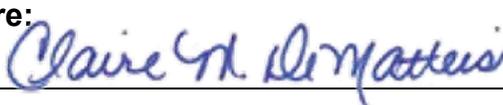




STANDARDS OF CONDUCT POLICY AND PROCEDURE- Statewide	
DHR-Policy #: DHR-STW-105.1	Authority: 29 Del. C. Chapter 58; Merit Rules 12 and 15.2
Effective Date: October 9, 2023	Revision Date: October 9, 2023
Supersedes: July 19, 2021; Beliefs and Principles 10-1-2016; Management Principles for the Workplace 10-1-2016	Signature: 
Application: Executive Branch Agencies	

### 1. Policy Purpose Statement

The State of Delaware (State) promotes an environment of mutual respect, diversity, and dignity for all people who are employed or encounter the State, its programs, and its services. The State is committed to quality service and seeks to build and maintain a safe, secure, and positive workplace that is respectful and professional. The standards set forth here are to assure a professional workplace free of bullying and disrespectful behavior for all employees, and clients.

The State celebrates the value of inclusiveness to build trust, harmony, understanding, and compassion among all who are employed by or encounter the State, its programs, and its services. This policy is intended to provide guidance regarding what is expected of employees to help sustain a work environment of mutual respect.

The State respects employees' right to speech, and this policy balances an employee's right to speech as well as the State's interest in conducting state business in a safe, respectful, and professional manner. The State is committed to the equal enforcement of all employment practices in this policy as specified by State and Federal laws, regulations, and policies.

### 2. Scope

This policy applies to Executive Branch employees, casual/seasonal employees, unpaid interns, officers, and apprentices.

Elected Officials and Judiciary Members may elect to adopt and administer the policy at their offices and with their employees.

This policy addresses communications and conduct that do not involve protected class status. Communications and behavior, such as harassment, intimidation, discrimination, and retaliation based on protected class status are addressed specifically in the [State of Delaware Respectful Workplace and Anti-Discrimination Policy](#) which is the policy to be used when protected class(es) are involved and with which all State employees must also comply.

The terms of this policy supersede any statewide or related Executive Branch Agency policy and procedure.

### **3. Definitions and Acronyms**

- **Bullying** – The repeated mistreatment and/or intentional act(s) that cause harm to one or more persons, that is not based on a protected class, by one or more perpetrators in person, by email, by text, or via social media account.
- **Disrespectful Behavior** – Conduct and/or communication in person, by email, by text, or via social media account which a reasonable person would deem inappropriate, demeaning, derogatory, and/or otherwise offensive.
- **Professional Boundaries** – Limits in the relationship that the employee is responsible for establishing and maintaining. Professional boundaries define effective and appropriate interactions between employees and between employees and the public, including clients or service recipients; in person, by email, by text, or via social media account.
- **Professionalism** – Displaying good judgment and proper behavior that is reasonably expected in the workplace.
- **Protected Class** – A person’s race, protective hairstyle, color, national origin, gender, age, sex, creed, pregnancy, marital status, family responsibilities, sexual orientation, gender identity or expression, veteran’s status, religion, genetic information, disability, status as a victim of domestic violence, sexual assault and/or stalking, or any other category protected by applicable State and/or Federal laws.
- **Respect** – Behavior that values diversity, inclusion, dignity, courteous conduct, fairness, equity, and equality that promotes positive communication and collaborative working relationships in a manner that a reasonable person would find appropriate.
- **Social Media** – Primarily internet and mobile-based tools for sharing and discussing information. The term most often refers to activities that integrate technology, telecommunications, and social interactions, alongside the construction of words, pictures, video, and audio. Examples include, but are not limited to: forums, weblogs (blogs, vlogs, microblogs, presence applications), wikis, social bookmarking, social communication sites, podcasts, photos, videos (video, vlogs, livecasting), real-time web communications (chat, chat rooms, video chat), etc.
- **Trauma-Informed Care** – An intentional approach to understanding and interacting with people who have experienced or may be experiencing trauma. It assumes that most people are likely to have at least one traumatic event at some point in their lives and that, for some, this impacts the way they perceive the world and engage with others.

