. __.

382 S.E.2d 562 (1989), which held that sexual harassment is a form of discrimination prohibited by the West Virginia Human Rights Act and decisions of the federal courts.

77-4-2. Sexual Harassment Prohibited.
2.1. When it occurs in the workplace, harassment on the basis of sex is a violation of W. Va. Code '5-11-9(a)(1). The HRA affords employees the right to work in an environment free from discriminatory intimidation, ridicule, or insult.
2.2. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:
   2.2.1. Submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of an individual's employment or is exchanged for job benefits;
   2.2.2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
   2.2.3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.
2.3. In determining whether alleged conduct constitutes sexual harassment, the Commission will look at the record as a whole and at the totality of the circumstances, such as the nature of the sexual advances and the context in which the alleged incidents occurred. The determination of the legality of a particular action will be made from the facts, on a case-by-case basis, but in all cases the harassment complained of must be sufficiently severe or pervasive.
2.4. In determining whether alleged sexual harassment in a particular case is sufficiently severe or pervasive, the Commission will consider:
   2.4.1. Whether it involved unwelcome physical touching;
   2.4.2. Whether it involved verbal abuse of an offensive or threatening nature;
   2.4.3. Whether it involved unwelcome and consistent sexual innuendo or physical contact; and
   2.4.4. The frequency of the unwelcome and offensive encounters.
2.4.5. A person who has been harassed on an isolated basis may offer evidence of harassment suffered by other employees as proof that the harassment was pervasive or severe.
2.5. Harassment is not necessarily confined to unwanted sexual conduct. Hostile or physically aggressive behavior may also constitute sexual harassment, as long as the disparate treatment is based on gender.

77-4-3. Employer Liability for Sexual Harassment.
3.1. An employer, employment agency, joint apprenticeship committee or labor organization (hereinafter collectively referred to as "employer") is responsible for its acts and those of its officers, agents and supervisory employees with respect to sexual harassment regardless of whether the specific acts complained of were authorized or even forbidden by the employer and regardless of whether the employer knew or reasonably should have known of their occurrence, except that the employer is not responsible if the officer, agent or supervisory employee was acting outside the scope of his employment. The Commission will examine the circumstances of the particular employment relationship and the job functions performed by the individual in determining whether an individual acted as an officer, or in either a supervisory or agency capacity, and acted within or outside of the scope of his employment.
3.2. With respect to conduct between fellow employees, an employer is responsible for acts of sexual harassment in the workplace where the employer (or its agents or supervisory employees) knew or reasonably should have known of such conduct, or expressly or impliedly authorized or ratified such conduct. As a defense an employer may show that it took timely and appropriate corrective action regarding such conduct.
3.3. An employer may also be responsible for the acts of non-employees, with respect to sexual harassment of employees in the workplace, where the employer (or its agents or supervisory employees) knew or should have reasonably known of the conduct and failed to take timely and appropriate corrective action. In reviewing these cases the Commission will consider the extent of the employer's control and any other legal responsibility which the employer may have with respect to the conduct of such non-employees.

3.4. Where employment opportunities or benefits are granted because of an individual's submission to the employer's sexual advances or requests for sexual favors, the employer may be held liable for unlawful sex discrimination against other persons who were qualified for but denied that employment opportunity or benefit.

3.5. Employers are encouraged to take all steps necessary to prevent sexual harassment from occurring. Appropriate preventative steps include, but are not limited to, affirmatively expressing strong disapproval of sexual harassment, developing and implementing appropriate sanctions, informing employees of their right to be free from harassment and the appropriate steps to take if harassment occurs, and developing methods to sensitize all employees regarding appropriate behavior in the workplace.

77-4-4. Public and Housing Accommodations.

4.1. This rule may be applied to any action involving an owner, lessee, proprietor, manager, superintendent, agent, broker, or employee of any place of public accommodations, as defined by W. Va. Code '5-11-3(j), or of any housing accommodation, as defined by W. Va. Code '5-11-3(k).

