

STATE OF MARYLAND

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Equal Employment Opportunity Investigations for State Law Enforcement Officers

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An Equal Opportunity Employer

Equal Employment Opportunity Investigations for State Law Enforcement Officers

I. PURPOSE

- 1.1 The purpose of this policy is to provide guidance and to establish written procedures for investigating unlawful equal employment opportunity discrimination complaints that are filed against State sworn law enforcement officers.

II. POLICY

- 2.1 The State of Maryland is dedicated to full compliance with State and Federal laws and statutes governing Equal Employment Opportunity (EEO) and the Maryland Police Accountability Act of 2021 (MPAA).
- 2.2 The expressed legislative intent of the State's EEO program is to ensure a system based on merit that provides equal opportunity in employment on the basis of merit and fitness, without regard to age, ancestry, color, creed, gender identity and expression, genetic information, marital status, mental or physical disability, national origin, race, religious affiliation, belief or opinion, military status, sex or sexual orientation.
- 2.3 The MPAA was established primarily to introduce new transparency measures into the police accountability process by shifting police discipline decision-making authority from sheriffs and police chiefs to civilian-led panels for cases involving members of the public.
- 2.4 MPAA does not preclude the investigation of a sworn law enforcement officer by an EEO Officer acting within the scope of its investigative authority. Law enforcement officers are also subject to the mandates of EEO laws. The implementation of the MPAA must be read and interpreted in conjunction and in harmony with other statutes dealing with related matters, including EEO statutes.

III. APPLICABILITY

- 3.1 This procedure is applicable to all sworn State law enforcement officers with the following agencies:
 - 3.1.1 Department of State Police,
 - 3.1.2 Department of General Services/Maryland Capital Police,
 - 3.1.3 Maryland Transportation Authority Police,
 - 3.1.4 Maryland Transit Administration
 - 3.1.5 Maryland Department of Transportation,
 - 3.1.6 Department of Natural Resources,
 - 3.1.7 Field Enforcement Division of the Comptroller of Maryland,
 - 3.1.8 Department of Health and Mental Hygiene,
 - 3.1.9 Department of Labor, Licensing and Regulation, and
 - 3.1.10 State Fire Marshal

IV. LEGAL AUTHORITY

- 4.1 Annotated Code of Maryland, State Personnel and Pensions Article (SPP), Title 2, Subtitle 3 and Title 5, Subtitle 2.
- 4.2 Executive Order 01.01.2007.16 Code of Fair Employment Practices
- 4.3 Code of Maryland Regulations (COMAR), Chapter 17.04.08
- 4.4 State Government Article, Title 20
- 4.5 Title VII of the Civil Rights Act of 1964, as amended
- 4.6. Annotated Code of Maryland, Public Safety Article §§ 3-101 through 3-114, Police Accountability and Discipline
- 4.7 72 Maryland Opinion of the Attorney General 246 (1987)

V. DEFINITIONS

- 5.1 Secretary – means the Secretary of Budget and Management.
- 5.2 Complainant – means a person who files a formal accusation or a formal charge.
- 5.3 Accused Law Enforcement Officer – means a law enforcement officer against whom a complaint is made.
- 5.4 Coordinator – means the Statewide Equal Employment Opportunity Coordinator.

VI. PROCEDURE

Complaint Processing

Filing a complaint

- 6.1 An applicant or employee of State government may file with the head of the principal unit or agency EEO office a written complaint that alleges a violation of State EEO law.
- 6.2 A complaint must be filed within one (1) year after the Complainant first knew of or reasonably should have known of the alleged violation, that is the basis for the complaint.

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B. EEO Investigations

- 6.3.0 Within 60 days after a complaint is received, an EEO officer under the authority of the Fair Practices Officer shall investigate the complaint.
- 6.3.1 The EEO Officer should contact the agency employing the Accused Law Enforcement Officer and request an interview of the Accused Law Enforcement Officer.
- 6.3.2 Upon notification by the EEO Officer, the agency shall initiate the procedural requirements of MPAA to set up an interview with the Accused Law Enforcement Officer.
- 6.3.3 The EEO Officer should meet with the investigator(s) assigned by the agency and determine the matters to be covered and questions to ask in an interview of the Accused Law Enforcement Officer.
- 6.4 The EEO officer shall investigate the complaint in accordance with COMAR 17.04.08.04.
- 6.5 Upon completion of the EEO investigation, the EEO officer shall recommend a proposed finding or no finding to the head of the principal unit, who shall issue a written decision to the Complainant and may grant any appropriate relief.
 - 6.5.1 The decision of the head of the principal unit shall include the Complainant's right to appeal the decision in writing to the Secretary or Coordinator.
 - 6.5.2 The decision of the head of the principal unit shall include the rights to file with the U.S. Equal Employment Opportunity Commission and the Maryland Commission on Civil Rights.
 - 6.5.3 The Accused Law Enforcement Officer should be informed of the outcome of the investigation.

C. Appeal Process

- 6.6 Within 10 days after receiving a decision, the Complainant may appeal in writing to the Secretary or Coordinator.
- 6.7 Within 30 days, the Coordinator or Coordinator's designee shall review the complaint and the decision being appealed and may conduct any necessary investigation.

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- 6.7.1 If there is a need to interview the Accused Law Enforcement Officer, the law enforcement agency will be notified to initiate the procedural requirements of MPAA to set up an interview with the Accused Law Enforcement Officer.
- 6.7.2 The Coordinator or Coordinator's designee should meet with the investigator(s) assigned by the agency and determine the matters to be covered and questions to ask in an interview of the Accused Law Enforcement Officer.
- 6.7.3 The agency will issue its notice to the law enforcement officer under MPAA and set up an interview.
- 6.7.4 The Coordinator or Coordinator's designee may be present during the interview.
- 6.8 The Coordinator shall recommend to the Secretary and head of the principal unit a finding of whether a violation has or has not occurred.
- 6.9 If the Secretary or Coordinator determines that a violation has not occurred, the Secretary or Coordinator shall dismiss the complaint and notify the Complainant in writing of the decision.
- 6.10 If the Secretary or Coordinator determines that a violation has occurred, the Secretary or Coordinator shall take appropriate remedial action and notify the Complainant in writing of the decision.
- 6.11 Permissible remedial actions:
 - (a) order the removal of detrimental information from the Complainant's State personnel records;
 - (b) require the head of the principal unit to:
 - (i) hire, promote, or reinstate the complainant or end the Complainant's suspension from employment;
 - (ii) award the Complainant back pay up to the day of the violation;
 - (iii) grant the Complainant leave or seniority;
 - (iv) take appropriate disciplinary action against any individual who caused the violation; or
 - (v) take any other remedial action that the Secretary or designee considers appropriate;
- 6.12 The decision of the Secretary or designee is final.

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D. Confidentiality

- 6.13 Information obtained as part of an EEO investigation conducted in accordance with SPP Title 5, Subtitle 2 is confidential within the meaning of Title 4 of the General Provisions Article.