

205 CMR 138.00: UNIFORM STANDARDS OF ACCOUNTING PROCEDURES AND
INTERNAL CONTROLS

138.72: Policies and Procedures for Ensuring a Workplace Free from Unlawful Discrimination, Harassment and Retaliation

(1) A system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include policies and procedures relative to ensuring a workplace free from unlawful discrimination, harassment and retaliation. These policies and procedures shall comply with all federal, state, and local laws relating to unlawful discrimination, harassment, and retaliation, and shall include, at a minimum:

- (a) Specific written policies prohibiting unlawful discrimination, harassment and retaliation in the workforce, as well as a statement that the gaming licensee complies with all applicable federal, state and local laws relating to unlawful discrimination, harassment and retaliation. Without limiting any of the below, such policies shall at a minimum incorporate all elements of the Massachusetts Commission Against Discrimination (MCAD) Model Sexual Harassment Policy;
- (b) Specific written procedures outlining how concerns, allegations or claims regarding unlawful discrimination, harassment and retaliation are to be reported, including multiple reporting options such as reporting to: an employee's direct supervisor or another supervisor within the organization; any member of the human resources staff; the general manager or president of the property where the employee works; a reporting hotline; and/or any member of the gaming licensee's legal department. The procedures shall identify by name and/or title, address and telephone number at least two individuals to whom concerns of discrimination, harassment or retaliation may be reported; provided, further, that any employee with supervisory powers shall report complaints, concerns or other matters arising or reported under these policies and procedures to the representatives of the organization so identified, and shall be trained on the obligation to ensure immediate and appropriate corrective action in addressing harassment complaints. The licensee shall ensure and shall inform employees that individuals of different genders are available for reporting of complaints. The licensee's procedures may suggest, but need not require, a specific reporting process;
- (c) The identification of a specific position at the property or corporate level (or both) that is responsible for overseeing and enforcing the policies and procedures;
- d) A requirement that each employee receive a copy of the policies and procedures as part of the gaming licensee's onboarding process;

(e) A requirement that training on unlawful discrimination, harassment and retaliation be provided by the gaming licensee to all employees within ninety (90) days of the date of hire and every two years thereafter;

(f) A personal relationships policy that identifies prohibited personal relationships as well as the disclosure requirements for personal relationships;

(g) A statement in the policies and procedures that all concerns, allegations or claims will be investigated promptly and that all concerns, allegations or claims will be handled in a confidential manner to the extent possible to ensure a thorough and complete investigation of the concern, allegation or claim;

(h) A listing of the federal and state agencies located in the Commonwealth that enforce the unlawful discrimination, harassment and retaliation laws, including names and addresses of each location within the Commonwealth of the offices of such agencies.

(2) A gaming licensee shall create a process and procedure to track that all employees attend training as required.

(3) A gaming licensee shall review its policies and procedures every two years to ensure that such policies and procedures comply with all federal, state and local laws relating to unlawful discrimination, harassment and retaliation.

(4) A gaming licensee and its corporate parent qualifying entity (as designated by the Bureau) shall each maintain the following information for the previous calendar year regarding their respective employees:

(a) each concern, allegation or claim of unlawful discrimination, harassment or retaliation reported to the gaming licensee and/or to the corporate parent qualifying entity and the method used to report such concerns, allegations or claims.

(b) for each concern, allegation or claim identified in paragraph 4(a):

(i) the identity, by name or title, of the representative of the licensee or corporate parent qualifying entity who investigated the concerns, allegations or claims;

(ii) the manner in which the concerns, allegations or claims were investigated; and

(iii) the ultimate resolution of the concern, allegation or claim, such as whether the concern, allegation or claim was resolved internally (by agreement, disciplinary action up to and including termination, or settlement and/or separation agreement) and/or filed with the appropriate federal, state or local authority; provided further, if the matter was resolved by settlement or separation agreement, the licensee or corporate parent qualifying entity shall maintain a copy of such agreement;

- (c) a general description of the concerns, allegations or claims, i.e., sexual harassment, unlawful discrimination, retaliation;
- (d) a listing of the number of concerns, allegations or claims awaiting investigation or resolution and an explanation of why such concerns, allegations or claims have not been investigated and resolved;
- (e) a breakdown of the concerns, allegations or claims by the type of concern, allegation or claim and by the level of employee, member of the public/patron or vendor against whom the concern, allegation or claim was made;
- (f) the gaming licensee's policies and procedures with any changes made to the policies and procedures within the last year highlighted;
- (g) information relating to the training required by paragraph 1(e), above, including a listing of the training sessions provided and the number of employees trained by position records of the dates of training; names of participants/sign-in sheets; the identity and qualifications of the trainers; and a brief description of the training; and
- (h) a statement signed by the gaming licensee's head of human resources at the gaming licensee's corporate level that the gaming licensee and the corporate parent qualifying entity have complied with their policies and procedures and that the information compiled as required in this section is true and correct to the best of such representatives' knowledge and belief.

The Commission shall have the right to review such information upon reasonable notice to the licensee. When providing information identified in sub-paragraphs (a) - (d), inclusive, for review, the licensee and the corporate parent qualifying entity may produce such information in a format that does not include: names of the individual(s) reporting the concern, allegation or claim; the names of witnesses; and specific details of the concern, allegation or claim which could be used to identify the individuals involved in the underlying incident(s).

(5) The gaming licensee shall ensure that any concerns, allegations or claims relating to unlawful discrimination, harassment or retaliation are investigated and resolved in accordance with these regulations and all other applicable laws and regulations.

(6) The commission shall have the right, upon request and notice to the gaming licensee, to review any gaming licensee records pertaining to the policies and procedures outlined in 205 CMR 138.72.