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.

Rulemaking Authority 110.1055, 110.1221, 110.201(1) FS. Law Implemented 110.1221 FS. History – New 1-22-02, Formerly 60L-36.004.


(1) The Department shall assist agencies in ensuring equal employment opportunity (EEO) through affirmative action.

(2) Each agency’s affirmative action plan shall include the following provisions related to women, minorities and individuals who have a disability:

(a) A cover page that provides the agency name and address; name, title and phone number of person completing the plan; name, title, phone number and signature of the agency head and AA/EEO Officer; the source of data cited in the plan, and plan year.

(b) A table of contents that lists the major sections of the affirmative action plan and reflects the starting page number for each section.

(c) An organizational profile that displays the agency’s organizational structure, identifying each major organizational unit. The agency shall provide demographic information for all supervisors and employees within each unit and shall provide a total employee count; a count by gender; a count by race or ethnicity; and a count of individuals who have a disability.

(d) An affirmation of policies on EEO, anti-harassment, and individuals who have a disability that states the agency’s commitment to equal employment opportunity, promoting the employment of individuals who have a disability, providing reasonable accommodations, maintaining a work environment free of unlawful discrimination and harassment. The agency shall also include provisions that inform employees of the agency’s complaint procedures and affirmative action program.

(e) A dissemination of policy statement that explains internal and external dissemination of the agency’s equal employment opportunity policies.

(f) An outline of the agency’s training plan for all employees on the principles of equal employment opportunity, including disability-related workplace issues designed to promote an inclusive culture. The outline of the training
plan for managers and supervisors must show that the training includes the principles of equal employment opportunity and affirmative action.

(g) An identification of the individual(s) accountable for directing and implementing the affirmative action plan and a description of their duties and responsibilities as they relate to implementation of the affirmative action plan.

(h) A description of the agency’s plan to periodically review its personnel processes to ensure equal access. The plan shall include a description of the personnel processes reviewed and any necessary modifications or development of new processes.

(i) An identification and description of the agency’s audit and reporting system that is used to measure the effectiveness of its affirmative action program.

(j) The agency’s statement as to the degree to which its goals and objectives are being met.

(k) The agency’s identification of any needs for remedial action.

(l) An identification of the agency’s impediments to providing equal employment opportunity. The agency shall include an analysis of the agency’s employment processes to include personnel procedures and activities (e.g., hires, promotions, separations, accommodations, return-to-work, etc.), and any other areas that the agency finds may impact the success of the affirmative action program.

(m) A description of the steps the agency will take to eliminate or reduce the impact of the agency’s impediments to providing equal employment opportunity.

(n) An evaluation of the progress made in reaching the agency’s goals for the prior year. The agency shall provide a statistical representation of placements made toward the goals, a narrative explanation of goals met, and “good faith efforts” made in instances in which the agency was unable to meet its goals.

(o) An analysis that estimates the number of qualified minorities, women, or individuals with a disability available for employment in a given EEO job category, expressed as a percentage of all qualified persons available for employment in the EEO job category. In order to determine whether barriers to equal employment opportunity may exist within a particular EEO job category, the agency must use this availability determination to establish a benchmark against which the demographic composition of the agency’s workforce can be compared.

(p) A comparison between the agency’s actual workforce and the qualified available workforce in the relevant labor market. The agency shall establish goals where the agency has identified an underutilization in the workforce using an industry recognized calculation method for determining underutilization.

(3) Each agency shall include in its affirmative action plan as described in subsection (2) the following additional components regarding individuals who have a disability:

(a) Documentation of the agency’s review of physical and mental job qualification standards to ensure that physical and mental job qualification standards are job-related and consistent with business necessity. The agency shall also explain any actions it intends to take based on this review.

(b) The process by which the agency will review a request for an accommodation from an individual who has a disability and provide a reasonable accommodation in response to such a request.

(c) A description of how the agency will promote employment opportunities for individuals who have a disability. This description must include a description of the agency’s strategies for outreach, recruitment, hiring and retention.

(d) Data collected on hiring and selection practices that have assisted the agency in identifying problem areas and meeting the reporting requirements of sections 110.112(2)(e), (3)(c)2., and (d), F.S. The agency must also provide data reports which must include:
1. A report on the number of requisitions, applicants, applicants interviewed, and applicants hired.

2. A report on the number of agency applicants, new hires, promotions, separations, demotions and original appointments.

(4) When an individual is provided the opportunity to voluntarily self-identify whether he or she has a disability, the following options must be presented for the individual’s selection:

(a) I do not have a disability;
(b) I do have a disability; or
(c) I choose not to answer.

(5) The opportunity for an individual to self-identify whether he or she has a disability under (4) shall advise the individual of the following:

(a) The information will be used solely in connection with affirmative action obligations and efforts;
(b) The information is being requested on a voluntary basis;
(c) The information will be kept confidential as medical information in accordance with the Americans with Disabilities Act (ADA); and
(d) The refusal to provide this information will not subject the individual to any adverse treatment.

Rulemaking Authority 110.105(1), 110.112(2)(a), 110.112(3)(f), 110.201(1)(a), 110.403(1), 110.605(1) FS. Law Implemented 110.105(1), 110.112(2)(a), 110.112(3)(f), 110.403(1)(h), 110.605(1)(d) FS. History–New 1-1-02, Amended 4-3-03, Formerly 60L-33.007, Amended 4-18-19.