

STATEWIDE SEXUAL HARASSMENT PREVENTION POLICY
APPENDIX – INVESTIGATION PROCEDURES

These procedures are promulgated in accordance with Executive Order 01.14.19.02, which directs the Governor’s Executive Counsel and the Office of the State Inspector General (OIG), in consultation with the Georgia Department of Administrative Services Human Resources Administration, to develop procedures regarding investigation and resolution of complaints and reports of sexual harassment.

To ensure impartial, consistent and transparent investigations, agencies should follow these guidelines to the extent practicable.

Selection of Investigator(s)

Upon receipt of a complaint or report of sexual harassment, an Agency must notify the OIG of the complaint or report and assign at least one of the Agency’s designated investigators to investigate the matter.

When selecting the investigator, an Agency shall consider any actual or perceived conflict, the investigator’s workload, and any other factor that could affect the investigator’s actual or perceived ability to conduct a prompt, thorough, and impartial investigation. Two investigators may be designated to investigate a complaint where deemed appropriate.

If the OIG determines that no designated investigator within an Agency should investigate a given complaint or report of sexual harassment submitted by an employee of that Agency, the OIG will appoint a designated investigator from another agency.

Interim Protective Measures

Upon receipt of a complaint or report of sexual harassment (or retaliation), an Agency must consider whether interim protective measures are warranted. Interim protective measures are non-disciplinary administrative actions or steps taken to ensure: (a) that the alleged conduct underlying the complaint or report does not continue and/or (b) that the employee submitting the complaint or report is protected from actual or perceived retaliation. Interim protective measures are taken prior to or during the investigation and, therefore, are not premised on any determination that the allegations of the complaint or report are true. If interim protective measures are not taken prior to commencement of the investigation, investigators should consult with Agency management/human resources if at any point during their investigation they determine that such measures are warranted.

Interim protective measures should be no broader than reasonably necessary to accomplish their purpose. Whenever possible, any such measures taken by an Agency should be designed to avoid undue hardship and minimize the burden on both the alleged victim (or employee submitting the report) and the respondent. Interim protective measures may include but are not limited to:

- Issuance of a “no contact” directive.
- Changes in employment arrangements, schedules or supervision.

- Temporary insertion of another employee into the workplace to serve as a passive monitor.
- Non-disciplinary suspension with pay; provided, however, that the alleged victim or employee reporting sexual harassment (or retaliation) should not be placed on non-disciplinary suspension with pay without his/her consent.
- Other reasonable measures designed to ensure that the alleged conduct underlying the complaint or report does not continue and/or to prevent actual or perceived retaliation.

Initiation of Investigation

Upon review of the complaint or report of sexual harassment (or retaliation), the investigator shall:

- Determine the scope of the investigation (identify issues to be investigated).
- Provide copies of the Statewide Sexual Harassment Prevention Policy (“the Policy”) to the employee submitting the complaint or report and to the alleged victim (in the case of a report).
- Notify the respondent of the complaint or report and provide a copy of the Policy to him/her.
- Inform all parties of the Policy’s non-retaliation provision.

Secure Potential Evidence

The investigator should take reasonable steps to secure and/or obtain any evidence potentially relevant to the complaint or report, including such items as emails, text messages or other correspondence, electronic files, voice mail and other audio recordings, surveillance video, previous complaints, etc.

Prepare for and Conduct Interviews

The investigator should identify witnesses to be interviewed, in addition to the complainant and respondent. Witnesses may include:

- Those identified by either party.
- Employees or former employees, including supervisors/managers or subordinates of the complainant and respondent.
- Vendors or non-employees.

If a complainant requests to be interviewed by an investigator of a particular gender, that request shall be accommodated whenever possible.

When conducting interviews, the designated investigator should:

- Explain the purpose of the interview to each witness and that he/she is not an advocate or representative for either the complainant or the respondent.
- Explain zero tolerance for retaliation against witnesses and encourage witnesses to report any alleged retaliation he/she experiences as a result of participating in investigation.
- If witness is a current employee, explain that he/she is required to cooperate with the investigation.

- Explain the importance of preserving the integrity of the investigation by not discussing interview with others.

If one or more of the acts underlying the sexual harassment (or retaliation) complaint or report is the subject of a criminal investigation, or the act or acts alleged in the complaint or report could potentially expose the respondent to criminal liability, the Agency shall confer with the Office of the State Inspector General (OIG) regarding how to proceed with the Agency investigation.

Investigative Report

The designated investigator shall complete the investigation and issue a written report of factual findings and conclusions as promptly as possible, but at least within forty-five (45) calendar days of assignment. If unable to complete an investigation and/or the report within forty-five (45) days, the investigator shall notify Agency leadership, as well as the complainant and respondent, and provide a progress update(s) as appropriate.

Each investigation should conclude with one or an appropriate combination of the following determinations:

- **Without Merit.** The investigation revealed that the act(s) complained of either did not occur or was not committed by the respondent.
- **Exonerated.** The investigation revealed that the act(s) complained of did occur, but that it does not constitute a violation(s) of the Statewide Sexual Harassment Prevention Policy.
- **Not Sustained.** The investigation failed to reveal evidence sufficient to support a conclusion whether the act(s) complained of occurred or did not occur or whether the act(s) was committed by the respondent.
- **Sustained.** The investigation revealed sufficient evidence to support the conclusion that the act(s) complained of occurred, that it was committed by the respondent, and that it constitutes a violation(s) of the Statewide Sexual Harassment Prevention Policy.

The investigative report shall be shared with the complainant and the respondent. The parties should be given at least three (3) business days to submit a written response to the investigative report. The investigator will review and consider any response(s) received and determine whether any additional information provided therein warrants continuing the investigation or making any modifications to the investigative report; otherwise, the investigator shall finalize the investigative report and submit it to Agency leadership without further action. If an external investigator is designated by the OIG, the investigator shall coordinate with the OIG regarding delivery of the investigative report.

Upon closing an investigation, the Agency shall report to the OIG the closing date and the conclusion of the investigation.

Resolution of Complaint or Report

Agencies shall consult with and provide updates to the OIG as requested and promptly produce any information or documentation related to a sexual harassment (or retaliation) complaint or report or the

investigation into same, including the investigative report, any evidence collected or identified by the investigator, and any written responses to the report submitted by the parties, upon the OIG's request.

Revision History

Version	Date
1.0	March 1, 2019