### **4. Policy**

- a. The State strives toward continuous improvement of the workplace by employing these essentials: responsibility, accountability, respect, trust, and professional courtesy. Achieving excellence in human relations is a matter of respecting individuals and their differences. The State respects diversity in its employees, clients, and constituents. Employees and individuals covered by this policy have the responsibility to build and maintain a safe, secure, respectful, professional, bias-free, harassment-free, discrimination-free, and retaliation-free work environment. Therefore, disrespectful and unprofessional communications or behavior in person, by email, by text, or via social media account is not acceptable and will not be tolerated as it can disrupt the proper functioning of work units and undermine the State’s mission. Conduct prohibited by this policy is unacceptable in the workplace or in any work-related setting outside

the workplace, including but not limited to business trips, business meetings, and business-related social events.

- b. The State prohibits retaliation and will take prompt and effective action in response to alleged violations of this policy. No tangible hardship, loss, or penalty may be imposed on an employee in response to:
- Filing or responding to a complaint;
  - Appearing as a witness in the investigation of a complaint; or
  - Serving as an investigator of a complaint.

**c. Standards of Conduct**

Employees and individuals covered by this policy must adhere, at a minimum, to the following standards of conduct. These standards of conduct are not to be construed as an all-inclusive list. All employees and individuals covered by this policy shall:

- 1) Conduct themselves in a manner that upholds public trust and preserves public confidence, avoid conduct which violates, or creates the suspicion of violating the public's trust, which may reflect unfavorably upon the State and its government.<sup>1</sup> Employees are not to engage in conduct unbecoming in or outside of the workplace, such as on social media, that can undermine or impede an agency's performance or the attainment of its goals and objectives. Conduct unbecoming includes bullying or behavior that negatively impacts the workplace environment or relationships.
- 2) Maintain appropriate, professional boundaries, and professionalism with State staff and/or individuals not directly connected to the State, including clients, service recipients, and constituents.
- 3) Not bully or engage in repeated disrespectful behaviors that can be perceived as bullying, such as use of unwanted attention, aggression, use of threats, shouting, sabotage, etc., in person, by email, by text, or via social media.
- 4) Not use derogatory language, slurs, and negative stereotyping in written, verbal, or non-verbal communication to or about staff and/or individuals not directly connected to the State, including clients, service recipients, and constituents in person, by email, by text, or via social media. Speech that uses obscene, vulgar, or abusive language or that ridicules or disparages will not be tolerated.
- 5) Report to work in a condition necessary to perform and maintain job responsibilities in a professional, safe, and satisfactory manner.
- 6) Comply with the [State of Delaware Drug-Free Workplace Policy](#) and uphold that the State is a drug-free workplace. The manufacture, transfer, distribution, dispensing, sale, or use of prohibited substances is strictly prohibited while on State premises, during any working hours, while driving State-owned or leased motor vehicles, or while driving personal motor vehicles while conducting State business.
- 7) Comply with the [State of Delaware Marijuana and Alcohol-Free Workplace Policy](#). The use of alcohol, marijuana, or misuse or abuse of other controlled substance(s) in the workplace

<sup>1</sup> [29 Del. C. Chapter 5806](#)

- and impairment in the workplace from the use of alcohol, marijuana, or other controlled substance(s) is strictly prohibited.
- 8) Comply with the [State of Delaware Workplace Violence Policy](#) and not initiate acts and/or threats of harm and/or violence to persons and/or State property. In accordance with this policy, State employees are not to be in possession of a weapon while on State property or while conducting State business (unless specifically approved by the Cabinet Secretary/Agency Head as a job-related requirement).
  - 9) Comply with the [State of Delaware Acceptable Use Policy](#) and safeguard and appropriately utilize all State-issued property, equipment, and software. Employees must give notice of loss or damage, and return the property when requested, such as office furniture, equipment, electronic systems, cell phones, computers, devices, and keys. Employees shall refrain from unauthorized use of State property.
  - 10) Comply with the [State of Delaware Social Media Policy](#) and protect the confidentiality of State information.
  - 11) Not falsify State records and not make any verbal or written report or misrepresent any material fact with the intent to mislead any person, panel, board, and/or tribunal, associated or not with the State.
  - 12) Not engage in behaviors which offend or demean others in the workplace including slurs, negative comments or jokes that reflect negatively on any group or individual. Employees shall not display any printed materials and/or pictures that belittle, ridicule, or show hostility toward another individual or group.
  - 13) Demonstrate trauma-awareness by actively moving past cultural stereotypes and biases by building emotional intelligence, showing empathy in communication, and encouraging self-care and resiliency for individuals in our organization.
  - 14) Be a responsible and honest steward of State of Delaware resources by following internal and external controls and policies, including but not limited to time, pay, leave, credit card use, purchase and allocation of resources, and grant-funded initiatives. No full-time employee of the State whose salary is paid by the State shall receive any additional stipend for the purchase of food, be supplied with food, or reimbursed for food that was consumed during normal working hours within the State.<sup>2</sup>
  - 15) Assure punctual attendance and adherence to relevant attendance and/or leave policies, procedures, and protocols. Attendance reliability is an essential function of every job. Employees are required to report to work on time each day, ready to work by their scheduled start time and work through their end time.
  - 16) Safeguard confidential, private, and personal information of employees, clients, service recipients, and individuals covered by this policy and refrain from gossip and slander.
  - 17) Limit interactions with clients or service recipients to work-related activities. No employee shall engage in a social relationship wherein it could compromise the employee's ability to exercise official authority appropriately or when there is the risk of potential exploitation or harm, whether such contact is consensual or forced.
  - 18) Not accept other employment, compensation, gifts, or anything of monetary value if it may result in: (a) impaired judgment; (b) preferential treatment; (c) official decisions, outside official channels; or (d) any adverse effect on the public's confidence in its government.<sup>3</sup>

