

Louisiana State Board of Private Security Examiners

Sexual Harassment Policy

R.S. 42:341-344, or "Prevention of Sexual Harassment," became effective January 1, 2019. The provisions of this law impact all public officers and employees, departments, offices, divisions, agencies, commissions, boards, committees, and other organizational units of the State of Louisiana or political subdivisions.

Statement of Policy

State of Louisiana employees have an expectation and right to be treated with respect and dignity, and to work in a professional environment free of sexual harassment. Left unchecked, harassment and discrimination, regardless of nature or degree, undermine the integrity of the employment relationship and debilitate morale, compromise equal employment opportunities, and significantly interfere with the mission of state government.

The Louisiana State Board of Private Security Examiners (LSBPSE) strives to maintain a workplace that fosters mutual respect and promotes harmonious, productive working relationships. To accomplish this, LSBPSE prohibits and will not tolerate sexual harassment or any behavior of a sexual nature that intimidates, exploits, insults, demeans, disrespects, or embarrasses any LSBPSE employee.

Prevention and elimination of sexually inappropriate behavior requires the personal involvement and commitment of every LSBPSE employee. Through this policy and related training requirements, LSBPSE encourages employees who experience, observe, or are informed of such behavior to promptly initiate the reporting process set forth in this policy.

Employees may be assured that LSBPSE will objectively and thoroughly investigate reports; implement preventive measures to protect against recurrence; impose corrective action to address substantiated violations; and protect complainants and employees involved in the investigative process from any form of harassment, reprisal, or retaliation.

This policy establishes a procedure to administratively report and address complaints of sexually inappropriate behavior. It is not in any way intended to replace or supersede the statutory or regulatory rights regarding sexual harassment available to employees under federal and state law, including Title VII of the Civil Rights Act (42 U.S.C. § 2000e et seq.) and the Louisiana Employment Discrimination Law (La. R.S. 23:301 et seq.). Specific timelines and requisites of law apply to filing a complaint with the Equal Employment Opportunity Commission (EEOC) or the Louisiana Commission on Human Rights (LCHR).

Applicability

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

This policy applies not only to the customary workplace and work locations where LSPBSE employees may be assigned, but also prohibits such behavior while traveling to a work location, at conferences, workshops, trainings, business trips, and business-related social events. Additionally, the behavior prohibited by this policy applies to off-duty, off-premises behavior that impacts the workplace.

Sexual harassment complaints against non-LSPBSE employees (third-party sexual harassment) will be referred to the appropriate authorities and/or handled as LSPBSE management deems appropriate.

Postings

This policy is always available for review by all employees on LSPBSE's website (lsbpse.com). Notices related to workplace harassment and discrimination are conspicuously posted at LSPBSE headquarters.

Employee Relations Designee

LSPBSE recognizes that an employee experiencing sexually inappropriate behavior may be reluctant to file a complaint. Sexual harassment complaints will be handled within the Office of Human Resources by the Human Resources Director or designee.

The Human Resources Director or designee is available to discuss the content of this policy, answer questions related to the reporting process, receive complaints, and coordinate the investigative process.

Generalized inquiries and questions regarding this policy will be maintained in strict confidence. Investigation may be necessary even when the employee desires to maintain anonymity, requests that no action be taken, or insists that a formal complaint not be lodged. In general, informal complaints or requests to delay investigation unless or until a future occurrence cannot be honored and will be treated the same as a formal complaint, thus triggering the investigative process.