4.2. The concepts of duty and liability set forth in this series may be applied to instances of sexual harassment occurring in a place of public accommodations or involving the sale, rental, lease, assignment, sublease, or use of any housing accommodation.

35.2.49 WISCONSIN

Wisconsin Statutes, 2019 145
Regulation of Industry
111. Employment Relations
Subchapter II. Fair Employment
111.32 Definitions

111.32 Definitions. When used in this subchapter:
[...]
(5) "Employee" does not include any individual employed by his or her parents, spouse, or child or any individual excluded under s. 452.38.
(6)
(a) "Employer" means the state and each agency of the state and, except as provided in par. (b), any other person engaging in any activity, enterprise or business employing at least one individual. In this subsection, "agency" means an office, department, independent agency, authority, institution, association, society or other body in state government created or authorized to be created by the constitution or any law, including the legislature and the courts.
[...]

145 Wisconsin Statutes 2019, Regulation of Industry, 111. Employment Relations, Subchapter II Fair Employment, 111.32 Definitions and 111.36 Sex, sexual orientation; exceptions and special cases, available at https://docs.legis.wisconsin.gov/statutes/statutes/111/II/32 (last visited 15 November 2019).
“Sexual harassment” means unwelcome sexual advances, unwelcome requests for sexual favors, unwelcome physical contact of a sexual nature or unwelcome verbal or physical conduct of a sexual nature. “Sexual harassment” includes conduct directed by a person at another person of the same or opposite gender. "Unwelcome verbal or physical conduct of a sexual nature" includes but is not limited to the deliberate, repeated making of unsolicited gestures or comments of a sexual nature; the deliberate, repeated display of offensive sexually graphic materials which is not necessary for business purposes; or deliberate verbal or physical conduct of a sexual nature, whether or not repeated, that is sufficiently severe to interfere substantially with an employee's work performance or to create an intimidating, hostile or offensive work environment.

111.36 Sex, sexual orientation; exceptions and special cases.

(1) Employment discrimination because of sex includes, but is not limited to, any of the following actions by any employer, labor organization, employment agency, licensing agency or other person:

(b) Engaging in sexual harassment; or implicitly or explicitly making or permitting acquiescence in or submission to sexual harassment a term or condition of employment; or making or permitting acquiescence in, submission to or rejection of sexual harassment the basis or any part of the basis for any employment decision affecting an employee, other than an employment decision that is disciplinary action against an employee for engaging in sexual harassment in violation of this paragraph; or permitting sexual harassment to have the purpose or effect of substantially interfering with an employee's work performance or of creating an intimidating, hostile or offensive work environment. Under this paragraph, substantial interference with an employee's work performance or creation of an intimidating, hostile or offensive work environment is established when the conduct is such that a reasonable person under the same circumstances as the employee would consider the conduct sufficiently severe or pervasive to interfere substantially with the person's work performance or to create an intimidating, hostile or offensive work environment.

(br) Engaging in harassment that consists of unwelcome verbal or physical conduct directed at another individual because of that individual's gender, other than the conduct described in par. (b), and that has the purpose or effect of creating an intimidating, hostile or offensive work environment or has the purpose or effect of substantially interfering with that individual's work performance. Under this paragraph, substantial interference with an employee's work performance or creation of an intimidating, hostile or offensive work environment is established when the conduct is such that a reasonable person under the same circumstances as the employee would consider the conduct sufficiently severe or pervasive to interfere substantially with the person's work performance or to create an intimidating, hostile or offensive work environment.

2. For any employer, labor organization, licensing agency or employment agency or other person to discharge or otherwise discriminate against any person because he or she has opposed any discriminatory practices under this paragraph or because he or she has made a complaint, testified or assisted in any proceeding under this paragraph.