<sup>2</sup> [29 Del. C. Chapter 5112 \(a\)](#)

<sup>3</sup> [29 Del. C. Chapter 5805 \(b\)](#)

- 19) Not engage in any outside employment or other outside activity incompatible with the proper discharge of the responsibilities of his or her position.<sup>4</sup> An employee in the classified service shall not have a personal interest in any business transaction within his/her area of influence in State government nor shall s/he have any business relationship that may conflict with his/her public duties.<sup>5</sup>

**d. Management Principles**

- 1) In addition to the responsibilities of employees as described above, agency heads, managers, and supervisors are also expected to understand that employees are participants – not bystanders – in their work environment. Employees’ active involvement enhances the quality of service to clients and service recipients, the productivity of the agency, and their own professional and personal development. Therefore, agency heads, managers, and supervisors shall:
- Maintain open communication practices such as open-door policies, active listening, inclusive information sharing, and respect for differing opinions.
  - Encourage employees to take initiative and make decisions within appropriate boundaries, if the safety and well-being of employees, clients, service recipients, and other individuals covered by this policy are protected and the sound reputation of the State is assured.
  - Appreciate employees for their many contributions and where possible, reward individuals and groups in an appropriate, timely, and specific manner.
  - Provide learning opportunities that meet employees’ assessed needs to enable personal and professional growth.
  - Encourage employees to understand and practice trauma-informed approaches per [Executive Order 24](#).
- 2) Managers and supervisors are responsible for building and maintaining a work environment which embodies diversity, mutual respect, professionalism, and dignity for all employees, customers, and clients that is free from intimidation, harassment, discrimination, and retaliation. Therefore, all managers and supervisors are responsible for addressing behavior which may violate the State’s Standards of Conduct and have a direct effect on the workplace. Managers and supervisors, with assistance from Human Resources (HR), are required to take definitive action (e.g. report, investigate, intervene) when there is a violation of this policy and/or a policy violation is alleged while adhering to any relevant statute, Merit Rule, Collective Bargaining Agreement (CBA), or State Agency operational procedures. Any manager or supervisor who receives a complaint or has reason to believe a violation of this policy has occurred will either intervene and/or abide by the protocols set forth in the complaint procedures outline.
- 3) Disrespectful and/or unprofessional behavior may or may not be intentional but may still violate this policy. Context is important in understanding the difference between respectful and/or professional behavior and disrespectful and/or unprofessional behavior. For

<sup>4</sup> Merit Rule 15.2.1

<sup>5</sup> Merit Rule 15.2.2

example, the following would not be considered disrespectful and/or unprofessional behavior:

- The normal exercise of supervisory or managerial rights and responsibilities, including but not limited to performance reviews, work direction, performance management, and disciplinary action provided they are conducted in a respectful and professional manner.
  - Disagreements, misunderstandings, miscommunication, or conflict situations where the behavior remains professional and respectful.
- e. Human Resources representatives are responsible for assisting management and employees in fostering a respectful work environment that is free of discrimination and harassment of any kind.
- f. Filing a false or malicious complaint is an abuse of this policy and will be treated as a violation and may result in a disciplinary action.
- g. This process shall not serve as an appeal following the disposition of an administrative decision (grievances pursuant to Merit Rules or a Collective Bargaining Agreement (CBA), discrimination charges filed at the Delaware Department of Labor (DDOL), or Equal Employment Opportunity Commission (EEOC) or any court or regulatory body).
- h. Any disciplinary action is administered in accordance with any relevant statute, Merit Rule, CBA, State Agency operational procedure. Based on the seriousness of the offense, disciplinary action may include, but not be limited to, verbal reprimand, written reprimand, suspension, or termination of employment.