Training

To support this policy, LSBPSE requires all employees to successfully complete training on this policy upon hiring and on an annual basis thereafter. At a minimum, LSPBSE mandates the following training for its employees:

- Upon hiring, all new employees will be provided a copy of this policy and instructed to carefully review it.
- All current employees are required to review this policy annually.
- Within ninety (90) days of the hiring date, all new employees are required to complete the Comprehensive Public Training Program's (CPTP) most recent training on sexual harassment. Certification of successful completion will be documented through CPTP and a copy of the completed certificate will be provided to Human Resources to be put into employee's personnel file.
- All employees, on an annual basis, thereafter, are required to complete the CPTP's most recent training on sexual harassment. Certification of successful completion will be documented through CPTP and a copy of the completed certificate will be provided to Human Resources to be put into employee's personnel file.
- Within thirty (30) days of attaining a supervisory position, all new supervisors are required to complete the CPTP's most recent training on sexual harassment designated for management personnel. This training, which emphasizes identifying, preventing, and responding to sexually inappropriate behavior, is thereafter to be completed every two years. Certification of successful completion will be documented through CPTP and a copy of the completed certificate will be provided to Human Resources to be put into employee's personnel file.

Prohibited Conduct

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 employee's employment, unreasonably interferes with an employee's work performance, or creates an intimidating, hostile or offensive work environment. Sexual harassment shall not be tolerated.

Prohibited conduct relative to sexual harassment includes but is not limited to the following:

1. Unwelcome physical contact, including touching on any part of the body, kissing, hugging, or standing close enough to make another person uncomfortable;
2. Requests for sexual favors either directly or indirectly (for example, requiring a subordinate employee to go out to lunch or to have a drink may be perceived as a request for sexual favors under some circumstances, especially if the conduct has no business purpose);
3. Requiring sexual favors as a condition of employment, obtaining a raise, obtaining new duties, a better office, or any type of advancement in the workplace;
4. Threatening dismissal or unfairly evaluating performance in retaliation for rejection of sexual advances;
5. Sexual flirtations, advances, or propositions;
6. Graphic comments about an individual's body;
7. Sexually degrading words to describe an individual;
8. The display in the workplace of sexually suggestive objects, pictures, or writings; or
9. Other harassment that could rise to the level of sexual harassment.

For illustrative purposes only, sexually inappropriate behavior, even on an occasional basis, includes, but is not limited to:

Verbal

Unwelcomed sexual flirtations, advances, propositions, or demands; unwelcomed sexual remarks, teasing, jokes, pranks, innuendo, insults, or inquiries; sexually insensitive or derogatory comments; unwelcomed repeated requests for dates or social engagement; inappropriate comments regarding a person's physical attributes; comments regarding sexual activities, exploits, prowess, or accomplishments; use of vulgar, crude or sexually offensive language; sexually insulting noises, catcalls, or whistling; stereotypical comments; repeatedly referring to an individual as "honey", "babe", "sugar", etc.

Non-Verbal

Gestures of a sexual nature; lustful looks, staring and leering; displaying sexually revealing or suggestive pictures, cartoons, caricatures, drawings, photographs, magazines, books, graffiti, or objects; transmitting sexually oriented emails, texts, letters, writings, communications, and images.

Physical

Unwelcomed physical contact including kissing, touching, embracing, hugging, massaging, rubbing, fondling, groping, tickling, pinching, and patting; invading another's space by leaning over, purposefully cornering, or blocking passage; sexual assault, battery, and rape.

Confronting The Accused

An employee experiencing unwelcomed behavior may choose to tell the offender to cease the behavior. Doing so may be sufficient to prevent recurrence. However, if the behavior continues, the concern should be reported promptly.

LSBPSE recognizes that confronting an offender in this fashion can be discomforting, especially in those situations in which the offender is within the employee's chain of command. Therefore, LSBPSE does not require employees to do so, and certainly does not require that this be done before using the reporting procedure provided in this policy.

Reporting Procedure

In order that complaints may be investigated timely and effectively, employees are encouraged to report sexual harassment as soon as possible. LSBPSE does not impose a deadline for reporting sexual harassment, but immediate reporting is ideal.

LSBPSE does not require a rigid reporting protocol or use of a specific form. The initial report need only convey the occurrence of words or actions that are offensive and need not provide details. This report can be verbal (in person or via telephone) or in writing (letter, memo, email, text).