(3) For purposes of sexual harassment claims under sub. (1) (b), an employer, labor organization, employment agency or licensing agency is presumed liable for an act of sexual harassment by that employer, labor organization, employment agency or licensing agency or by any of its employees or members, if the act occurs while the complaining employee is at his or her place of employment or is performing duties relating to his or her employment, if the complaining employee informs the employer, labor organization, employment agency or licensing agency of the act, and if the employer, labor
organization, employment agency or licensing agency fails to take appropriate action within a reasonable time.

35.2.50 WYOMING

Title VII of the Civil Rights Act of 1964 146

36. URUGUAY

Sexual Harassment Law, 2009 (as amended) 147

Art. 1
Object of the law. The purpose of this law is to prevent and punish sexual harassment as well as protect its victims, as both a serious form of discrimination and ignorance of respect for dignity of the people who must preside over labor relations and teaching. This law will be applied in the public and private spheres.

Art. 2
Concept of sexual harassment. Sexual harassment is understood as a behavior of a sexual nature, performed by a person of equal or different sex, not desired by the person to whom it is addressed and whose rejection produces or threatens to cause damage to her situation at work or in the teaching relationship, or that creates an intimidating, hostile or humiliating work environment for those to whom such conduct is directed.

Art. 3
Behaviors constituting sexual harassment. Sexual harassment may be manifested -among others- through the following behaviors:
1) Requirements for sexual favors that involve:
A) Promise, implicit or explicit, of preferential treatment with respect to the current or future employment or study status of the person receiving it.
B) Threats, implicit or explicit, of damages related to the current or future employment or study status of the person receiving it.
C) Requirement of a conduct whose acceptance or rejection, is, in an implicit or explicit form, condition for employment or study.
2) Physical approaches or other physical behaviors of a sexual nature, unwanted and offensive for those who receive them.
3) Use of expressions (written or oral) or images of a nature sexual, that are humiliating or offensive for those who receive them. Only a serious incident may constitute sexual harassment.

Art. 4

Agents and persons responsible for sexual harassment. The acts included in the previous article will be those committed directly by the person of the employer or head or by those who represent him in the exercise of power management, that occur both in the private sphere and in the public. The employer or head will also be responsible for the acts of his dependents or any other person linked to the workplace or teaching entity, as long as it has been aware of its occurrence and not has taken steps to correct it. In the event that the perpetrator of the sexual harassment was a dependent worker, he will be sanctioned according to the severity of the behavior, and may be fired for notorious misconduct and in case he is a public official, the conduct will be qualified as serious fault.

Art. 5
State Responsibility. The State will be responsible for designing and implement awareness, education and supervision policies, for the prevention of sexual harassment in the workplace and teaching environment, both in the public as in private fields. The General Labor and Social Security Inspectorate is the body competent to monitor compliance with the present law in the public and private sphere.

Art. 6
Obligations of the employer. Every employer or head will have a duty to:
A) Adopt measures that prevent, discourage and sanction the sexual harassment behaviors.
B) Protect the privacy of whistleblowers or victims, by keeping confidential the facts as well as the identity of the victim and of those who are summoned to testify in the investigation.
C) Implement measures that protect the psycho-physical integrity of the victim […]
D) Communicate and disseminate to supervisors, representatives, workers, clients and suppliers, as well as teaching, non-teaching staff and students the existence of an institutional policy against sexual harassment.

Art. 7
Report of sexual harassment. The affected worker may choose to make the complaint within the competency of the company or state agency or before the General Labor and Social Security Inspection. […]

Art. 8
Administrative procedure. The investigation carried out by the General Labor and Social Security Inspectorate will follow the procedure provided by the current regulations. The Inspectorate will have broad powers to investigate the reported facts […] to interrogate the complainant, the accused and witnesses and to collect all relevant evidence. The number of witnesses to be submitted by each of the parties will not be greater than five. When the inspection proceeds to interrogate people who, because of their relationship with the people involved may have a direct knowledge of the reported facts, will do it individually, in a confidential way, without the presence of representatives of the person denounced or the complainants and without disclosing in the files the data of the witnesses. […]

Art. 9
Notification and sanction. The conclusions of the investigation carried out by the General Labor and Social Security Inspection will bring to the attention of the employer or the director, the complainant as well as the accused. After the complaint, the General Inspectorate of Labor and Social Security will issue within a maximum term of twenty days relevant sanctions on the employer or director, if applicable. […]
Art. 10
When trade unions receive complaints regarding sexual harassment, they are entitled to request to the Inspectorate General of Labor and Social Security the initiation of inspection in the workplace. [...]

