

State of Maryland

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Equal Employment Opportunity

Investigations for State Law Enforcement Officers

Policy and Procedure

Department of Budget and Management

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An Equal Opportunity Employer

STATE OF MARYLAND POLICY

SUBJECT: Equal Employment Opportunity Investigations for State Law Enforcement Officers

Effective Date: May 1, 2017

Revised: June 1, 2020

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 Law Enforcement Officers Bill of Rights (LEOBR).
- 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, sex or sexual orientation.
- 2.3 LEOBR was established primarily to assure certain procedural guarantees to law enforcement officers during any investigation or hearing that could lead to disciplinary action and it poses certain requirements when interviewing a law enforcement officer that has been accused of wrongdoing.
- 2.4 LEOBR 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. LEOBR 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 Maryland Capital Police of the Department of General Services,
 - 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 Maryland Department of Health,
 - 3.1.9 Maryland Department of Labor,
 - 3.1.10 State Fire Marshal, and
 - 3.1.11 Department of Public Safety and Correctional Services

IV. LEGAL AUTHORITY

- 4.1 Annotated Code of Maryland, State Personnel and Pensions Article (SPP), Title 2, Subtitle 302 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), 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, Article 27, §§ 727 through 734D, Law Enforcement Officers' Bill of Rights
- 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 charged with an offense or crime.
- 5.4 Probable Cause – means a finding that the complainant's allegations were substantiated.
- 5.5 No Probable Cause – means a finding that the complainant's allegations could not be substantiated.
- 5.6 Coordinator – means the Statewide Equal Employment Opportunity Coordinator.

VI. PROCEDURE

Complaint Processing

A. 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 and/or federal EEO law.
- 6.2 A complaint must be filed within 30 days after the Complainant first knew of or reasonably should have known of the alleged violation that is the basis for the complaint.

B. EEO Investigations

- 6.3 Within 30 days after a complaint is received, an EEO officer under the authority of the Fair Practices officer, shall investigate the complaint. The EEO officer should contact the law enforcement agency employing the accused law enforcement officer to make them aware of the complaint.
- 6.4 The EEO officer shall continue its investigation in accordance with COMAR 17.04.08.04.
- 6.5 Upon completion of the EEO investigation, the EEO officer shall recommend a proposed decision to the head of the principal unit who shall subsequently issue a written decision to the Complainant, including their appeal rights. In addition, the decision letter shall include the rights to file with the U.S. Equal Employment Opportunity Commission and the Maryland Commission on Civil Rights.
- 6.6 The EEO officer may notify the agency police chief of the outcome of the investigation.

C. Appeal Process

- 6.7 Within 10 days after receiving a decision, the Complainant may appeal in writing to the Secretary or Coordinator. Within 30 days, the Coordinator or Coordinator's designee shall review the complaint and the decision being appealed, and may conduct any additional necessary investigation. If there is a need to interview the accused law enforcement officer, the Coordinator or Coordinator's designee will notify the EEO investigator.
- 6.8 The Coordinator shall recommend to the Secretary a finding of whether a violation has or has not occurred.

- 6.10 If the Secretary or Coordinator determines that a violation has not occurred, the Secretary or Coordinator shall dismiss the complaint and notify the Complainant and Respondent agency in writing of the decision.
- 6.11 If the Secretary or Coordinator determines that a violation has occurred, the Secretary or Coordinator shall take appropriate remedial action and notify the Complainant and Respondent agency in writing of the decision.
- 6.12 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. If that individual is the accused law enforcement officer, the disciplinary process required by LEOBR must be followed by the police chief; or
 - (v) Take any other remedial action that the Secretary or designee considers appropriate.
 - (c) Finality. – The decision of the Secretary or designee is final.

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.