The report may be made to the employee's direct supervisor. However, regardless of reason, if the employee prefers to not involve their supervisor, the report may be made to any supervisor or manager in LSBPSE or directly to the Human Resources Director or designee. Supervisory personnel receiving a report of sexually inappropriate behavior are required to immediately inform the Human Resources Director or designee of the information provided. Non-supervisory personnel receiving a report of sexually inappropriate behavior (such as from a co-worker) are strongly encouraged to report the behavior to any supervisor or to the Human Resources Director or designee.

Anonymous complaints are discouraged; however, if an anonymous complaint is submitted, it should contain as much detail as possible including the names of the accused and all witnesses, the locations, dates, times, and description of all behaviors experienced, and any previous reports of

similar behavior to management. Without this level of detail, the ability to conduct a thorough investigation may be impeded.

Investigation of Complaints

All reports and complaints of sexually inappropriate behavior will be directed to the Human Resources Director or designee who shall assess the information provided. The investigation will be conducted expeditiously, professionally, and with due regard for the rights of all involved. To the extent allowed by law, the investigation will be conducted in a confidential manner. To preserve the integrity of the investigative process, employees will be instructed that the complaint and all information provided during the interview are to remain confidential. Employees are prohibited from obstructing or interfering with the investigation, which includes questioning or confronting any employee participating in the investigation.

The Human Resources Director or designee, in consultation with the Board attorney(s), shall conduct a preliminary assessment of the information provided to determine whether action should be taken to prevent further occurrence of the offensive behavior. For example, it may be appropriate to authorize leave or temporarily reassign personnel. The appropriate appointing authority will be apprised of the general nature of the complaint and any preliminary action to be taken with the utmost confidentiality.

The investigation may begin with an interview of the complainant who will be required to provide details to facilitate the investigative process, such as the behavior complained of, the date, time, and location of the occurrence, the identity of witnesses, and any writings, records, logs, recordings, pictures, or other documentation supporting the complaint. Other employees possessing relevant information may also be interviewed.

All employees called upon to participate in the investigation are required to fully cooperate and provide truthful responses. Employees do not have the option of remaining silent or declining to get involved. Those questioned may be required to prepare a written statement or provide a recorded statement. Employees are hereby informed that polygraph examinations may be employed as an investigative tool.

Upon completion of the investigation, the Human Resources Director or designee, in consultation with the Board attorney(s), will report whether the complaint of sexual harassment is substantiated or unsubstantiated to the appropriate appointing authority and provide recommendations for resolution.

Complainants may be assured that any employee found, after investigation, to have engaged in sexual harassment or other inappropriate behavior of a sexual nature will be subject to corrective action. Corrective actions may include counseling, reprimand, suspension, reduction in pay,

demotion, or dismissal. If dismissal is recommended, the matter must be referred to LSBPSE executive staff before final action is taken.

In conjunction with such corrective actions, other appropriate measures, including additional training, relocation, reassignment, job restructuring, etc., may also be utilized to protect against the recurrence of the inappropriate behavior.

Unsubstantiated good faith complaints

Employees must understand that despite the best efforts and thoroughness of the investigative process, not all complaints can be substantiated. This does not indicate, however, that the complaint was contrived or made in bad faith. As such, employees are encouraged to file good faith complaints without regard for the ultimate outcome.

Complaint Resolution

Upon conclusion of the investigation, the complainant and accused will be apprised of whether the complaint was substantiated or unsubstantiated. Management's decision is final and concludes LDH's internal administrative investigative process. Regardless of the outcome, the complainant has the option of pursuing a claim under state or federal law. Initiation of such a claim is not dependent upon the outcome nor completion of LSBPSE's administrative investigation.