Art. 11
Compensation. The worker victim of sexual harassment, without prejudice to the possibility to initiate administrative complaint and the criminal action, has the right to claim compensation from the person responsible for moral damages corresponding to a minimum equivalent to six monthly payments, in accordance with the last salary. [...]

Art. 12
Protection against retaliation. The affected worker, as well as Those who have testified as witnesses may not be subject to dismissal or disciplinary sanctions by the employer or director. It is presumed - unless proven otherwise - that dismissal or penalties are due to reprisals when they take place within the period of one hundred and eighty days after filing the complaint of harassment by administrative or judicial means. The dismissal will be considered unlawful and will give a right to compensation provided for in the second paragraph of article 11, with the safeguard of the notorious misconduct.

[...]

Art. 15
The content and effects of complaints. The administrative or judicial decision that finds that the evidence does not prove the existence of sexual harassment will not affect the validity of the employment relationship. [...]

37. VENEZUELA

Organic Law on the Right of Women to a Life free of Violence, 2007

[...]

Article 15: It’s considered as forms of gender-based violence against women:
(10) Sexual harassment: It is the request for any sexual act or behavior, it can be for the person itself or for a third party, or to attempt any type of unwanted sexual approach that a man makes, taking advantage of a situation of superiority and hierarchy in a work, teaching or similar position, or due a relationships derived from professional practice, and with an express or tacit threat, causing a woman a harm related to the legitimate expectations that she may have in the context of the mentioned relationship. [...]

Article 48: Whomever requests a woman any act or behavior of a sexual nature, for himself or for a third party, or makes any type of unwanted sexual approach, by taking advantage of a situation of superiority in

a work, or teaching relationship, or on the occasion of a relationship in the context of professional practice, by threatening to cause her harm related to the legitimate expectation that she may have in the context of the mentioned relationship, will be punished with imprisonment from one to three years.

[...]

Article 63: Whoever is responsible for sexual harassment must compensate the woman victim of this violence according to the following:

1. For an amount equal to double the total price of the damages that the act has caused to the person harassed in their access to the job or to a desired position, or to a promotion or to the performance of their activities.

2. In those cases in which no pecuniary damages can be determined, the personal responsible should pay an amount not less than one hundred (100 U.T.) and not greater than five hundred tax units (500 U.T.). When the compensation cannot be paid by the convicted person due to a duly accredited state of insolvency, the competent enforcement court may convert the penalty to community work at the rate of one work day for each tax unit.

Organic Labor Law, for Male and Female Workers, 2012

Article 165: Sexual harassment is prohibited in all workplaces, and is understood as harassment or unwanted and unsolicited conduct of a sexual nature, exercised only once or through a series of incidents, by the employer or their representatives, against the employee in order to affect its work stability or to give, maintain, or remove any benefit derived from the employment relationship.

This conduct will be sanctioned in accordance with the provisions established in this Law, its Regulations and others that govern the matter.

[...]

Article 513. Procedure For Handling Workers' Claims

The worker, or group of workers, may file complaints about working conditions, before the Labor Inspectorate of their jurisdiction. Complaints filed will be handled by the Labor Inspectorate according to the following procedure.

1. Within three days after the claim has been filed by the worker, the Labor Inspectorate shall notify the employer to appear at a claim hearing on the second business day following having been notified in accordance with the provisions of this law.

2. The complaint hearing will be orally, privately and chaired by a labor officer, with the mandatory assistance of the parties or their representatives. In the case of a group of complaining workers, they will appoint a representation of no more than five people.

