 ***Department of Medical Assistance Services***

***HUMAN RESOURCES DIVISION***

**HUMAN RESOURCE PROCEDURE**

**DHRM POLICY 2.35—CIVILITY IN THE WORKPLACE**

**ISSUE DATE: MARCH 1, 2019**

**1.0 PURPOSE:** The Department of Medical Assistance Services (DMAS) is committed to the prevention of workplace violence and harassment and to maintaining civility in the workplace. DMAS will comply with the Department of Human Resource Management’s Policy 2.35, Civility in the Workplace Policy and has established complaint procedures in the event that a staff member experiences improper behavior in the workplace. Any threats or acts of physical violence, including intimidation, bullying, harassment, and/or coercion which involve or affect Agency employees or which occur on state property will not be tolerated. Any person who violates this policy will be removed from the premises as quickly as safety permits and appropriate corrective action will be initiated pending investigation. DMAS reserves the right to modify/update these procedures as needed at management’s sole discretion at any time.

DMAS is committed to providing for employees, clients, vendors and all workforce members a professional environment that is safe, secure, professional and free of discrimination, harassment, threats, bullying, intimidation and violence.

**2.0 ACRONYMS/DEFINITIONS:**

* **Workforce Members**: All full-time, classified and wage DMAS employees, students/interns, temporary agency workers, contractors and consultants.
* **Workplace Violence**: Any physical assault, threatening behavior or verbal abuse occurring in the workplace.

* **Workplace Harassment**: Any unwelcome verbal, written or physical conduct that either denigrates or shows hostility or aversion towards a person on the basis of race, color, religion, national origin, age, sex, sexual orientation, gender identity or expression, disability, marital status, genetic information or pregnancy that: (1) has the purpose or effect of creating an intimidating, hostile or offensive work environment; (2) has the purpose or effect of unreasonably interfering with an employee’s work performance; or (3) affects an employee’s employment opportunities or compensation.

* **Sexual Harassment**: Any unwelcome sexual advances, requests for sexual favors, or verbal, written or physical conduct of a sexual nature by a manager, co-workers or non-employees.
* **Quid pro quo** – A form of sexual harassment when a manager/supervisor or a person of authority gives or withholds a work-related benefit in exchange for sexual favors. Typically, the harasser requires sexual favors from the victim, either rewarding or punishing the victim in some way.
* **Hostile environment** – A form of sexual harassment where a victim is subjected to unwelcome and severe and/or pervasive repeated sexual comments, innuendoes, touching, or other conduct of a sexual nature which creates an intimidating or offensive place for employees to work.
* **Retaliation**: Overt or covert acts of reprisal, interference, restraint, penalty, discrimination, intimidation, or harassment against an individual or group for exercising rights under this policy.
* **Visitors and Customers:** Individuals who do not have a direct working responsibility in the Agency, such as vendors, delivery workers, providers, recipients, applicants for positions, volunteers, family members and friends of Agency employees.

**3.0 COVERAGE**: These procedures apply to all workforce members at DMAS including classified and hourly wage employees, student interns, temporary agency workers, contractors and consultants without regard to race, color, religion, sex, sexual orientation, gender identity or expression, national origin, age, disability, genetic information, veteran’s status, political affiliation, or other protected status.

**4.0 ROLES/RESPONSIBILITIES:**

# 4.1 Employees—Employees need to be observant and report any violations of this policy as soon as possible to their managers or supervisors or Human Resources. Contractors and consultants should contact their points of contact at DMAS.

# 4.2 Division Directors/Managers/Supervisors—Managers and supervisors must ensure that their employees are familiar with these procedures. Immediate action must be taken when a violation is reported and retaliation against a complaining party is strictly prohibited.

**4.3** **Human Resources—**Human Resources will be the central point of contact for employees for complaints made under the Civility in the Workplace Policy, for coordinating training on the policy, and for coordinating the disciplinary and complaint processes.

**5.0 PROCEDURES/INSTRUCTIONS**

# 5.1 Complaint Procedures:

 **Agency Procedure:** Employees, visitors or customers should report any incident of workplace violence, harassment or bullying as soon as possible. A complaint can be filed with the Division Director of Human Resources, a member of the Executive Management Team, or the immediate supervisor, manager or Division Director.

Under no circumstances shall the individual making the complaint be required to file the complaint with the alleged harasser.

 Once a complaint is initiated, the HR Director and the HR Manager and the appropriate management team members will meet to coordinate a thorough internal investigation/review. The HR Director and appropriate member(s) of the Management Team will meet with the complainant to gather details of the allegations and conduct a thorough, unbiased internal investigation/review into the allegations. Confidentiality is maintained to the extent possible. It may be necessary to disclose the identity of the complainant and the details of the allegations to the alleged harasser because of due process requirements.

The appropriate Division Director/s are advised regarding any final remedial action and may be involved in the actual internal investigation into the allegations. The complainant is informed of the general outcome of any fact-finding investigation but may not be privy to specific actions or disciplinary/corrective actions that may occur as a result of the complaint. A record of the complaint and any investigation will be kept for a period of three (3) years, or until any formal complaint process is completed, e.g. an EEOC complaint or lawsuit. A separate confidential file is kept in the Human Resources Division.

 **State Complaint Procedure:** In cases of workplace and sexual harassment, an employee or applicant may follow the Commonwealth Employee’s Discrimination Complaint Procedure, administered by the Office of Equal Employment and Dispute Resolution at the Department of Human Resource Management (DHRM).

 The Director of the Department of Human Resource Management (DHRM) issued the Civility in the Workplace Policy 2.35 and is responsible for the official interpretation of this policy pursuant to the authority provided in 2.2-1201 of the Code of Virginia.

**Federal Complaint Process:** In cases of workplace and sexual harassment, an employee or applicant may file a complaint with the federal Equal Employment Opportunity Commission (EEOC).

 **Grievance Procedure:** Non-probationary, classified employees may use the state’s Employee Grievance Procedure administered by the Office of Equal Employment and Dispute Resolution at the Department of Human Resource Management.

## 5.2 Addressing Policy Violations:

 **Engaging in workplace violence, harassment or bullying:** After a thorough internal fact-finding investigation, any employee found engaging in conduct determined to be a violation of state or DMAS policy or violent or harassment, or who encourages such conduct by others, shall be subject to corrective action under DHRM Policy 1.60, Standards of Conduct. This may result in disciplinary action up to and including termination. Individuals who are not state employees and who engage in such conduct will be approached, as deemed appropriate by the Agency Director and the Division Director of Human Resources.

 **Allowing violations to continue:** Managers and/or supervisors who allow workplace violence, bullying or harassment to continue or who fail to report the

behavior or take appropriate corrective action upon becoming aware of a violation may be considered a party to the offense, even though they may not have engaged

in such behavior. In this event, disciplinary action shall be considered and discussed with the Chief of Staff and Division Director of Human Resources.

**6.0 PROCESS INPUTS/OUTPUTS:** Investigative notes from interviews during the investigation. Interviews conducted with witnesses.

**7.0 REFERENCES:**

* Department of Human Resource Management Policy 2.35—“Civility in the Workplace”
* Department of Human Resource Management Policy Guide—“Civility in the Workplace” Policy 2.35 Prohibited Conduct/Behaviors

**EFFECTIVE DATE: March 1, 2019**