## **5. Procedures**

### **a. Informal Complaint Process:**

Employees may choose to immediately communicate in a respectful and professional manner to the individual engaging in behavior that is believed to violate this policy, explaining why their behavior is offensive, and asking them to stop. Often, communicating with the individual is effective because the person may not know that the behavior is inappropriate or offensive.

### **b. Formal Complaint Process:**

The State has established the following procedure for filing a complaint of alleging violations of the Standard of Conduct Policy's prohibitions concerning, but not limited to, bullying, disrespectful behavior, hostile work environment, harassment, retaliation, unprofessionalism, or social media **not based on protected class**. The State will treat all aspects of the procedure confidentially to the extent reasonably possible. Prompt reporting of complaints is encouraged, so that prompt response and appropriate action may be taken. If a supervisor or manager becomes aware of allegations, whether from personal observation, as a result of a Complainant or another individual coming forward, the supervisor or manager shall discuss the concern or incident with the employee and attempt to resolve the matter in consultation with Department of Human Resources (DHR) Labor Relations (LR) or Human Resources (HR) representative assigned to the Agency.

- 1) An employee (Complainant) who believes they have been subject to violation(s) stated in this Policy may initiate the complaint process by filing a complaint **in writing** with any of the following:
  - Supervisor
  - Manager
  - Agency's Equal Employment Opportunity Officer
  - Agency's LR or HR representative
  - Employee & Labor Relations section representative of the Department of Human Resources.
  
- 2) Complainants making verbal complaints will be required to complete the Standards of Conduct Policy Complaint Form (Complaint Form). To proceed with an inquiry into the complaint, Complainants must submit a written and signed Complaint Form containing sufficient details to investigate whether a violation of this policy may have occurred. Complainants may obtain the Complaint Form online or from their Agency LR or HR representative.
  
- 3) If a supervisor or manager becomes aware of alleged violations of this Standards of Conduct policy, either from personal observation or as a result of a Complainant or other individual coming forward and attempts at resolving the matter with the employee are not successful, the supervisor or manager shall provide the employee with this policy and complaint form and also report allegation(s) in writing to the Agency's LR or HR representative as soon as reasonably possible.
  
- 4) Upon receiving a Complainant's written complaint or being advised by a supervisor or manager of an alleged violation of this policy, and no later than five (5) business days, the Agency's DHR representative must notify in writing the ELR section of DHR of the complaint and must consider any measures for the protection of the Complainant or alleged victim (i.e., transferring work location of the subject of the complaint, contacting law enforcement, etc.). If ELR receives the complaint, it shall notify the DHR representative assigned to the Complainant's agency within five (5) business days.
  
- 5) Within five (5) business days of receiving the written complaint from a Complainant, ELR will review and act upon the complaint. If multiple process requests (complaints or grievances) are filed on the same issue, ELR may consolidate the submissions to address the issue more effectively and efficiently. An employee or other party will be assigned as an investigator (hereinafter "Investigator") to begin an inquiry to determine whether there is a reasonable basis for moving forward with an investigation of the alleged violation under this policy and, if so, to conduct the investigation. With harassment complaints involving an outside vendor, consultant, or similar independent contractor, the Investigator will notify the outside vendor, consultant, or similar independent contractor of the complaint, and the matter will be addressed jointly with the outside entity's employer. Complaints involving a customer will be handled with the customer directly on a case-by-case basis.
  
- 6) During the investigation, the Investigator will interview the Complainant, the Respondent, and any witnesses; review relevant documents and other media; and conduct other investigative actions to determine whether the alleged conduct occurred. Interviews may only be recorded

with prior written consent of both the Investigator and the individual being interviewed or their representative. If either party refuses the recording, no participants will be allowed to record the interview or subsequent proceedings. The investigation will adhere to any relevant statute, Merit Rule, or CBA term.

7) If a harassment complaint involves an employee who has been charged with criminal misconduct, DHR is to conduct an investigation to determine whether the employee's conduct violated this or other State policy. The Investigator shall work with the Deputy Attorney General (DAG) assigned to the criminal complaint upon the initiation and throughout the progress of the administrative investigation. As the Investigator takes measures to coordinate with the DAG, it may cause the investigation to exceed the time limits imposed on such complaints.

