



POLICY STATEMENT
Commonwealth of Pennsylvania • Department of Corrections

Policy Subject: Sexual Harassment		Policy Number: 1.6.2
Date of Issue: May 29, 2018	Authority: Signature on File John E. Wetzel	Effective Date: June 5, 2018

I. AUTHORITY

The Authority of the Secretary of Corrections to direct the operation of the Department of Corrections is established by Sections 201, 206, 506, and 901-B of the Administrative Code of 1929, 71 P.S. §§61, 66, 186, and 310-1, Act of April 9, 1929, P.L. 177, No. 175, as amended.

II. APPLICABILITY

This policy is applicable to all **employees, applicants for employment, visitors, contractors, interns, externs, and individuals or groups who have business with or use the resources of** the Department.

III. POLICY

- A. Sexual Harassment in any work setting is strictly prohibited. It is the policy of the Department **to fully comply with state and federal laws**. Sexual harassment **against any individual** will not be tolerated.¹
- B. All Department employees are held accountable for creating and maintaining a workplace free from sexual harassment. Employees who fail to comply with this policy will be subject to disciplinary action, up to and including termination of employment.
- C. **All individuals to whom this policy applies under Section 2 above, will be held responsible for any acts of sexual harassment they may commit within the Department work settings or upon employees of the Department while in the performance of their duties. Individuals who fail to comply with this policy will be**

¹ 4-4056, 4-ACRS-7E-04, 1-CTA-1C-14

subject to disciplinary action, including dismissal and termination of contract(s) and/or service(s).²

- D. *This policy extends to conduct that occurs outside of the work setting when such conduct alters the conditions of employment by creating an abusive, hostile, intimidating, or offensive work environment. This includes conduct that occurs via electronic means, including, but not limited to, text messages, email, and social media.*
- E. *When a manager or supervisor knows or has reason to know that an incident of sexual harassment has occurred, or has been alleged to have occurred, he/she must advise the Field Human Resource Officer (FHRO) or the Facility Manager/designee, of the allegations. A manager or supervisor will be subject to appropriate disciplinary action, up to and including termination of employment, if he/she fails to act when he/she knew or reasonably should have known that sexual harassment exists.*
- F. *All complaints of sexual harassment that are reported to a manager, supervisor, or FHRO must be reported to the Office of Equal Employment Opportunity (EEO) within three business days of receipt.*
- G. The Department ensures that all internal discrimination complaints will be investigated and resolved within the prescribed guidelines established in **Management Directive 410.10** and **Section 1** of this procedures manual.
- H. *The Department will not tolerate any* retaliation against persons who have lodged a complaint, testified, assisted, or participated in any proceeding, investigation, or hearing regarding any allegation of **sexual harassment**. Retaliation includes, but is not limited to, harassing behavior, isolation, changing work assignments, making demands that appear work-related but have a retaliatory purpose, directing, prompting, or encouraging others to commit retaliatory acts.

IV. PROCEDURES

All applicable procedures are contained in the procedures manual that accompanies this policy document.

V. SUSPENSION DURING AN EMERGENCY

In an emergency or extended disruption of normal facility operation, the Secretary/designee may suspend any provision or section of this policy for a specific period.

² 4-4056

VI. RIGHTS UNDER THIS POLICY

This policy does not create rights in any person nor should it be interpreted or applied in such a manner as to abridge the rights of any individual. This policy should be interpreted to have sufficient flexibility to be consistent with law and to permit the accomplishment of the purpose(s) of the policies of the Department of Corrections.

VII. RELEASE OF INFORMATION AND DISSEMINATION OF POLICY

A. Release of Information

1. Policy

This policy document is public information and may be released upon request.

2. Confidential Procedures *Manual* (if applicable)

The confidential procedures *manual* for this document, if any, *is not public information* and may not be released in its entirety or in part, without the approval of the Secretary of Corrections/designee. Confidential procedures may be released to any Department of Corrections employee on an as needed basis.

B. Distribution of Policy

1. General Distribution

The Department of Corrections policy and procedures shall be distributed to the members of the Central Office Executive Staff, all Facility Managers, and Community Corrections Regional Directors on a routine basis. Distribution of confidential procedures to other individuals and/or agencies is subject to the approval of the Secretary of Corrections/designee.

2. Distribution to Staff

It is the responsibility of those individuals receiving policies and procedures, as indicated in the "General Distribution" section above, to ensure that each employee expected or required to perform the necessary procedures/duties is issued a copy of the policy and procedures either in hard copy or via email, whichever is most appropriate.

VIII. SUPERSEDED POLICY AND CROSS REFERENCE

A. Superseded Policy

1. Department Policy

1.6.2, Sexual Harassment, issued **July 12, 2016**, by Secretary **John E. Wetzel**.

2. Facility Policy and Procedures

This document supersedes all facility policy and procedures on this subject.