3. If the employer or his representative does not attend the complaint hearing, the admission of the facts alleged by the complaining worker will be presumed and the labor inspector will decide according to said confession as long as it is not contrary to law Plaintiff’s request.

4. - At the complaint hearing, the labor officer must mediate and reconcile the positions. If the conciliation is positive, the labor officer will terminate the claim by means of an act, approving the agreement between the parties.

5. If conciliation is not possible, the employer, employer or their representatives must enter a written response to the complaint within five days. If the employer, employer or their representatives does not answer within the indicated period, the claim of the worker, worker or group of workers will be considered as true.

6. 6.- The official or official of the work, the day after the lapse for the answer has elapsed, will send the file of the claim to the Inspector or Inspector of Labor to decide on the claim, when it is not about questions of law that must be resolved The jurisdictional courts.

7. The decision of the inspector or labor inspector that resolves on matters of fact, will terminate the administrative procedure and will only be appealable by judicial means after certification of the inspector or labor inspector of compliance with the decision.

Article 528: Violation for labor harassment or sexual harassment
The employer who commits labor harassment or sexual harassment will be imposed a fine not less than the equivalent of thirty tax units, nor greater than the equivalent of sixty tax units, without prejudice to the civil and criminal actions to which the worker is entitled.

38. VIETNAM

Labor Code, 2012

Article 8. Prohibited acts
1. Discrimination [...].
2. Maltreatment of employees, sexual harassment at workplaces.

Article 37. The right to unilaterally terminate the labor contract of employees
1. The employee working under the fixed-term labor contract, casual labor contract or regular labor contract with term under 12 months is entitled to unilaterally terminate the contract sooner in the following cases:
   [...]
c) The employee suffers from maltreatment, sexual harassment, coercive labor;

Article 182. Housemaid’s obligations
[...]
4. Denouncing to the competent authorities if the employer has the acts of maltreatment, sexual harassment, forced labor or other acts of law violation.

Article 183. Prohibited acts for the employer
1. Maltreatment, sexual harassment, forced labor, force using for the employee as a housemaid.

Article 239. Handling violations in the area of labor

Those who have acts of violation of the provisions of this Code, depending on the nature and seriousness of their violations, they shall be disciplined, and administratively sanctioned or prosecuted for criminal liability; if causing damage, they must make compensation as prescribed by law.

39. WEST BANK AND GAZA

Jordanian Penal Code, 1960

Article 305: Unwanted Sexual Contact

A prison sentence for a period not exceeding one year shall be imposed upon any person who engages in unwanted sexual contact with:
1. Another person, male or female, under fifteen (15) years of age; or,
2. A woman or a girl, who has reached fifteen (15) years of age, but without their consent.

Article 306: Indecent Acts and Words

A prison sentence for a period up to six (6) months, or a fine not exceeding twenty-five (25) Dinars, shall be imposed upon any person who exposes a boy who is less than fifteen (15) years of age, or a female, to indecent acts or words.

40. YEMEN, REP.

Criminal Code, 1994

Arts. 270-273 and 275

41. ZIMBABWE

Labour Act, 1985

PART III

UNFAIR LABOUR PRACTICES

Sec. 8 Unfair labour practices by employer

An employer or, for the purpose of paragraphs (g) and (h), an employer or any other person, commits an unfair labour practice if, by act or omission, he—
(g) demands from any employee or prospective employee any sexual favour as a condition of—
(i) the recruitment for employment; or
(ii) the creation, classification or abolition of jobs or posts; or (iii) the improvement of the remuneration or other conditions of employment of the employee; or

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(iv) the choice of persons for jobs or posts, training, advancement, apprenticeships, transfer, promotion or
retrenchment; or
(v) the provision of facilities related to or connected with employment; or
(vi) any other matter related to employment; or
(h) engages in unwelcome sexually-determined behaviour towards any employee, whether verbal or
otherwise, such as making physical contact or advances, sexually coloured remarks, or displaying
pornographic materials in the workplace.