8) State employees shall cooperate fully with any investigation covered under this policy. Employees are required to cooperate with State investigations when requested, to participate fully and in good faith by providing forthright, accurate, complete, and timely information, including statements, testimony, evidence, etc., and to maintain the confidentiality of what is discussed as directed. The failure to cooperate in good faith may result in disciplinary action.

9) As soon as reasonably possible but no longer than ninety (90) business days of receiving a complaint, the Investigator will conclude the investigation. The Investigator prepares a full written report (Report) that consists of their findings, conclusion, and recommendations. Based on the findings and criteria in this policy, the complaint investigation will result in one of the following conclusions: substantiated, partially substantiated, or unsubstantiated. If it is determined that a violation of this policy has occurred, the Investigator will work collaboratively with the agency management representative to determine appropriate corrective action. Corrective action may include, but is not limited to, mandatory referral to EAP, additional training, and disciplinary action up to and including termination. If additional time is needed to complete the investigation, the Complainant and Respondent will be notified.

10) The designated agency management representative shall review the report within five (5) business days and return to the Investigator who will share the Report with the DHR Secretary or designee (ELR) for review and finalization.

11) If the investigation is unsubstantiated, or partially substantiated, or if it is determined that there has been no violation of this policy, the DHR representative or designated agency management representative may still recommend action (e.g., additional training, voluntary EAP referral, etc.).

12) Within five (5) business days of the determination, the Investigator will meet with the Complainant and the Respondent separately and notify each of the investigative conclusion (whether it was substantiated, partially substantiated, or unsubstantiated).

13) Any corrective action is to be administered within thirty (30) business days of the latter of these meetings by the Respondent's supervisor/manager. If additional time is needed, the Complainant and Respondent will be notified.

14) Any disciplinary action(s) shall be processed in accordance with Merit Rules, relevant statutes, and/or CBAs, where applicable.

15) Filing a complaint according to this policy will not extend the time frames prescribed by statute by which an employee may file a formal complaint through the Merit Rules, the DDOL's Office of Anti-Discrimination, the EEOC, a Collective Bargaining Agreement (CBA), if applicable, or any court or regulatory body.

16) During the complaint process, the confidentiality of the information received, the privacy of the individuals involved, and the wishes of the Complainant will be protected to as great a degree as is reasonably possible. During and after the review and resolution of the complaint, all parties, including witnesses when applicable, will be required to maintain strict confidentiality, unless otherwise authorized by law. In addition, any notes or documents written by or received by the person overseeing the matter will be kept confidential.

## **6. Exclusions or Exceptions**

- If a complaint is filed against an employee in a law enforcement position whose classification is covered by the Law Enforcement Officers' Bill of Rights (LEOBR), agencies are to follow LEOBR investigative procedures.
- The Delaware Department of Correction maintains a separate investigative process which shall be conducted according to Agency procedures.
- The Delaware Department of Homeland Security, Division of Delaware State Police maintains an investigative process conducted by the Office of Professional Regulation for employees in the Division of State Police.

## **7. Dissemination and Training**

- Employees must read and acknowledge receipt of this policy in the Delaware Learning Center (DL), or if not applicable by other means, within 30 days of notification.
- The Agency HR office may provide a review of this policy and procedures to current employees.
- The Agency DHR Lead will review this policy with anyone listed in Policy Section 2. Scope that does not receive DLC messages.

**8. Data Reporting**

All agencies are required to keep records of complaints alleging violation of this policy.

**9. Associated Policy/Regulations/Information**

- [Acceptable Use Policy](#)
- [Drug-Free Workplace Policy](#)
- [Executive Order No. 24](#)
- [Marijuana and Alcohol-Free Workplace Policy](#)
- [Respectful Workplace and Anti-Discrimination Policy](#)
- [Social Media Policy](#)
- [State of Delaware Merit Rules](#)
- [State of Delaware Public Integrity Commission Code of Conduct](#)
- [Workplace Violence Policy](#)

**10. Appendices and Forms Associated with this Policy**

- [Standards of Conduct Complaint Form](#)

**11. Policy Owner**

- Division Name: Division of Employee and Labor Relations
- Policy Administrator: Employee and Labor Relations Director
- Website: [DHR - Employee and Labor Relations \(delaware.gov\)](#)

*This policy is not intended to create any individual right or cause of action not already existing and recognized under State or Federal law. If there is a conflict with, i.e., the law or regulation and this policy, the law and/or regulation govern.*