

POLICY TITLE: PROHIBITION ON EMPLOYEE DISCRIMINATION AND HARASSMENT		PAGE 1 OF 5
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CHAPTER 3: PERSONNEL		
	STATE of MAINE DEPARTMENT OF CORRECTIONS Approved by Commissioner: 	PROFESSIONAL STANDARDS See Section VII
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I. AUTHORITY

The Commissioner of Corrections adopts this policy pursuant to the authority contained in 34-A M.R.S.A. Section 1403.

II. APPLICABILITY

Entire Maine Department of Corrections

III. POLICY

The Department of Corrections recognizes the dignity of the individual employee and the right of employees to work in an environment which is free of discrimination and harassment. Discrimination or harassment based on gender, race, color, religion, ancestry or national origin (including limited English proficiency), age, marital status, genetic information, physical or mental disability, sexual orientation, political views, whistleblower activity, or previous assertion of a claim or right under the Maine Workers' Compensation Act is a violation of State policy. Because discrimination or harassment based on these categories seriously undermines the integrity of the work place and adversely affects employee morale, it is unacceptable and will not be tolerated. In addition, it is considered grounds for disciplinary action up to and including discharge. It may also constitute illegal employment discrimination.

Public service demands of each employee the highest standards of honesty, impartiality, and conduct in the performance of duties. Each employee, therefore, is personally responsible for compliance with this policy.

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- Procedure A: Discrimination or Harassment, General
- Procedure B: Complaint Process

V. ATTACHMENTS

[Attachment A: Contact Information](#)

VI. PROCEDURES

Procedure A: Discrimination or Harassment, General

1. Examples of discrimination or harassment related to race, color, gender, ancestry or national origin (including limited English proficiency), age, religion, genetic information, physical or mental disability, sexual orientation, political views, whistleblower activity, or the previous assertion of a claim or right under the Maine Workers' Compensation Act, include the following, which might be a series of incidents or a single occurrence:
 - a. threats;
 - b. offensive jokes;
 - c. subjecting employees to ridicule, slurs, or derogatory actions;
 - d. basing employment decisions or practices on submission to or rejection of harassment;
 - e. refusal to cooperate with employees in performing work assignments; or
 - f. inequitable disciplinary actions and work assignments.
2. "Sexual harassment" is defined as unwelcome sexual conduct that is a term or condition of employment. Unwelcome sexual conduct is sexual harassment when submission to such conduct is expressly or implicitly made a term or condition of employment.
3. Examples of sexual harassment include: behavior that is verbal – such as comments about a person's looks, inquiries about personal relationships, sexual jokes, use of derogatory sexual stereotypes, uttering sexually suggestive sounds, writing sexual notes, use of State computer equipment to send, receive and/or download material of a sexual nature; non-verbal – such as looking someone up and down, staring or leering at someone's body, deliberate blocking of a person's path, displaying sexual visuals, making sexual gestures; or physical – such as deliberate brushing up against someone, hugging, pinching, grabbing, or actual sexual assault. It also includes such conduct as promoting an employee in exchange for sexual favors or changing work duties in an unfavorable way in response to rejected sexual advances.
4. Unwelcome sexual conduct which unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive working environment also constitutes sexual harassment. Conduct which is not sexual in nature may still create a sexually hostile work environment if it is based on the victim's gender. Such conduct may include excluding or isolating employees, tampering with belongings or equipment, or physical or verbal abuse based on gender.
5. As a matter of State policy, any behavior of a sexual nature in the workplace is considered unprofessional regardless of whether it constitutes illegal sexual

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harassment. Similarly, any conduct that degrades, ridicules, or otherwise draws unwanted attention to any employee on the basis of race, color, religion, gender, disability, ancestry or national origin (including limited English proficiency), age, marital status, sexual orientation, genetic information, political views, whistleblower activity, or previous assertion of a claim or right under the Maine Workers' Compensation Act is considered unprofessional regardless of whether it constitutes illegal harassment.