PART XI
LABOUR COURT

Sec. 89 Functions, powers and jurisdiction of Labour Court
(1) The Labour Court shall exercise the following functions—
(a) hearing and determining applications and appeals in terms of this Act or any other enactment; and
(b) hearing and determining matters referred to it by the Minister in terms of this Act; and
(c) referring a dispute to a labour officer, designated agent or a person appointed by the Labour Court to
conciliate the dispute if the Labour Court considers it expedient to do so;
(d) appointing an arbitrator from the panel of arbitrators referred to in subsection (56 of section ninety-
eight to hear and determine an application;
(d1) exercise the same powers of review as would be exercisable by the High Court in respect of labour
matters;
(e) doing such other things as may be assigned to it in terms of this Act or any other enactment.
(2) In the exercise of its functions, the Labour Court may—
(a) in the case of an appeal—
(i) conduct a hearing into the matter or decide it on the record; or
(ii) confirm, vary, reverse or set aside the decision, order or action that is appealed against, or substitute
its own decision or order; or
(iii) ... [Repealed] (iv) ... [Repealed]
(b) in the case of an application made in terms of subparagraph (i) of subsection (7) of section ninety-three,
remit it to the same or a different labour officer with instructions directing that officer to attempt to resolve
it in accordance with such guidelines as it may specify;
(c) in the case of an application made in terms of subparagraph (ii) of subsection (7) of section ninety-
three, make an order for any of the following or any other appropriate order—
(i) back pay from the time when the dispute or unfair labour practice arose;
(ii) in the case of an unfair labour practice involving a failure or delay to pay or grant anything due to an
employee, the payment by the employer concerned to the employee or someone acting on his behalf of
such amount, whether as a lump sum or by way of instalments, as will, in the opinion of the Labour Court,
adequately compensate the employee for any loss or prejudice suffered as a result of the unfair labour
practice;
(iii) reinstatement or employment in a job:
Provided that—
(i) any such determination shall specify an amount of damages to be awarded to the employee concerned
as an alternative to his reinstatement or employment;
(ii) in deciding whether to award damages or reinstatement or employment, onus is on the employer to prove that the employment relationship is no longer tenable, taking into account the size of the employer, the preferences of the employee, the situation in the labour market and any other relevant factors;

(iii) should damages be awarded instead of reinstatement or employment as a result of an untenable working relationship arising from unlawful or wrongful dismissal by the employer, punitive damages may be imposed;

(iv) insertion into a seniority list at an appropriate point;

(v) promotion or, if no promotion post exists, pay at a higher rate pending promotion;

(vi) payment of legal fees and costs;

(vii) cessation of the unfair labour practice;

(d) in the case of an application other than one referred to in paragraph (b) or (c), or a reference, make such determination or order or exercise such powers as may be provided for in the appropriate provision of this Act; (e) subject to subsections (3) and (4), make such order as to costs as the Labour Court thinks fit.

(3) The costs in connection with any proceedings before the Labour Court shall be payable in accordance with the scale of costs for the time being in use in the court of a magistrate in civil cases, unless the person presiding over the Labour Court directs that the scale of costs for the time being in use in the High Court shall apply.

(4) Any costs awarded by the Labour Court shall be taxed by the registrar of the Labour Court in terms of subsection (3) and the taxation of such costs shall be subject to review by a President of the Labour Court at the instance of any interested party.

(5) For the purpose of taking evidence on any question before it, the Labour Court shall have the same powers as the High Court to summon witnesses, to cause the oath to be administered to them, to examine them and to call for the production of books, plans and documents.

(6) No court, other than the Labour Court, shall have jurisdiction in the first instance to hear and determine any application, appeal or matter referred to in subsection (1).

[...]

PART XII
RESOLUTION OF DISPUTES AND UNFAIR LABOUR PRACTICES

Sec. 93 Powers of labour officers

(1) A labour officer to whom a dispute or unfair labour practice has been referred, or to whose attention it has come, shall attempt to settle it through conciliation or, if agreed by the parties, by reference to arbitration.