B. Cross Reference(s)

1. Administrative Manuals

- a. 4.1.1, Human Resources and Labor Relations
- b. Management Directive 505.30, Prohibition of Sexual Harassment in Commonwealth Work Settings
- c. Management Directive 410.10, amended, Guidelines for Investigating and Resolving Internal Discrimination Complaints
- d. Department of Corrections Code of Ethics
- e. Executive Order 2002-4, Prohibition of Sexual Harassment in the Commonwealth

2. ACA Standards

- a. Adult Correctional Institutions: 4-4056
- b. Adult Community Residential Services: 4-ACRS-7E-04
- c. Correctional Training Academies: 1-CTA-1C-14, 1-CTA-3A-09



PROCEDURES MANUAL
Commonwealth of Pennsylvania • Department of Corrections

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**Signature on File
John E. Wetzel**

Effective Date:

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Release of Information:

Policy Document: This policy document is public information and may be released upon request.

Procedures Manual: The procedures manual for this policy may be released in its entirety or in part, with the prior approval of the Secretary/designee. Unless prior approval of the Secretary/designee has been obtained, this manual or parts thereof may be released to any Department employee on an as needed basis only.

1.6.2, Sexual Harassment Procedures Manual
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Sexual Harassment Policy Acknowledgement of Receipt.....	Attachment 1-A

Section 1 – Sexual Harassment¹

A. General

Any person who believes that he/she has been sexually harassed as defined in the **Glossary** of this procedures manual, may file a **sexual harassment** complaint.

B. Procedures

1. **Sexual harassment complaints by** employees, applicants for employment, visitors, contractors, **interns, externs**, and individuals or groups who have business with or use the resources of the Department, **shall be filed with the Office of Equal Employment Opportunity (EEO), their immediate supervisor, Field Human Resource Officer (FHRO), or Facility Manager at the facility where the alleged act of sexual harassment occurred. If a supervisor is the individual who receives a complaint of sexual harassment, that supervisor must immediately forward the complaint to the FHRO or Facility Manager.** The Department's Office of EEO toll-free reporting line is 1-877-EEO-0846.
2. **The FHRO or Facility Manager must forward all sexual harassment complaints to the Office of EEO within three business days of receipt.**
3. **All sexual harassment complaints shall be investigated by the Office of EEO unless written permission is granted by the Director of the Office of EEO for the investigation to be conducted at the facility.**
4. If a complaint is filed beyond 90 calendar days of the alleged act of **sexual harassment**, the Office of EEO, in consultation with the Office of Administration, **Bureau of Equal Employment Opportunity (OA-BEEO)**, will make the determination of whether the complaint should be investigated.
5. The **STD-486C, Discrimination Complaint Form** is available in the Human Resource Office at each facility, on DOCNet, or by calling the Department's Office of EEO toll-free number at 1-877-EEO-0846.
6. There is no requirement that a complaint be in writing or conform to a specific format.
7. Conflict of Interest

Where there is a perceived or actual conflict of interest with a complaint filed with the Office of EEO, the Office of EEO shall consult with the **OA-BEEO** to determine whether the complaint should be investigated by another **Department** employee or the appropriateness of submitting a **request** to **OA-BEEO** to conduct the investigation.

¹ 4-4056, 4-ACRS-7E-04

1.6.2, Sexual Harassment Procedures Manual
Section 1 – Sexual Harassment

8. When a sexual harassment complaint is filed, the EEO Specialist in the Office of EEO **or facility designee will conduct a prompt, thorough, and impartial investigation in accordance with Management Directive 410.10.**
9. The Office of EEO shall prepare a written analysis and recommended findings for **every** investigation and forward it, along with all supporting documentation, to the **Responsible Agency Official.**
10. **The Office of EEO will forward a copy of the written analysis and recommended findings to the Executive Deputy Secretary, Regional Deputy Secretary, and Chief Counsel.**
11. The **Responsible Agency Official** shall determine whether to approve, modify, or disapprove the recommendation. The case file shall then be returned to the Office of EEO.
12. If **the EEO investigation** determines that sexual harassment occurred and/or action is to be taken, the Office of EEO shall notify the Facility Manager/designee, FHRO, and **Community Corrections Center (CCC) Regional Director, if applicable, Office of Chief Counsel, and** appropriate Deputy Secretary of the findings and recommended action(s). **The case file is then closed.**
13. If the Facility Manager/designee **and/or CCC Regional Director** determines, based upon the recommendations approved by the **Responsible Agency Official**, that disciplinary action is warranted, this shall occur in accordance with Department policy 4.1.1, **“Human Resources and Labor Relations.”**
14. If the charges are not substantiated, the Office of EEO **will** notify the complainant, the alleged offender(s), Facility Manager/designee, FHRO, **and/or CCC Regional Director, if applicable, Office of Chief Counsel,** and appropriate Deputy Secretary. The case file **is then** closed.
15. Request for Reconsideration