To initiate a claim under federal or state law, employees are referred to the Equal Employment Opportunity Commission and the Louisiana Commission on Human Rights:

EEOC District Office
Hale Boggs Federal Building
500 Poydras Street, Suite 809
New Orleans, LA 70130
800-669-4000 (Voice)
504-589-2958 (TDD)
504-595-2844 (Fax)
www.eeoc.gov

LCHR
1001 N. 23rd Street, Suite 268
Post Office Box 94094
Baton Rouge, LA 70804
225-342-6969 (Voice)
888-241-0859 (TDD)
225-342-2063 (Fax)
gov.louisiana.gov/page/filing-a-complaint-with-lchr

Retaliation Strictly Prohibited

LSBPSE maintains an affirmative duty to protect its employees from harassment, reprisal, or retaliation. This protection extends to any employee making a good faith complaint of sexually inappropriate behavior, as well as those employees providing information or participating in the investigative process.

If a complaint of retaliation is made and an investigation reveals that harassment, retaliation or reprisal has occurred, the offender shall receive corrective action, or disciplinary action shall be imposed up to and including dismissal.

To ensure this protection, the Human Resources Director or designee will follow-up with the complainant to determine whether there has been a recurrence of the behavior complained of or whether the complainant has suffered any adverse consequence for having filed a complaint. Such follow-up will occur at periodic intervals. The follow-up inquiries will seek to identify readily identifiable repercussions such as a disciplinary action, poor performance evaluation, etc., as well as subtler forms of reprisal such as ostracism, avoidance, non-inclusion, etc.

Responsibility

It is the responsibility of all employees, regardless of rank, status, or authority, to ensure compliance with this policy. Complaints must be truthful and made in good faith. Cooperative participation and candor in the investigative process are mandatory.

Violations

The LSBPSE will aggressively address violations of this policy. After investigation and satisfaction of due process requirements, corrective action, including disciplinary action up to and including termination, may be imposed for the following actions, including but not limited to:

- Failure to comply with mandatory training requirements
- Failure by a supervisor or manager to timely transmit a reported complaint of sexually inappropriate behavior
- Failure to participate or cooperate in the investigative process
- Providing false or withholding information during questioning
- Filing a false, malicious, or frivolous complaint
- Harassment, reprisal, or retaliation towards a complainant or anyone involved in the investigative process

Corrective action taken for any of these violations may include counseling, reprimand, suspension, reduction in pay, demotion, or dismissal. In conjunction with such corrective actions, other

appropriate measures, including additional training, relocation, reassignment, job restructuring, etc., may be taken.

Personal Liability

An individual experiencing sexually inappropriate behavior in the workplace has the right to initiate civil litigation under state or federal law. When this occurs, as an employer, the State of Louisiana may be cast in judgment, or a settlement of claims may be negotiated, to avoid the risk of litigation. In either event, the financial burden falls upon the taxpayers of this state.

To reduce this impact, upon determination that an employee has engaged in sexually inappropriate workplace behavior, La. R.S. 42:351 mandates that consideration be given to requiring that the employee reimburse all or a portion of any judgment or settlement that may result from civil litigation. The process and factors to be considered in making this determination are set forth in La. R.S. 42:353, which also authorizes the Attorney General to file suit against an employee to enforce the state's right to reimbursement and indemnification.

Accordingly, if a claim of sexual harassment leads to a settlement of judgment, the individual who committed the harassment shall be responsible for the payment of all or a portion of the amount of the settlement, based on consideration of factors provided in La. R.S. 42:353.

Furthermore, La. R.S. 13:5109.1 provides that no settlement agreement related to a sexual harassment or sexual assault claim against the state or any employee/officer of the state or a state agency may contain a nondisclosure agreement of the terms of the settlement if public funds are used to pay any part of the settlement. Therefore, any settlement related to a sexual harassment claim shall be a public record, except for the name of the victim of the sexual harassment.

Employees of LSBPSE are hereby placed on notice that dire consequences beyond employment sanctions, including personal financial liability, may result from any violation of the prohibitions and requirements of this policy.

Exceptions

Exceptions or deviations from the provisions of this policy require the express approval of the LSBPSE Executive Secretary.

Questions

Questions, comments, or concerns regarding this policy should be addressed to LSBPSE's Human Resources Director or designee.

Revision History

Date	Revision
August 16, 2021	Policy created