(2) If the dispute or unfair labour practice is settled by conciliation, the labour officer shall record the settlement in writing.

(3) If the dispute or unfair labour practice is not settled within thirty days after the labour officer began to attempt to settle it under subsection (1), the labour officer shall issue a certificate of no settlement to the parties to the dispute or unfair labour practice.

(4) The parties to a dispute or unfair labour practice may agree to extend the period for conciliation of the dispute or unfair labour practice referred to in subsection (3).

(5) After a labour officer has issued a certificate of no settlement, the labour officer, upon consulting any labour officer who is senior to him and to whom he is responsible in the area in which he attempted to settle the dispute or unfair labour practice — [...]

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(b) may, with the agreement of the parties, refer the dispute or unfair labour practice to compulsory arbitration; or
(c) may refer the dispute or unfair labour practice to compulsory arbitration if the dispute or unfair labour practice is a dispute of right; and the provisions of section ninety-eight shall apply to such reference to compulsory arbitration.

(6) [Repealed]

(7) If, in relation to any dispute—
(a) after a labour officer has issued a certificate of no settlement in relation to the dispute or unfair labour practice, it is not possible for any reason to refer the dispute or unfair labour practice to compulsory arbitration as provided in subsection (5); or
(b) a labour officer refuses, for any reason, to issue a certificate of no settlement in relation to any dispute or unfair labour practice after the expiry of the period allowed for conciliation under subsection (3) or any extension of that period under subsection (4); any party to the dispute may, in the time and manner prescribed, apply to the Labour Court—
(i) for the dispute or unfair labour practice to be disposed of in accordance with paragraph (b) of subsection (2) of section eighty-nine, in the case of a dispute of interest; or
(ii) for an order in terms of paragraph (c) of subsection (2) of section eighty-nine, in the case of a dispute of right.

94 Prescription of disputes
(1) Subject to subsection (2), no labour officer shall entertain any dispute or unfair labour practice unless—
(a) it is referred to him; or
(b) has otherwise come to his attention;
within two years from the date when the dispute or unfair labour practice first arose.

(2) Subsection (1) shall not apply to an unfair labour practice which is continuing at the time it is referred to or comes to the attention of a labour officer.

(3) For the purpose of subsection (1), a dispute or unfair labour practice shall be deemed to have first arisen on the date when—
(a) the acts or omissions forming the subject of the dispute or unfair labour practice first occurred; or
(b) the party wishing to refer the dispute or unfair labour practice to the labour officer first became aware of the acts or omissions referred to in paragraph (a), if such party cannot reasonably be expected to have known of such acts or omissions at the date when they first occurred.

[...]

Criminal Law (Codification and Reform) Act, 2004 154

Sec. 67 Indecent assault
(1) A person who—
(a) being a male person—
   (i) commits upon a female person any act involving physical contact that would be regarded by a reasonable person to be an indecent act, other than sexual intercourse or anal sexual...
intercourse or other act involving the penetration of any part of the female person’s body or of his own body; or

(ii) commits upon a male person any act involving physical contact that would be regarded by a reasonable person to be an indecent act, other than anal sexual intercourse or other act involving the penetration of any part of the male person’s body or of his own body; or

[...] with indecent intent and knowing that the other person has not consented to it or realising that there is a real risk or possibility that the other person may not have consented to it, shall be guilty of indecent assault and liable to a fine not exceeding level seven or imprisonment for a period not exceeding two years or both.

(2) For the purpose of determining the sentence to be imposed upon a person convicted of indecent assault, a court shall have regard to the same factors as are mentioned in connection with determining the sentence to be imposed upon a person convicted of rape in subsection (2) of section sixty-five, in addition to any other relevant factors and circumstances.

(3) For the avoidance of doubt it is declared that where a person would be liable for contravening subsection (1) but for the fact that—

(a) physical contact was absent, the competent charge shall be criminal insult or, if the person intended but failed to engage in physical contact, attempted indecent assault;

(b) indecent intent was absent; the competent charge shall be criminal insult.