Complainants who are not satisfied with the outcome of the investigation may file a request for reconsideration with the Department’s Designated **Agency Official.**

- a. The request for reconsideration must be in writing and filed within 20 calendar days of notification of the outcome.
- b. The Department’s Designated **Agency Official** shall review the request and other appropriate information as expeditiously as possible and provide written notification to complainant(s) of the determination, and if appropriate, the right to and procedure for filing an appeal to **OA-BEEO within the timeframe set forth in Management Directive 410.10.**

16. Appeals

- a. Complainants who are not satisfied with the Department's decision concerning a request for reconsideration may file an appeal **with OA-BEEO**.
- b. The appeal must be in writing and filed within 20 calendar days from the date of the written notification of the reconsideration determination, preferably on the standard Form **STD-486A, Equal Employment Opportunity Discrimination Complaint Appeal Form, in accordance with Management Directive 410.10**.

C. Informal Resolution

Parties may resolve complaints on an informal basis. Upon receipt of a complaint, prior to implementation of (or at any time during) a formal investigation, **a Department** Equal Opportunity Specialist may explore opportunities for resolution. If a resolution is reached, the agency Equal Opportunity Specialist should request that the complainant execute Form **STD-486W, Equal Employment Opportunity Discrimination Complaint Withdrawal Form** (attached to **Management Directive 410.10**); requesting closure of the complaint based on satisfaction with the resolution. All resolutions must be approved by the Director of the Office of EEO prior to implementation.

D. Mediation

The **Office of EEO** must inform the complainant of the availability of the commonwealth's mediation program. Participation in this program is optional and does not preclude the right to an investigation or other avenues of recourse. **For mediation to occur**, both parties must agree to participate. **If the parties elect to pursue mediation, the Office of EEO must notify the OA-BEEO Director.**

E. Withdrawal

The complainant may withdraw his/her complaint at any time. Requests for withdrawal of complaints must be submitted in writing to the **Office of EEO** on the standard Form **STD-486W, Equal Employment Opportunity Discrimination Complaint Withdrawal Form** (attached to **Management Directive 410.10**). The **Director of the Office of EEO** will confer with the Responsible Agency Official and, depending upon the allegations and circumstances, the agency may continue its investigation.

F. Disciplinary Sanctions

Any employee who is found to have engaged in sexual harassment is subject to appropriate disciplinary action, up to and including termination, in accordance with Department policy **4.1.1**.

G. Other Avenues of Recourse

At any time the complainant may elect to file a complaint with the following agencies within the required time frames. Contact information and filing requirements are available on DOCNet:

1. Equal Employment Opportunity Commission;
2. Pennsylvania Human Relations Commission; and/or
3. Pennsylvania State Civil Service Commission.

H. Transfer to Legal Office

The procedures outlined in this policy apply only to internal investigations. Whenever a complaint or action is filed in any court or outside agency, the investigation must be transferred to the **Office of Chief Counsel** who will direct all further investigation and/or handling of the matter.

I. Acknowledgement/Availability of Policy

1. Every newly hired employee shall sign a **Sexual Harassment Policy Acknowledgement of Receipt (Attachment 1-A)** during New Employee Orientation.
2. This policy shall also be posted in conspicuous places in each workplace.

J. Training²

1. Sexual harassment training shall be provided to every employee at or near the beginning of employment with the Department. Additional training will occur periodically as set forth in Department training policies, but no less than once every three years.
2. Periodic training in the prevention of sexual harassment and the Department's obligation in complying with discrimination laws and Department policy shall be provided to every supervisor and manager.

² 4-ACRS-7E-04, 1-CTA-3A-09

1.6.2, Sexual Harassment Procedures Manual
Glossary of Terms

Department – The Pennsylvania Department of Corrections.

Designated Agency Official – *Individual designated to review requests for reconsideration of discrimination complaints and provide a written determination.*

Discrimination – Unequal treatment based on membership in a class protected by law or Commonwealth policy *including race, color, religious creed, ancestry, union membership, age (40 years or older), sex, sexual orientation, gender identity or expression, national origin, AIDS or HIV status or disability.*

1. A facially neutral policy that results in a disproportionate negative impact on a specific protected class may constitute discrimination.
2. Discrimination may involve single or continuing actions.

Discrimination Complaint – A written or verbal notification alleging unlawful employment discrimination. A complaint is considered filed when it is received by the proper official or office.

Facility – A state correctional facility, central office bureau or office, community corrections center, or a motivational boot camp.

Facility Manager – The superintendent of a state correctional facility, director of a central office bureau/office, *the* director of a community corrections center, or the commander of a motivational boot camp.

Responsible Agency Official – *The Deputy Secretary for Administration.*

Sexual Harassment – Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature *constitute sexual harassment* when:

1. submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
2. submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
3. such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or *of* creating an intimidating, hostile, or offensive working environment.

Substantiated – An allegation that was investigated and determined to have occurred.