6. As part of their supervisory responsibilities, supervisors are required to actively prevent or stop inappropriate, unprofessional conduct in the workplace regardless of whether the conduct rises to the level of illegal discrimination or harassment. If a supervisor becomes aware of any such conduct occurring through personal observation or from another party, the supervisor must consult with the Bureau of Employee Relations EEO Coordinator assigned to the Department and the Department's Director of Human Resources and take immediate and appropriate corrective action, including discipline, to end the conduct. Corrective action is required regardless of whether a complaint is made or the conduct appears to be unwelcome.
7. The supervisor shall contact the Bureau of Employee Relations EEO Coordinator assigned to the Department and the Department's Director of Human Resources if a complaint is received, even if the complainant requests that no action be taken. A supervisor who fails to fulfill these obligations under this policy shall be subject to disciplinary action, up to and including discharge.
8. This policy applies to:
 - a. co-workers and supervisors;
 - b. interactions between individuals of the same sex, as well as of the opposite sex; and
 - c. interactions in the workplace during work hours, as well as outside activities related to the workplace (e.g., conferences, trips, parties, etc.).
9. The Department's Director of Human Resources, or designee, shall ensure that all employees are trained in the requirements of this policy.

Procedure B: Complaint Process

1. The State of Maine is committed to preventing discrimination and harassment prohibited by this policy through training, education and dissemination of information as well as employee accountability. Such discrimination or harassment may be reported by any employee, regardless of whether that employee is the recipient of the discrimination or harassment, is a witness, or otherwise becomes aware of discrimination or harassment prohibited by this policy.

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2. An internal complaint may be filed by contacting any of the following individuals (Attachment A):
 - a. immediate supervisor or any supervisor in the chain of command;
 - b. Bureau of Employee Relations Equal Employment Opportunity Coordinator assigned to the Department;
 - c. State Equal Employment Opportunity Coordinator; or
 - d. Department's Director of Human Resources.
3. The Department's Manager of the Office of Professional Review shall be responsible for overseeing the Department's complaint process.
4. A supervisor receiving a complaint shall conduct a preliminary inquiry and, if applicable, enter the information into the administrative/personnel complaint intake form via the BlueTeam software program, in accordance with Department Policy 7.3, Administrative and Personnel Complaint Investigations. A supervisor who fails to fulfill these obligations shall be subject to disciplinary action, up to and including discharge.
5. A preliminary inquiry, and an investigation if warranted, shall be conducted promptly and with as much confidentiality as possible, respecting the rights of all parties involved. All employees are expected to cooperate in any preliminary inquiry and any subsequent investigation of discrimination or harassment.
6. An employee covered by a collective bargaining agreement may also file a grievance through the applicable grievance process.
7. A complaint alleging discrimination or harassment on the basis of gender, race, color, religion, ancestry or national origin (including limited English proficiency), age, sexual orientation, physical or mental disability, genetic information, political views, whistleblower activity, or previous assertion of a claim or right under the Maine Workers' Compensation Act may also be submitted to the Maine Human Rights Commission at any time within the statutory time limit as set forth in 5 M.R.S.A. Section 4611.
8. An employee may also file a complaint with the U.S. Equal Opportunity Commission or the Office for Civil Rights.
9. It is not required that any of the above remedies be utilized first or in any sequence, nor is it required that any one remedy be exhausted before another is used.
10. Any form of retaliatory action or threat or suggestion of retaliation by either co-workers or supervisors against any person filing a complaint or assisting in an investigation is a violation of State policy. Any form of retaliatory action or threat or suggestion of retaliation against any person because he or she has opposed a practice that would be a violation of the Maine Human Rights Act or of a federal

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law, including, but not limited to, Title VI or Title VII, the Americans with Disabilities Act, the Genetic Information Non-Discrimination Act of 2008 or the Age Discrimination in Employment Act or because the person has made a complaint, testified or assisted in any investigation, proceeding or hearing under any of these statutes is illegal. A complainant is protected from retaliation regardless of the merits of the original complaint. Retaliation should be reported in the same manner as described above for complaints of discrimination or harassment and shall be promptly investigated. Such retaliatory conduct shall be grounds for disciplinary action.

VII. PROFESSIONAL STANDARDS

ACA:

ACI - 4-4056 Written policy, procedure, and practice prohibit sexual harassment.

4-ACRS-7E-04 Staff are not sexually harassed. Policy and procedure specifically prohibits sexual harassment and specifies the process and designated staff to whom incidents of sexual harassment should be reported. Regular training is provided to staff.

4-JCF-6D-06 Sexual harassment is specifically prohibited. All staff are trained in the specific process to be followed and the designated staff to whom incidents of sexual harassment or discrimination should be reported. Receipt of training provided to staff, contractors, and volunteers is documented.

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